

DEVELOPMENT SERVICES REPORTS

13.0 REPORTS – DEVELOPMENT SERVICES

13.1 DEVELOPMENT

ITEM NUMBER: 13.1.1

ITEM TITLE: PARTIAL ROAD CLOSURE – TO ALLOW CREATION OF PEDESTRIAN FOOTBRIDGE RESERVE

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

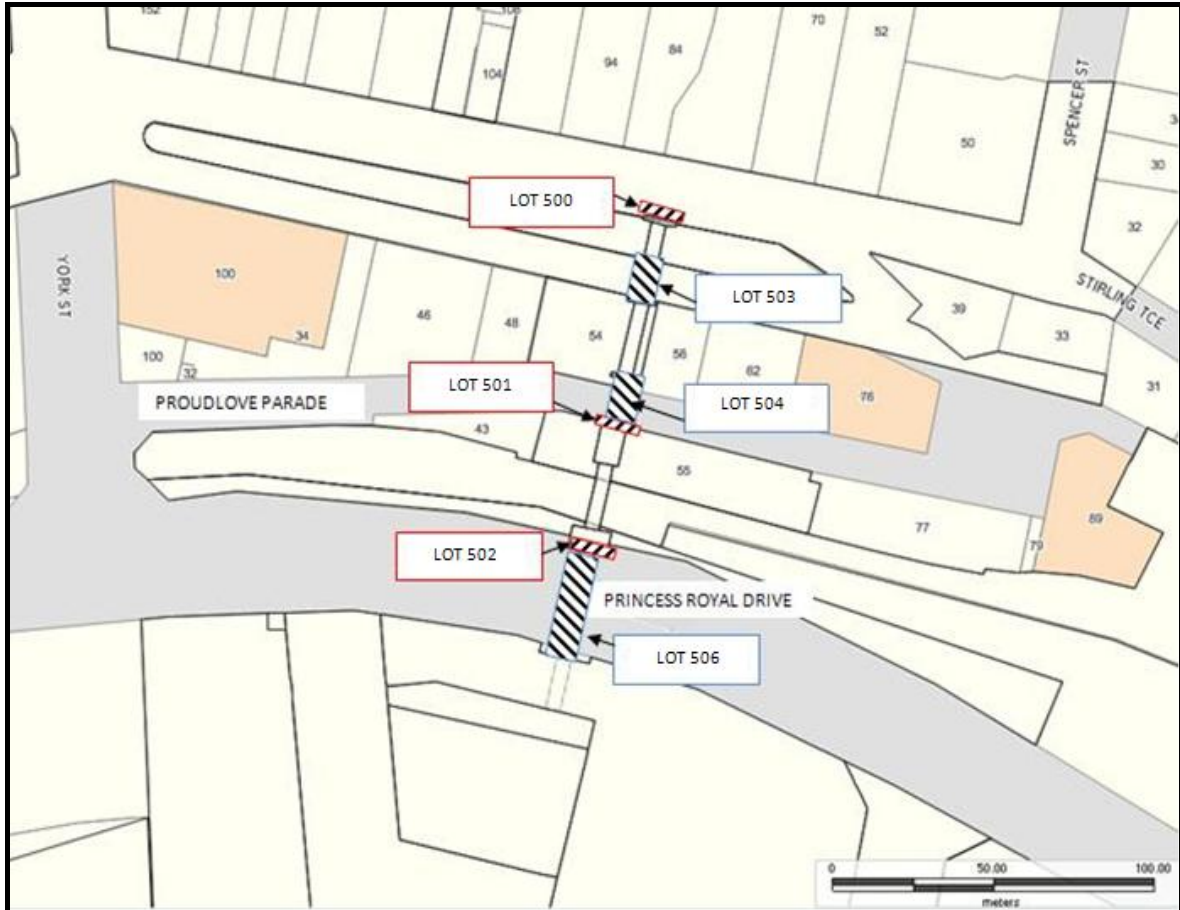
Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

File Number or Name of Ward	: MAN192 / SER088 (Breaksea Ward)
Summary of Key Points	: Close those portions of Stirling Terrace, Proudlove Parade and Princess Royal Drive occupied by the supports of the pedestrian footbridge along with the air space occupied by the footbridge over those roads and incorporate into pedestrian footbridge reserve.
Land Description	: Lot 500 Stirling Terrace, Lot 501 Proudlove Parade, Lot 502 Princess Royal Drive and airspace over Proudlove Parade (Lots 503 and 504) and Princess Royal Drive (Lot 506)
Proponent	: City of Albany
Owner	: Crown
Reporting Officer(s)	: Planning Assistant (D Delury)
Disclosure of Interest	: Nil
Previous Reference	: N/A
Bulletin Attachment(s)	: 1. Deposited Plan 58074 2. Responses from Various Service Agencies 3. Copy of Section 58 <i>Land Administration Act 1997</i>

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Item 13.1.1 continued.

Maps and Diagrams :



These lots as illustrated are indicative only – see Diagram 58074 for detail

BACKGROUND

1. State Land Services, whilst undertaking actions for the approval of a Deposited Plan to create a reserve for the purpose of “Pedestrian Footbridge”, advised that road closures needed to be processed by the City of Albany before the new reserve could be created.
2. Council’s resolution is required to request the Minister for Lands to close the portions of road reserve necessary in order to create the new pedestrian footbridge reserve.

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Item 13.1.1 continued.

DISCUSSION

3. In May 2009, correspondence was received from State Land Services (SLS) advising that road closures would need to be processed by the City under the requirements of the *Land Administration Act 1997 (Section 58)* road closure process. This action will allow SLS to create a separate pedestrian footbridge reserve for the sections of Stirling Terrace, Proudlove Parade and Princess Royal Drive occupied by the supports of the footbridge and the airspace occupied by the footbridge over those roads.

PUBLIC CONSULTATION / ENGAGEMENT

4. In accordance with the requirements of the *Land Administration Act 1997, Section 58*, the proposal was advertised in a local newspaper, the landowners in the near vicinity were advised and their comment was sought. No responses were received.

GOVERNMENT CONSULTATION

5. Comment was also sought from public utility service providers and other service agencies. All agencies approached had no objection to the closure of the portions of the road to create the new reserve. State Land Services had already sought comment from Main Roads, who have the responsibility of management of Princess Royal Drive, and they have no objection to the proposal.

STATUTORY IMPLICATIONS

6. Section 58 of the Land Administration Act 1997 states that a Local Government may, subject to advertising and consideration of any objections received to a proposal, request the Minister for Lands to close a road (the relevant section of the Land Administration Act 1997 is included in the Bulletin Attachment).

FINANCIAL IMPLICATIONS

7. Apart from ongoing maintenance of the footbridge and the cost to Council of advertising the closure, no other costs will be incurred by the city in the creation of the new reserve.

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Item 13.1.1 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

10. The reserve must be created in order to enable the City of Albany to be granted the Management Order for the care, control and management of the pedestrian footbridge.

11. If Council decides not to recommend the closures, the management of the footbridge would not be capable of being transferred to the City, although some portions would remain on City managed roads. It would still be expected that those portions would have to be maintained by the City.

SUMMARY CONCLUSION

12. The portions of road reserves within Stirling Terrace, Proudlove Parade and Princess Royal Drive occupied by the supports and footings of the pedestrian footbridge, plus the airspace above these roads occupied by the footbridge, must be closed in order to create the appropriate pedestrian footbridge reserve.

13. The proposal has been advertised and no public or agency objections have been received.

14. A resolution is required by Council to request the Minister to proceed with the proposal to close the specified portions of the road reserves, including the airspace above the roads, occupied by the footbridge.

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Item 13.1.1 continued.

ITEM NUMBER: 13.1.1 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council REQUESTS the Minister for Lands close those portions of road reserve shown on Diagram 58074 as indicated below:

- **Land ex Stirling Terrace (Lot 500);**
- **Land ex Proudlove Parade (Lot 501);**
- **Land ex Princess Royal Drive (Lot 502);**
- **Airspace over Proudlove Parade (Lots 503 and 504); and**
- **Airspace over Princess Royal Drive (Lot 506);**

to allow the creation of a pedestrian footbridge reserve.

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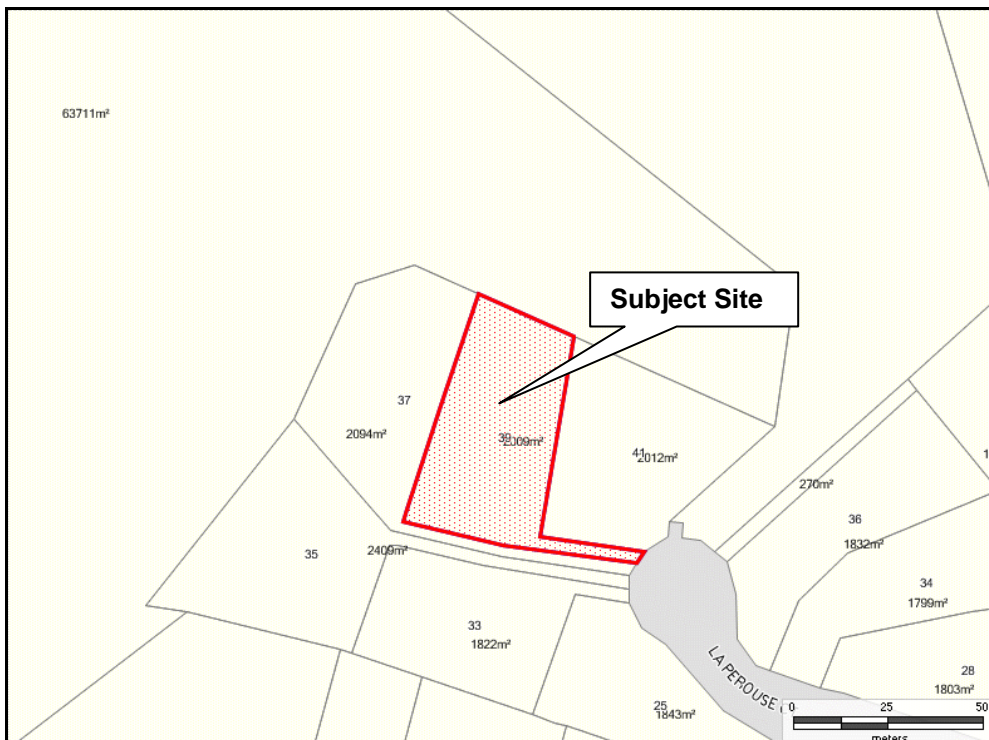
ITEM NUMBER: 13.1.2
ITEM TITLE: DEVELOPMENT APPLICATION – SINGLE HOUSE – 39 LA PEROUSE COURT, GOODE BEACH

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number or Name of Ward	:	A185755 (Vancouver Ward)
Summary of Key Issues	:	Revised plans – increased height.
Land Description	:	Lot 654 (39) La Perouse Court, Goode Beach
Proponent	:	Concept Building Design
Owner	:	SJ & S Jarvis
Reporting Officer(s)	:	Planning Officer (T Wenbourne)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 15/04/03 Item 11.3.3 OCM 15/07/03 Item 11.3.2 OCM 21/04/09 Item 11.6.2 OCM 18/08/09 Item 13.1.1
Bulletin Attachment Reference	:	1. Revised plans including street view elevations
Consulted References	:	1. Town Planning Scheme 3 2. Albany Insight ~ Beyond 2020

Maps and Diagrams:



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Item 13.1.2 continued.

BACKGROUND

1. The application for a single dwelling was discussed at the Council meeting in August 2009 with a resolution to grant planning scheme consent. The consent was subsequently issued, but the proponent has now requested that some changes be considered.
2. The original proposal was referred to Council and with changes now proposed to the height and size of that approved development, affecting the bulk and to a lesser extent the design, the revised proposal is likewise referred to Council for consideration.

DISCUSSION

3. The revised design is essentially for the same development previously approved, with one minor and one more significant alteration.
4. The minor change relates to storage space associated with the double garage. This is repositioned with the storage space now to be placed to the rear of the garage. The setback distance from the boundary is increased from 3.22m to 4.05m and will result in a reduction in excavation to the dune to the west. Also the incursion outside of the building envelope on this western side is reduced to nil. The balcony above the garage and the master bedroom en-suite will no longer encroach beyond the building envelope.
5. As this results in reduced ground works and excavation of the dune, it is staff's opinion that this represents an improved situation. It also brings the walls of the development on this side of the site within the defined building envelope and only a small overhang of the roof projecting beyond the building envelope.
6. The more significant alteration sought is with regard to the height of the proposed dwelling. The proponent has advised they wish to increase the ground level finished floor level by 1.0m, effectively raising the entire house by 1.0m.
7. Raising the height was recommended by the contracted Civil and Structural Engineers for the project. Raising the level will increase the efficiency of sub soil drainage, as well as lessening the impact on the onsite vegetation and reducing earthworks on the site. With less retaining and re-contouring, the cost of the groundwork will also be less.
8. Staff reported on the original application that the Special Provisions for Special Rural No.8 includes a measurement of building heights figure. On sloping ground, this establishes a method for setting a site datum height from which to measure the building height. The maximum permissible wall height is set 5.6m above the datum with an overall building height permitted at 9.1m.

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Item 13.1.2 continued.

9. Given the undulating site, it is very difficult to set a realistic datum using the method in the special provisions. However, when assessing the previous approved development a rough datum was calculated for this site and set at 7.065m AHD. Accordingly, it was accepted that a maximum wall height for the site would be 12.66m AHD and a maximum building height would be 16.16m AHD.
10. The proposed revised dwelling maintains the same vertical proportions with the additional 1.0m in height added below the ground floor level. Previously, the dwelling was proposed with the highest part of the wall at 10.25m AHD and the highest part of the roof at 11.00m AHD. The revised proposal changes the wall height to 11.25m AHD with the roof to 12.00m AHD. Both of these revised heights are below the maximum heights established in Paragraph 9. Staff are satisfied that the design satisfies the scheme provisions and will not be significantly intrusive in the surrounding landscape by reason of its bulk, scale and massing. Nor will it be detriment to surrounding landowners.
11. The Local Planning Policy 'Building Envelopes within Special Residential Area No.8' requires a front elevation drawing showing the proposed development in relation to the landscape, as well as a drainage strategy to be provided with all development application on the lots within its area. The elevation is intended to show the impact on the surrounding area (in terms of visibility beyond the dunes) and the drainage strategy to control run-off from the dune ridges to maintain the structural integrity of any buildings.
12. The drainage strategy was required by condition on the previous approved plans.
13. Although a landscape elevation was not provided with the previous submission, due to the lower built form of the development, its position between the dunes and the relationship to the dune ridge to the south of the lot, the lack of a plan was considered acceptable. With the revision increasing the overall height of the building by 1.0m, a streetscape elevation was considered necessary by staff to fully consider the implications of the requested change.
14. The proponent has provided a streetscape elevation as well as average eye level perspective views at three points on La Perouse Court. The elevation shows the dune height at 11.26m AHD with the building beyond at 12.0m AHD. This two-dimensional drawing does not really give an accurate representation of what you could see from the road as the dune being closer to the lot boundary with the road would obscure a taller object beyond it. Staff feel that the camera point perspective renderings give a more realistic representation of the proposed building from La Perouse Court. Camera Point 3 indicates that only the very tips of a couple of roof pitches would be glimpsed from the road bounding the site, but it is possible even this will be screened by the dune vegetation. However, the building will be visible from higher ground away from the site and any visual impact arising is diminished with increased distance and in its setting as part of the Goode Beach residential area.

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Item 13.1.2 continued.

PUBLIC CONSULTATION / ENGAGEMENT

15. The previous proposal was referred to the adjoining landowners due to the boundary setback relaxations requested. Neither of the neighbouring landowners consulted raised an objection. Copies of the revised proposal were sent by the proponent to the adjoining landowners by registered post on 18 November 2009. Any responses received will be reported at the Agenda Briefing on 8 December.

GOVERNMENT CONSULTATION

16. Not applicable.

STATUTORY IMPLICATIONS

17. The land is zoned 'Special Residential (Area No.8)' in Town Planning Scheme No.3, whereby a single house is a permitted use. The Special Provisions applicable to this zoning within the
18. Scheme require compliance with a range of provisions including building setbacks/envelopes, height, materials, colour, fire control and the provision of services.

FINANCIAL IMPLICATIONS

19. Should the proponent lodge an appeal with SAT over a decision by Council to refuse the amended plans some legal costs would be applicable.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

20. This item directly relates to the following elements of Albany Insight ~ Beyond 2020:

*1. Lifestyle & Environment,
Albany will be a City where...*

1.5 Development...

- *Responds to our unique historical and environmental values;*
- *Embraces environmentally responsible approaches to energy and water consumption; and*
- *Incorporates healthy lifestyle activities and access to green space. services are significantly improved in order to accommodate the real needs of the region.*

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POLICY IMPLICATIONS

21. At its July 2003 meeting, Council resolved to adopt the policy entitled 'Building Envelopes within Special Residential Area No. 8'. The policy was primarily introduced to realign building envelopes, affected by minor changes in the subdivision layout.
22. The Policy also included provisions to ensure that development pays particular attention to:
 - the minimisation of erosion, soil and vegetation disturbance;
 - ensuring that building envelopes do not conflict with, or detract from, the landscape in terms of their design, location, scale, height or otherwise; and
 - minimising the impact of the development on the physical environment, particularly in terms of foreshore management, bushfire control, on-site effluent disposal and other servicing requirements.
23. Minor encroachment into the building envelope can be determined on the individual planning merits of the proposal. The area of encroachment can be adequately compensated for elsewhere by relinquishing an equivalent area of the building envelope. The design and scale of the proposed development together with the specific topography of the site offers unique circumstances that would not set a precedent for future proposals elsewhere. It must be noted that this revision reduces the encroachment outside of the building envelope on the west side compared to the previous approval.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

24. Council has the option to refuse the amended plans, however this may prompt the proponent to lodge an Application for Review with the State Administrative Tribunal. This would have associated cost implications for the Council.

SUMMARY CONCLUSION

25. The submission is a revision to a previously approved single residential house of two-storey scale.
26. There is a reduction in the extent of encroachment outside the building envelope on the west side and the finished floor levels of both ground and first floors are proposed to be raised by 1.0m compared to the previous approved development.

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Item 13.1.2 continued.

ITEM NUMBER – 13.1.2 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council, pursuant to Section 5.3.6 of the City of Albany Town Planning Scheme 3 resolves to accept and approve the amended plans for a 'Single House' at Lot 654 (39) La Perouse Court, Goode Beach. The amended plans supersede the plans dated 23/04/2009 and the acceptance of the amended plans is subject to the same conditions as the original approval.

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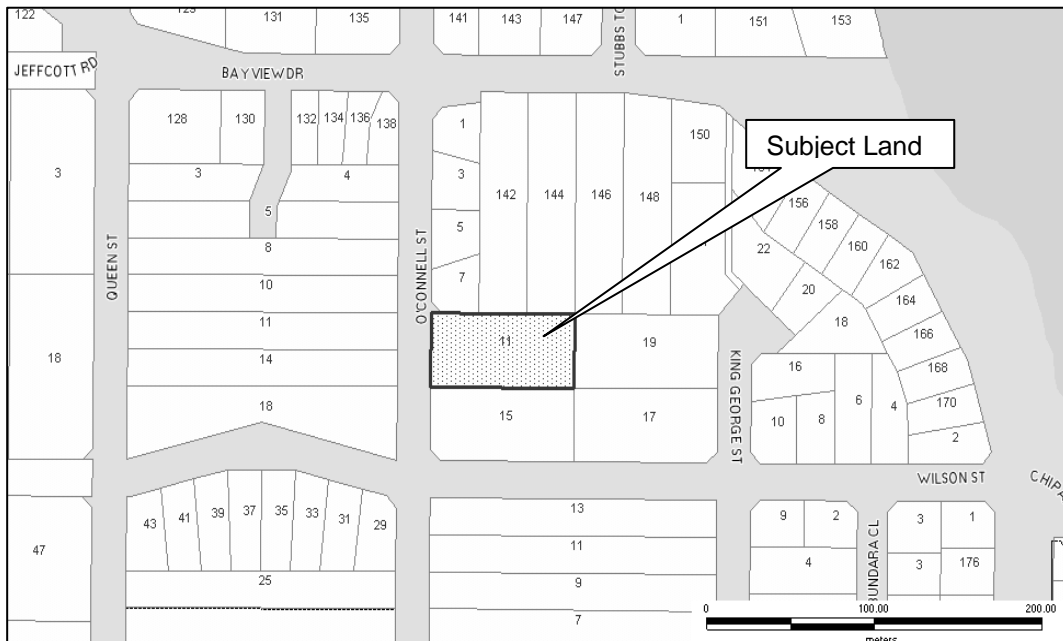
ITEM NUMBER: 13.1.3
ITEM TITLE: DEVELOPMENT APPLICATION – OVER HEIGHT OUTBUILDING - 11 O’CONNELL STREET, LITTLE GROVE

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** : A34801 (Vancouver Ward)
- Summary of Key Issues** : Consider a variation of the Council’s adopted Outbuildings Policy
- Land Description** : 11 O’Connell Street, Little Grove
- Proponent** : Kusters Steel Construction
- Owner** : D & A Holland
- Reporting Officer(s)** : Assistant Planning Officer (T Gunn)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : 1. Application for Planning Scheme Consent
- Consulted References** : 1. Outbuildings Policy
2. Town Planning Scheme No.3

Maps and Diagrams:



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Item 13.1.3 continued.

BACKGROUND

1. This application is for a carport which is to be attached to the front of an existing domestic outbuilding at 11 O’Connell Street, Little Grove.
2. The site is 3448m² in area and is zoned “Residential Development” in Town Planning Scheme No. 3.
3. Council’s Outbuildings Policy was adopted by Council at its meeting held on 16 October 2007.
4. The Outbuildings Policy sets the ‘permitted development’ criteria for outbuildings according to the zone and site area. For the subject land, the following provisions apply:

Zoning	Max. Wall Height	Max. Ridge Height	Max. Floor Area (combined all outbuildings)	Special Requirements
Residential / Future Urban / Residential Development Zone (Lots 1000m ² - 4000m ²)	3.0 metres	4.2 metres	120m ²	If floor area exceeds 60m ² the use of non-reflective materials is required

5. The Outbuildings Policy states that Planning Scheme Consent is only required where the criteria cannot be complied with. Any variations to the policy requires the proponent to demonstrate “exceptional circumstances” as to why the policy should be relaxed, with the proposal being presented to an ordinary meeting of Council. Council can use its discretion to permit exceptions to the policy where “exceptional circumstances” apply.

DISCUSSION

6. The applicant seeks Planning Scheme Consent for a variation of the Outbuildings Policy in respect of the maximum wall height. A domestic outbuilding on this lot has a 3.0m limit for the maximum permitted wall height. The variation requested is an increase of 0.2m, to allow the wall height to be 3.2m.
7. The proponents wish to park their boat and trailer under cover at the rear of their property. The boat is 2.43m wide and 3.0m in height and, according to the proponent, in order to successfully keep the boat under cover a 3.2m wall height is required.
8. The proponent has stated that cutting the floor of the carport below ground level is not an option as there is an existing concrete slab in the location where the carport is proposed. Removing this slab would create a significant drop from the existing outbuilding to ground level. This would be impractical and would restrict access to the outbuilding.

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9. The access to the structure is via an existing drive way which runs along the side of the dwelling. The carport will be attached to the front of the existing outbuilding as seen from O'Connell Street. The existing outbuilding has a wall height of 2.4m and a ridge height of 3.2m. Although an increased wall height is requested, the ridge height of the roof will be 4.045m and will not exceed the 4.2m (the maximum permitted under policy). It is considered the scale and built mass of the carport in front of the existing outbuilding will be no more visually prominent in the streetscape as a result of the requested relaxation.
10. In all other respects, the proposed carport complies with the Outbuildings Policy and the Residential Design Codes.

PUBLIC CONSULTATION / ENGAGEMENT

11. The neighbour most likely to be affected by this application is the northern neighbour. That neighbour has sighted the plans and has no objections to the application; it should be noted that the neighbour's comments weren't required as the setback from all boundaries has been met.

GOVERNMENT CONSULTATION

12. No government consultation was required.

STATUTORY IMPLICATIONS

13. The land is zoned "Residential Development" under Town Planning Scheme 3 (TPS 3). The proposed carport is permissible under the Scheme.
14. The Outbuildings Policy is a town planning scheme policy adopted under the Scheme. Clause 6.9.4 of TPS 3 states;
 - a) *A Town Planning Scheme Policy shall not bind the council in respect of an application for Planning Consent, however, it may require the council to advertise its intention to relax the provisions of the policy once in a newspaper circulating in the district stating that submissions may be made to the Council within 21 days of the publication thereof.*
 - b) *Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve and any submissions lodged, before making its decision.*

FINANCIAL IMPLICATIONS

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

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Item 13.1.3 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

The City of Albany Outbuildings Policy details the permitted/acceptable development criteria for buildings within the City's municipal boundary. The Outbuildings Policy states that Planning Scheme Consent is only required where the criteria cannot be complied with. Any variations to the policy require the proponent to demonstrate "exceptional circumstances" as to why the policy should be relaxed, with the proposal then being presented to an ordinary meeting of Council.

17. The aim of the Outbuildings Policy is to achieve a balance between providing for the various legitimate needs of residents for outbuildings, and minimising any adverse impacts outbuildings may have on neighbours, a street, a neighbourhood or a locality.
18. Staff are not convinced that the storage of a boat can be classified as "exceptional circumstances". The minor relaxation of a the wall height restriction within the policy, as requested, does not set a general precedent, and any future applications will still be required to be assessed on their individual merits against the aims of the policy. In this instance, the proposed building will not compromise the overall height and the cumulative floor area of all outbuildings onsite allowed under the policy. The above circumstances are unique to this proposal.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

19. Council could refuse the application and the applicant would then be entitled to seek a Review of that decision with the State Administrative Tribunal. This would have associated cost implications for the City of Albany.

SUMMARY CONCLUSION

20. The application proposes to construct a carport attached to an existing outbuilding located in the rear (north-eastern) corner of the site.
21. A 0.2m relaxation is sought for the maximum wall height from 3.0m to 3.2m. Due to the design, the maximum ridge height would not be exceeded. The proposal will not be highly visible from public vantage points or neighbouring properties and the overall bulk and scale is not uncommon within the Residential Development zone. The neighbour most affected has also been advised and does do not object to the proposed relaxation.

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Item 13.1.3 continued.

22. The proposal outbuilding is considered acceptable by staff and is recommended for approval subject to the development complying with a number of conditions.

**ITEM 13.1.3 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council resolves to relax the provisions of the City of Albany Outbuilding Policy and ISSUE a Notice of Planning Scheme Consent for an Outbuilding at 11 O'Connell Street, Little Grove with a wall height of 3.2m subject to the following conditions:

- a) The outbuilding being used for domestic storage only and not for commercial or industrial use or human habitation;**
- b) The proposed outbuilding shall be clad in Colorbond® or other non-reflective materials; and**
- c) Stormwater disposal is to be as per Council's requirements.**

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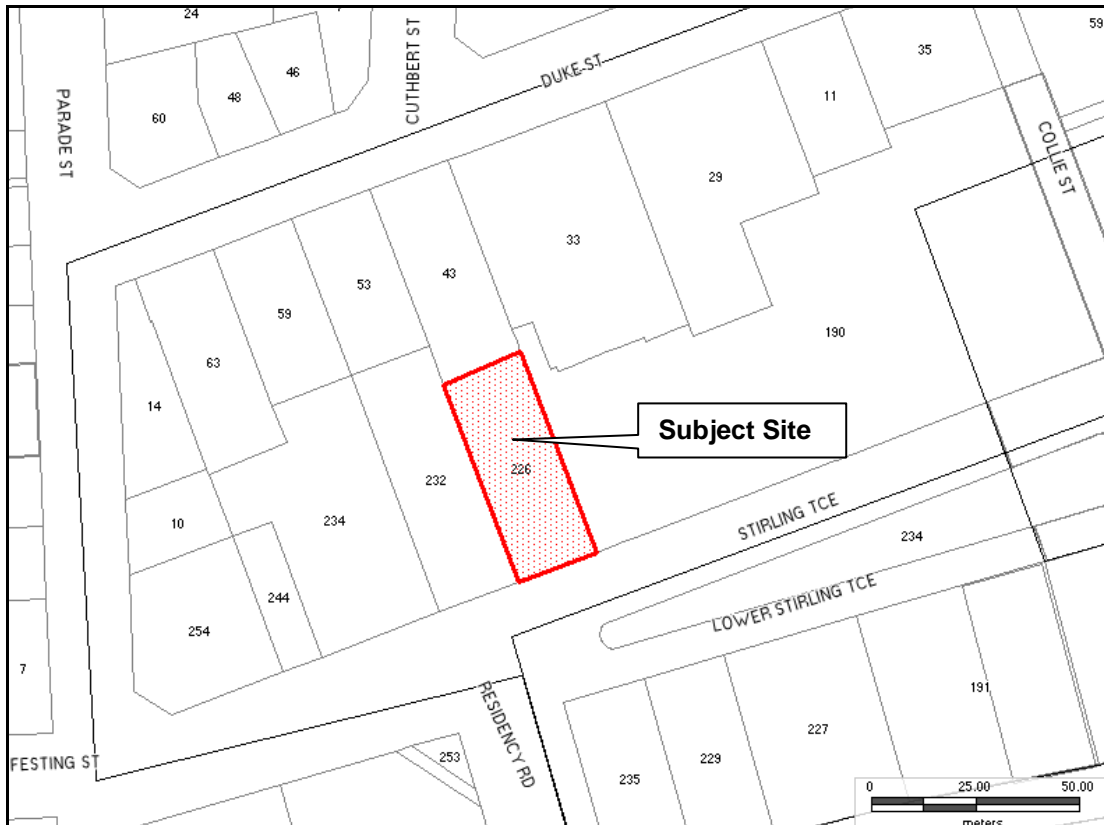
ITEM NUMBER: 13.1.4
ITEM TITLE: DEVELOPMENT APPLICATION – CHANGE OF USE TO RESTAURANT - 222 – 226 STIRLING TERRACE, ALBANY

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	: A97061 (Frederickstown Ward)
Summary of Key Issues	: On/Offsite Parking Provision
Land Description	: Lot 25 (222-226) Stirling Terrace, Albany
Proponent	: Tony Docking
Owner	: D & T Oorschot
Reporting Officer(s)	: Planning Officer (T Wenbourne)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Bulletin Attachment Reference	: 1. Written request for review of condition from operators
Consulted References	: 1. Town Planning Scheme 1A 2. Council Policy – Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals 3. Central Albany Urban Design Policy

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

BACKGROUND

1. The application for a change of use of the former “Green Door” private recreation business to become a restaurant (Rustlers) was approved on 21 October 2009 under officer delegated powers.
2. Part of the parking requirement generated by the change to restaurant was to be provided on a nearby site. In accordance with the Council policy titled “*Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Carparking Proposals*”, a condition was imposed requiring the proposed off-site parking to be secured through a caveat on the title of the neighbouring site.
3. The operators have written to request Council reconsider the formal caveat requirement of this condition as they consider it overly onerous on the neighbouring landowner that has consented to his car park being used “after hours” for this business. They have also requested Council consider not requiring them to provide the additional off-site bays through provision of land or cash in lieu.
4. The application is presented to Council as the proponent has made a written request for reconsideration of the condition, suggesting the alternatives would make the proposal economically unviable. Anything else is contrary to Council Policy.

DISCUSSION

5. The application was considered by officers and determined in accordance with Town Planning Scheme 1A and the relevant Council policies.
6. The “Use Development Table” in Town Planning Scheme 1A requires a car parking provision of 1 bay per 4 seats for a “Restaurant” use. The proponent did not provide details of the numbers of tables or seats because this had not been fully worked out.
7. The plans show the building as having a ground floor footprint of 650m² with the first floor adding a further 85m², giving the entire building an overall floor space of 735m². The “Development Guidelines for Town Planning Scheme 1A” offers a car parking ratio based on the gross floor area of a development. Those guidelines state that, within the Central Area zone, a restaurant is required to provide one car parking space for every 35m² of gross floor area. Therefore, the 735m² floor space gives rise to a parking requirement of 21 car parking bays. Had the “Use Development Table” provisions and the floor space requirements of the Building Code of Australia (1 person per square metre) been utilised, the car parking requirement would be in the order of 180 bays.
8. The development application sought to utilise the existing floor space within the building that stretches across the site from the west side boundary to within 1m of the east boundary. The building is positioned 1.5m from the rear boundary. Therefore, the only useable space outside of the building is the front of the building (facing Stirling Terrace) where an existing car park is laid out.

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Item 13.1.4 continued.

9. The front setback provides 10 of the required 21 car parking bays. With no realistic capacity to increase the number of on-site car parking bays, a suitable off-site option is required. The
10. operators stated their intended operating hours in the documentation accompanying the application and they stated that they were willing to accept a condition restricting their operating hours to minimise any car parking impacts on the locality.
11. The proponent had approached surrounding businesses to see if it was possible to use their parking facilities in the evenings (outside of office hours) as this is the time the proposed restaurant intends to operate.
12. Smith Thornton Accountants, located 2 lots to the southwest, agreed that the restaurant patrons could use their car parking area, provided there was no conflict with the opening hours of their office. This agreement was provided in an e-mail from the management of Smith Thornton Accountants.
13. This property is only 20m to the southwest of the subject land and it meets the criteria contained in Section 2 of Council's policy, which requires the parking provided on an adjoining or nearby site to be within 50m of the development site. Paragraph 2.9 of the policy states:

'Any arrangement to allow a carparking shortfall to be met through providing carparking on an adjoining or nearby site is to be supported by a legal agreement drafted at the applicant's expense. Council and all affected landowners are to be parties to the agreement. Where carparking is provided on an adjoining lot then the arrangement is to be reflected through an easement registered on the title of the affected lot as well as the legal agreement.'
14. With the proposal being compliant with Council policy, the Application for Planning Scheme Consent was approved with a condition imposed on the approval requiring the 11 additional car parking bays that were to be provided on the nearby site to be secured for the exclusive use of the restaurant by way of a caveat registered on the title of 234 Stirling Terrace. This condition has previously been used by Council, when a similar situation for off-site parking was presented, and those parking arrangements are still in place and protected by the agreement.
15. It is this condition (Condition A1) that the proponents are now requesting be reconsidered. The proponents have submitted a covering statement as to why they feel the policy requirement and condition is onerous and this is included in the Bulletin attachment.

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16. There are a number of ways in which Council can consider this request. Those options include:
 - a. Clause 4.10 of TPS1A permits Council to approve a development (not subject to the Residential Design Codes) that does not comply with a standard or requirement prescribed under the Scheme, despite the non-compliance, either unconditionally or subject to such conditions it sees fit. This clause requires such variation to be advertised;
 - b) Clause 7.21.4 of TPS1A states that a policy shall not bind the Council, but Council shall have regard to a policy before making a decision; or
 - c) Clause 7.9(e) of TPS1A allows Council, on the request of an applicant, to amend the planning consent or any conditions attached to the consent prior to the commencement of the use on the site.
17. Whilst clause 7.9(e) allows the wording within the condition to be amended, the impact of that change could have far reaching consequences and clause 4.10 needs to be considered. Notwithstanding that the surrounding land uses are primarily daytime uses, those uses could change over time and the car parking on 234 Stirling Terrace could be required for night time uses in the future. The legal status of the outstanding 11 bays is therefore tenuous.
18. Currently, Rustlers is located in Frederick Street. It is a 100 seat restaurant, which under the “Use Development Table” in the Scheme would require a provision of 25 car parking bays or 3 bays under the policy. At their current location no onsite car parking is provided and no traffic impacts have resulted from the land use. The proponents have suggested that through their re-location, a net gain of the 10 car parking spaces they can provide onsite.

PUBLIC CONSULTATION / ENGAGEMENT

19. The proponents have requested that this item come before Council at the earliest opportunity for consideration. Advertisements have been placed in local newspapers advising of the request to reduce the number of car parking bays that this site needs to provide and the period available to lodge submissions will extend beyond the Council meeting. Any submission received will be reported to Council at the meeting.

GOVERNMENT CONSULTATION

20. Not applicable.

STATUTORY IMPLICATIONS

21. Clause 7.9 (e) of TPS1A allows Council to revoke or amend the planning consent or any of the attached conditions on written request from the owner prior to the commencement of the use or the development subject of the consent.

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

FINANCIAL IMPLICATIONS

22. At an estimated cost of \$40,000 per car parking bay, the shortfall of 11 car parking bays represents a potential cash-in-lieu contribution of \$440,000 that could otherwise be payable to the Council for car parking improvements/provision in the CBD. The applicants are requesting that they be not required to pay this contribution.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

23. Not applicable.

POLICY IMPLICATIONS

24. The Council policy “*Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Carparking Proposals*” provides direction to staff, developers and the public on how any shortfall of onsite car parking generated by a proposed use will be addressed.
25. Council has the discretion (under clause 4.10) to reduce development standards and to determine whether it wishes to apply this policy rigorously. When dealing with proponents and giving advice, staff are guided by their delegations and the requirements of policy.
26. Council’s “Central Albany Urban Design” policy also gives some direction on parking. Clause 7.6.1 of the Policy states that Council may consider relaxing parking requirements in the following circumstances:
- *Where visitor parking can be partially met by existing street parking in the immediate vicinity.*
 - *Where satisfactory provision can be made other than on site.*
 - *Where the provision required would preclude the adaptive reuse of an existing building which contributes to the urban character.*

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

27. Council can choose to relax the Scheme provisions and its policy requirements as outlined above. Council can opt to remove Condition A1 and accept an agreement that is legally non-binding for the additional parking bays to be provided on 234 Stirling Terrace. It can equally decide that there will be sufficient parking available in the street when the restaurant is operating (ie. after normal office business hours) and waive the requirement for the additional 11 bays, after it has considered any submissions received during the mandatory advertising period.

SUMMARY CONCLUSION

28. The operator has provided a statement outlining why they believe the policy requirements are overly burdensome given the particulars of transferring their business to this site.

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

29. Staff have applied the Council Policy “*Guidelines for the Assessment of off-site, Verge and Cash-In-Lieu Carparking Proposals*” in determining the proposed change of use and drafting the conditions applicable to the operation of the restaurant. This policy provides specific guidance to resolve any car parking shortages.
30. There is an argument that the change of use will generate a parking demand outside of “normal office hours” when parking areas are not in use and the “*Central Albany Urban Design Policy*” provides broad direction in this regard.
31. Council can use its discretion to vary the requirements of the policy, given the particular circumstances applicable to this proposal, but staff are suggesting that a change in the development approval condition not be supported. If Councillors wish to pursue an alternate position, the process should be handled administratively on the basis that it involves a variation to a development standard and the proposed variation to development standard should be advertised.

**ITEM NUMBER – 13.1.4 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council REFUSES the request to remove condition A1 of Planning Scheme Consent P295280 for a ‘Restaurant (Change Of Use & Internal Fit Out)’ at Lot 25 (222-226) Stirling Terrace, Albany and advises that the off-site parking provisions need to be addressed in accordance with Council Policy.

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 13.1.5
ITEM TITLE: **DEVELOPMENT APPLICATION – MULTIPLE DWELLINGS – 79 EARL STREET, ALBANY** (Corrected Report as at 07/12/09)

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	: A205084 (Frederickstown Ward)
Summary of Key Points	: Application for Planning Scheme Consent for 40 multiple dwellings
Land Description	: 79 Earl Street (two previous lots have since been amalgamated)
Proponent	: Lou Marchesani
Owner	: Ridgcity Holdings P/L
Reporting Officer(s)	: Senior Planning Officer (I Humphrey)
Disclosure of Interest	: Nil
Previous Reference	: OCM 20/09/06 Item 11.1.1 OCM 17/01/06 Item 11.1.1 SCM 31/01/06 Item 6 OCM 19/12/06 Item 11.1.5
Bulletin Attachment(s)	: 1. Letters of comment, 2. Report by proponent as to compliance with Council Policy.



DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

BACKGROUND

1. An application has been lodged for the construction of 40 multiple dwelling units at 79 Earl Street, Albany. The development incorporates 14 three bedroom apartments and 26 two bedroom apartments. Plans and elevations of the proposed development are included in the Elected Members Report / Information Bulletin.
2. An application for 40 multiple dwellings, with a maximum built form of three (3) stories, has previously been considered on this property and the application was approved at the December 2006 meeting; that approval has now expired. A previous application to extend/renew the 2006 approval was previously withdrawn by the proponent, as he believed he could achieve substantial commencement of the development prior to the expiry of that approval, however this was not achieved. This application is identical to the development approved in 2006.
3. The proposal has been subjected to an advertising period and a total of eight (8) submissions were received. Copies of the submissions are included in the Elected Members Report / Information Bulletin. The adjoining landowners to the east and west have both been consulted, and have no objections to this proposal.
4. Within the documentation submitted, the proponent has provided a comprehensive report of the building's compliance with the planning scheme and policies. That report is incorrect as it assumes that the site is located within the Central Business Precinct of the Central Albany Urban Design Policy, whereas it is located within the Residential Areas Precinct. The mapping attached to that policy is difficult to interpret and an amended consultant's report is attached, recognising the correct designation.

DISCUSSION

5. Due to the complexity and scale of the proposed development, officer comments are grouped under the various policy and legislative mechanisms.
6. Town Planning Scheme No.1A
The zoning and the density coding applied to the land, and its immediate environment, allows for a higher density of residential development than currently exists in the locality. The subject lot and land to the west (existing cottage) and south (Frederick House) is included in the Central Area zone where the R160 Coding applies, whilst the land to the east (cottage) and north (Albany City Holden) is in the Residential zone with an R30 coding in place. Whilst the subject land is zoned "Central Area", it is included in the "Residential Area Precinct" of the Central Area Urban Design Policy as the street within which is located reflects primarily a residential character. The Scheme also requires that any residential development undertaken within the Scheme area (irrespective of the base zoning) be assessed against the Residential Design Codes.
7. In regards to other Scheme matters, the project generally complies with the Scheme, other than for those matters that are discussed later in the report.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

8. The development:
- is located within 300m of the harbour and does not exceed 12.0m in height;
 - does not impact upon any places identified in the City's Municipal Inventory or the Register of Places of State Heritage Importance;
 - is unlikely to generate any social issues that may affect the amenity of the locality;
 - is at a height and scale that will not adversely affect the amenity of adjoining properties or the locality;
 - provides for the safe movement of vehicles on and off the site;
 - is accessible by disabled persons; and
 - does not involve a loss of community benefit.

Residential Design Codes of Western Australia

9. The following headings are the ten design elements of the Codes, under which the relevant provisions will be discussed. The clauses that are not applicable have not been included.

10. **Element 1 - Housing Density**

A residential density coding of R160 is applicable to the subject land, which allows a maximum density of one multiple dwelling unit for every 62.5m² of land area. As the land area is 2928m², the maximum theoretical yield from the site is 46 units. The proposed 40 units meet the acceptable requirement of the Codes.

11. Councillors are advised that Amendment 161 to Town Planning Scheme No. 1A proposes to down code this property to the 'R-IC' code (Residential Inner City) which would reduce the overall density to approximately R100. This amendment has not been gazetted, and therefore the current R160 coding continues to apply and is factored into this report.

12. **Element 2 – Streetscape**

Setbacks of Buildings Generally:- the "Acceptable Standard" under the Codes is for a setback of 4.0m from the front, which can be reduced down by 50% as of right. This development is however assessed against the 'Performance Criteria' in that:

- The setback (minimal to balconies, though varying between 2.6m and 5.2m to the building façade) contributes to the desired streetscape.
- Adequate privacy and open space for dwellings is provided through the provision of significant balconies and courtyards, well connected to dwellings from principle living areas. In the front setback at ground floor, these areas are screened to provide an element of privacy, and are supplemented by the provision of secondary outdoor living areas on the ground floor at the rear of dwelling units. The nature of this type of higher density dwelling demands lesser areas than expected and provided for traditional 'suburban' single houses with an emphasis on 'useability', which the development meets.
- Although services criss-cross the site, no easements or service corridors are impacted upon by the front setback proposal.

13. Staff support the justification provided by the applicant for compliance with the "Performance Criteria" of the codes. The previous "Retravisation" building on Lot 12 had a zero setback with verandahs protruding over the footpath.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

14. Setback of Garages and Carports / Surveillance of the Street:- the development meets the 'Acceptable Development' criteria.
15. Street Walls and Fences:- generally complies with acceptable development criteria, besides a small section of wall, which has been justified to meet the 'Performance Criteria' in that:
 - The additional height above 1.2m is only required in a small location, to provide 1.0m fencing (on top of retaining) to the outdoor living spaces of several dwelling units;
 - The 1.0m fencing is required to provide adequate screening to living spaces;
 - All affected living spaces are north-facing;
 - The slight height variation (limited only to a small portion of the fence) does not affect surveillance of the street, or the streetscape, given existing development, and the interaction between this building and the street, given its scale.
16. Staff agree with the justification provided by the applicant for compliance with the 'Performance Criteria' of the codes.
17. Sightlines at Vehicle Access Points and Street Corners: the development meets the 'Acceptable Development' criteria.
18. **Element 3 - Boundary Setbacks**
Buildings Set Back from the Boundary:- the development does not comply with the 'Acceptable Development' provisions of the Codes. Staff support the justification provided by the applicant for compliance with the 'Performance Criteria' of the Codes, in that:
 - Adequate sunlight and ventilation is provided to all dwellings within the building, which provides for acceptable solar access, and maximised north-south orientation;
 - Adequate sunlight and ventilation to adjoining dwellings is achieved through the built form being articulated along the side boundaries to avoid excessive impact, provide large areas of solar access and opportunities for cross breezes and air movement. Overshadowing to the rear (southern boundary) where impact is greatest and it predominantly affects a 14.0m deep parking area (refer Element 9: Design for Climate below for more information);
 - Building bulk is addressed through the breaking up of building facades and varying setbacks;
 - Privacy to adjoining buildings is assisted through the nil setbacks proposed in some locations, as no windows, openings or other opportunities for overlooking are provided in these locations;
 - Given the commercial nature of adjoining properties to the west and south, impact on amenity is not as great as if it were used for residential properties (which the Codes assume);
 - The impact of building setback to the east is reduced by the "cutting in of the building on that side of the site and by facing windows to the north and south. Where direct overlooking from three (3) units is minimised by an increased setback to those units.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

19. The adjoining landowners to the east (residential) and west (commercial) of the site have advised in writing that they have no objections to the reduced boundary setbacks of “nil” to sections of the project.
20. The provisions within the scheme allow a “nil” side or rear boundary setbacks for the Central Area zone and it would be acceptable for a commercial development on this lot (if developed for that purpose) to be built up to the boundary. The Scheme requires a residential development is required to comply with the Residential Design Codes and the adjoining landowners are required to be consulted where residential developments are built up to the boundary. Where a nil setback is proposed to be used in the development, it is for small lengths of wall and these are broken by the forecourts of units which will be landscaped as part of the development.
21. By reducing the required boundary setbacks, the footprint for the development is dispersed over the site, as opposed to pushing the building upwards, thereby reducing the capacity for overlooking of adjoining properties and removing views of significance from surrounding properties.
22. Buildings on the Boundary: Behind the front setback line, walls on the boundary are proposed for less than the two thirds of the lengths of these boundaries and this is consistent with the requirements of the Codes. However, heights do exceed the 3.5m prescribed and require assessment under the 'Performance Criteria'. Compliance is achieved in that:
 - The proposal uses nil setbacks in certain locations to make effective use of space: provision of setbacks in these locations would achieve little benefit, particularly given the non-residential nature of the adjoining property to the west and the elevated ground levels of the residential property to the east reduces the impact of the wall height ;
 - Privacy is enhanced through the location of walls on boundaries in that the opportunity for overlooking is limited to only three units (facing east) in these locations and those units are set back from the side boundary;
 - The amenity of adjoining properties is not adversely affected by the walls, given the non-residential nature of the lot to the west. Indeed the walls on the western boundary provides additional design flexibility in the event that the property is redeveloped for commercial purposes (a reasonable expectation, given its zoning);
 - The property to the east is zoned Residential and could be developed in a similar manner to the subject land, if Amendment 161 is gazetted. In the interim, section of the common boundary will have parapet walls up to a maximum of 9.4m in height, which exceeds the Codes limit by 2.4m, not an insignificant variation. The wall is not continuous, which is a situation that could arise if the land was to be used for a commercial purpose in accordance with the Central Area zoning.
 - The walls on the boundaries are located on the east and west elevations, and do not affect access to desirable northern light and southern views. Impact is further mitigated through the breaks in building form provided along both elevations, ensuring that continuous expanses of wall (and overshadowing) is minimised.
23. It should also be noted that the local planning policy for the Central Business Precinct encourages developments with “nil” side setbacks to encourage a continuous 'edge' to the street. In the Residential Areas Precinct, side setbacks “shall encourage consistent setbacks on both ground and first floors to achieve clear breaks between adjoining residences.”

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

24. Element 4 - Open Space

Open Space Provision:- the development does not comply with the 'Acceptable Development' provisions. With the residential density allowable on the site, and the requirement to regulate building height, it would be impossible for a development to comply with the 'Acceptable Development' criteria. The applicant has adequately addressed the relevant 'Performance Criteria' in that;

- The proposed POS areas complement the building, providing a landscaped setting in which the development will be set;
- Allows an attractive streetscape, with open space areas provided along the length of the front elevation;
- Meets the future recreational needs of residents, by providing significant areas of both private and public open space. Additionally, the density of the proposed development and its location (in the heart of Albany with excellent access to a range of parks, bush land, recreational, social, cultural and commercial pursuits) ensures that the needs of residents are likely to be met and alternate housing choice is provided.

25. Balconies for Multiple Dwellings:- the development generally complies with the 'Acceptable Development' criteria and the proponent has provided adequate justification where balconies do not comply.

26. Communal Open Space:- the development meets the 'Acceptable Development' criteria.

27. Landscaping Requirement:- the development generally complies with the 'Acceptable Development' criteria. The developer will be required to submit a detailed landscape plan prior to the issue of a building licence for this proposal.

28. Element 5 - Access and Car Parking

On Site Parking Provision:- the proposal complies with the minimum number of car parking bays required by the Codes. The 74 bays are to be provided in the secure undercover parking areas. Eight (8) of the bays are to be set aside for the exclusive use of visitors, who will need to use an intercom device to communicate with the appropriate apartment before being able to access the designated visitor car parking bays. There is a high probability that visitors would simply park on the street, to avoid the necessity of waiting to be allowed in; if that was to happen, it may place pressure on available on-street parking in Earl Street.

29. Design of Parking Spaces / Vehicle Access:- the development generally complies with the 'Acceptable Development' criteria and the proponent has provided justification, to show that the application meets the relevant 'Performance Criteria'. The proponent will be required to submit a detailed plan for the approval of car parking and access ways prior to construction.

30. Pedestrian Access:- Staff accept the rationale supplied by the proponent in the report for compliance with the 'Performance Criteria'.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

31. Element 6 - Site Works

Excavation or Fill:- The applicant's justification for meeting the 'Performance Criteria' is that the development presents the appearance of being 'at grade' with the street, by cutting into the ground level behind the front setback line, to provide access to undercroft parking. The development generally follows the line of natural ground level, minimising height and bulk through excavation which is screened from view from all public places and adjoining properties.

32. The proponent will be required to provide more detailed drawings of the site, prior to the issue of a building licence, showing existing natural ground levels and proposed finished levels. A geotechnical report will be required to show existing ground conditions and the building licence will not be issued until the applicant can supply appropriate structural engineering details.

33. Setback of Retaining Walls:- Staff accept the rationale supplied by the proponent in that all retaining is provided within the building envelope and is predominately provided to the under-croft parking areas, presenting no or very minimal impact on adjoining properties and the street.

34. Element 7 - Building Heights

Building Height:- the development does not comply with the 'Acceptable Development' criteria of the Codes. The proponent, in the original report, has stated that the height of the building complies with the codes as it "*is in accordance with an adopted policy*".

35. To determine the development's compliance with the 'Performance Criteria', the findings of the SAT (in its determination of the previous appeal) needs to be considered as part of the decision-making process. In tendering evidence to the SAT, the professional witnesses had difficulty justifying that a multiple dwelling could be built in Albany's CBD under the 'Acceptable Development' provisions of the Codes. SAT ultimately described the desired height for buildings in the locality as follows:

"... the desired height of buildings in the locality is up to three stories, or about 11 metres in the area to the south and west of the site, and up to two (2) storeys in the area to the north and east of the site..."

36. Reference is made to the interpretation of the "*Central Albany Urban Design*" policy later in this report. The development proposal is for three (3) storeys of development above the natural ground level (NGL) over the site. However, the average height of the building on the eastern boundary is less than 9.0m above NGL, (with a maximum height of 9.4m). On the western boundary, the building extends up to a 10.0m high parapet.

37. If a house (or a group or multiple dwelling development) was to be constructed on the property to the east of the subject land, it would be allowed to be constructed, "as of right" with a wall height of 6.0m (7.0m parapet wall) and a maximum roof ridge height up to 9.0m. The proposed building height will help to create a sympathetic transition between the "Central Area" zone and the "Residential Zone". If Council gives consideration to the observation made by the SAT members, in their findings, it is staff's contention that the development would reasonably comply with the "Performance Criteria" of the Codes.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

38. Element 8 - Privacy

Visual Privacy:- reference is made to the report prepared by the proponent for compliance with the 'Performance Criteria' which states that the positioning of balconies minimises overlooking of adjoining properties through their placement addressing the street (at the front) and overlooking a right of way and the 14.0m deep parking area to the south. Screening is provided to the limited number of balconies on the eastern and western boundaries, excepting those in the centre of the development, which orient east and west. These are setback 5.5m from boundaries and minimise overlooking issues on adjoining properties through the setback ~~and, most significantly, because of the non-residential use of these properties (which do not require protection of privacy under the Codes).~~

39. Element 9 - Design for Climate

Solar Access for Adjoining Sites:- the development complies with the 'Acceptable Development' criteria.

40. Stormwater Disposal:- a detailed stormwater plan will need to be submitted to Council for approval, prior to the issue of a building licence for this development. There is potential for all roof water to be directed to Earl Street, however surface run-off will flow to the southern boundary of the land, where the new basement car parking level is approximately 800mm below the level of the car park on the adjoining property. The drainage outlets are currently above the proposed car parking level.

41. Element 10 - Incidental Development

External Fixtures:- conditions to be imposed on the planning approval can ensure compliance with this clause of the Codes.

42. Essential Facilities:- the development generally complies with the 'Acceptable Criteria' for storage spaces, waste facilities and clothes drying areas. With reference to clothes drying, the development complies with the 'Performance Criteria', as the units propose to include individual clothes dryers.

Public Comment

43. The plans were advertised to the public and a total of 8 letters and emails were received during the 21 day advertising period. All of the respondents raised objections to the development application, with the majority calling for no relaxation of the "*Central Albany Urban Design*" policy.

44. The setback of the third storey and its compliance with the "*Central Albany Urban Design*" policy has also been raised. Within the Central Business Precinct that policy requires a 3.0m setback for the wall of the third storey (allowing a balcony on the boundary), with two storeys below being allowed to have a nil setback. The front wall of the third storey units in the proposed development is setback a minimum of 2.0m from the front boundary for the middle four units and then increases to 5.0m for the two outermost units. Within the Residential Areas Precinct, "building orientation shall generally be consistent with the existing street pattern." That pattern would be described as being single storey, small cottages built close to the front building setback.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

45. The balconies for those units are set back zero and three metres respectively from the front boundary. This change in setback along the front wall helps to break down the visual bulk of the building and gives it a residential character, not dissimilar to a group of 'town houses'.
46. A number of comments were also received calling for the development to be refused on the grounds of height, bulk and design. These comments are contrary to the findings of the SAT, the requirements of the Residential Design Codes and the broad principles espoused in the City's "*Central Albany Urban Design*" policy.

Central Albany Urban Design Policy

47. The first matter to be considered in reference to this policy is which "which precinct should the development be considered against?" The subject site is located within the "**Residential Areas** Precinct", but directly adjoins the "**Central Business District** Precinct" of the policy. The land has a zoning under the scheme of "Central Area" with a density coding of "R160". SAT members were concerned that the policy's application to this site was in conflict with the scheme, notwithstanding that they understood the rationale for the variation.
48. The allowable density of the site provided in the Scheme (R160) would normally allow for a building of a much larger scale than would generally be found in a "residential area". The higher density designation (the largest available under the Codes) is more consistent with a commercial precinct and the development requirements of the City of Perth. SAT did not make a clear statement in its determination at the review as to which precinct (central business or residential) the development should be considered against. The SAT members did acknowledge the land as being in a transitional location, being on the interface of the Central Area and Residential zones and they suggested that changes should be made to the Scheme to better reflect the transition; those changes have been initiated, but **the** amendment is yet to be gazetted.
49. It needs to be emphasised that the proposed development does not comply with the development standards specified in either precinct of the policy, however the **SAT determined that the** Central Business Precinct criteria should take preference. **The Proponent has submitted planning justification for the approval of the development against the policy provisions relative to both precincts.** Council must determine if the policy provisions should be enforced or the policy used as a guide in the decision-making process; clause 7.21.4 of the Scheme states that a policy shall not bind the Council, but Council shall take into consideration the provisions and objectives of the policy.
50. As discussed earlier in this report, the land slopes downhill from the east to the west across its frontage and from the north to the south (rear boundary). The height of the eastern side of the development at the boundary is 10.0m. This height is less than the allowable 11.0m in the Central Business Precinct **and greater than the 6.0m permitted in the Residential Areas Precinct.** On the **eastern** side, the development's average height is around 9.0m, with the maximum height being 9.4m over a small section. The acceptable development provisions of the Codes allow a building on the adjoining property with a roof pitch up to 9.0m.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

51. The proposed development is a residential building and it generally exceeds the residential standards in the “Residential Areas Precinct” part of the policy by 3.0m or one storey. That part of the policy does allow on larger lots, for 40% of the development to be extended to three (3) storeys; all of the development is at three (3) storeys.
52. However, the development is located on land zoned for commercial purposes and under the same policy the landowner could develop a mixed use (commercial at street level with office and/or residential development above) building at three storeys or 11.0m in height (maximum of 14.0m to roof pitch).
53. The front setback of the building is inconsistent with both the “Residential Areas Precinct” and the “Central Business Precinct” provisions of the policy. The third floor does not comply with the Central Business Precinct provisions of the policy as the policy requires a 3.0m setback for the wall of the third storey (allowing balcony on the boundary), with the two storeys below being allowed to have a nil setback and a verandah over the footpath. The front wall of the third storey units in the proposed development is setback a minimum of 2.0m from the front boundary for the middle four units and then increases to 5.0m for the two outermost units. The balconies for those units are set back zero and three metres respectively from the front boundary.
54. The built form of the apartments is more consistent with the Central Business Precinct provisions of the policy. The proposed development does not comfortably fit within either precinct of the policy. Nonetheless, the proposed development does reconcile the policy anomaly and it provides a positive transition between the two precincts shown in the policy and the different zonings that apply to the lots on its western and eastern boundaries.

General

55. Council is required under Section 7.8A of the Scheme to give consideration to a number of matters in its decision making process. The greater weight in the decision making process is given to the Scheme and then to the policies that are adopted under that scheme. Council can give legitimate consideration to any other planning consideration the Council considers relevant and the SAT has provided some clear guidelines to Council on what it considers are valid considerations. The development is three (3) storeys at the Earl Street frontage and it then continues to remain at three (3) storeys by reducing the built form as the land slopes to the south.
56. Notwithstanding that the proposed development fails to completely comply with Council’s policy framework, staff recommend the application be given a conditional Planning Scheme Consent and suggested conditions of approval are outlined in the following Officer’s Recommendation.

PUBLIC CONSULTATION / ENGAGEMENT

57. The plans were advertised to the public and a total of 8 letters and emails were received during the 21 day advertising period. All of the respondents raised objections to the development application, with the majority calling for no relaxing of the Central Albany Urban Design Policy.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

58. The setback of the third storey and its compliance with the Central Albany Urban Design Policy has also been raised. A number of comments were also received calling for the development to be refused on the grounds of height, bulk and design. These comments are contrary to the findings of the SAT, the requirements of the Residential Design Codes and the broad principles espoused in the City's Central Albany Urban Design Policy.

GOVERNMENT CONSULTATION

59. None required for this proposal.

STATUTORY IMPLICATIONS

60. The lot is zoned "Central Area" in the City of Albany Town Planning Scheme No.1A (Scheme). A residential density coding of R160 is applicable to the subject land, which allows a maximum density of one multiple dwelling unit for every 62.5m² of land area. As the land area is 2928m², the proposed 40 units meet this requirement.
61. Multiple dwellings are a use that is "*not permitted unless planning consent to it is granted by the Council*" in the Central Area zone. Although not required by the Scheme, the proposal was advertised for public comment for a period of 21 days.
62. The Scheme, at Clause 4.12 states, "*Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes.*"
63. The proposed development is to be used exclusively for residential purposes and it is automatically required to comply with the "Multiple Dwelling" provisions of the Codes.
64. In determining this application, Council is required to take into account the matters listed under Clause 7.8A of the Scheme. That clause outlines the "Matters to be Considered" by Council. Those "matters" are not reproduced here in full. They are highlighted and discussed in the Comments section, under the context in which they were raised by the public submissions. In summary, Clause 7.8A requires Council to give consideration to the:
- provisions of the Scheme;
 - Residential Design Codes of Western Australia and any other state government policies;
 - public comments received;
 - policies adopted by Council under the Scheme;
 - requirements for orderly and proper planning;
 - compatibility of the development with its setting;
 - amenity of the locality;
 - traffic impacts and servicing availability; and
 - any other planning consideration the Council considers relevant.

FINANCIAL IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

66. Albany Local Planning Strategy (ALPS)

The Strategic Objective of Section 8.3.3 Urban Infill of ALPS is stated to:

“Support urban infill development based on compatibility of land uses and infrastructure capacity”

POLICY IMPLICATIONS

67. The subject land is affected by the City of Albany “*Central Albany Urban Design*” policy (policy). The policy has been adopted by Council to provide clear direction for the future development of central Albany properties and to provide guidance on the assessment of projects under the performance standards of the Residential Design Codes.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

68. Council has the option to refuse the proposal, however this may prompt the proponent to apply for a review of that decision by the State Administrative Tribunal.

SUMMARY CONCLUSION

69. The proposal involves the submission of the previous application and the plans remain unchanged. The application has been assessed against the amended provisions of the “*Albany Central Urban Design*” policy, and the areas where conflict exists are considered by staff to be acceptable; the objectives and principles espoused in the policy are met by the proposed development. The proposal was previously subjected to the scrutiny of the State Administration Tribunal, which again provided direction as to what building bulk and scale was appropriate for this land. If Elected Members are intending to recommend the refusal of the application, Council will need to demonstrate that significant changes in Council’s policy has occurred, and those changes warrant a refusal of the proposal.

ITEM NUMBER – 13.1.5 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolve to ISSUE Planning Scheme Consent, pursuant to Section 7.9 of the City of Albany Town Planning Scheme 1A, for ‘Multiple Dwellings (40 units)’ at 79 Earl Street, Albany subject to the following conditions: -

- 1) Prior to a Building Licence being issued by the City of Albany (City) for the approved development, the Applicant is to provide a copy of a Certificate of Title for the subject land which demonstrates that a drainage easement has been provided on the title to Lot 10 (certificate of title 2101 / 297) in favour of the subject application land holding.**

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

- 2) **An acoustic report is to be prepared by a suitably qualified acoustic consultant and submitted concurrently with the application for a building licence, demonstrating that the noise to be emitted from all air conditioning units, lift motors, pumps and other electrical equipment will comply with the Environmental Protection (Noise) Regulations 1997.**
- 3) **Access ways to all units are to be accessible by persons with disabilities in accordance with Australian Standard ASA 1428.1 – 2001.**
- 4) **Prior to a Building Licence being issued by the City for the approved development, the Applicant is to provide a detailed schedule of building and external surface finishes for written approval.**
- 5) **Prior to a Building Licence being issued by the City for the approved development, the Applicant is to provide a revised plans showing the removal of the walkway joining the two buildings at its second level for written approval.**
- 6) **The new driveway crossovers are to be constructed by the developer to Council's specification, levels and satisfaction.**
- 7) **The developer shall rehabilitate the footpath, kerb and roadside drainage, to a standard consistent with the existing surfaces and alignments, where the existing cross over(s) is to be removed.**
- 8) **The driveways and the vehicle parking, manoeuvring and circulation areas indicated on the approved plan are to be constructed to a sealed standard, line marked, and appropriately lit during the hours of darkness.**
- 9) **The driveway entering the site from the rear, across the neighbouring land, shall be clearly marked and signposted to carry traffic in a one way direction.**
- 10) **The applicant is to provide to the City a detailed plan of the proposed bin storage area, prior to the issue of a building licence, to verify that the allocated space is sufficient to house the required number of bins and the bins are capable of being accessed by patrons.**
- 11) **A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.**
- 12) **Vehicle manoeuvring areas and car parking bays are to conform to Australian Standard AS2890.1 – 1993.**
- 13) **Landscaping plans, showing size, species, location and reticulation of planted vegetation is to be submitted to the City prior to the issue of a building licence.**
- 14) **All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.**

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

ITEM NUMBER – 13.1.5 OFFICER RECOMMENDATION (Cont.)

- 15) All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.
- 16) No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.
- 17) All common access ways above ground level shall be totally protected from the weather in accordance with the requirements of clause 6.5.5 (A5.5) of the Residential Design Codes.
- 18) All plumbing fittings on external walls shall be concealed from external view.
- 19) A clothes dryer shall be provided within the laundry of each unit.
- 20) External clothes drying facilities shall be screened from view.
- 21) The height of the building shall not exceed the heights set out on the approved plan.
- 22) All letterboxes are to be incorporated into the building fabric or into a fence along the front boundary in accordance with the City of Albany's Local Laws Relating to Fencing 2001.
- 23) No signs are to be erected on the lot without the City's approval, in accordance with the City Of Albany's Sign Bylaws.
- 24) The designated visitor parking bays shall be clearly identified on site by means of a sign bearing the words "Visitors' Parking Only".
- 25) The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of grant of planning consent.
- 26) No materials are to be stored within the Earl Street road reservation and pedestrian access along the street is to be maintained during the construction phase, unless the City has granted a separate and specific approval.
- 27) Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage:
 - i. the delivery of materials and equipment to the site;
 - ii. the storage of equipment and materials for the approved development;
 - iii. the parking arrangements for the contractor and subcontractors; and
 - iv. other matters likely to impact on the surrounding properties.

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 13.1.6

ITEM TITLE: DEVELOPMENT APPLICATION – Conversion of Portion of Shed to Residential Use - Lot 150 Henty Road, Kalgan.

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	: A204181 and A208963 (Kalgan Ward)
Summary of Key Issues	: Application to retain an oversize shed, to convert portion of the shed to a dwelling and retain the balance as a shed.
Land Description	: Lot 150 Henty Road, Kalgan
Proponent	: K Wignall
Owner	: K Wignall
Reporting Officer(s)	: Executive Director Development Services (R Fenn)
Disclosure of Interest	: Nil
Previous Reference	: OCM 21/07/09 item 13.1.1 OCM 18/11/08 item 11.1.2
Bulletin Attachment Reference	: 1. Plan of proposed development. 2. City Fact Sheet on Living in Sheds

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

BACKGROUND

1. A Notice of Planning Scheme Consent Refusal was issued to Ms. K Wignall in January 2008 to place an oversized shed (300m²) on lot 150 Henty Road, Kalgan; the City's Outbuilding Policy has been reviewed on a biennial basis and that policy limits sheds and outbuildings on Special Rural lots to a maximum size of 180m². The colorbond surfaced, steel shed was then constructed by the proponent in May 2008, contrary to the Notice of Planning Scheme Refusal and with no building licence application being lodged with the City.
2. Notices were issued in July 2008 on the landowner, one for the contravention of the City's Town Planning Scheme and one under the Local Government (Miscellaneous Provisions) Act for the unauthorised construction. The proponent sought a review of those Notices with the State Administrative Tribunal (SAT). At paragraph 50 of the determination it states:

"In looking at the evidence presented and the submissions made in respect of the tests set out above, the Tribunal has concluded that the appropriate course is to affirm the s214 direction. In saying this, the Tribunal also considers that it would be reasonable for the applicant to have sufficient time to, should she wish to do so, apply for development approval for, and erect, a smaller shed. The 60 days for compliance with the s214 direction running from the date of this decision (23rd April 2009) should be sufficient for a fresh application for planning approval to be assessed by the respondent and determined."

3. An Application for Planning Scheme Consent was considered by Council at the July 2009 meeting for portion of the current shed (225sqm) to be retained on lot 150 Henty Road. Council resolved:

"THAT Council ISSUE a Notice of Planning Scheme Consent Refusal for an "Oversize Shed" to be constructed at Lot 150 Henty Road, Kalgan for the following reasons:

- i) the shed does not comply with the floor space restrictions contained within the City of Albany's Outbuildings Policy and no exceptional circumstances have been progressed to warrant consideration of the application;*
- ii) the shed is inconsistent with the objective of Special Rural Zone – Area 6, will be incompatible with the setting and will have a detrimental impact on the amenity of that zone;*
- iii) the uses conducted within the shed are inconsistent with the land use provisions of Special Rural Zone – Area 6; and*
- iv) the application is inconsistent with proper and orderly planning.*

and

That Council advise the applicant that it would be willing to support a revised application that reduces the size of the existing shed to 180m² or less to comply with Council's outbuilding policy and that the application be lodged and assessed within a 30 day period."

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

4. An incomplete application was lodged to reduce the shed in accordance with Council's decision in August 2009 and that additional information sought by City staff was not forthcoming; No approvals had been put in place by September 2009 and the requirements of the State Administrative Tribunal and the Council had not been met to avert the actioning of the Notices.
5. A Notice was issued upon the landowners on the 12th October 2009 advising that demolition contractors would be entering upon the property on or after the 19th October 2009 to commence the process of demolishing the shed. City staff entered upon the property on the 19th October and noted that the shed had been modified and that it appeared that it was being used for habitable purposes.
6. An application for a building licence for a 547m² house (342m² living, 124m² outdoor and 80m² garaging) was received on the 23rd September 2009 and a licence for that dwelling is pending. On the 8th October 2009, an "Application for the Grant of Planning Scheme" was also received to develop "secondary living" on the lot by "*converting 120m² of what is now a 300m² class 10 Building into a class 1 Building*" it was also acknowledged that "*retrospective planning approval to the existing shed will be required prior to Council processing the Building Licence application*". It is this application that this report relates to.

DISCUSSION

7. As previously reported to Council, the determination of the SAT (at paragraph 50) provided that there should be sufficient time provided to the landowners to "apply for development approval for, and erect, a smaller shed". The SAT determined that the implementation of the s214 Notice should be delayed for 60 days, with a compliance date of the 22nd June 2009, to allow the landowners time to find alternate storage space for the goods in the shed (paragraph 48 of determination).
8. In July 2009, Council considered the application to retain a 225m² shed on the property on the basis that the application was lodged afresh, not simply a response to the Notices issued on the property. The decision to only support an application for a shed that was in conformity with the City's Outbuilding policy was passed on a 9/1 vote of the Council.
9. It is the opinion of City staff that this application seeks to gain a Council approval to change the land use within a building that the City has previously determined is an illegal structure and has Notices in place requiring that structure to be "pulled down". The application needs to be considered as a number of separate and deliberate actions. Those actions are:
 - a) Agree that the application involves a change of use within an illegal structure and that application cannot be determined until the status of the structure is resolved;
 - b) Determine whether Council is prepared to 'put aside' the Notices that have been placed on the landowners, requiring the structure to be pulled down;
 - c) If the Notices are put aside, then determine the merits of the current application;

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

- d) If the Notices are put aside and Council determines the merits of the application in the negative, then the status of the Notices needs to be revisited;
- e) If the Notices are put aside and Council determines the merits of the application in the positive, then Council also needs to determine if the approval should be time limited and what happens with the proposed modifications and the shed should a primary residence be built on the lot; and
- f) If the Notice is not put aside, and point (a) is determined in the positive, then the application will be refused through administrative processes.

Capacity to Change Land Use within Declared Illegal Building:

- 10. The landowners have admitted that they constructed the shed contrary to the Notice of Planning Scheme Consent Refusal and without gaining a Building Licence. Within the State Administrative Tribunal, it was determined that the original Council decision to issue a Notice of Planning Scheme Refusal to a 300m² shed was an appropriate decision and that the

Notices issued by the City to have the shed “pulled down” was also appropriate in the circumstances of this case. Therefore, not only did the Tribunal determine the shed was an illegal structure, it concluded that it should be either brought into conformity with the City’s Outbuilding Policy (reduced to 180m² or less) or it should be demolished.

- 11. Before a change in the use of a building can be considered, the building must be a legal building; this shed fails to meet that basic requirement. If Council was to approve (with or without conditions) the current application, it would be issuing a retrospective approval for the 300m² shed and would be disregarding its earlier decision and the outcomes of the SAT review.

Conversion Class 10 Structure into Residence:

- 12. It is acknowledged in the City’s Outbuilding policy that *“unlike most dwellings, outbuildings are usually very bland metal clad structures devoid of architectural features such as windows, verandas, etc. Construction of large and/or high sheds may have adverse impacts on visual character of streets and neighbourhoods, neighbours and scenic rural or coastal landscapes”*. This shed has a 15m wide blank wall, up to 4.8m in height, facing Henty Road and will have 15m long and 3.6m high side walls perpendicular to the road; those walls are broken by a full height panel lift doors clad in the same material as the shed

- 13. The landowners have recently installed an air conditioning unit, hot water system, telephone connection, plumbing and other infrastructure to the rear of the shed as part of their occupation of the site. During the site inspection, a builder’s “portaloo” had been placed on-site and kitchen waste was being discharged onto the lot to the rear of the shed. Those additions fail to meet the basic requirements of the Building Code for a class 1 building (dwelling) and considerable modifications to the shed would be required if part of the building is to be classified as a dwelling.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

14. The proponents argue that approval can be gained from Council to ‘temporarily reside in a shed’ where an owner/builder is constructing their primary dwelling on the lot. Those approvals are given to convert an existing approved shed, are time limited and any modifications are to be removed once occupation of the primary residence occurs; a recent information pack provided by the City also encourages the use of a ‘donga’ or caravan for that period of occupancy in lieu of fitting out a shed. This application varies in that the conversion has occurred prior to the primary dwelling being approved, the conversion of the shed has already commenced, occupation has already taken place, the application is seeking approval for the permanent conversion of portion of the shed (the dwelling is to become future Ancillary Accommodation) and considerable modifications to the shed would be required to make it compliant with the Building Code.
15. Ironically, the area of the shed to be converted to a dwelling is 120m², leaving an area of approximately 180m² as an outbuilding. Council’s Outbuilding Policy stipulates a maximum area of 180m² for outbuildings on Special Rural zoned land.

Constructing Two Residences on a Single Lot:

The scheme provisions establish a range of uses that are capable of being developed on lot 150 Henty Road. The land use that are permissible are a Rural–Residential Dwelling, Public Recreation, Home Occupation, Craft Studio, Country Kitchen, Bed and Breakfast, Public Utility, Dam and/or soak construction, Rural Use, Cultural Use or other non-defined activity considered appropriate by Council which are consistent with the objectives of the zone. The final wording of the clause allows for other non defined uses to be given planning consideration provided that it contributes “*to providing a combined hobby farm and rural retreat area with an emphasis on the merging of development with the landscape and the minimisation of nutrient export*”.

16. If both of the dwelling applications submitted to the City are to be given consideration by Council, the “second dwelling” would comprise a group dwelling development and require assessment outside the permissible provisions of the scheme. Staff support for a group dwelling application is unlikely to be supported by City staff as this development on a lifestyle lot encourages future fragmentation of the parent lot (either through subdivision or strata title), the provision of additional services to lots and additional built form.
17. An examination of the applications lodged indicates that, if both are approved, the dwellings would have floor areas of 466m² and 120m² (this area increased as area of mezzanine not specified) and there would be 80m² and 180m² of garaging space. The entire 846m² of building footprint is to be constructed on a cleared parcel of land at the foot of the escarpment, where it is not practical to achieve “*merging of development with the landscape*” and there is considerably greater potential for nutrient export.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

Removing Section 214 Notice (P&D Act) and Section 401 Notice (LGMP Act):

18. The Notices were originally imposed by City staff under the delegated authority of Council and that decision has been the subject of reviews by Elected Members and the SAT. The landowners have failed to carry out the works nominated in the Notices and they have frustrated attempts by City staff to enforce the Notice. The dismantling of the shed has been exacerbated by the decision of the owners to add additional services to the shed and to occupy the structure; additional costs will be incurred to enforce the Notices and those costs are recoverable from the landowners as a debt under the Local Government Act.
19. Council's current position on the shed is *"that Council AFFIRMS the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401(1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214(2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure"*.

PUBLIC CONSULTATION / ENGAGEMENT

20. No public consultation has been undertaken on the application. The original enforcement action was brought about by complaints from residents in the locality.

GOVERNMENT CONSULTATION

21. No government consultation is required.

STATUTORY IMPLICATIONS

22. The Land is zoned "Special Rural (No 6)" in the City's Town Planning Scheme No 3, which sets out the following objective: *"to provide a combined hobby farm and rural retreat area with an emphasis on the merging of development with the landscape and the minimisation of nutrient export."*
23. Section 5.4 of Town Planning Scheme 3 states:
The Council in considering an application for planning consent is to have regard to such of the following matters as are in the opinion of Council relevant to the use or development the subject of the application ;
 - (a) *The aims and provisions of the Scheme.....;*
 - (b) *The requirement of orderly and proper planning....;*
 - (f) *Any town planning policy adopted by the Council under clause 6.9 and any other plan or guidelines adopted by the Council under the scheme;*
 - (i) *The compatibility of a use or development with its setting;*
 - (n) *The preservation of the amenity of the locality;*

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

(o) *The relationship of the proposal to development on adjoining land or on other land in the locality including, but not limited to the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*

(zb) *Any other planning consideration the Council considers relevant.*

24. Definitions for “Single Dwelling”, “Group Dwelling” and “Ancillary Accommodation” are included in the Residential Design Codes. No definition is provided in Scheme 3 for a Rural–Residential Dwelling.

25. A person is required to apply under the Builders Registration Act for permission to build a dwelling on their land and the Act would prevent a landowner from building two dwellings concurrently. The landowners have nominated that they will be owner builders for both dwellings.

FINANCIAL IMPLICATIONS

26. The financial implications would be limited to staff time should a refusal of the application be subject to a further review by SAT.

27. Quotes were obtained to have the shed professionally dismantled, in the event that the s214 Notice is required to be actioned by the City; all costs incurred can be recouped from the landowner as a charge against the land. Within the Development Services budget for 2009/10 an allocation has been provided for Legal Enforcement (job 2402) and that budget will be exceeded if City staff are required to remove the owner’s possessions and action the Notices without the owner’s cooperation. Recovering those costs will also be time consuming.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

28. Not Applicable.

POLICY IMPLICATIONS

29. Included in the Bulletin is the fact sheet supplied by the City of Albany for persons wishing to reside in a shed during the period when they are constructing their primary residence as an owner/builder.

30. This application seeks to retain the dwelling within the shed as a permanent structure and it can be argued that the City’s guidelines when considering requests for “temporary occupation” is not relevant to the matters under discussion. The guidelines are not a formal policy adopted by Council under the provisions of the Scheme.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

31. Council has the options outlined in paragraph 9 in relation to the proposal.
32. Should Council refuse the application, the proponent's consultant has indicated that they may wish to apply to the State Administrative Tribunal (SAT) to review the decision.
33. In November 2008, Council resolved to affirm the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure.
34. Regulation 10(1)(b) of the Local Government (Administration) Regulations 1996 states:

"If a decision has been made at a Council meeting then any motion to revoke or change the decision must be supportedin any case by at least 1/3 of the number of offices (whether vacant or not) of members of the Council or committee inclusive of the mover."

No request has been submitted for the previous decision to be rescinded and there will need to be the support of five (5) Councillors at the meeting to agree to the rescission of this motion before the application could proceed.

SUMMARY CONCLUSION

35. This development application involves legitimising a land use that has been commenced without approval and within a building that Council has previously determined should be pulled down.
36. City staff are concerned with the prospect of two dwellings being approved on the site as the owners are unlikely to be granted approval to be the owner builders for both structures, the development of a second dwelling is contrary to the objective for the zone and there is inadequate justification for the development of two dwellings on the lot.
37. If Council issues a Notice of Planning Scheme Consent Refusal and proceeds to enforce the two Notices, the outcome would be the removal of the unauthorised structure, the necessity of the owners to find alternate accommodation during the construction of their primary residence and the resolution of any costs that Council incurred in resolving this matter.
38. Should Council support the application, the following motions would need to be passed with five (5) Elected members needed to debate motion 2 and an Absolute Majority needed to pass motion 3:

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

Draft Motion 1:

THAT Council has DETERMINED that it would be contrary to proper and orderly planning principles to approve a change in land use activity where the structure accommodating that activity has previously been determined to be an illegal structure and Notices have been issued under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure.

Draft Motion 2:

Pursuant to Regulation 10(1)(b) of the Local Government (Administration) Regulations 1996 Councillors _____, _____, _____, _____, and _____ have requested that the following motion be submitted for consideration

THAT the motion of the Council meeting of the 18th November 2008, item 11.1.2, which states:

“THAT Council resolves to advise the State Administrative Tribunal that Council AFFIRMS the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure”.

be rescinded.

Draft Motion 3:

THAT Council grant conditional Planning Scheme Consent for the conversion of 120m² of the Shed on lot 150 Henty Road, Kalgan into a dwelling subject to the following conditions: (to be inserted).

Draft Motion 4:

THAT Council resolves to take no further action to enforce the Notices issued upon lot 150 Henty Road, Kalgan.

NOTE: The recommendation of staff is that the application not be supported as it is inconsistent with Council Policy.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

ITEM NUMBER 13.1.6 – OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council has **DETERMINED** that it would be contrary to proper and orderly planning principles to approved a change in land use activity where the structure accommodating that activity has previously been determined to be an illegal structure and Notices have been issued under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure.

AND

THAT Council **ISSUE** a Notice of Planning Scheme Consent Refusal for “Secondary Living” to be constructed within the shed upon Lot 150 Henty Road, Kalgan for the following reasons:

- A** it would be contrary to proper and orderly planning principles to approved a change in land use activity where the structure accommodating that activity has previously been determined to be an illegal structure and Notices have been issued under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure; and
- B** granting approval to the conversion of portion of the shed for residential occupation would result in the potential that two dwellings will be constructed on the lot, inconsistent with the objective of Special Rural Zone – Area 6, incompatible with the setting and having a detrimental impact on the amenity of the zone.

DEVELOPMENT SERVICES REPORTS

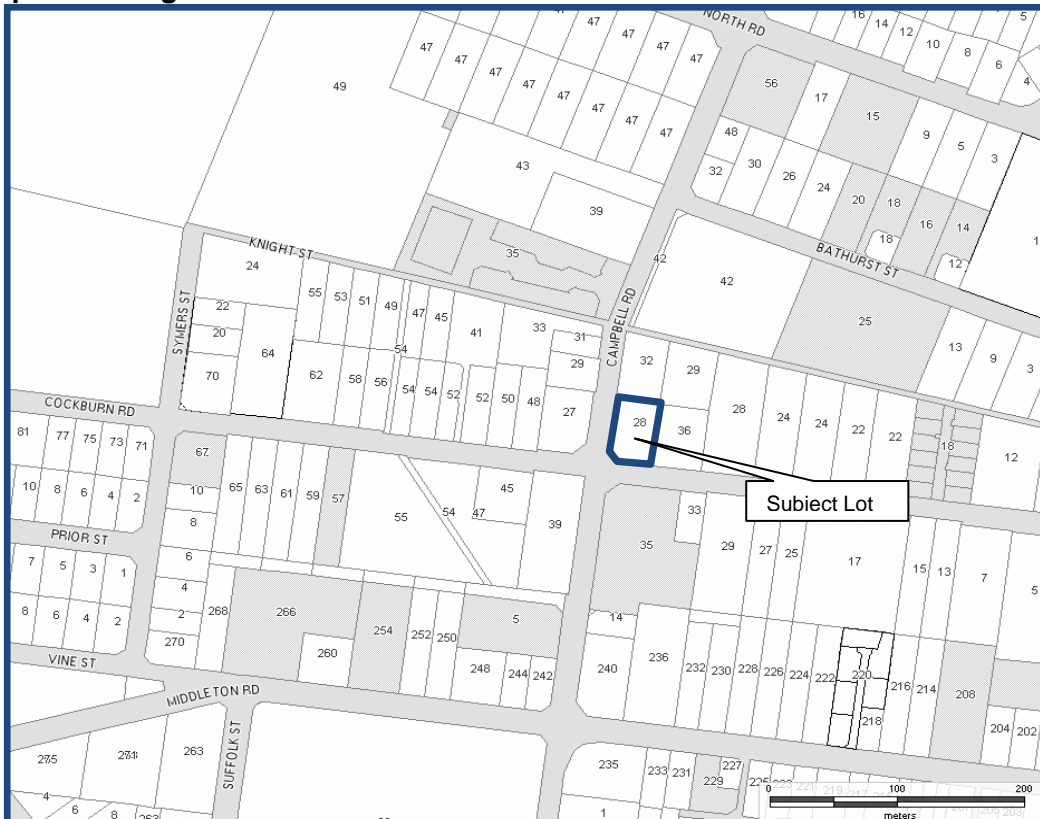
ITEM NUMBER: 13.2.1
ITEM TITLE: INITIATION OF SCHEME AMENDMENT – LOT 104 COCKBURN ROAD, MIRA MAR

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 175 (Breaksea Ward)
- Summary of Key Points** : Amend Town Planning Scheme 1A by designating Lot 104 Cockburn Road, Mira as a Special Site and allowing the additional use of ‘Medical Clinic’
- Land Description** : Lots 104 Cockburn Road, Mira Mar
- Proponent** : Harley Survey Group
- Owner** : T and O Management PTY LTD
- Reporting Officer(s)** : Coordinator Statutory Planning (J van der Mescht)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Amending Documents
- Consulted References** : Albany Local Planning Strategy
- Councillor Lounge** : Nil

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

BACKGROUND

1. An application has been received from the Harley Survey Group (planning consultants) to amend Town Planning Scheme No. 1A by including a “Special Site” with the additional use of ‘Medical Clinic’ on Lot 104 Cockburn Road, Mira Mar.
2. The subject lot is currently zoned “Residential” with an applicable R-code density of R30.
3. The subject lot is located approximately 1.3km from the Albany CBD via Middleton and Campbell Road. The lot is on a prominent corner, being opposite Reeves & Co Butchers, Outdoor World and in close proximity to a variety of other commercial and light industrial land uses.
4. The subject lot comprises a total of 1,693m² and is currently in the process of being converted from a Day Care Centre to Dental Consulting Rooms in accordance with a recent Planning Scheme Consent.

DISCUSSION

5. The current planning scheme consent for ‘Consulting Rooms’ limits the number of medical practitioners to a maximum of two.
6. The purpose of the rezoning is to enable the use ‘Medical Clinic’ to be approved on the subject land. The use ‘Medical Clinic’ would allow for more than 2 medical practitioners (which includes dentists) to operate from the site.
7. The Albany Local Planning Strategy earmarks the area as ‘City Centre’ and is recognised as part of an existing commercial complex in the Activity Centres Planning Strategy.
8. The surrounding land is predominantly zoned “Residential (R30)” to the north and east of the subject site, with the lot immediately to the east being used as an office. The lots to the south and west of the subject lot are zoned “Industry” and are primarily used for semi-commercial purposes. The lot to the southwest of the subject lot is zoned “Other Commercial” and is currently undeveloped.
9. The proposed change to the Special Site zoning and inclusion of the use ‘Medical Clinic’ is considered appropriate for the locality and compatible with the adjoining land uses.
10. Access to the subject lot is currently from Cockburn Road and is considered adequate for the proposed zoning and future use.
11. The subject lot is currently connected to all the necessary services and it is not anticipated that any major upgrades would be required.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

12. Parking requirements for the subject lot and proposed Special Site use would have to be in accordance with the Development Guidelines for Scheme 1A, adopted by the City as a local planning policy. Section 7.1 of the Guidelines outlines a parking requirement for a Medical Clinic of: *“6 bays per consultant for the first 2 consultants plus 2 bays for each additional consultant.”*

Seventeen (17) parking bays (one of which is for disabled parking) are currently provided on the subject lot and this is considered sufficient to allow for up to four (4) medical practitioners in the current building. The expansion of car parking at the rear and side of the property would be possible, should a future expansion be required.

13. The “Special Site” zoning over the subject lot is considered an appropriate zone for the subject lot and will strengthen the functions in the existing activity node. The proposed zoning is also consistent with the future strategic intention for the land as documented in ALPS.

PUBLIC CONSULTATION/ENGAGEMENT

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

GOVERNMENT CONSULTATION

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

STATUTORY IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

22. The subject land is shown as “City Centre” within the ALPS and is recognised as an existing commercial complex in the Activity Centres Planning Strategy that forms part of the ALPS.
23. The draft Local Planning Scheme No. 1 (initiated by Council and awaiting WAPC approval to advertise) had not proposed a change in zoning for the area.
24. The proposal is consistent with the objectives and outcomes of ALPS and the Activity Centres Planning Strategy.

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

26. 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.
27. A resolution to initiate an amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
28. 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.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

SUMMARY CONCLUSION

29. Staff consider the proposal to be consistent with the objectives of the ALPS and an appropriate zoning for the subject lot. Staff recommend that the Scheme Amendment be initiated for advertising.

ITEM NUMBER – 13.2.1 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council in pursuance of Section 75 of the *Planning and Development Act 2005* and 25(i)(c) of the *Town Planning Regulations 1967* resolves to INITIATE Amendment No. 175 to Town Planning Scheme No. 1A for the purpose of:

- i) Including Special Additional Use S45 on Lot 104 Cockburn Road, Mira Mar;
- ii) Amending Appendix II – ‘Schedule of Special Sites’ to include the following:

	Code No.	Particulars of the Land	Base Zone	Additional Use	Conditions
S45	45	Lot 104 Cockburn Road, Mira Mar	Residential R30	Medical Clinic	1. On-site car parking to be provided in accordance with Council’s car parking requirements.

- iii) Amending the Scheme Maps accordingly.

DEVELOPMENT SERVICES REPORTS

13.3 HEALTH, BUILDING & RANGERS

Nil

13.4 EMERGENCY MANAGEMENT

Nil

DEVELOPMENT SERVICES REPORTS

13.5 DEVELOPMENT SERVICE COMMITTEES

ITEM NUMBER: 13.5.1

ITEM TITLE: PLANNING AND ENVIRONMENTAL STRATEGY AND POLICY
COMMITTEE MEETING MINUTES – 19TH NOVEMBER 2009

File Number or Name of Ward : MAN235 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Executive Director Development Services (R Fenn)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Minutes of Committee meeting held on 19 Nov 09
Draft Albany Historic Town Design Policy

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.1 – COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 6.0 CONFIRMATION OF MINUTES

THAT the UNCONFIRMED minutes of the Planning and Environment Strategy and Policy Committee Meeting held on 19th November 2009 be RECEIVED.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.1 – COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 8.1 Albany Historic Town Design Policy

THAT Council ADOPT the Albany Historic Town Design Policy, which supercedes the existing Central Albany Urban Design Policy, pursuant to Clause 7.21 of Town Planning Scheme No. 1A.

DEVELOPMENT SERVICES REPORTS

Item 13.5.1 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 3
VOTING REQUIREMENT: SIMPLE MAJORITY**

Item 8.2 Catalina Road Structure Plan – Lots 30 to 35 Catalina Road, Lange

THAT Council resolves to DEFER its consideration of the Structure Plan until such time as the Amendment 280 has been gazetted, a first draft of the Albany Transport Model has been received and appropriate modifications to the proposed structure plan have been made to reflect those reports.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 4
VOTING REQUIREMENT: SIMPLE MAJORITY**

Item 8.3 Subdivision Guide Plan – 104 and 105 Willyung Road, Willyung

THAT Council resolve to ADOPT the Town Planning Scheme Policy titled 'Subdivision Guide Plan – 104 and 105 Willyung Road, Willyung – Special Residential Area 11' in accordance with Clause 6.9 of Town Planning Scheme No. 3, subject to the following addition to the policy text:

“At the time of subdivision, the City of Albany will require a notification on the titles of all lots advising that the use of Alternative Treatment Units (ATU's) for effluent disposal may be required subject to the outcome of site-specific soil tests”.

DEVELOPMENT SERVICES REPORTS

Item 13.5.1 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.1 – COMMITTEE RECOMMENDATION 5

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 8.4 Final Modifications – Little Grove Structure Plan

THAT:

- i) The WAPC schedule of modifications be NOTED;**
- ii) Pursuant to Clause 5.2.2 of the City of Albany Town Planning Scheme 3, Council ADOPT the Little Grove Structure Plan with the modifications as prescribed by the WAPC; and**
- iii) The Little Grove Structure Plan BE FORWARDED to the Western Australian Planning Commission with a request that the document be APPROVED as soon as possible.**

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 13.5.2
ITEM TITLE: BUSH FIRE MANAGEMENT COMMITTEE MEETING MINUTES – 25TH NOVEMBER 2009

File Number or Name of Ward : MAN 261(All Wards)
Summary of Key Points : Bush Fire Management Committee Items for Council Consideration.
Reporting Officer(s) : Executive Director Development Services (R Fenn)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Minutes of the Bush Fire Management Committee meeting held on 25 Nov 09

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 3.0 Committee Terms of Reference

That the Terms of Reference for the City of Albany Bush Fire Management Committee be **DEFINED** as advising the City of Albany regarding;

- strategic matters relating to the preventing, controlling and extinguishing of bush fires;
- the strategic requirements for planning of the layout of fire-breaks in the district;
- the performance of the City in regards to its obligations under the *Bush Fires Act 1954*;
- the operational efficiency of bush fire brigades and the grouping thereof under group brigade officers;
- opportunities and deficiencies identified in the levels of co-operation and co-ordination of bush fire brigades in their efforts and activities and between bush fire brigades and other fire agencies; and
- any other matter relating to bush fire control.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 5.0 CONFIRMATION OF MINUTES

THAT the **UNCONFIRMED** minutes of the Planning Bushfire Management Committee Meeting held on 25th November 2009 be **RECEIVED**.

DEVELOPMENT SERVICES REPORTS

Item 13.5.2 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 3

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.1 Mutton Bird Reserve Post Incident Report

THAT City of Albany staff ACTION the recommendations of the Draft Post Incident Report and REPORT to the next meeting of the Management Committee on the level of compliance with the recommendations.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 4

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.2 Western Power Grants – Confirmation of Grants

THAT Council NOTE and SUPPORT the funding received by the Highway and Napier Volunteer Bush Fire Brigades under the Western Power Grant Scheme for a replacement hose reel and for a trailer transport the brigades fast fill pump respectively.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 5

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.3 Broadcasting of Harvest Bans on ABC Radio

THAT Council SUPPORT the actions of City Staff in voicing concerns with FESA and WALGA over the imposition of restrictions on the broadcasting of Harvest Bans by ABC Radio during the harvest period.

DEVELOPMENT SERVICES REPORTS

Item 13.5.2 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 6

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.4 Replacement of Operations Caravan

THAT City of Albany staff **EXPLORE** all available opportunities and options to replace the City's Operations Caravan at the earliest opportunity with a suitable replacement vehicle.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 7

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.5 Bush Fire Inspections 2009/10

THAT City of Albany staff **UNDERTAKE** a vigorous and thorough inspection of firebreaks, strategic firebreaks and low fuel zones on properties in the peri-urban area of the City of Albany and where landowners fail to install fire prevention measures in accordance with the City's Bushfire Notice, that City staff **AUTHORISE** the work to be carried out by a contractor and the costs be recovered from the landowners in accordance with the Bush Fire Act 1955.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 8

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.6 Reporting of Incidents of Arson

THAT Council **SUPPORT** the inter-agency initiative to secure the early reporting and investigation of potential fires that may have been started by an arsonist.

DEVELOPMENT SERVICES REPORTS

Item 13.5.2 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 9

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the following recommendations of the BFMC:

Item 9.0 Recommendations of Bush Fire Advisory Committee

At the October meeting of the Bush Fire Advisory Committee, the following motions were passed:

9.1 GPS Ability of new radios (agenda item 4.2)

RESOLVED that City staff **MAINTAIN** a watching brief on this issue.

9.2 Firebreak Inspections (agenda item 4.3)

Resolved that FCOs be **INVOLVED** in inspections, that the peri-urban area be the first area to be inspected and that non-compliant properties be **REQUIRED** to become compliant.

9.3 Hand Held Radios (agenda item 4.6)

RESOLVED that a communication strategy be **ADOPTED** by the City and it be communicated to FESA as a matter of urgency

9.4 Fire Protection of Semi Rural Areas (agenda item 7.1)

That the City of Albany **REVIEW** the use of Strategic Fire Breaks to protect low density urban areas and that an appropriate education program be commenced advising landowners of the inability of volunteer bush fire brigades to provide protection to houses located on heavily vegetated lots with restricted access on the lot.

9.5 Vehicle Replacement Program (agenda item 7.2)

That the replacement of fire appliances with suitable vehicles, fit for purpose, remain a high priority for the City and that the City continually **REVIEW** the Risk to Resource arrangements within the City.

9.6 Changes to Bush Fires Act (agenda item 7.3)

That the information be **NOTED** and the City of Albany develop operating protocols for Fire Control Officers in association with DEC and FESA officers.

9.7 Conditions on Bush Fire Permits (agenda item 7.4)

That the CBFCO and DCBFCO, in association with City of Albany staff, **PREPARE** guidelines for the issuing of bush fire permits and draft conditions that can be utilised to Fire Control Officers to place on permits

DEVELOPMENT SERVICES REPORTS

Item 13.5.2 continued.

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 9 (Cont.)

9.8 Fire Hydrants (agenda item 7.5)

That the relevant Volunteer Bush Fire Brigades **SUBMIT** to City staff their recommendations on locations where additional fire hydrants should be installed and locations where urgent maintenance may be required to existing hydrants.

9.9 Annual Calendar of Events (agenda item 7.6)

That a calendar of events be **PREPARED** by the City of Albany and be **DISTRIBUTED** to all brigade secretaries on a monthly basis with information included in the calendar on:

- Advisory and Management Committee meetings agenda deadlines and agenda distribution dates;
- Training dates for brigade members;
- ESL reporting dates and budget submission deadlines;
- Brigade meeting dates (as advised by brigades);
- Declared restricted and prohibited burning periods;
- Nomination dates for service medals; and
- Closing dates for community grants.

9.10 Communications Plan (agenda item 8.4)

1. That for the 2009/10 fire season:

- i). The City **CONTINUE** to operate on mid-band and high band frequencies with main communication on high band frequency.
- ii). Brigades be **ENCOURAGED** to have second external speaker placed on fire appliances, installed by technicians to allow mid and high band frequency communication to rear of appliance.
- iii). The City of Albany **EXPLORE** the operational capabilities, the costs and the available technology to provide radio pagers to brigades.
- iv). All brigades are **ENCOURAGED** to list appropriate volunteers for SMS callout.
- v). The operational channels and procedures **REMAIN** unchanged from the 2008/09 fire season.

2. That the City of Albany **COMMENCE PLANNING** for the 2010/11 fire season on the basis that:

- i). At fire grounds the main channel of communication will be high band, communication within sectors will also be high band and from appliance driver to fire fighters will be via UHF radio.
- ii). Mid band radios will be removed from fire appliances and each will be provided with hand held UHF radios and one (1) high band hand held radio.
- iii). Fire call out will transition to a combination of SMS and pager arrangement (subject to budget and rollout) with the mid band radio system maintained as back up only.

DEVELOPMENT SERVICES REPORTS

Item 13.5.2 continued.

ITEM 13.5.2 – COMMITTEE RECOMMENDATION 9 (Cont.)

3. That all brigades be ENCOURAGED to:

- i). Monitor and report areas where high band radio signals fail or are poorly received.**
- ii). Intensify member training in the use of high band radios.**
- iii). Identify areas where SMS servicing and radio pager signals may be problematic.**

AND

RESOLVED that communication blackouts for the WAERN radios be reported to FESA by brigades as a matter of urgency, using the prescribed FESA form.

13.6 DEVELOPMENT SERVICE COMMITTEES

Nil