

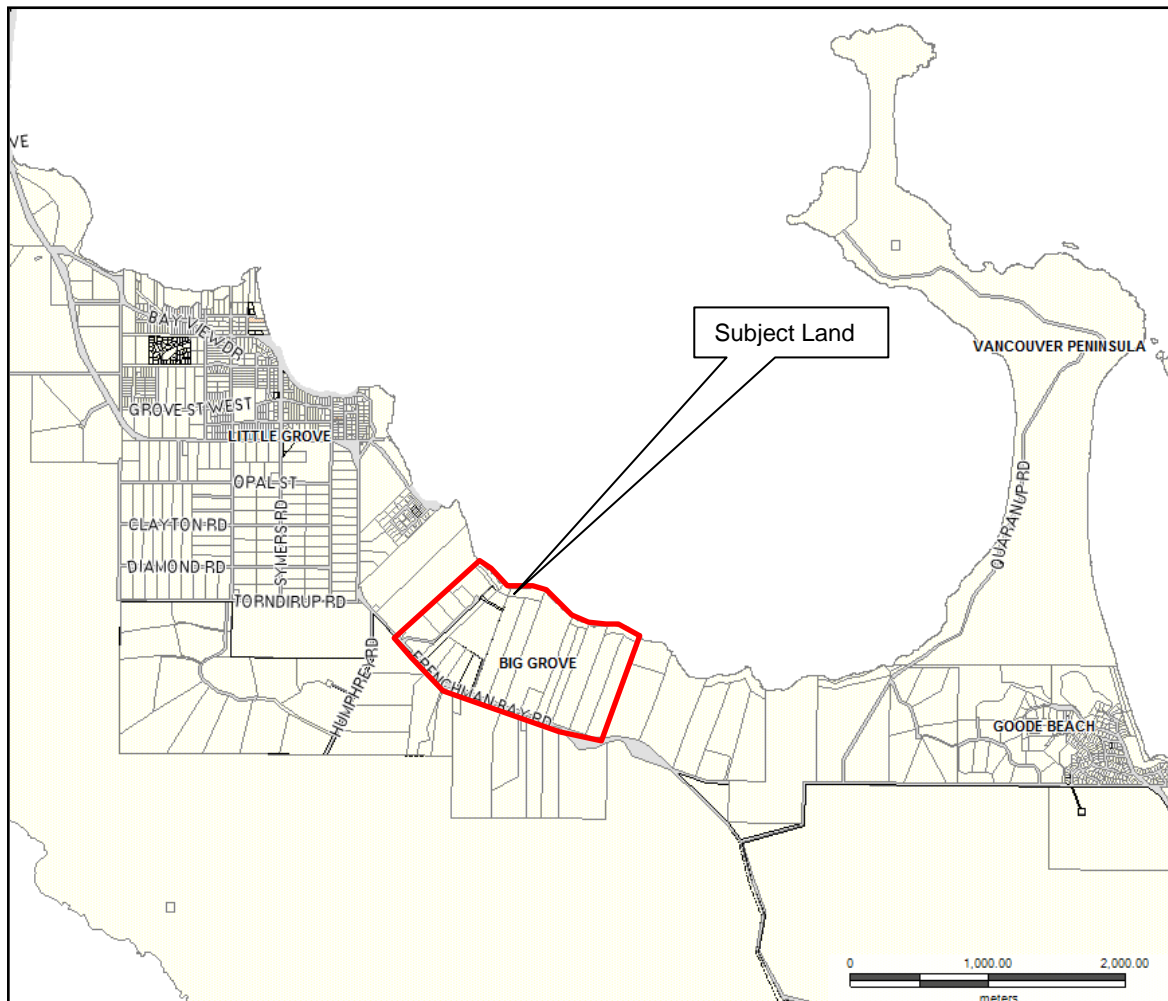
2.2: PROPOSED OUTLINE DEVELOPMENT PLAN FOR BIG GROVE

- Land Description** : Lots 1, 2 (Diagram 032760), 2 (Diagram 020800), 2 (028985), 4, 6, 7, 16, 20, 21, 109, 110, 301-303, and 9000 Frenchman Bay Road and Lots 9-12, 17-18 Panorama Road, Big Grove
- Proponents** : RPS Environment and Planning / Chappell Lambert Everett
- Owners** : Various – refer Appendix 1.
- Business Entity Name/s** : 1. Peet Tri State Syndicate Limited
: 2. P & B Corporation Pty Ltd
: 3. Panorama (WA) Pty Ltd
- Director/s** : 1. Anthony W Lennon; Anthony J Lennon; Brendan D Gore
: 2. Barry C Humfrey; Peter F Bell
: 3. William P Dall
- Attachments** : Attachment 1 - Outline Development Plan (map only)
: Attachment 2 - Zoning Plan
: Attachment 3 - Outline Development Plan (map only) showing modifications recommended in this report
: Attachment 4 - DEC plan showing areas recommended for vegetation retention
: Attachment 5 - Summary from proponent
: Attachment 6 – Impact of Revised Coastal Setback
- Appendices** : Appendix 1 - Plan showing lots, owners and lot areas
: Appendix 2 - DEC advice dated 8 April 2011
: Appendix 3 - Traffic Assessment (Report) Version 3 (Wood & Grieve)
: Appendix 4 - Supplementary Frenchman Bay Road Review (Riley Consulting)
: Appendix 5 - Schedule of Submissions
- Councillor Workstation** : Outline Development Plan (updated version, to be read in conjunction with proposed modifications – disc available on request to Councillors and public)
Updated Local Water Management Strategy – disc available on request to Councillors and public
- Responsible Officer(s)** : E/Director Planning and Development Services (G Bride)

CEO:

RESPONSIBLE OFFICER:

Maps and Diagrams:



IN BRIEF

- Council adopted an Outline Development Plan (ODP) for Big Grove estate at its December 2010 meeting for the purpose of initiating public advertising (refer OCM 14.10.2010 – Item 1.3)
- Advertising closed on 4 February 2011 and Council is to consider all submissions and whether changes to the ODP are required to address submissions.
- Council is to decide whether or not to adopt the Outline Development Plan (ODP) for final approval (with or without modifications).
- Should Council adopt the ODP it is to advise the Western Australian Planning Commission (WAPC) of its decision. Any ODP also requires endorsement by the WAPC.
- There is an outstanding issue as to the extent of the coastal setback that will be required by the Department for Planning Coastal branch and given the state government's position on this the matter should be determined by the WAPC.

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

That Council;

1. Adopt the Big Grove Outline Development Plan for final approval subject to the following modifications being affected (as identified on Attachment 3):
 - a) **Modification 1:** Include a notation on Lot 17 which states “*Should the owner of Lot 17 wish to develop their landholding for residential purposes a re-zoning from ‘Motel’ to ‘Residential Development’ zone prior to any residential subdivision or development would be required. Any rezoning requires separate approval by the Minister for Planning.*”
 - b) **Modification 2:** Include a notation for the Village Centre which states “*A Detailed Area Plan is required for the Village Centre prior to development and shall be in accordance with the City of Albany Residential Design Code Policy with car parking in accordance with the City of Albany Scheme.*”
 - c) **Modification 3:** Include a notation for road widening which states “*Should a need for widening of the road reserve be identified, such widening will need to be accommodated north of Frenchman Bay Road (to meet the City requirements). Public Open Space schedule may require adjustment at subdivision.*”
 - d) **Modification 4:** Include a notation requiring “*Detailed Fire Management Plans shall be submitted with subdivision applications to the WAPC in accordance with ‘Planning for Bushfire Protection - Edition 2’.*”
 - e) **Modification 5:** Outline portions of Lot 7 and 109 identified by the Department of Environment in red and include a notation “*Area identified by the Department of Environment for public open space / vegetation retention. Area and land uses to be reviewed at subdivision stage with referral to the Environmental Protection Authority.*”
 - f) **Modification 6:** Show the southern portion of Lot 10 as ‘Residential’ with the P2 area as a ‘building exclusion area and ‘vegetation retention’ area with a note that “*The southern portion of Lot 10 shall be combined with one residential lot located outside of the P2 area (with no further subdivision potential).*”
 - g) **Modification 7:** Include a notation identifying the need for intersection treatments to be designed in accordance with the Traffic Assessment Report at the subdivision stage.
 - h) **Modification 8:** Change the density codes from R40 to R30, R20 to R17.5 and retain the R25 code except that a note be placed against the R25 code descriptor that the average site area shall be 400m² rather than 350m² as per Section 9.3 of the Outline Development Plan report.
 - i) **Modification 9:** Tables 5b and 6 of Section 8.6 being modified to show Lot 10 Panorama Road, Big Grove contributing to a maximum of 10% Public Open Space.

- j) **Modification 10:** Place a notation on the Outline Development Plan to the following effect:

“To the extent the creation of any road shown on the ODP requires any easement or other interest in that land to be extinguished, the proponent must at its cost (including any compensation that may be payable) arrange for the interest to be extinguished.”

2. Require the following modifications to the Outline Development Plan report:

- **Section 5.3.1** to be amended to:
 - (i) delete the recommendation that any widening of the reserve associated with Frenchman Bay Road be to the south, and recognise that the City may require widening of the road reserve on the north side to be ceded free of cost at subdivision stage.
 - (ii) reference the findings of the amended Traffic Assessment Report.
 - (iii) include requirement that prior to subdivision a Local Planning Policy is to be prepared by the proponent and adopted by Council under Town Planning Scheme No. 3 to identify a cost contribution schedule for any required widening and upgrading of Frenchman Bay Road, inclusive of intersection treatments along its route, as per the amended Traffic Assessment Report (identified in Recommendation 3). The contributions will be proportionate to the total generation of traffic as identified in the Traffic Assessment Report and be calculated on a per lot basis.
- **Section 8.4.1** to be amended so that it is consistent with the amended 5.3.1 above.
- **Section 8.5.1** to include Lot 110 and Lot 6 as one of the retained lots to which this clause applies.
- **Section 8.6** to be amended with an updated POS schedule where widening affects the identified 5m public open space buffer.
- **Section 8.6** to clearly state that refined POS calculations will also be provided as part of subdivision applications taking into account the traffic report, drainage and decisions on the areas identified by DEC for retention on portions of Lot 7 and 109.
- **Section 8.11** to reflect modification to Section 5.3.1 (contributions).
- **Section 9.3** to state that in relation to the R25 Code the ODP amends Table 1 of the R-Codes by increasing the average site area from 350m² to 400m².
- **Section 9.4** to reflect modification to Section 5.3.1 (contributions).
- **Section 9.16** to include a requirement that uniform fencing be provided along existing lot boundaries to protect the amenity of neighbouring landowners.

3. Require the following modifications to the Traffic Assessment Report:

- The upgrading and widening of Frenchman Bay Road is to be based on the lot yield of 1000 lots (consistent with the lower lot yield scenario in the Report) on the basis of the reduction in density as identified by Modification 8 on Attachment 3.
- In addition to the intersection treatment upgrades identified for Chipana Road and Robinson Road the following intersections should also be considered for treatment, being:

- i) Bayview Drive (south) - southern approach.
 - ii) Bayview Drive (north) - southern approach.
 - iii) Robinson Road - in both directions.
 - iv) Princess Avenue - in both directions.
 - v) Queen Street.
 - vi) Harding Road.
 - vii) Symens Street.
 - viii) Torndirrup Road.
 - ix) Lower Denmark Road and Hanrahan Road – interim intersection treatments.
 - The identification of upgrade works (inclusive of intersection treatments above) and approximate upgrade costs being identified to assist in the preparation of a contribution policy. The staging of the works based on priorities at various traffic volume increases should also be identified.
 - Based on the uncertainty over the timing associated with the Albany Ring Road extension, an interim intersection treatment is to be identified at both Hanrahan Road and Lower Denmark Road to the satisfaction of the City, in consultation with Main Roads WA.
4. Formally refer the Outline Development Plan to the Western Australian Planning Commission (with a copy of this report and all Attachments) recommending endorsement subject to modifications following resolution of the required coastal setback and finalisation of the Local Water Management Strategy.
5. Advise the Western Australian Planning Commission that:
- (i) The Local Water Management Strategy is being finalised and the ODP should not be endorsed until a revised Local Water Management Strategy is approved by the Department of Water and the City.
 - (ii) The ODP has been referred to the Commission to consider the City's recommendations on modifications and allow for preliminary assessment at a state planning level. A number of issues will require discussion as they traverse the local government and state planning assessments.
 - (iii) Although not previously raised as an issue during formal advertising, the City has received advice from the Department of Planning (Coastal Branch) that an increased coastal setback is now required reflective of WAPC adopting a change in sea level rise. The final WAPC position on the required coastal setback is currently uncertain, however ongoing discussions will occur between MP Rogers and the Department of Planning Coastal Planning branch. It is appropriate that this issue be resolved at a state planning level given that the City is not in a position to interpret the WAPC Policy position.
6. Adopt the Officer Recommendations in the Table of Submissions (Appendix 5) and advise all people and agencies that lodged a submission, and that copies of all submissions will be provided to the Western Australian Planning Commission.
7. Advise the proponent that:
- (i) The revised Local Water Management Strategy is not approved by the City as part of the Outline Development Plan documentation, and is to be approved in writing by the City and Department of Water. The Local Water Management Strategy is to clearly state that drainage for Lot 7 will be self contained and serviced by Public Open Space Areas area 'E' or 'F' in the north.

- 8. Advise the owners of Lot 6 that;**
- (i) The Outline Development Plan acknowledges they are a non participating landowner, and Lot 6 is subject to future planning and a scheme amendment.**
 - (ii) A Public Open Space and drainage area is retained on Lot 6 in the Outline Development Plan, however can be further refined as part of future planning for Lot 6. Drainage for Lot 7 will be independent and the proponent has been requested to modify the Local Water Management Strategy to reflect this.**
- 9. Advise the owners of Lot 17 that should they wish to develop the land for residential development a future scheme amendment / zoning change will be required.**
- 10. Advise all owners within the Big Grove Outline Development Plan Area of the Council decision and that there are issues relating to coastal setbacks as follows;**
- (i) Most landowners will be aware that coastal setbacks are applied through the Western Australian Planning Commission State Planning Policy No. 2.6 (SPP 2.6).**
 - (ii) A coastal setback report for Big Grove was compiled by the proponent (the initial report was drafted in 2007).**
 - (iii) In September 2009 the Department for Planning conditionally supported the setbacks recommended by the proponent subject to modifications. In correspondence the Department highlighted that SPP No 2.6 was under review, that the review would take some time, and that the current Policy Position identified a sea level rise figure of 0.38m over a 100 year timeframe. The letter foreshadowed that an increase to a Sea Level Rise value was likely, however (in 2009) could not be enforced under current Policy.**
 - (iv) The proponent's coastal report was revised in October 2009 and January 2010.**
 - (v) On 25 May 2010 the Western Australian Planning Commission (WAPC) adopted a Position Statement supporting use of a sea level rise (SLR) increase to 0.9m to 2110.**
 - (vi) The City consulted with the Department of Planning during advertising of the Big Grove Outline Development Plan (ODP), however no comments were lodged in regards to coastal setbacks. An agenda item on the ODP was originally scheduled for the June 2011 Council meeting.**
 - (vii) The City was contacted by the Department of Planning (Coastal Branch) on the 17 June 2011 advising that the coastal setbacks for Big Grove does not reflect updated the WAPC position on sea level rise. This advice was confirmed by email to the City on 20 June 2011 resulting in the withdrawal of the report on Big Grove from the June 2011 Council agenda.**
 - (viii) The Department of Planning advised that the total setback for the Big Grove ODP should be an additional 52 metres inland from the original setback line or to the 2.52 metre contour.**
 - (ix) City officers have met with Department of Planning (Perth) who indicated that the new SLR has been applied consistently since May 2010 throughout the state, however that discussions over setbacks can continue with the Coastal Branch. There appears to be some acknowledgement that there is scope to assess setbacks based on a case by case basis.**

- (x) **There will be ongoing discussions between the proponents and Department for Planning.**
- (xi) **The City is lodging the Big Grove ODP with the WAPC for assessment at the state planning level. A final position on the coastal setback required by WAPC is still to be determined.**

BACKGROUND

Location

1. The area known as 'Big Grove' is located 6.5 kilometres south east of the Albany city centre across Princess Royal harbour. The subject land is approximately 120 hectares in area comprising of over 28 private lots. The Outline Development Plan (ODP) is included as Attachment 1.

Relevant Scheme Amendments & initial EPA advice

2. The western and eastern portions of the Big Grove Outline ODP area were rezoned to 'Residential Development' zone under Amendment 279 and Amendment 284 to the City of Albany Town Planning Scheme No 3 ('the Scheme'). Amendment 279 covered the western portion and Amendment 284 covered the eastern portion of the ODP area.
3. Both Scheme Amendments were referred to the Environmental Protection Authority (EPA) who decided that no formal environmental assessment was required, however the following advice was provided:
 - For Amendment 279 the EPA advised that in the event that any Ringtail possums or other significant fauna species are found on the site prior to any development, advice should be sought from Department of Environment and Conservation (DEC) regional office, and that advice should be complied with.
 - For Amendment 284 the EPA advised that remnant vegetation and fauna were not assessed although it contained significantly more native vegetation in excellent and very good condition than Amendment 279. EPA recommended that the ODP be modified in liaison with relevant authorities including DEC and Department for Planning so that key vegetation associations, fauna habitat and ecological linkages are retained where possible.
4. Both amendments have been gazetted. The fact that both Amendments have been approved by the Minister for Planning indicates that the land has been deemed suitable for some form of residential development however issues relating to the amount of vegetation to be retained were effectively deferred to the ODP stage and subject to advice of DEC.
5. There is no mechanism which allows the ODP to be referred to the EPA, however future subdivision applications can be referred to the EPA if vegetation issues remain unresolved.

Current zoning

6. The majority of private lots within the ODP are zoned 'Residential Development' under the Scheme with the exception of Lot 6 which is still 'Rural', and Lots 17-18 which are zoned 'Motel' – refer Attachment 2.
7. The objective of the 'Residential Development' zone is '*to facilitate the orderly and equitable development for residential purposes of areas where the existing subdivisional pattern, multi ownership, or other factors make this objective unobtainable by the normal methods of subdivision and development.*'
8. Even though Lot 6 is still zoned 'Rural' under the Scheme, the proponent has been requested to include it in the ODP area for strategic planning. A notation has been included on the ODP specifying that Lot 6 (central to the ODP) would require a scheme amendment, and that the landowner is non-participating.
9. The ODP allows for 'Residential' on Lot 17. A future scheme amendment will need to re-zone Lot 17 from 'Motel' to 'Residential Development' zone to facilitate any residential development (as a 'single house' and 'grouped dwellings' are not permitted in the existing 'Motel' zone). It is recommended that the ODP be modified to include a note reflecting this (Modification 1 – Attachment 3).
10. A plan showing the lot numbers, lot areas and ownership is included as Appendix 1.

Surrounding zoning

11. Land abutting Princess Royal Harbour (foreshore area) and land to the immediate east is reserved as 'Parks and Recreation' under the Scheme.
12. The majority of land to the south is zoned 'Rural' with the exception of Lot 19 and a portion of Lot 18 specifically zoned 'Special Site' as a caravan park under the Scheme. The Scheme reserves land to the west as 'Public Purpose', and Frenchman Bay Road as 'Important Regional Road'.

DISCUSSION

Description of Outline Development Plan

13. 'Peet Tri-State Syndicate Limited' (Peet) and 'P & B Corporation' have significant landholdings in the area and have commissioned the ODP.
14. A summary of the densities proposed in the ODP is detailed below;
 - a) The majority of the ODP area is proposed as Residential with an 'R20' coding. A minimum of 450m² and average of 500m² per dwelling applies to R20 under the Residential Design Codes ('R-Codes').
 - b) Larger rural residential lots are proposed in water protection (priority 2) areas and most contain existing dwellings.

- c) Larger 'R10' densities are proposed along the western and eastern boundary of the ODP with an area for fire protection. For R10 densities a minimum of 875m² and average of 1000m² applies under the R-Codes.
- d) An 'R25' density is proposed adjacent to areas of open space, a proposed school and near the foreshore. Originally these areas were proposed as 'R30' on the advertised version of the plan, with the density being reduced following advertising.
- e) A primary school and Village Centre (R40-60) are proposed adjacent to Frenchman Bay Road on a main entry road.

Projected lot yield and population

- 15. The proponent has advised that there is strong market demand for larger lots between 550m² and 750m². They do not expect a high demand for smaller lots and have provided estimated lot yields based on predicted demand.
- 16. The table below summarises the proponents 'predicted' lot yields compared with the maximum yield permissible under the Codes (shown on the ODP).

Lot type (as advertised)	Net Residential Area (hectares)	Average lot size (suggested by proponent)	Total lot yield (suggested by proponent)	Average Lot size (as per R Codes)	Total yield (based on R Codes)
R10	5.43ha	1500m ²	36	1000m ²	54
R20	48.48ha	670m ²	723	500m ²	969
R30	5.97ha	400m ²	149	300m ²	199
R40	2.48ha	300m ²	82	220m ²	112
Rural Residential	3.29ha	N/A	4	N/A	4
Totals			994		1338

Table – Maximum potential lot yields

- 17. The proponent was required to include figures on the maximum potential lot yield based on the density codes shown on the ODP. The City does not have control over implementing the lesser densities suggested once an ODP is approved by the Western Australian Planning Commission.
- 18. The financial viability of the lot yield will be examined by the developer / owners having regard for costings at the detailed design and subdivision stage.
- 19. Given the traffic implications associated with the higher lot yield as discussed within Paragraphs 38 to 51 below, it is recommended that the densities are modified to ensure the maximum lot yield potential is reduced to be more in keeping with the lot yields as suggested by the proponent. To this end the following density changes are proposed:
 - a) R20 density code (average 500m² per lot) being changed to the R17.5 density code (average 571m² per lot);
 - b) R40 density code (average 220m² per lot) being changed to the R30 density code (average 300m² per lot); and

- c) R30 density code (average 300m² per lot) being changed to the R25 density code (with the average lot area being increased from 350m² to 400m²).
20. The change to the average lot size for the R25 Code can be achieved via a modification to the density provisions in Section 9.3 of the Outline Development Plan. Table 3 and Clause 5.8(c) of the Scheme allow an endorsed Outline Development Plan to set the density of development and vary provisions of the R-Codes accordingly.
21. The three changes to the density as identified in Paragraph 19 above will reduce the maximum lot yield by 216 lots (from 1338 lots to 1122 lots) over the whole ODP area. The worst case scenario of 1122 lots would only be achieved if all landowners (including non-participating landowners) developed their land to its full development potential, seeking the minimum lot sizes contemplated by the R-Codes. In this regard, the WAPC's 'Liveable Neighbourhoods' document, under Element 1 - Community Design (page 3) states:
- "In Western Australia the usual way of designating proposed residential density on structure plans has been by specifying an R-Code (eg. R20) across a defined area. This has only served to specify a maximum density and often what is built is much less than coding permits."*
22. Staff's original view of substituting the R20 code with an R15 Code was based fundamentally on traffic management grounds. It is also important to consider the planning merits of density which promotes the efficient use of local services such as the future school, local centre and tourist node and the effective use of infrastructure, particularly the provision of reticulated sewerage. It is noted that the typical suburban density within Albany is R20, which is the minimum recommended density identified within the WAPC's 'Liveable Neighbourhoods' document for fully serviced urban areas.
23. The application of the R17.5 code over those areas identified as R20 on the advertised version of the ODP, is likely to achieve the anticipated yield of 1000 lots. The additional 122 lots contemplated under the R17.5 code is likely to be compensated for by the current demand by purchasers for larger lots and the clear desire of several non-participating landowners to retain a large homestead lot in excess of 1 hectare.
24. The application of an R17.5 code is a compromise position which accommodates a reasonable density, albeit below the standard residential density, whilst ensuring anticipated traffic volumes are not likely to be excessive.
25. The three changes in density as identified in Paragraph 19 above (and included in the table below) will ensure the potential lot yield under the R-Codes is reduced significantly and is relatively consistent with the average lot sizes promoted by the proponent. The reductions in density also addresses in part the concerns raised through several public submissions about the level of density identified on the advertised ODP.

Lot type (as advertised)	Suggested Lot type	Net Residential Area (hectares)	Average lot size (permitted under R-Codes)	Total maximum lot yield
R10	R10	5.43ha	1000m ² , however based on a minimum frontage of 20 metres and a 70 metre depth, to cater for fire separation of 40 metres, lots of around 1500m ² are likely to be achieved.	36
R20	R17.5	48.48ha	571m ²	849
R30	R25	5.97ha	350m ² (average to be modified by ODP to 400m ²)	149
R40	R30	2.48ha	300m ²	82
Rural Residential		3.29ha	N/A	4
TOTAL				1122

26. The above table does not include the removal of the northern part of Lot 7 from residential development as per Modification 5, which will produce a further reduction of approximately 45 lots. The imposition of the additional coastal setback if required by the Western Australian Planning Commission, will also have a significant impact on lot yield.

Proposed Village Centre

27. The ODP includes a Village Centre adjacent to the proposed primary school. Development within the Village Centre may comprise residential and / or commercial uses (in accordance with the Residential and Local Shopping Zone provisions of the Scheme), shall be restricted to 3 storeys in height and shall be required to accord with a Detailed Area Plan (DAP) approved for the site.
28. The ODP complies with the City of Albany Residential Design Code Policy (recently renamed as the 'Big Grove and Emu Point Village Centres' Policy) with the exception that it is not located centrally to the site. This location of the village centre adjacent to Frenchman Bay Road was discussed in the Council Report of 14 December 2010; it was considered that in order for a centre to remain viable it needed to be located in a highly visible location for passing motorists.
29. It is recommended that a note be included on the ODP to make it clear that a Detailed Area Plan is required and carparking for future development should comply with the Scheme (Modification 2 – Attachment 3).

Open Space

30. In accordance with the Western Australian Planning Commission's 'Liveable Neighbourhoods' document an application for a structure plan approval must be accompanied by a public open space schedule identifying the total site area, less deductions, the gross subdivisible area, the 10 percent public open space contribution and the restricted use public open space allocation.

31. Open space may be provided in the form of land, cash in lieu of open space, or a combination of both.
32. The primary focus of the ODP is on the foreshore, however this is supported by a series of secondary local parks and areas of vegetation retention spread throughout the ODP. A major corridor has been provided between remnant vegetation to the east of the ODP, through Lot 1 and to the foreshore. A five metre Public Open Space strip has been provided along Frenchman Bay Road and open space is linked with pedestrian and bicycle paths.
33. The Western Australian Planning Commission may allow inclusion of 'restricted open space' provided it is useable for recreational purposes. Restricted open space can include urban water management areas such as swales and detention areas provided that;
- The area is not subject to inundation more frequently than a one year average recurrence interval rainfall event and does not present a safety hazard;
 - The area of the swale is contoured, unfenced and grassed and / or landscaped;
 - The area forms part of an appropriate management plan.
34. The proponents have provided a detailed open space schedule which demonstrates that there is an overprovision of open space based on the developable ODP area. A total of around 12.17 hectares of open space is indicated (excluding additional foreshore reserve), representing 13 percent of the Nett Residential Area.
35. A summary of open space is included below;

Owner	Lot No.	Area (ha)	Total Deductions	Nett Developable Area	POS required (ha)	Nett POS provided (ha)	Total provided (credited – includes unrestricted and restricted POS)
Peet	Various	57.48	8.86	48.626	4.86	5.41	5.41
Vasilu	2	9.43	0.34	9.09	0.91	1.09	1.09
Campbell	2	2	0	2	0.2	0.057	0.057**
P & B	Various	20.46	1.026	19.431	1.94	2.93	2.93
Kirby (Rural zone)	6	9.39	0.56	8.83	0.88	0.76	0.76**
Hillis	10	2.86	0.26	2.6	0.26	0.32	0.32
Leckie	12	2.32	0.2	2.12	0.21	0.077	0.077**
Kelly (Motel zone)	17	1.36	0.06	1.30	0.13	0.065	0.065**
Stean	303	2.5	0	2.5	0.25	1.138	1.138
Roberts	9000	2.4	0	2.4	0.24	0.169	0.169**
					9.89	12.026	12.026

Notes: - ** balance to be paid as cash in lieu
- Does not include Public Open Space for rural residential lots in P2 area

36. The majority of the existing lots will independently meet the 10% open space requirements in the form of land. There is a shortfall of open space based on individual lot areas for Lot 2 (Campbell), Lot 12 (Leckie), Lot 6 (Kirby), Lot 17 (Kelly) and Lot 9000 (Roberts). In these cases the balance of the open space will be required to be provided in the form of cash in lieu at subdivision stage; this has been included as a notation on the ODP.
37. If the City requires road widening north of Frenchman Bay Road then the Public Open Space Schedule will require adjustment. The 5 metre Public Open Space strip along Frenchman Bay Road does not provide for actively useable open space areas and its main asset was retention of existing vegetation. Any additional shortfall can be offset by means of cash in lieu and the money utilised for expenditure on surrounding Public Open Space areas in the ODP area.

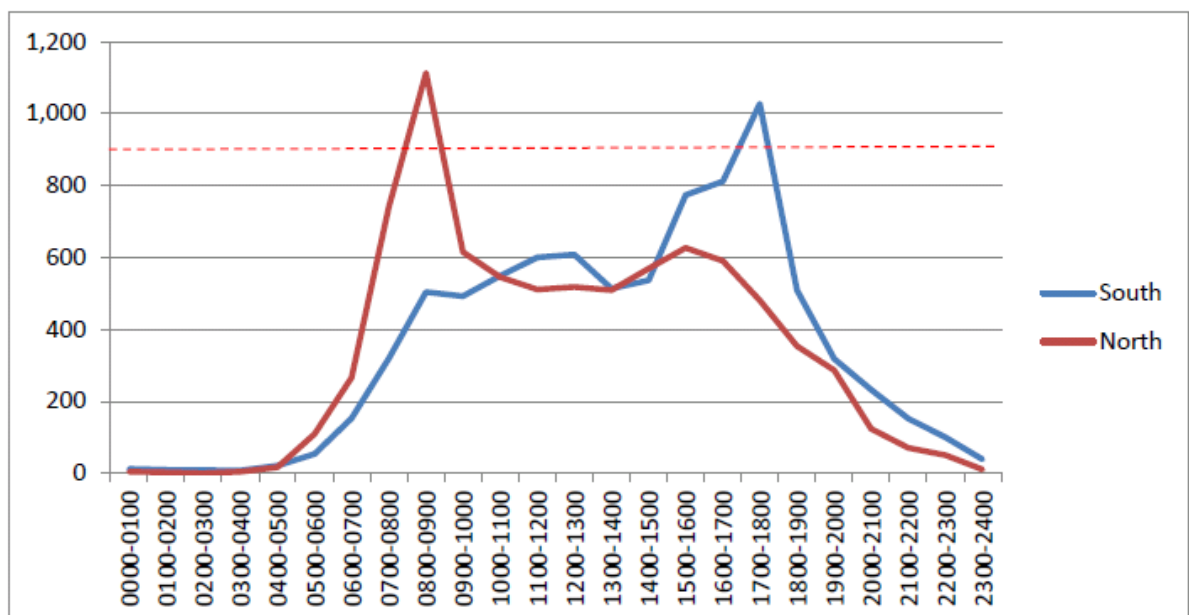
Traffic

38. The ODP was advertised for public comment based on the understanding that a Traffic Assessment Report would be lodged during this time. In December Council resolved that that it *'will not consider formal adoption of an ODP for Big Grove unless it is satisfied with the traffic report results and that road widening has been addressed'* (refer OCM 14.10.2010 – Item 1.3).
39. A Traffic Assessment Report was lodged by the proponent in accordance with the above resolution and has been reviewed by the City's Works and Services Department and Main Roads WA. The initial version has been modified after concerns were expressed from both the City and Main Roads WA about the traffic generation rates anticipated per lot, the accuracy and methodology surrounding traffic counts, and the assumptions on the level of service for Frenchman Bay Road. Since this time the traffic generation rates have been agreed at 6.8 vehicles per day for each lot and the level of service values have been refined and updated.
40. The updated traffic report (Version 3) is found within Appendix 3 and identifies that based on a predicted lot yield of approximately 1000 lots, and taking into account other developments within the area and a general increase in tourist traffic, road widening and upgrading would be required along Frenchman Bay from Little Grove to Hanrahan Road by the year 2030 (involving widening of each lane from 3m to 3.5m). Such widening can be accommodated within the existing road reserve. If however the traffic generation rates are applied to the maximum lot yield of 1,338 lots the northern end of Frenchman Bay Road (from Princess Avenue, but possibly as far south as Chipana Drive, to Hanrahan Road) would potentially need upgrading to a dual carriageway (four lanes) by 2030 to maintain a suitable level of service as recommended in Austroads (road engineering standards). The creation of in excess of 1007 lots at Big Grove, in addition to general increases in traffic and additional developments in the area to 2030, is deemed to be the point where Frenchman Bay Road would need to be upgraded to a dual carriageway to maintain an adequate level of service, free from congestion and regular delays in peak traffic periods.

41. There may be insufficient width within the existing Frenchman Bay Road reserve to cater for a dual carriageway without the resumption of a significant portion of private land on the western side of Frenchman Bay Road. The construction of a dual carriageway would be unacceptable to landowners concerned and would have an adverse impact on the visual amenity of the area. It is recommended that measures be undertaken to reduce the potential maximum lot yield identified under the R-Codes as per Modification 8 of the officer recommendation, and therefore the application of the lower yield scenario is supported.
42. The report includes a review of the existing intersections along Frenchman Bay Road through to Hanrahan Road, and whether further intersection treatment would be required by 2030. The report has identified that Chipana Road (deceleration lane) and Robinson Road (formalised auxiliary lane) would need upgrading. Council's Works and Services Department have reviewed the existing intersections and believe additional treatment will be required at Bayview Drive South (southern approach), Bayview Drive North (southern approach), Robinson Road (both directions) and Princess Avenue (both directions). Additional commentary on the Hanrahan Road and Lower Denmark Road intersections is made in Paragraph 44 below.
43. Along that section of Frenchman Bay Road fronting the ODP area all intersections (including the existing Panorama Road) will require left-in deceleration lanes, slight widening of the exiting lane to cater for right turning vehicles and a minimum queue length of 3 vehicles for exiting vehicles. These works in addition to any works within Frenchman Bay Road fronting the ODP area will be carried out by the proponent at their full cost at the subdivision stage and is supported by the City's Works and Services Department.
44. The Report has identified that the intersection of Frenchman Bay Road and Hanrahan Road would not have the capacity to provide an acceptable level of service for vehicles turning right from Frenchman Bay Road onto Hanrahan Road during morning peak periods by 2030, regardless of whether the Big Grove development proceeds. The Report however identifies that the traffic generated by the Big Grove development would result in an unacceptable level of service for right turning vehicles in the PM peak hour from Hanrahan Road. Whilst the Albany Ring Road extension would resolve this intersection issue, Main Roads WA have advised that this extension is only at the preliminary design stage and its timing for implementation is unknown. Main Roads WA is concerned that in the mean time as the Big Grove area develops this intersection will be placed under increasing pressure. Main Roads WA has not historically accepted developer contributions in the Great Southern for the upgrading of its assets, and are likely to request the upgrade of this intersection at the subdivision stage at the proponents full cost; despite the fact that the intersection is likely to require upgrading in the near future even if this proposal did not proceed.
45. In order to ensure fair and equitable contributions are made from the proponents to the upgrade and widening of Frenchman Bay Road and associated intersections along its route, it is recommended that the Traffic Assessment Report be amended to encapsulate the upgrading of several intersections as identified above (with particular importance to the Lower Denmark and Hanrahan Road intersections) and include costings of all such works. The amended Report will then form the basis on which to formulate a contribution policy. It is considered reasonable that contributions for improvement works will be based on the

proportionate level of traffic generated by the ODP versus the total traffic generation as identified in the Traffic Report.

46. An additional supplementary traffic report for Big Grove was lodged on the 6 July 2011 by Riley Consulting (a specialist traffic engineer). The supplementary report provides a number of scenarios based on different trip rates (the existing trip rates on Frenchman Bay Road is around 4 trips per day based on the existing number of dwellings and the current traffic figures). The worst case scenario, predicts that Frenchman Bay Road will have a peak period demand greater than deemed capacity in the peak direction of flow for two periods during the day. During the remainder of the day the hourly volume would be well within the road capacity and an acceptable level of service would exist. Graph 1 below details that at the full build out scenario (using the higher vehicle trip rate of 6.8 trips per dwelling) the level of service would exceed acceptable standards (where traffic exceeds 900 vehicles per lane) during peak periods.



Graph 1 Frenchman Bay Road Future Traffic Profile 2030 (16,452vpd)

47. Based on the worst case scenario, the supplementary Traffic Report concludes that duplication of Frenchman Bay Road would only benefit traffic in the peak hour, therefore may not be warranted due to costs. Instead the report recommends that Frenchman Bay Road be widened similar to that identified within the Wood and Grieve Report, that upgrading of the Frenchman Bay Road/Hanrahan Road intersection be considered, and that provision of right turning lanes at key intersections on Frenchman Bay Road be undertaken.
48. The Riley report identifies that developer contributions towards upgrading should be considered. It is recommended that the contribution schedule be adopted as a local planning policy under Town Planning Scheme No. 3 prior to subdivision within the ODP area. An amendment to Sections 5.3.1, 8.4, 9.4 and 8.11 of the ODP to reflect this requirement would be needed as identified in the responsible officer recommendation.
49. It is acknowledged that the information in the supplementary Traffic Report supports a lessening need for any dual carriageway in Frenchman Bay Road adjacent to the ODP area.

Notwithstanding the above a conservative approach is recommended to simply flag by notation on the ODP that 'should a need for widening of the road reserve be identified, such widening will need to be catered for on the northern side of Frenchman Bay Road', as it is less practical and feasible for significant widening to occur to the south as the land would need to be acquired at the City's cost and the land is largely rural.

50. The notation on the ODP means that if any widening is required for turning lanes, a central median / boulevard, paths or services, the issue is clearly addressed.
51. As per Paragraph 99, Council has the option of requesting the Traffic Report be amended and updated prior to granting final approval to the ODP, however as the road upgrading requirements do not affect the design of the ODP and the deficiencies in the Traffic Report will be addressed through the modifications identified, deferral of the ODP is not recommended by staff.

Drainage

47. Drainage has also been examined by the proponents. Engineering drawings will be re-examined at subdivision stage although the level of detail provided is considered sufficient to support the ODP.
48. The ODP has been divided into a number of drainage catchments. There have been some discussions with the proponent over drainage for Lot 7 as;
 - a) The advertised ODP relied on drainage areas shown on Lot 6 and the proponents were advised that drainage for Lot 7 should be self contained.
 - b) The owners of Lot 6 have objected to drainage for Lot 7 being directed to their land (refer Submission 14).
 - c) Staff have met with proponent's engineers (April 2011) who confirmed that the POS area 'E' or 'F' in the north of Lot 7 has sufficient area to cater for drainage of Lot 7. This will be reflected in a revised LWMS. In addition the City's Works and Services Department has agreed that drainage does not have to attenuate the 1 in 10 event with there being no downstream infrastructure to protect.
 - d) A POS / drainage area is still shown on the ODP for Lot 6 however a marginal reduction can be considered at subdivision stage. Alternatively the owners of Lot 6 could pursue a modification to the ODP when the land is re-zoned (as it is currently Rural).

Foreshore Reserve and Coastal Setback

49. The foreshore areas on the ODP are greater than those reflected by 'Parks and Recreation' reservations under the Scheme. The delineation was largely determined by the State Planning Policy (SPP No. 2.6) relevant at the time of the initial setback assessment in 2007.
50. In September 2009 the Department for Planning conditionally supported the setbacks subject to modifications. In correspondence the Department highlighted that SPP No 2.6 was under review, that the review would take some time, and that the current Policy Position identified a Sea Level Rise figure of 0.38m over a 100 year timeframe. The letter foreshadowed that an increase to a Sea Level Rise value was likely, however could not be enforced under current Policy (in 2009).

51. On 25 May 2010 the WAPC adopted a Position Statement supporting use of a sea level rise increase to 0.9m to 2110. SPP No. 2.6 remains under review and still includes reference to a sea level rise of 0.38m.
52. The City consulted with the Department of Planning during advertising. No comments were lodged by this Department in regards to coastal setbacks.
53. An agenda item on the ODP was originally scheduled for the June 2011 Council meeting. The City was contacted by the Department of Planning (Coastal Branch) on the 17 June 2011 advising that the coastal setbacks for Big Grove do not reflect the updated WAPC position on Sea Level Rise. This advice was confirmed by email to the City on 20 June 2011 resulting in the withdrawal of a report on the Big Grove ODP from the June 2011 Council agenda.
54. Initial advice from Department of Planning was that the total setback for the Big Grove ODP should involve the original setback plus an additional 52 metres or to the 2.52 metre contour. If the increased setbacks are imposed it will have significant implications for existing dwellings and the design of the ODP (refer Attachment 6).
55. Officers from the City of Albany and Gray & Lewis have met with Department of Planning officers in Perth, and relevant Big Grove consultants, to discuss the coastal setback issue. The Department's Coastal Planning Officers have expressed a reasonably strong preference to apply the increased Sea Level Rise (SLR) figure and a conservative setback. They indicated that there is currently a poor understanding of estuary behaviour and the 'precautionary principle' should therefore be applied.
56. Notwithstanding the above, the Department of Planning officers have acknowledged that the SLR is based on an open coast with ocean waves, and that there is some scope to consider setbacks based on an individual case as long as there is sufficient scientific or factual analysis including information such as impact of a 1 in 100 storm event, wind records etc. The Estuary is protected and has reduced wave energy.
57. Whilst Council has an obligation to have regard to State Planning Policies, it is difficult in this circumstance given the current State Planning Policy 2.6 still refers to the 0.38m sea level rise figure, and the updated 'position' has not yet been incorporated into Policy, which is under review.
58. Having been through an extensive assessment and public consultation process, it is recommended that the Outline Development Plan be adopted for the purpose of lodgement with the WAPC, with the coastal setbacks being recognised as the one outstanding issue. It is considered that the City is in no position to try and adjudicate any agreement between the proponent and the Department of Planning, given the technical nature of coastal setbacks and specialised expertise of coastal engineers.

Fire Management

61. A Fire Management Strategy for the ODP was developed in accordance with 'Planning for Bushfire Protection' Edition 1 by a professional fire consultant (in consultation with the City and the Fire and Emergency Services Authority).
62. In summary the strategy advised as follows;
 - a) The road layout meets the requirements however each subdivision stage will need to have two egress points (to Frenchman Bay Road).
 - b) The western and eastern boundaries of the site (adjoining areas of remnant vegetation) need to be provided with a 40 metre setback to incorporate a 20 metre building separation zone and 20 metre hazard separation zone. Building separation zones and hazard separation zones should be provided at subdivision stage.
 - c) A more detailed Fire Management Plan will be provided at the subdivision stage and be updated to reflect Edition 2.
63. Since development of the broad Fire Strategy, new 'Edition 2 – Planning for Bushfire Protection' guidelines have been released. Liaison with the Fire Consultant has revealed the existing overall Fire Management Strategy is sufficient for the ODP as the fire setbacks will not change.
64. The more detailed Bush Fire Management Plans for subdivision will be updated to reference Edition 2. It is recommended that the ODP include a notation requiring '*Detailed Fire Management Plans shall be submitted with subdivision applications to the WAPC in accordance with 'Planning for Bushfire Protection' Edition 2' - (Modification 4 – Attachment 3).*

GOVERNMENT CONSULTATION

65. The ODP was been referred to the Department of Environment and Conservation (Perth Branch), Fire and Emergency Services Authority, Department of Water, Department of Transport, Main Roads WA, Department of Education and Training, Water Corporation, Department of Planning; Western Power, Telstra, Department of Health, Department of Indigenous Affairs, Department of Housing and Works, Department of Mines and Petroleum and Department of Agriculture and Food WA.
66. Thirteen government authorities, agencies or service providers lodged submissions on the ODP as summarised in a schedule with officer recommendations – Appendix 5.
67. Coastal setback issues recently raised by Department of Planning are outlined in sections 49-58 above. The following main issues relevant to the ODP and government consultation are discussed in detail below;

Areas for Vegetation Retention

68. In considering environmental issues such as vegetation and fauna largely it is noted that:
- a) The EPA did not assess these issues 'up front' as part of the amendment process so they have become major issues for the ODP.
 - b) There has been an ongoing difference of opinion between the view of the proponents' environmental consultant and the view of the Department of Environment and Conservation.
 - c) The City may choose to rely on the Department of Environment and Conservation's expertise, however there is still discretion over environmental issues.
 - d) The City does not have environmental science expertise and can only provide a planning perspective.
69. The ODP includes areas of remnant vegetation and potential fauna habitat. It is noted that:
- On behalf of the proponent, environment consultants conducted vegetation surveys of the subject land in October 2006, September 2007 and November 2007. Additional survey work was conducted in 2009 to respond to advice from the EPA on the scheme amendment.
 - Fauna studies were also undertaken in 2006 (Level 1 fauna assessment) and 2007 which identified some potential for a limited number of significant species to be present or to utilise the site, including Carnaby's and Baudin's Cockatoos, Western Archaeid Spiders, Carpet Pythons, White-bellied Sea Eagles (in the karri stands on Lots 1 and 110) and the Rainbow Bee-eater. In consideration of Amendment No. 284 the EPA recommended that specific fauna surveys be conducted and include Western Ringtail Possum, Mains Assassin Spider and the Carpet Python.
 - The proponent has indicated that they discussed a methodology for additional fauna survey work (February 2010) with the Department of Environment and Conservation (Albany), followed the agreed methodology, however the Department were not satisfied, but have not provided any alternative agreed study methodology.
70. In the ODP report it notes that the proponent's environmental consultant "*considers that Western Ringtail Possums (WRP) are present in low numbers in the ODP area, where there is suitable habitat.*" The environmental consultants have made a number of recommendations to manage any fauna movements, which have been incorporated into the ODP design. Some measures include;
- Retention of areas of very good to excellent quality vegetation in the foreshore area, POS Areas A, B & C that provide suitable Western Ringtail Possum habitat.
 - The Foreshore Management Plan proposes that existing vegetation be retained and that most of the existing cleared areas of foreshore be replanted with local native plant species, including peppermint, which would be suitable as Western Ringtail Possum habitat. Corridor is 80m by 1.3km long.
 - Retention of vegetation and replanting of a 5m vegetated buffer (with peppermints included) along Frenchman Bay Road.

- Retention of trees and understorey, where possible, within other areas of Public Open Space.
 - Introduction of landscaping incentives for new landowners which prescribe the use of local native plant species, with a focus on Peppermint trees and local understorey species.
 - Streetscaping to provide linkage at the road reserve level, with a focus on the planting of peppermint trees.
71. The ODP was referred to the Department of Environment and Conservation for comment and a submission lodged on the 11 March 2011 (Submission 32). The Department of Environment and Conservation indicated that;
- (i) The corridor link on Lot 1 should be widened; and
 - (ii) Additional vegetation protection POS should be provided in the northern sector of Lot 7 and a small amount of Lot 109.
72. A meeting was arranged with the Department of Environment and Conservation officers to clarify the exact areas on the ODP requested for retention, as there was some ambiguity over whether the area on Lot 7 traversed the proposed east-west road. In discussions the Department of Environment and Conservation indicated that it made its comments under the assumption that the City had environmental expertise and would make the final decision. The City advised it would largely be guided by the Department of Environment and Conservation and had insufficient expertise to adjudicate a position between the Department of Environment and Conservation and the proponents' environmental consultants.
73. The Department of Environment and Conservation were requested to provide amended concise advice and an amended submission was lodged on the 8 April 2011 (refer Submission 33 and Appendix 2). The Department of Environment and Conservation considers it has provided significant compromise in its amended advice:
- (i) it will accept the link as proposed through Lot 1 as long as there is a clear commitment to retaining vegetation in POS areas A and C.
 - (ii) it recommends the portion east of the proposed road on Lot 7 and a portion of Lot 109 should be retained for Western Possum habitat – Attachment 4.
- *Note: The section referred to by DEC is actually north of the proposed road.*
74. An additional meeting was held with the Department of Environment and Conservation and the proponents on 18 April 2011 to discuss vegetation issues, and the Department of Environment and Conservation has re-affirmed that it stands by its position outlined in its letter dated 8 April 2011. A number of issues were discussed at the meeting (refer discussion points raised below), and whilst the views of the Department of Environment and Conservation are respected and have been accepted via Modification 5 to the Outline Development Plan (in the responsible officer recommendation) staff do have some reservations as identified in the comments below.

Discussion Points	Comments
<p>DEC has indicated that once areas are disturbed (ie subdivision site works) possums will temporarily move out of the area into surrounding habitat, and may have some territorial repositioning. This means the possums do not have to be trapped prior to site works commencing.</p>	<p>It is understood that some possums may move back into the vegetation areas to be retained and some of the vegetation retention areas are aimed to providing habitat.</p> <p>The portion of Lot 7 and 109 identified by Department of Environment and Conservation are adjacent to a major road which represents some conflict. Unless Department of Environment and Conservation is prepared to manage the new open space it represents additional land for the City to maintain.</p>
<p>It is important to provide vegetation corridors that link the foreshore to Torndirrup National Park to the immediate south. This will provide habitat and for safe movements.</p>	<p>The importance of vegetation corridors is recognised. The vegetation corridor on Lot 1 will provide a link between the foreshore and Torndirrup National park. The majority of vegetation will be retained with the exception of some clearing for drainage.</p> <p>The vegetation retention suggested for portions of Lot 7 and 109 will not provide a vegetation link and staff are concerned that encouraging possums into this area could make them more susceptible to conflict through contact with predators, such as cats.</p> <p>Department of Environment and Conservation does acknowledge that the road corridor will have a significant impact on the value and integrity of vegetation on Lot 7. Staff considers the vegetation link on Lot 1 to be of greater importance.</p>
<p>DEC advised that they can take into consideration surrounding habitat areas in their assessment.</p> <p>DEC were asked how the values of vegetation on adjacent Reserve 930 were taken into consideration. DEC has advised they have not taken Reserve 930 into account as the EPA advised that environmental values need to be achieved in the ODP area itself as there is no statutory planning mechanism</p>	<p>It is acknowledged that Reserve 930 is not provided with 100% protection of all native vegetation. From a practical perspective however it is considered that Reserve 930 should be taken into account as;</p> <ul style="list-style-type: none"> - It is a Reserve vested in the City of Albany so the City has a high level of control over any future development and would have a high objective to retain vegetation. - The EPA advised that the majority of vegetation on Reserve 930 is of excellent condition, has the same values as the ODP area and currently acts as an ecological link. - The 'Parks and Recreation' zoning of Reserve 930 offers a high level of protection. - The reserve is leased to the Rotary Club however there are no known plans for future development.

Discussion Points	Comments
in place to ensure long term vegetation protection on Reserve 930.	<p>Existing buildings and clearing is relatively contained.</p> <ul style="list-style-type: none"> - Any clearing or development would require referral to EPA or a permit from DEC (such a permit would be difficult to obtain). - It is considered unlikely that the City would pursue extensive clearing on Reserve 930 because of its vegetation values and likely high community value. - It is no different to other vegetation areas in the ODP that will become 'open space' vested to the City.

75. The issue of vegetation retention is very difficult to assess, and entails trying to achieve the right balance between the need to provide adequate environmental protection and the need to cater for future housing growth.
76. Council has three options in dealing with vegetation retention issues as follows;

Option 1

Require the ODP to be modified to reflect the areas nominated by Department of Environment and Conservation for vegetation protection on portions of Lots 7 and 109 to be shown as 'Public Open Space'.

Council could adopt Option 1 if it strongly supports the position of DEC. Staff do not recommend Option 1 as staff have reservations over the value of retaining vegetation on Lot 7 and 109 surrounded by road and urban development.

Whilst not a planning consideration, the proponent has indicated that the subdivision will not be viable with the extent of open space being requested by the Department of Environment and Conservation. Staff recommend that the vegetation issues be ultimately dealt with by the Environmental Protection Authority and this is possible through future subdivision referral. The Department of Environment and Conservation's position can be recognised with notations on the ODP.

Option 2

Support the ODP as submitted with residential development shown on Lot 7 and 109.

Option 2 is not recommended as it would be contrary to the Department of Environment and Conservation DEC's advice.

Option 3

Support the ODP with a modification to:

- (i) Outline the vegetation retention area identified by the Department of Environment and Conservation on a portion of Lot 7 and 109 clearly in red; and
- (ii) Include a notation on the ODP that states “*Area identified by the Department of Environment and Conservation for public open space / vegetation retention. Area and landuses to be reviewed at subdivision stage with referral to the EPA.*” (Modification 5 – Attachment 3).

Option 3 is recommended as it identifies the Department of Environment and Conservation’s advice and provides flexibility for the issue to be resolved at subdivision stage. The EPA advised as part of Amendment 284 if remnant vegetation and fauna issues are not adequately addressed in the ODP, then subsequent subdivisions or developments may require referral under Section 38 of the Environmental Protection Act.

The Western Australian Planning Commission can refer any subdivision to the Environmental Protection Authority, and the proponent would have also have right of review to the State Administrative Tribunal if aggrieved by any determination. Staff considers it would be appropriate for the EPA to deal with this issue given the EPA did not assess it as part of the amendment.

Option 3 also allows for vegetation issues to be comprehensively assessed by a body of experts at the Environmental Protection Authority; expertise the City does not have.

Local Water Management Strategy (LWMS)

- 77. A Local Water Management Strategy (Version 2 dated 4 December 2009) was referred to the Department of Water during advertising.
- 78. The Department of Water has not raised any major objections however requires additional information to be included in the Strategy (Refer Submission 6). The proponent is completing further groundwater monitoring and will lodge a revised Local Water Management Strategy incorporating the information requested.
- 79. To date no major impediments or anomalous information is identified. It is recommended that the ODP be referred to the Western Australian Planning Commission with advice that the Local Water Management Strategy be finalised prior to any endorsement by the Western Australian Planning Commission. This Department is satisfied that the finalisation of the Local Water Management Strategy can be dealt with through the Western Australian Planning Commission assessment process.

80. At the time of writing this report the finalised Local Water Management Strategy has been received and is currently being assessed by the Department of Water. Staff are continuing to liaise with Department of Water who have advised that an initial assessment of the report has been undertaken and some minor issues are being finalised with the proponent.

Priority 2 (P2) Protection Area (South Coast Water reserve)

81. The western portion of the ODP is affected by a P2 area adjacent to Frenchman Bay Road.
82. The Department of Water support the creation of lots to recognise existing houses and open space for protection of the P2 area. The Department of Water has no objections to the creation of 'rural residential' lots for the existing dwellings on Lots 302, 9, and 4.
83. There is a southern portion of Lot 10 in the P2 area shown as a 'vacant' lot. The Department of Water was requested to comment on this during advertising however did not do so in their formal submission.
84. Liaison with the Department of Water informally on this issue has realised that;
- (i) The southern portion of Lot 10 (hatched) is not supported as a stand-alone lot and cannot be built on.
 - (ii) It can form part of one other lot located outside of the P2 area.
 - (iii) It should not have any further subdivision potential.
 - (iv) The Department of Water have no objections as to whether it is shown as residential or rural residential as long as the above is complied with.
85. It is recommended that the southern portion of Lot 10 on the ODP be shown as 'Residential' with the P2 area as a 'building exclusion area and 'vegetation retention' area with a note that "*The southern portion of Lot 10 shall be combined with one residential lot located outside of the P2 area (with no further subdivision potential)*" – (Modification 6 – Attachment 3).

PUBLIC CONSULTATION / ENGAGEMENT

86. The ODP has been referred to all persons owning land in the ODP area, the owners of Lot 6 and surrounding / nearby owners.
87. Twenty public submissions were received and are summarised in a schedule with officer recommendations – Appendix 5.
88. The main objections relate to density, location, vegetation removal, extent of foreshore, fire management and traffic. All of the main issues are discussed in the discussion section of this report.
89. The nature of objections to vegetation removal is one reason why staff considers that the EPA would be better placed to examine that matter as part of the subdivision process.

90. The issue of coastal setback needs to be resolved by the WAPC formulating a position in consultation with Department for Planning Coastal branch and the proponent. As landowners within the ODP area are affected by the recent Department of Planning advice, it is recommended that they be formally advised of the issues. Whilst it is likely to cause a high level of concern it is important that they be aware of the issues that will be ultimately determined by the Western Australian Planning Commission. The proponents have advised that they will be challenging the position of the Department of Planning rigorously, and will therefore be representing the interests of all affected landowners, including non-participating landowners, who are concerned with the increased coastal setback.

STATUTORY IMPLICATIONS

91. City of Albany Town Planning Scheme No 3 – Clause 3.4 requires all ‘Residential Development’ zones to be subject to an Outline Development Plan, and Clause 5.5 outlines the requirements for an ODP.
92. Table 3 of Town Planning Scheme No 3, allows Council to set the residential density through an endorsed structure plan.

STRATEGIC IMPLICATIONS

93. The subject land is identified within the Albany Local Planning Strategy as ‘Future Urban’ and has been zoned accordingly.

POLICY IMPLICATIONS

94. The City of Albany Residential Design Code Policy has been discussed in the body of this report (Paragraph 28). It should be noted that this Policy as it applies to Big Grove is now known as ‘Emu Point and Big Grove Village Centres’ Policy.

RISK IDENTIFICATION & MITIGATION

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Fire (threat to future dwellings on the eastern and western edges of the ODP area which are adjacent to large tracts of vegetation).	Possible	Major	High	ODP design has been undertaken in consultation with fire professional and is consistent with Fire Management Plan. Detailed Fire Management Plans required at subdivision stage.
Environmental (loss of vegetation).	Possible	Moderate	Medium	Vegetation issues to be examined by EPA at subdivision stage, however retention of vegetation on Lot 7 and Pt Lot 109 in accordance with Department of Environment advice has been recommended.
Traffic safety/management (inadequacy of road network, specifically Frenchman Bay Road, to support future development)	Possible	Moderate	Medium	Require contributions to the future upgrading of Frenchman Bay Road in accordance with Traffic Report and control density through amendments to R-Coding.

FINANCIAL IMPLICATIONS

95. The assessment of the ODP has primarily been outsourced to Grey and Lewis Planning Consultants at Council's cost. This cost was within the 2010/11 budget.
96. The City will become responsible for ongoing maintenance of roads and public areas. In relation to the upgrading of Frenchman Bay Road and the intersections along its route into the future, proportionate contributions would be required at the subdivision stage from the proponents to ensure Council is not burdened with the full cost of upgrading the road into the future at the expense of all ratepayers throughout the City.

LEGAL IMPLICATIONS

97. There is a right of way, pedestrian access ways and private rights of carriageway north of the Panorama Road cul-de-sac. The City has been provided with copies of confidential legal advice relating to these matters. The proponent has requested that the legal advice only be used for internal use. Council did seek its own legal advice on this issue which is discussed in the below table.

Description of issue	Advice provided by Ayton Baesjou Planning	Staff comment
<p>There is a right of carriageway easement on Lot 2 with benefits to Lot 9 and 10. The easement extends immediately north from the end of the Panorama Road and is approximately 10.06 metres wide.</p>	<p>The proponent advises that a future road reserve is proposed that encompasses the exact area affected by the easement on Lot 2, and that all future Public Open Space and residential lots are outside of the easement area. It is not clear on the broad ODP however they have provided sketches showing the road extension.</p> <p>The proponent has provided an extract of legal advice which expresses an opinion that the easement will be extinguished once the land has been dedicated as a road through the subdivision process.</p>	<p>This legal issue will substantially be dealt with by the owner of Lot 2 as the easement is private and not an easement under the control of the City.</p> <p>As the easement is to become a public road, the owner of Lot 9 will still have pedestrian and road access to the same area. If the owner of Lot 9 is concerned over this issue they can obtain independent legal advice. In any event, this issue is not seen as an impediment to the ODP.</p> <p>The City's legal advice on this issue concluded that it would be prudent to place an annotation on the ODP to state the following:</p> <p><i>To the extent the creation of any road shown on the ODP requires any easement or other interest in that land to be extinguished, the proponent must at its cost (including any compensation that may be payable) arrange for the interest to be extinguished.</i></p>
<p>There are two Pedestrian Accessways (Lots 55 and 56) which</p>	<p>The Pedestrian Access Ways are vested to the State and grant members of the general</p>	<p>Dedication of the Pedestrian Access Ways as a public road would only be initiated at the</p>

Description of issue	Advice provided by Ayton Baesjou Planning	Staff comment
<p>extend immediate north of Panorama Road known as Lots 55 and 56.</p>	<p>public a right of access from the end of Panorama Road through to the foreshore.</p> <p>The solicitors have advised that:</p> <ol style="list-style-type: none"> 1. The Pedestrian Access Way may be closed by dedicating it for public use as a road under section 56 of the Land Administration Act (LAA). 2. Where the Minister agrees, a dedication order has the effect of re-vesting the land as crown land on register of that order. 3. People with interests or implied rights are not entitled to compensation because of the dedication and re-vesting in the crown. 	<p>written formal request of a landowner, and be dealt with as a separate report to Council and subject to the LAA.</p> <p>The alternative is that the Pedestrian Access Way's remain 'as is' however it would be logical to incorporate them into a road with a dual use path.</p> <p>The existence of the Pedestrian Access Way's does not negatively impact on the ODP.</p>
<p>There is a Right of Way to the north of Lot 18 running parallel to Reserve 27052 on the harbour. It borders the north boundary of Lot 2.</p>	<p>The right of way may be closed by the City re-vesting the land under section 82 of the Land Administration Act.</p>	<p>Staff have checked the Land Administration Act and the Minister can re-vest land in the crown.</p> <p>The ODP shows the Right of Way as open space. In the future the city may consider whether it is best to retain the land as Right of Way. As the land is under the care and control of the City it is no impediment to the ODP.</p>
<p>There is a right of carriageway easement on Lot 10 with benefits to Lot 2. The easement is west of and running parallel to a portion of the Panorama Road Reserve.</p>	<p>The easement on Lot 10 is outside of the Panorama Road Reserve and provides a right of carriageway to Lot 2.</p>	<p>There is no real benefit gained by the owner of Lot 2 by the existing easement.</p> <p>The owner of Lot 10 will need to either negotiate with the owner of Lot 2 to extinguish the easement or include the easement in a future road</p>

Description of issue	Advice provided by Ayton Baesjou Planning	Staff comment
		<p>reserve.</p> <p>The owner of Lot 10 can obtain their own legal advice on this matter.</p> <p>It is a private easement and its location does not cause a major impediment for the ODP design.</p>

ALTERNATE OPTIONS

98. The options available to deal with vegetation/open space issues have been discussed in Paragraph 76 of this report.
99. If Council does not support the officer recommendation then it can resolve not to adopt the Outline Development Plan for final approval and request additional information from the proponent prior to referral to a future Council meeting including but not limited to:
- (1) A finalised Local Water Management Strategy approved in writing by the Department of Water (it should be noted that the Department of Water are currently assessing the finalised Local Water Management Strategy).
 - (2) The updated Traffic Assessment Report, with modifications requested in Recommendation 3.
 - (3) A Fire Management Plan updated to reflect the new Edition 2 'Planning for Bushfire Protection' requirements.
 - (4) A revised ODP report with updated POS schedule reflecting any road widening requirements and the findings in completed reports.
 - (5) A finalised coastal setback as agreed to and approved by Department of Planning Coastal branch.
 - (6) Any other modifications required by Council (to be listed) to the ODP.

SUMMARY CONCLUSION

100. The ODP has progressed to a stage where the issues have been clearly identified. The ODP requires endorsement by the Western Australian Planning Commission who will likely also require modifications to be completed by the proponents.
101. There are significant landowners involved in the ODP and it is considered that the planning processes have sufficient safeguards in place to ensure all matters will be resolved or addressed before the ODP is endorsed by state planning. Notwithstanding the above, it is wholly Council's prerogative to require finalised reports prior to adoption of this ODP if preferred.

102. It is recommended that the ODP be adopted for final approval subject to modifications and requirements.

Consulted References	Town Planning Scheme No. 3 WAPC's 'Liveable Neighbourhoods'
File Number (Name of Ward)	ODP003 (Vancouver Ward)
Previous Reference	OCM 14/10/2010 - Item 1.3 OCM 21/06/2011 – Item 2.3 (item withdrawn)