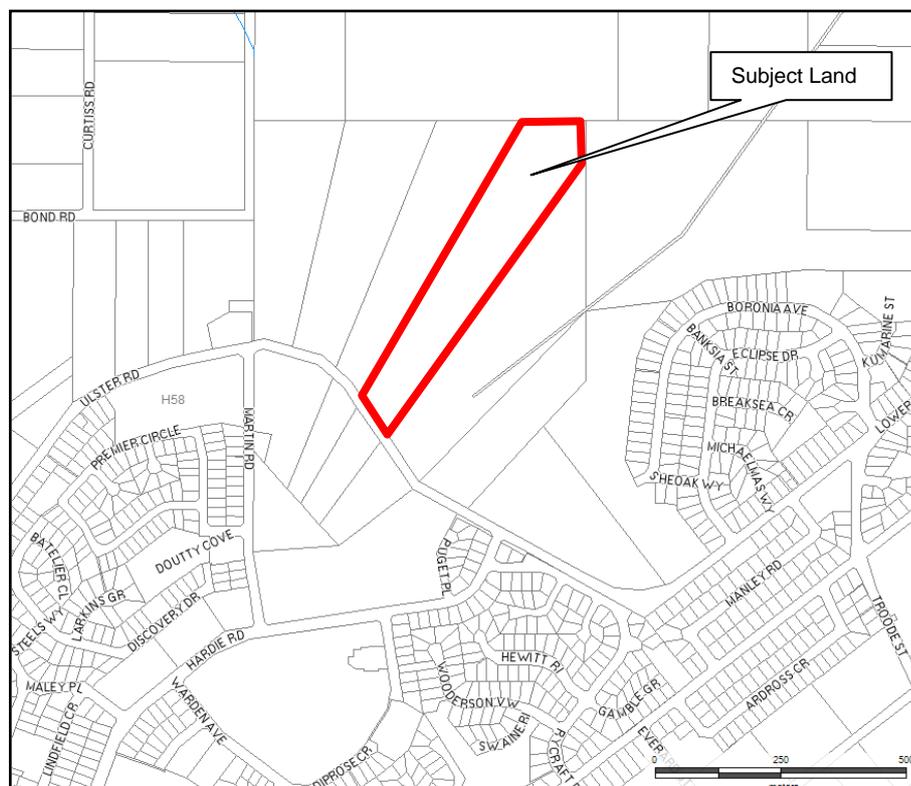


2.2: DEVELOPMENT APPLICATION – JUNK YARD (TIMBER SALVAGE ONLY) – 235 – 239 ULSTER ROAD, COLLINGWOOD HEIGHTS

Land Description	: 235-239 Ulster Road, Collingwood Heights
Proponent	: G Sutton
Owner	: G & V Sutton
Business Entity Name	: Nil
Attachments	: Application for Planning Scheme Consent
Appendices	: Copies of Submissions
Councillor Workstation	: Yakamia Creek Flood Study 2001 (Plans)
Responsible Officer(s)	: E/Director Planning and Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- The proponent seeks consent to receive and store timber from building demolition on 235-239 Ulster Road, Collingwood Heights. The timber would be processed, graded and sorted on site for sale and re-use. Lower quality wood would be used for fence posts, railings and pallets with the excess used for firewood.
- The activity is proposed to be located within the floodplain of the Yakamia Creek. The location for the timber stockpiles together with the associated infrastructure, have floodwater capacity implications for the drainage system.
- Objections have been received from the community and government agencies primarily based on the impact on flood flows as well as implications of the junk yard use.

8.23PM Councillor Sutton left the Chamber after declaring an impartiality interest in this item.

ITEM 2.2: PROCEDURAL MOTION BY COUNCILLOR HAMMOND

MOVED: COUNCILLOR HAMMOND

SECONDED: COUNCILLOR DUFTY

THAT this matter be laid on the table for a further month to allow the City to make further enquiries.

CARRIED 5-4

Record of Vote

Against the Motion: Councillors D Bostock, Holden, Leavesley and the Mayor

RECOMMENDATION

ITEM 2.2 RESPONSIBLE OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ISSUE a Notice of Planning Scheme Refusal for a 'Junk Yard (Timber Salvage Only)' at 235 – 239 Ulster Road, Collingwood Heights, due to the following reasons:

- A. The proposed development is located within the Flood Way of the Yakamia Creek and therefore does not meet Clause 5.4 of Town Planning Scheme No.3 (Matters to be considered) as the proposed development is subject to a flooding risk and is not supported by consulted state government agencies.
- B. The proposed development is located within the Flood Way of the Yakamia Creek and therefore does not meet Council's Policy 5E – Development in Flood Prone Areas. The nature of the proposal and its associated infrastructure would likely disrupt and reduce the floodwater capacity of the natural drainage system and is likely to give rise to increased flood risk upstream.

BACKGROUND

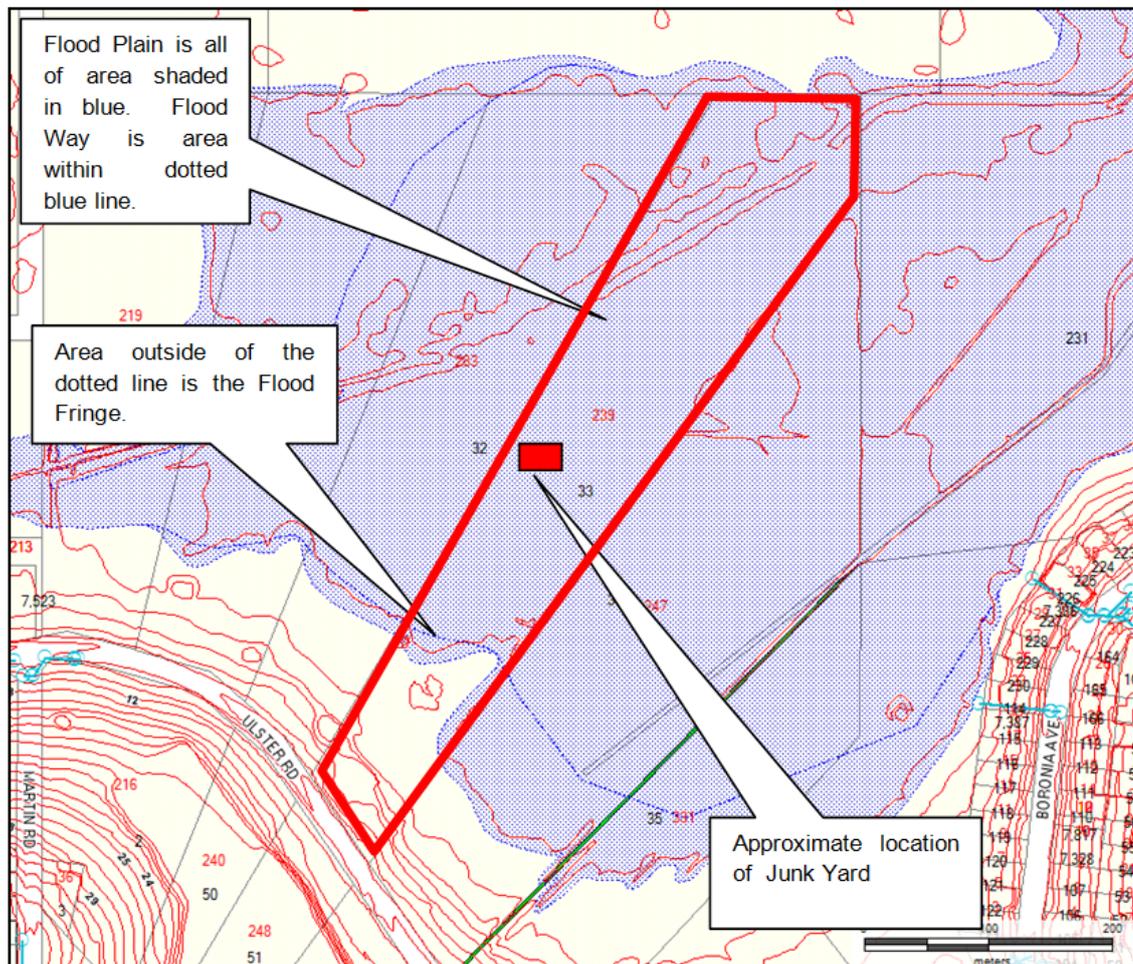
1. The subject site is around 7.75ha in area and is zoned 'Rural' under Town Planning Scheme No. 3. It is located on the north side of Ulster Road opposite St Joseph's College. The land is low lying and the flood way of the Yakamia Creek extends over the site from the north as far as 150m from the Ulster Road boundary. The flood fringe area extends over more of the site in a couple of places.
2. Both the flood way and flood fringe as a whole are known as the 'flood plain'. The floodplain is representative of the extent of flooding that would be caused in a 1 in 100 year storm event. Whilst the floodway is not suitable for development, the flood fringe can be developed subject to limited filling above the 1:100 flood level.

3. A Junk Yard is defined in Town Planning Scheme 3 as '*Land used for the collection, storage, abandonment or sale of scrap metal, building materials, waste paper, rags, bottles or other scrap materials or goods, or used for the collecting, dismantling, storage, salvaging or abandonment of buildings, automobiles or other vehicles or machinery or for the sale of parts thereof*'. The proposal has been classified as a junk yard limited to timber salvage only.
4. The Junk Yard land use is an 'AA' use in the rural zone, which is a use that is not permitted unless planning consent is granted by Council after a period of public consultation and advertising.
5. This application is referred to Council in accordance with the Planning Processes Guidelines as the use class of Junk Yard can only be considered by Council.

DISCUSSION

6. The proponent seeks planning scheme consent for the use of part of his land as a Junk Yard, specifically for timber salvage. The application has arisen primarily as a result of the re-development of the Albany Regional Hospital whereby significant amounts of timber from demolished buildings (roof frames etc) were sorted by the demolition contractor and identified for disposal at landfill. The proponent negotiated for the delivery of the timber (several truckloads) onto the subject site.
7. The proponent intends to sort and grade the wood according to its quality for re-use. The timber would then be processed (de-nailed, etc) and stacked neatly in close proximity to the delivered unsorted stockpiles. The processed wood would not be used for any manufacture onsite, but sold to a retailer. It is envisaged that the best quality lengths of timber would be used for such things as furniture making with the lower grade timber used for fence posts, railings and pallet manufacture. Off-cuts and other scraps would be sold for firewood and retailed by the truck load from the subject property.
8. This operation is proposed to be conducted approximately 300m into the site away from Ulster Road and would require construction of an access road (haul road) and turning area for the trucks delivering and collecting the timber. No buildings are proposed with the storage and processing activity intended to be undertaken in the open air. Although it is proposed to be carried out without significant alteration to the site, it is likely that due to the site conditions some isolated filling would be needed to raise the level of the land to keep the area dry during winter and to accommodate access by vehicles, particularly for moving and loading timber onto trucks. According to spot height levels taken from the *Yakamia Creek Flood Study 2001* (prepared by the then Water and Rivers Commission) the area designated for the timber stockpile and access is at a level of approximately 2.3 metres AHD which is 700mm lower than the boundary of the floodplain/fringe, which sits at around 3 metres AHD on the subject site.
9. Although the current intended source of timber is from the demolition of the Albany Hospital, the proponent has requested a permanent approval to permit ongoing activity that may take advantage of other timber demolition material in the future. He has confirmed that he will not accept or deal with chemically treated timber.

10. The Department of Environment & Conservation (DEC) only have an interest in the operation if the use involves chemically treated timber or the volume of material exceeds 500 tonnes per annum. The proposal complies with these requirements and could be conditioned accordingly.
11. The Department of Water has objected to the proposal given the operation will be located within the floodway of the Yakamia Creek (refer to the map below). This has been relayed to the proponent and he has been requested to reconsider the location, moving it closer to Ulster Road to the higher portion of the lot out of the flood way. The proponent does not wish to relocate the operation out of the designated flood way.



12. With regard to the submissions from the public, many of these raised the same concerns to those expressed by the Department of Water. Several submissions refer to other items being placed on the site such as unsightly car bodies and general junk/rubbish, however such comments are not relevant to the proposal, and were raised due to misconceptions associated with the term 'Junk Yard'. The proposal is for timber salvage only.

13. Although a full list of concerns is outlined in Paragraph 22, the major concerns raised by the public included:
- the storage of chemically treated timber and resultant environmental concerns via contamination;
 - the future expansion of the stockpiled areas outside of those areas identified on the site plan;
 - the height of stockpiles and the visual impact from the surrounding residential area which overlook the floodplain (parts of Spencer Park and Collingwood Heights); and
 - truck movements involving dust, noise and traffic safety concerns on Ulster Road.
14. In relation to the above concerns it is anticipated that these issues can be adequately controlled through the application of planning conditions. A condition restricting the use to untreated timber would address possible contamination concerns. Likewise restricting the areas used for storage to stated dimensions and setting a maximum height would control and minimise visual amenity and landscape impact concerns. With controlled or limited stacks of wood and the one person operating nature of the proposal, it would have minimal impact when assessed against the overall size of the lot and would not necessarily be discernable or distinguishable from other rural type activities. The hours of operation and days when activity is permitted could also be controlled by condition.
15. The traffic impacts associated with the proposal primarily relate to the suitability of access from Ulster Road by trucks and or other vehicles delivering and collecting the timber. The City's Works and Services Department have reviewed the proposal and are satisfied that suitable sight lines for exiting vehicles would exist and that the crossover and access driveway can be suitably upgraded to meet relevant standards. It is envisaged that the frequency of deliveries would be insignificant and is unlikely to pose any adverse impacts on Ulster Road traffic.
16. The significant issue raised in the majority of responses, including those from statutory bodies is the location of the proposal within the flood way. Such a location is unsuitable for this type of activity due to high possibility of inundation rendering access and use of the land problematic during significant stormwater events. If approved in this location, this is likely to result in a request for further filling of the land to maintain access and keep the operation above sub-surface water levels. According to the Department of Water such filling would have significant impacts on the drainage system water flows and floodwater storage capacity of the flood plain. In extreme events it is also likely any timber stored onsite could move or be washed away creating potential hazards offsite.
17. Given the location of the proposed timber salvage yard, inclusive of access and parking within the flood way staff are of the opinion that the proposal should be refused. However, should the proponent reconsider its location outside of the flood way, the proposal could be considered acceptable subject to appropriate conditions.

GOVERNMENT CONSULTATION

18. The proposal was referred to the Department of Water and the Department of Environment and Conservation.
19. The Department of Water objected to the proposal being within the flood way and was concerned that the bulky nature of the timber storage would constitute an obstruction to flood flows and exacerbate the impact of flooding upstream of the site.
20. The Department of Environment and Conservation raised concerns over the development being within the flood plain of Yakamia Creek, however they advised that provided the timber being processed is not chemically treated and is less than 500 tonnes per year, they have no direct interest.

PUBLIC CONSULTATION / ENGAGEMENT

21. A standard consultation letter was sent to surrounding landowners as well as a sign being placed on the road verge outside the site and an advertisement being placed in the Public Notices section of the Albany Advertiser.
22. A total of 27 responses were received from members of the public and surrounding landowners. Three of these raised no objections, one gave comment without expressing a particular opinion and the remaining twenty-three raised the following objections/issues/concerns:
 - The land should be considered as Special Rural, not Rural. A Junk Yard is not permitted in Special Rural areas.
 - Impact on views.
 - Increased noise from this site.
 - What will the impact be on the wildlife of the flood plain and wetland?
 - Ulster Road would need widening to accommodate increased vehicle use.
 - Reduce property values in the area.
 - This is a residential area, not industrial.
 - Possible pollution/contamination of the wetland and Yakamia Creek system.
 - Heavy truck movements, including being in close proximity to the schools.
 - Detrimental to visual amenity with unsightly piles of scrap, flood lighting, fencing and barking guard dogs.
 - Road safety and poor access arrangements.
 - Amenity of residential properties in the vicinity.
 - Concerns of this activity being within the floodplain.
 - In a flood situation the open stored timber would be carried off into Oyster Harbour.
 - Not attractive for visitors driving around town.
 - Such a use should be on a sealed drainage system to prevent runoff. The ongoing monitoring of such a system would become a Council obligation.
 - Regulated hours would be required to give local residents some peace at weekends.
 - The site may be an attractive playground for children.

- An approval would lead the way to an expectation to expand the business in the future.
- This is incompatible with the existing low-key activities on surrounding lots.
- The land either side of the creek should become a riparian park for the enjoyment of future generations, not this.
- The noise from machinery will cause more stress to the dogs at the kennels making them bark more.
- The timber is proposed stored on the grass, but may in the future be requested to be on a hard surface. The fill required and works for this would have a significant impact on the water dynamics.

STATUTORY IMPLICATIONS

23. A 'Junk Yard' is an 'AA' use within the Rural zone of Town Planning Scheme 3 (ie. a use that is not permitted unless planning consent to it is granted by the Council after notice has been given in accordance with Clause 5.1.4).

24. Clause 5.4 of the Scheme details the matters to be considered by Council and states:

5.4 The Council in considering an application for planning consent is to have due regard to such of the following matters as are in the opinion of the Council relevant to the use or development the subject of the application:

- (i) the compatibility of a use or development with its setting;*
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
- (m) whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;*
- (n) the preservation of amenity;*
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring, and parking of vehicles;*
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (y) any relevant submission received on the application;*

- (z) *the comments or submissions received from any authority consulted under clause 5.1A;*
- (zb) *any other planning consideration the Council considers relevant.*

STRATEGIC IMPLICATIONS

- 25. The land is identified in the Albany Local Planning Strategy as 'Regional Reserve' noting that the subject site is part of the Yakamia Creek flood plain.
- 26. This item relates to the following elements of the City of Albany Strategic Plan (2011-2021):

Key Focus Area

Sustainability

Community Priority

Adopt "Green City" principles

Proposed Strategies

Reduce the amount of landfill waste by allowing the use of recycled/second hand building materials in new homes.

POLICY IMPLICATIONS

- 27. Policy 5E of the City's Local Planning Policy Manual titled 'Development in Flood Prone Areas' is relevant to the proposal.
- 28. Whilst the Policy is broad in nature it notes that in areas subject to periodic inundation or flooding, that development should:
 - 1) *Prevent disruption to the natural drainage system or the modification of the flood levels that would be experienced within the drainage system;*
 - 3) *Maintain the natural ecological and drainage function of the area to store and convey stormwater and floodwater within the watercourse, drainage system or floodplain;*
- 29. This proposal does not meet these policy requirements as the proposed junk yard is within the mapped floodway as determined through the *Yakamia Creek Flood Study 2001*.

RISK IDENTIFICATION & MITIGATION

30. The risk identification and categorisation relies on the City’s Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
The development within the Flood Way may be prone to inundation in severe storm events and cause an obstruction which could exacerbate the impact of flooding upstream.	Possible	Major	High	Entirely dependent on Council.

FINANCIAL IMPLICATIONS

31. The appropriate planning fee has been paid by the proponent and staff have processed the proposal within existing budget lines.

LEGAL IMPLICATIONS

32. Should Council follow the recommendation and refuse the proposal, the proponent has the ability to seek review of Council’s decision at the State Administrative Tribunal. Such an appeal would be a Class 1 appeal which does not involve legal representation, and therefore such costs would be mainly staff time.

ALTERNATE OPTIONS

33. Council could determine that the location and type of proposal is acceptable and would not have a significant impact of flood flows and cause an obstruction during severe storm events. However, in arriving at that decision, Council must be mindful of the consequences, including the possibility of future requests for filling the land to protect the activity from potential flood water. Such additional changes to the ground level could have a significant impact on surrounding landowners in terms of floodwater capacity and visual/landscape amenity impact.

34. Should Council wish to approve the proposal as submitted and allow the development within the designated flood way the following alternate motion could be considered by a Council member:

That Council issue a Planning Scheme Consent for a ‘Junk Yard (Timber Salvage)’ at 235-239 Ulster Road, Collingwood Heights subject to the following conditions:

- A. *The approval is for the collection, storage, abandonment or sale of timber only;*
 - B. *The business should not employ more than 2 persons not members of the proponent's household;*
 - C. *The timber stored on the site shall not be chemically treated;*
 - D. *The timber is to be stored within the stockpile areas identified on the site plan submitted with the application for planning scheme consent;*
 - E. *The height of the timber stockpiles shall not exceed 3 metres in height;*
 - F. *No manufacturing (processing) of the timber is to occur on site, except for the removal of nails and sorting of timber without the prior approval of Council;*
 - G. *The crossover and access is to be upgraded prior to the operation of the use to the satisfaction of the Council.*
 - H. *The operating hours associated with the use, inclusive of deliveries and sale of salvaged timber, shall be limited to Monday to Saturday 8am to 6pm with no trading on Sundays.*
35. A decision to approve the proposal may set a precedent for future decision making on these types of applications in known flood ways.

SUMMARY CONCLUSION

36. This application is for a Junk Yard, limited to timber only, whereby the timber from building demolition would be stockpiled, processed and graded for re-use. It is intended that only timber that has not been chemically treated would be received onsite. The activity would be a singular person operation utilising a small portion of the 7.75ha site.
37. Given the scale of the operation and restrictions applying to timber only, the activity and use is considered acceptable subject to the application of several planning conditions. The intended location is however entirely located within the floodway of the Yakamia Creek. Accordingly, the use and its associated infrastructure in this location raises significant concerns regarding water flows in the flood plain and the flood water capacity of the drainage system.
38. Staff are of the opinion that the proposal is unacceptable in its current location and recommends the application be refused.

Consulted References	Town Planning Scheme 3 Yakamia Creek Flood Study
File Number (Name of Ward)	A67452 (Yakamia Ward)
Previous Reference	Nil

Councillor Sutton returned to the Chamber. Councillor Sutton did not participate in the discussion or vote.