

**5.1: INSTALLATION OF A SLURRY WATER PIPE FOR SOUTHDOWN
MAGNETITE PROJECT**

Land Description	: Various Crown reserves
Proponent	: Harley Global on behalf of Grange Resources Ltd
Owners	: Crown
Attachment(s)	: Letter from Harley Global, and diagrams depicting pipeline easements across and parallel to road reserves, and across reserves dated 13 October 2011 Letter from Grange Resources – Peace Park slurry pipeline dated 5 October 2011
Responsible Officer(s)	: Chief Executive Officer (F James)

IN BRIEF

- Council's support is sought from Grange Resources Ltd for approval to utilise various road reserves in the Albany area, to install a slurry and return water pipeline from the proposed Southdown Mine to the Albany Port.

ITEM 5.1: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR HAMMOND

SECONDED: COUNCILLOR SUTTON

THAT Council SUPPORTS the:

1) Request to utilise various road reserves in the Albany area:

- Kojaneerup West Road (drawing 12937-102B);
- Corimup Road (drawing 12937-110B);
- Palmdale Road (drawing 12937-172A);
- Parker Brook Road (drawing 12937-264A);
- Toll Place (drawing 12937-263A);
- Link Road (drawing 12937-265A);
- Charles Street (drawing 12937-184A);
- Harrogate Road (drawing 12937-183A);
- Cumming Road (drawing 12937-079C);
- Horden Road (drawing 12937-182A and 12937-180A);
- Elphinstone Road (drawing 12937-179A);
- Robinson Road (drawing 12937-077B);
- Frenchman Bay Road (drawing 12937-076B);
- Woolstores Place (drawing 12937-075C);
- Gnowellen Road (drawing 12937-266A);
- Mettler/Cape Riche Road (drawing 12937-268A);
- Basil Road (drawing 14943-258A); and
- Cape Riche Road – Reserve 14943 drawing 12937-258A
- Lower Denmark Road-(drawing 12937-181B)

to install a slurry and return water pipeline from the proposed Southdown Mine to the Albany Port.

2) Request to access Reserve 46686- Anzac Peace Park (drawing 12937-270A), subject to –

- i) construction of the pipeline within the Peace Park, being completed before the end of 2013 calendar year
- ii) reinstatement of all landscaping and hardscaping by Grange Resources Ltd such that by the end of March 2014, no visible evidence of construction is apparent
- iii) provision of a bond, payable to the City of Albany by Grange Resources Ltd, for the loss or damage of any of the Peace Park infrastructure; and

3) Proposals to cross the above listed roads, in accordance with the provisions of the Local Government Act 1995, Local Government (Uniform Local Provisions) Regulations 1996 Schedule 9.1, clause 8, section 17 - Private works on, over, or under public places, to facilitate the proposed slurry pipeline request, subject to all roads being reinstated by Grange Resources Ltd to as-good-as (or better) pre-installation condition.

4) Proposals subject to all costs being borne by Grange Resources Ltd

CARRIED 12-0

BACKGROUND

1. Grange Resources Ltd proposes to construct and operate an open pit magnetite mine approximately 90 km east of Albany. The magnetite will be pumped as a slurry via a pipeline approximately 105 km to the berth facilities at the Albany Port.
2. Two pipelines will be required, to pipe the slurry to the Port and a second to return the recycled water to the mine from the Port. Both pipes will use the same route, which has been sited mainly on cleared farmland, but will also require access along and across public roads in Albany. Grange Resources Ltd has also requested an optic fibre cable/communications cable to be included in the pipeline corridor.
3. A number of road crossings and road reserves have been identified, in the proposed pipeline corridor that will require both the Department for Planning and Infrastructure (DPI) and Council approval, to enable the project to develop.

DISCUSSION

4. Council has been briefed on a few occasions on the mine proposal by Grange Resources Ltd.
5. Previous Council items have addressed easement approvals across various Council owned lands, to allow the pipeline alignment to reach the Albany Port.
6. With most of the negotiations for pipeline access completed, Grange Resources Ltd has been able to identify those road reserves, where either road reserve access or crossings are requested. Copies of drawings for the various road reserves involved, detailing the dimensions of the works, are included in the Attachments.
7. Grange Resources Ltd now seeks approval from the City of Albany for the location of the slurry pipeline along the following routes:

Various Road Crossings:

- Kojaneerup West Road (drawing 12937-102B) – this road will be crossed in one of four possible places. As the precise crossing point has not yet been determined, Grange Resources seeks approval for one road crossing somewhere in the area as shown on drawing 12937-102B
- Corimup Road (drawing 12937-110B)
- Palmdale Road -drawing 12937-172A (previously approved in January 2009- but now slight change in alignment of crossing)
- Parker Brook Road (drawing 12937-264A)
- Toll Place (drawing 12937-263A)

Parallel in Road Reserves:

- Link Road (drawing 12937-265A)
- Charles Street (drawing 12937-184A)
- Harrogate Road (drawing 12937-183A)
- Cumming Road (drawing 12937-079C)
- Harden Road (drawing 12937-182A and 12937-180A)
- Elphinstone Road (drawing 12937-179A)
- Robinson Road (drawing 12937-077B)
- Frenchman Bay Road (drawing 12937-076B)
- Woolstores Place (drawing 12937-075C)
- Lower Denmark Road (drawing 12937-181B)

8. Reserves under the control of City of Albany:

- Reserve 46686- Anzac Peace Park (drawing 12937-270A)

B. DESALINATION PIPELINE and POWERLINE:

- Gnowellen Road (drawing 12937-266A)
- Mettler/Cape Riche Road (drawing 14943-258A)
- Basil Road (drawing 12937-269A)
- Cape Riche Road - part of Reserve 14943 (as per drawing supplied to Council for October 2011 Council meeting)

9. Discussions with Grange Resources regarding the Peace Park highlighted concerns about the proposed works impacting on the ANZAC Centenary Celebrations. It was agreed the works could be supported subject to the following conditions –

- a. construction of the pipeline within the Peace Park being completed before the end of 2013 calendar year
- b. reinstatement of all landscaping and hardscaping such that by the end of March 2014, no visible evidence of construction is apparent
- c. provision of a bond, payable to the City of Albany by the Southdown Project, for the loss or damage of any of the Peace Park infrastructure.

10. As these road reserves are Crown land, the legal requirements for the use of the road reserves are with the Department for Planning and Infrastructure (DPI), who can approve easements with the following types of conditions (this information has been relayed to the applicant) –

- An Aboriginal heritage assessment;
- Flora investigation;
- Clearing requirements assessed;
- Public utility approvals sought;
- Applicant to pay all survey costs;
- Crown to apply its various conditions;
- Crown seeks local authority conditions;
- Details of pipe condition, usage patterns, etc
- Minimum of \$10 million public liability cover by an approved insurer;
- Indemnification of the Crown, local authority, and public utilities from any claims relating to the provision and operation of the private irrigation pipe;

- Rental assessment determined by the Department for Planning and Infrastructure's Valuation Services section;
- All legal costs paid by the applicant; and
- Caveat registered on properties to protect Crown interests.

11. Should Council support these requests, the type of conditions recommended for referral to the Crown for an easement are –

- Pipe to be installed at a depth of 750mm on road reserve;
- Pipe alignment to be 1.5metres from property boundaries;
- Appropriate signage along the length of the road reserve affected by the pipe installation, advising of the private pipe location;
- Re-instate the site where to pipe is laid, to Council's satisfaction;
- Applicant is responsible for any road reserve damage related to the irrigation pipe installation, operation or mal-function; and
- A caveat be lodged on properties to protect Council's and other landholders interests.

12. Once DPI has approved the easements for the pipeline corridor on the various road reserves, Council would then be able to apply its Local Law - Activities in Thoroughfares and Public Places and Trading Local Law 2001, to protect its interests regarding the installation of the road crossings.

GOVERNMENT CONSULTATION

13. Where Crown land access is required, Grange Resources Ltd have been liaising with the appropriate government instrumentality involved, including Department for Planning and Infrastructure, Department of Indigenous Affairs, Albany Port Authority, Western Power, etc.

PUBLIC CONSULTATION / ENGAGEMENT

14. Grange Resources Ltd have liaised and/or negotiated with affected landowners to enable appropriate easements to be granted in the proposed pipeline corridor, to enable the slurry pipeline to be sited on appropriate cleared farmland.

STATUTORY IMPLICATIONS

15. Under the Land Administration Act, Section 144, the Minister may grant easements –

- (1) *Subject to this section, the Minister may –*
 - (a) *With the consent of every management body of the relevant Crown land and of every person having any interest, right, title or power in respect of that land, grant to any person an easement, in on ,over, through or under that Crown land for a specified purpose or any other purpose the Minister thinks fit; and*
 - (b) *In that grant express that easement to be subject to specified conditions and the payment of specified consideration.*
- (2) *The grantee of an easement may, with the consent of any management body or lessee of the relevant Crown land, apply to the Minister for the easement to be varied or cancelled.*

- (2a) *An easement may be granted under this section despite the fact that the characteristics of the easement do not satisfy all of the characteristics that must be satisfied for an easement to be created under the common law.*
- (3) *The Minister may, on receiving an application under subsection (2) –*
(a) By order or other instrument vary or cancel the relevant easement;
or
(b) Refuse the application.
- (4) *In this section –*
“specified purpose” means for –
(a) The provision of pipes, conduits, cables, transmission lines, and other services;
(b) The provision of any structure, plant, or equipment;
(c) The provision of access for carrying out of any works and the performance of any maintenance that is necessary for, or ancillary or incidental to, giving effect to any of the purposes referred to in paragraph (a) or (b);
(d) A prescribed purpose.
16. Under the Local Government Act 1995, Local Government (Uniform Local Provisions) Regulations 1996 Schedule 9.1, clause 8, section 17 - Private works on, over, or under public places –
- (1) *A person who constructs anything on, over, or under a public thoroughfare or other public place that is local government property without first obtaining written permission from the local government commits an offence.*
- (2) *A local government may –*
(a) grant permission to construct anything on, over, or under a public thoroughfare or other public place that is local government property;
and
(b) impose conditions in respect of the permission, which may include a condition imposing a charge for any damage to the public thoroughfare or public place resulting from the construction.
- (3) *It is a condition of the permission that the ordinary and reasonable use of the public thoroughfare or public place for the purpose to which it is dedicated is not to be permanently or unreasonably obstructed.*
- (4) *A person who fails to comply with a condition of the permission commits an offence.*
- (5) *A person who constructs anything in accordance with permission under this section is required to –*
(a) maintain it; and
(b) obtain from an insurance company approved by the local government an insurance policy, in the joint names of the local government and the person, indemnifying the local government against any claim for damages which may arise in, or out of, its construction, maintenance or use.

- (6) *A person who fails to comply with sub regulation (5) commits an offence.*
- (7) *The penalty for an offence under sub regulation (1), (4), or (6) is \$1,000.*

17. Should Council agree to the proposed pipe crossings across roads under the care, control and management of the Council, it would be appropriate to have a legal agreement prepared, addressing both parties obligations, and to protect all party's interests. All costs would be borne by the applicant.
18. Under the City of Albany's Activities in Thoroughfares and Public Places and Trading Local Law 2001, a permit is required to allow the installation and maintenance of a pipe on a verge, and various conditions applied, to protect Council's interests.

STRATEGIC IMPLICATIONS

19. This item directly relates to the following elements of the City of Albany Strategic Plan 2011-2012:

Key Focus Area

Sustainability and Development

Community Priority

A diversified industrial base

Proposed Strategies

Advocate and promote Albany as a viable centre for diverse industries.

POLICY IMPLICATIONS

20. There are no policy implications relevant to this item.

RISK IDENTIFICATION & MITIGATION

21. The risk identification and categorisation relies on the City's Risk management Framework.

Risk	Likelihood	Consequence	Risk Rating	Mitigation
Appropriate traffic management is not adhered to, while the pipeline is under construction on/along the road reserves	Possible	Medium	High	Request Grange Resources Ltd to submit traffic management plans for each location
Appropriate City of Albany road is not re-instated to applicable standard	Possible	Medium	High	Condition of Grange Resources Ltd approval that all roads are re-instated to current condition or higher, and that they submit appropriate quality assurance certificates where required

FINANCIAL IMPLICATIONS

22. Should Council agree to the request for any road crossings, there will be financial implications:

- a. as the proposed works will require Council approval and works inspection
- b. ongoing maintenance for the pipe.

23. All such costs should be borne by the applicant.

24. Should easements be granted by the Crown, the legal costs, establishment costs (survey, etc) and any such rental fees determined by the Crown, would also be payable by the applicant.

LEGAL IMPLICATIONS

25. This item will facilitate compliance with the legislative requirements of the *Land Administration Act 1997*.

ALTERNATE OPTIONS

26. The Council has two options regarding this request:

- i) Support the request to utilise various road reserves in the Albany area, to install a slurry and return water pipeline from the proposed Southdown Mine to the Albany Port; or

ii) Decline the request.

27. The project would provide Albany with a new economic opportunity to expand its business base and also provide more work opportunities for the region.

SUMMARY CONCLUSION

28. In view of the financial opportunity the project offers for the region, Council support the request to utilise various road reserves in the Albany area, to install a slurry and return water pipeline from the proposed Southdown Mine to the Albany Port

Consulted References	Land Administration Act 1997
File Number (Name of Ward)	CS.PLA.5
Previous References	OCM 18.07.06 Item 13.7.2, OCM 15.05.07 Item 11.2.3 OCM 15.05.07 Item 13.7.2, OCM 11.10.11 Item 5.1