



---

# AGENDA

---

## PLANNING AND DEVELOPMENT COMMITTEE

**04 November 2015**

5.30pm

City of Albany Council Chambers

**CITY OF ALBANY  
COMMUNITY STRATEGIC PLAN (ALBANY 2023)**

**VISION**

Western Australia's most sought after and unique regional city to live, work and visit.

**VALUES**

All Councillors, Staff and Volunteers at the City of Albany will be...

**Focused: on community outcomes**

This means we will listen and pay attention to our community. We will consult widely and set clear direction for action. We will do what we say we will do to ensure that if it's good for Albany, we get it done.

**United: by working and learning together**

This means we will work as a team, sharing knowledge and skills. We will build strong relationships internally and externally through effective communication. We will support people to help them reach their full potential by encouraging loyalty, trust, innovation and high performance.

**Accountable: for our actions**

This means we will act professionally using resources responsibly; (people, skills and physical assets as well as money). We will be fair and consistent when allocating these resources and look for opportunities to work jointly with other directorates and with our partners. We will commit to a culture of continuous improvement.

**Proud: of our people and our community**

This means we will earn respect and build trust between ourselves, and the residents of Albany through the honesty of what we say and do and in what we achieve together. We will be transparent in our decision making and committed to serving the diverse needs of the community while recognising we can't be all things to all people.

**TERMS OF REFERENCE**

**(1) Function:**

The Planning and Development Committee will be responsible for the delivery of the following Liveable Environmental Objectives contained in the City of Albany Strategic Plan:

- (a) To advocate, plan and build connected, liveable communities;
- (b) To create a community that supports people of all ages and backgrounds;
- (c) To create vibrant neighbourhoods which are safe yet retain our local character and heritage.

**(2) It will achieve this by:**

- (a) Developing policies and strategies;
- (b) Establishing ways to measure progress;
- (c) Receiving progress reports;
- (d) Considering officer advice;
- (e) Debating topical issues;
- (f) Providing advice on effective ways to engage and report progress to the Community; and
- (g) Making recommendations to Council.

**(3) Chairperson:** *Councillor Elect*

**(4) Membership:** *Mayor Wellington, Councillor Goode, Councillor Stocks, Councillor Mulcahy, Councillor Hollingworth, Councillor Shanahun, Councillor Hammond, Councillor Sutton*

**(5) Meeting Schedule:** 1<sup>st</sup> Wednesday of the Month

**(6) Meeting Location:** Council Chambers

**(7) Executive Officer:** Executive Director Planning & Development

**(8) Delegated Authority:** None

PLANNING AND DEVELOPMENT COMMITTEE  
AGENDA –04/11/2015

**TABLE OF CONTENTS**

	Details	Pg#
1.	<b>DECLARATION OF OPENING</b>	4
2	<b>NOMINATIONS FOR CHAIR &amp; DEPUTY CHAIR</b>	4
3.	<b>PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS</b>	4
4.	<b>RECORD OF APOLOGIES AND LEAVE OF ABSENCE</b>	4
5.	<b>DISCLOSURES OF INTEREST</b>	5
6.	<b>REPORTS OF MEMBERS</b>	5
7.	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b>	5
8.	<b>PUBLIC QUESTION TIME</b>	5
9.	<b>APPLICATIONS FOR LEAVE OF ABSENCE</b>	5
10.	<b>PETITIONS AND DEPUTATIONS</b>	5
11.	<b>CONFIRMATION OF MINUTES</b>	5
12.	<b>PRESENTATIONS</b>	5
13.	<b>UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS</b>	5
14.	<b>MINUTES AND RECOMMENDATIONS OF COMMITTEES</b>	5
PD103	PREPARATION OF 'CHEYNE BEACH' LOCAL PLANNING POLICY	6
PD104	INDUSTRY – EXTRACTIVE (GRAVEL & SAND), LOT 110,105 BON ACCORD RD, KING RIVER	12
15.	<b>NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL</b>	20
16.	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	20
17.	<b>REPORTS OF CITY OFFICERS</b>	20
18.	<b>MEETING CLOSED TO PUBLIC</b>	20
19.	<b>CLOSURE</b>	20

PLANNING AND DEVELOPMENT COMMITTEE  
AGENDA –04/11/2015

1. EXECUTIVE OFFICER DECLARES THE MEETING OPEN AT \_\_\_\_\_ AND CALLS FOR NOMINATIONS FOR CHAIR
2. CHAIR CALLS FOR NOMINATIONS OF DEPUTY CHAIR
3. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

*“Heavenly Father, we thank you for the peace and beauty of this area. Direct and prosper the deliberations of this Council for the advancement of the City and the welfare of its people. Amen.”*

*“We would like to acknowledge the Noongar people who are the Traditional Custodians of the Land.*

*We would also like to pay respect to Elders both past and present”.*

4. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

**Mayor** D Wellington

**Councillors:**

Member	G Stocks
Member	N Mulcahy
Member	B Hollingworth
Member	J Shanhun
Member	R Hammond
Member	R Sutton

**Staff:**

Chief Executive Officer	A Sharpe
Executive Director Planning & Development	D Putland
Manager Planning	J van der Mescht
Planning Officer	C McMurtrie
Planning Officer	A Bott

Minutes H Bell

**Apologies:**

Member A Goode JP

PLANNING AND DEVELOPMENT COMMITTEE  
AGENDA –04/11/2015

**5. DISCLOSURES OF INTEREST**

<b>Name</b>	<b>Committee/Report Item Number</b>	<b>Nature of Interest</b>

**6. REPORTS OF MEMBERS**

**7. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**8. PUBLIC QUESTION TIME**

**9. APPLICATIONS FOR LEAVE OF ABSENCE**

**10. PETITIONS AND DEPUTATIONS**

**11. CONFIRMATION OF MINUTES**

**DRAFT MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the minutes of the Planning and Development Committee Meeting held on 07 October 2015, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**12. PRESENTATIONS / DISCUSSION**

**13. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

**PD103: PREPARATION OF 'CHEYNE BEACH' LOCAL PLANNING POLICY**

**Land Description** : Portion of Reserve 878, Lots 1 and 15 Baxteri Road and Lots 2 and 14 Cheyne Road, Cheynes

**Proponent** : City of Albany

**Owner** : Crown

**Attachments** : 1. Draft 'Cheyne Beach' local planning policy

**Appendices** : Nil

**Report Prepared By** : Planning Officer (C McMurtrie)

**Responsible Officer(s)** : Executive Director Planning & Development (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is broadly consistent with the strategic directions set in the *Albany Local Planning Strategy*.

**Maps and Diagrams:**



**In Brief:**

- Council is requested to consider the preparation of a ‘Cheyne Beach’ local planning policy to guide the development of leaseholds on Crown Reserve 878, Lots 1 and 15 Baxteri Road and Lots 2 and 14 Cheyne Road, Cheynes.
- The main objectives of the local planning policy will be to protect the established character of the area and to restrict land uses in line with leasing arrangements.
- City Staff are supportive of the preparation of a ‘Cheyne Beach’ local planning policy, as it will ensure a consistent approach to planning within the settlement and will give lessees greater certainty as to what type of development will be permitted on their leasehold.
- It is requested that Council resolves to prepare a ‘Cheyne Beach’ local planning policy.

**RECOMMENDATION**

**ITEM PD103: RESPONSIBLE OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council, in pursuance of Schedule 2, clause 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:**

1. Prepare a ‘Cheyne Beach’ local planning policy, which shall address:
  - (a) The established character of the Cheyne Beach settlement;
  - (b) The need for development approval on leasehold land;
  - (c) Permitted land uses within the various leasehold precincts within the settlement;
  - (d) Development standards for leaseholds, including, but not limited to:
    - Fire management requirements;
    - Water supply;
    - Effluent disposal;
    - Roofing materials;
    - Building heights;
    - Access and parking;
    - Stormwater management;
    - Non-habitable structures;
    - Fencing; and
  - (e) Advice for developers.

## BACKGROUND

4. Crown Reserve 878 is under management order H359478 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of 'Recreation, Camping, Holiday Accommodation, Accommodation Associated with the Fishing Industry and Fire Station' for any term not exceeding 21 years, subject to the consent of the Minister for Lands.
5. The reserve currently hosts 29 leases for holiday accommodation, seven leases for accommodation associated with the fishing industry and one fishing licence. While the Cheyne Beach Caravan Park was originally part of the reserve, it has now been excised and is freehold land.
6. A standard *Cheyne Beach Holiday Accommodation Lease Agreement* was developed by the City to replace the 29 holiday accommodation leases that are due to expire on 31 December 2015. Council approved renewal of those leases utilising the standard *Cheyne Beach Holiday Accommodation Lease Agreement* on 25 August 2015. A standard lease agreement for accommodation associated with the fishing industry is currently under development.
7. The City of Albany *Local Planning Policy Manual* was originally adopted by Council on 14 December 2010 and collated all of the City's local planning policies in one document for ease of use. The policies deal with various planning and development matters within the Local Planning Scheme area and assist the local government in making decisions under the Scheme. Following its initial adoption, the *Local Planning Policy Manual* underwent a number of revisions, including a comprehensive update to align with *Local Planning Scheme No. 1* on 27 May 2014, which included a change of title to *Local Planning Scheme No. 1 Policy Manual*.
8. Reserve 878 is located approximately 50km west-north-west of Albany town centre and has an area of approximately 115 hectares. The Reserve is surrounded by approximately 3,500 hectares of National Park, which is managed by the Department of Parks and Wildlife. The 29 holiday accommodation leaseholds are located on Baxteri Road. There are 11 leaseholds located on the inland (south-western) side of the road, while the remaining leaseholds are located on the seaward (north-eastern) side. The leaseholds are generally rectangular in shape and range from 825m<sup>2</sup> to 1202m<sup>2</sup> in area. The seven leaseholds for accommodation associated with the fishing industry are located on Cheyne Road, with a large leasehold of 7918m<sup>2</sup> on the seaward side and the remainder on the inland (south) side of the road, adjacent to the caravan park. These leaseholds are roughly square in shape, some with battleaxe access legs, and range from 1826m<sup>2</sup> to 2187m<sup>2</sup> in area.
9. The subject land and the surrounding National Park are covered by the 'Parks and Recreation' local scheme reserve. Lot 7774 Bald Island Road, which is freehold land and contains the caravan park, lies to the south of the leaseholds for accommodation associated with the fishing industry and is zoned 'Caravan and Camping'. A further freehold land parcel of 40 hectares lies to the south of Reserve 878 and is zoned 'General Agriculture'.

## DISCUSSION

10. *Local Planning Scheme No. 1* does not prescribe development standards for local scheme reserves. Therefore, it is deemed necessary to prepare a 'Cheyne Beach' local planning policy, which will supplement *Local Planning Scheme No. 1* by establishing a set of standards that will guide development of the leaseholds within the settlement.
11. The development standards will maintain the established character of the settlement. The key character elements that have been identified are as follows:
  - Small rectangular single storey dwellings and sheds clad in either cement sheeting, weatherboard, corrugated steel or a mix of these materials and located centrally on each leasehold;

- Low pitched skillion, or medium pitched gabled, corrugated steel roofs;
  - Limited use of fencing; and
  - Lawn areas with native species intermittently planted.
12. City Staff have prepared a draft local planning policy that seeks to maintain this character by:
- Maintaining the current 5 metre maximum building height, as measured from the natural ground level (single storey development);
  - Limiting development to existing leaseholds;
  - Prescribing setbacks to maintain the established pattern of development; and
  - Minimising the development of fencing.
13. Ensuring that the established character of the settlement is maintained will protect the amenity of the area. In particular, the open layout of the settlement and the outlook toward the ocean will be preserved.
14. The draft local planning policy divides the settlement into three distinct precincts. Precinct 1 covers the holiday accommodation leaseholds, Precinct 2 covers the leaseholds for accommodation associated with the fishing industry, while Precinct 3 lies within the foreshore area.
15. It is proposed to restrict the use of land within Precinct 1 to that of 'Holiday Accommodation', as defined in clause 10.3(a) of the *Cheyne Beach Holiday Accommodation Lease Agreement*, rather than as defined in *Local Planning Scheme No. 1*. The key difference between these definitions is that the Lease Agreements do not place a restriction on the length of stay, whereas *Local Planning Scheme No. 1* restricts occupancy to no more than three months in any calendar year by the same person or persons. However, the lease agreements do contain a condition that leaseholds are not to be used as a person's primary place of residence.
16. It is not proposed to set land use controls for Precinct 2 at this time, as the leasing arrangements for the precinct are still under development. However, it is proposed to include a statement that the purpose of Precinct 2 is to provide accommodation associated with the fishing industry, and the City will retain the discretion to approve accommodation units and any associated storage buildings on these leaseholds. Processing and retail or wholesale activities will be prohibited in the precinct. It is expected that the leasing arrangements for Precinct 2 will include a condition requiring the removal of all buildings and structures from a leasehold upon expiration or termination of a lease, and that the land will be returned to its original condition. On this basis, it is proposed to include a recommendation that any accommodation units and non-habitable structures within Precinct 2 are transportable or are of a temporary nature.
17. It is proposed to include a prohibition on new development within Precinct 3, on account of its location within the foreshore area and subsequent vulnerability to coastal erosion and sea level rise.
18. The *Lower Great Southern Strategy*, published in 2007, identified Cheyne Beach as an existing rural village and suggested that it may have expansion potential. This was examined in more detail in the subsequent *Albany Local Planning Strategy* and it was found that the settlement had potential for expansion. It has since been determined that the locality is not suited to permanent habitation, though its continued use as a holiday and fishing settlement can be considered as being broadly consistent with the direction set by the *Albany Local Planning Strategy*.

19. The preparation of a ‘Cheyne Beach’ local planning policy will ensure a consistent approach to planning within the settlement and will give lessees greater certainty as to what type of development will be permitted on their leasehold.

### GOVERNMENT & PUBLIC CONSULTATION

20. The *Planning and Development (Local Planning Schemes) Regulations 2015* require that a local government must pass a resolution to prepare a local planning policy, prior to the proposal being advertised for public comment. Consequently, no formal consultation has been undertaken at this stage. An early draft of the policy was released to the lessees for informal comment; however, no feedback has been received by the City.

### STATUTORY IMPLICATIONS

21. Schedule 2, clause 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows a local government to prepare a local planning policy. Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the procedure for making a local planning policy.
22. Voting requirement for this item is **SIMPLE MAJORITY**.

### POLICY IMPLICATIONS

23. The draft ‘Cheyne Beach’ local planning policy does not support any new development in Precinct 3, which is currently impacted by coastal processes including erosion and tidal flooding. This requirement is consistent with *State Planning Policy 2.6 – State Coastal Planning*, which recommends that a vertical sea level rise of 0.9 metres be adopted when considering the setback distance and elevation to allow for the impact of coastal processes over a 100 year planning timeframe (2010 to 2110).

### RISK IDENTIFICATION & MITIGATION

24. The following indicates the risk to the City in making a decision to support or not support the Policy:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Community, Organisational Operations and Reputation</b></p> <p>The proposal may attract objections from lessees, members of the public or public authorities.</p>	Possible	Minor	Medium	Widely consulting with all parties who may be affected and all relevant public authorities should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.

### FINANCIAL IMPLICATIONS

25. There are no financial implications directly relating to this item.

### LEGAL IMPLICATIONS

26. There are no legal implications directly relating to this item.

## ENVIRONMENTAL CONSIDERATIONS

27. The City's Co-ordinator of Environmental Health has confirmed that the conventional effluent disposal systems that have been installed to service existing short-term accommodation units are capable of managing effluent accumulating from longer-term occupation.
28. It is proposed to include advice within the local planning policy pertaining to the management of weeds, the clearing of vegetation and the keeping of pets. Weeds are to be eradicated, clearing requires approval from the Department of Environment Regulation and the keeping of livestock, animals and domestic pets, is not permitted.

## ALTERNATE OPTIONS

29. Council has the following alternate options in relation to this item, which are:
- To prepare a 'Cheyne Beach' local planning policy to address matters in addition to, or in lieu of those contained within the Officer's recommendation; or
  - Not to prepare a 'Cheyne Beach' local planning policy.

## SUMMARY CONCLUSION

30. *Local Planning Scheme No. 1* does not prescribe development standards for local scheme reserves. A 'Cheyne Beach' local planning policy will supplement *Local Planning Scheme No. 1* by establishing a set of standards that will guide development of the leaseholds within the settlement. The development standards set within the draft local planning policy are designed to maintain the established character of the Cheyne Beach settlement, which will in turn preserve the amenity of the area.
31. The preparation of a 'Cheyne Beach' local planning policy will ensure a consistent approach to planning within the settlement and will give lessees greater certainty as to what type of development will be permitted on their leasehold.
32. On this basis, it is recommended that Council resolves to prepare a 'Cheyne Beach' local planning policy.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy 2010</i></li> <li>3. <i>City of Albany Strategic Community Plan 2023</i></li> <li>4. <i>City of Corporate Business Plan 2013-2017</i></li> <li>5. <i>Lower Great Southern Strategy</i></li> <li>6. Western Australian Planning Commission <i>State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i></li> <li>7. Western Australian Planning Commission <i>State Planning Policy 2.6 – State Coastal Planning</i></li> <li>8. Western Australian Planning Commission and Fire Emergency Services Authority <i>Planning for Bush Fire Protection Guidelines, Edition 2</i></li> <li>9. <i>Cheyne Beach Holiday Accommodation Lease Agreement</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	A174625 (Kalgan Ward)
<b>Previous Reference</b>	:	<p>OCM – 17/07/2001 – Item 11.3.2</p> <p>OCM – 18/09/2001 – Item 11.3.2</p> <p>OCM – 16/08/2005 – Item 11.1.1</p> <p>OCM – 19/10/2010 – Item 2.7</p> <p>OCM – 25/08/2015 – Item CSF189</p>

**PD104: INDUSTRY – EXTRACTIVE (GRAVEL AND SAND), LOT 110, 105  
BON ACCORD ROAD, KING RIVER**

**Land Description** : Lot 110, 105 Bon Accord Road, King River.  
**Proponent** : Palmer Earthmoving  
**Owner** : David Palmer  
**Business Entity Name** : Palmer Earthmoving Australia Pty Ltd  
**Directors** : David Palmer  
**Attachments** : 1. Area Plan  
2. Schedule of Submissions  
3. Proposed Extractive Area Map  
**Supplementary Information & Councillor Workstation:** : Copy of submissions  
**Report Prepared by** : Senior Planning Officer (A Bott)  
**Responsible Officer** : Executive Director Planning & Development (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the strategic directions identified in the *Albany Local Planning Strategy*.

**Maps and Diagrams:**



**In Brief:**

- Council is asked to consider an application for development approval for an Industry – Extractive (Gravel and Sand), which would extend the existing extractive industry operations on Lot 110, 105 Bon Accord Road, King River.
- The application was advertised for public comment and referred to surrounding residents.
- Fourteen letters of objection have been received from nearby residents. The objections primary relate to concerns over traffic, amenity impacts and environmental impacts.
- Due to the objections, the application is being referred to Council for determination.
- Staff recommend that Council approve the proposed development, subject to conditions, which are considered to mitigate the concerns raised through the public advertising process.

**RECOMMENDATION**

**PD104: RESPONSIBLE OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council resolves to ISSUE a notice of determination granting development approval with conditions for Industry – Extractive (Gravel and Sand) at Lot 110, 105 Bon Accord Road, King River.**

**Conditions:**

- (1) Unless varied by written agreement with the City of Albany, all development shall occur in accordance with the stamped, approved plans dated XX XXXX 2015.
- (2) The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans dated XX XXXX 2015.
- (3) A revised plan shall be submitted for approval in writing by the City of Albany, identifying a 30 metre setback from all boundaries.
- (4) Weed management measures shall be incorporated into the Rehabilitation Management Plan, to the satisfaction of the City of Albany.
- (5) All Management Plans shall be implemented to the satisfaction of the City of Albany.
- (6) Operation of the extraction areas shall be restricted to the hours of 7.00am – 6.00pm Monday to Friday, 8.00am – 5.00pm Saturday, with no operation permitted on Sundays or Public Holidays.
- (7) Only one hectare of the extraction area identified on the stamped, approved plans dated XX XXXX 2015 shall be opened – at any one time.
- (8) Top soil to a depth of 150mm, unless otherwise approved by the Director Works and Services, shall be removed from the extraction areas and stored on-site for use in later rehabilitation works.
- (9) A minimum of 150mm of top soil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the Director Works and Services.
- (10) A refundable bond/bank guarantee of \$1550.00 per hectare shall be lodged with the City of Albany for remediation work if required.

- (11) The site shall be suitably rehabilitated and re-contoured on a per hectare basis, including re-battering of banks and reseeded and stabilising of former extraction areas.**
- (12) Surface water management shall be undertaken to ensure that extraction areas are suitably drained, with no direct discharge from the extraction area to any watercourse, without the prior approval of the Department of Water.**
- (13) No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Environment Regulation.**
- (14) Details of screen planting between the extraction areas and Chester Pass Road, Bon Accord Road and the surrounding lots shall be submitted for approval in writing by, and implemented to the satisfaction of the City of Albany.**
- (15) No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.**
- (16) The developer shall liaise with school bus operators to establish a traffic schedule to avoid potential conflict with school bus operations, to the satisfaction of the City of Albany.**
- (17) The developer shall be responsible for the repair of any undue damage to Bon Accord Road caused by the extraction operations.**

## **BACKGROUND**

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. The proponent has previously held a Planning Scheme Consent for an extractive industry (gravel) on the subject lot. This Planning Scheme Consent was issued on 21 September 2004; however, in 2010 the proponent chose not to renew their annual Extractive Industry License.
6. The approval was subsequently renewed and extended following approval by Council at its Ordinary Meeting on 24 June 2014.
7. The subject lot lies to the northern side of Bon Accord Road, approximately 11km north-east of the Albany City centre. The lot has an area of approximately 28.6 hectares and is zoned 'General Agriculture' under City of Albany *Local Planning Scheme No. 1*.
8. A 'Rural Residential' area lies to the south-east and the large lot to the west is currently zoned for 'Rural Residential' lots; however, this lot is yet to be subdivided in accordance with the approved Subdivision Guide Plan.
9. The application was advertised for public comment for a period of 21 days. Nearby landowners were directly notified by letter, a site notice was placed on site and an advertisement was published in a local newspaper. A total of fourteen submissions were received, all of which raise objections to the proposal.

10. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

## DISCUSSION

11. The subject lot is currently under pasture, with an area utilised for extractive industry purposes.
12. The proponents have provided the following (summarised) outline of how the proposed expansion of the extractive industry will operate:
  - The topsoil will be stripped by a bulldozer to a depth of approximately 100-150 millimetres and stockpiled along the edge of the extraction areas to create a bund that will screen the extraction area from sight. This topsoil re-laid once extraction is complete.
  - The total area open at any time would not exceed one hectare.
  - It is proposed to progressively rehabilitate the site back to the original pasture, upon completion of the extraction operations.
13. The proponents have submitted Dieback, Drainage, Rehabilitation and Noise Management Plans in support of the application.
14. The application is generally consistent with the City of Albany *Extractive Industry and Mining* local planning policy. Compliance with the policy is discussed in paragraph 48 below.
15. A total of fourteen submissions were received from members of the public during the advertising period, all of which objected to the proposal.
16. The objections relate primarily to the potential impacts on amenity, environment, and traffic from the proposed operations.
17. The main concerns raised and the proposed mitigation measures will be addressed via the headings below.

### Traffic

18. A number of submissions have raised concerns regarding the anticipated number of truck movements and the use of Bon Accord Road as a haulage route.
19. The proponents have stated that the estimated number of truck movements would be eight per day. They have also stated that this figure represents the average number of truck movements per day over the previous 12 months, based on recorded data. In terms of vehicle numbers, it is often the case with extractive industries that vehicle movements are seasonal and vary according to construction demand.
20. The proposal states that the majority of vehicles movements would travel towards Chester Pass Road. Chester Pass Road is a designated Priority Heavy Freight Route under the Main Roads WA road hierarchy and is used daily by heavy vehicles, up to and including 36.5 metre long road trains. Bon Accord Road may be used by the proponents as a haulage route if a client requires a product to be delivered to Lower King or one of the surrounding localities.
21. A number of submissions have requested that the City of Albany apply a planning condition to any approval to prohibit trucks from using Bon Accord Road to travel east towards the Lower King and Kalgan localities.
22. In terms of restricting the use of Bon Accord Road, the City of Albany does not have the statutory authority to control the direction of vehicles which are classified as 'as of right' vehicles by Main Roads WA. An 'as of right' vehicle is defined as any vehicle that is not a Restricted Access Vehicle. Rigid trucks and semi-trailers are not classed as Restricted Access Vehicles and do not require any permits or exemptions from regulatory requirements.

23. If the proponent intends to use vehicles in excess of 'as of right' specifications they will be obligated to apply for permission from the City of Albany and Main Roads WA.
24. The potential for conflict between trucks and school buses was also raised as a concern. In order to mitigate the issue, it is common practice to apply a condition requiring extractive industry operators to liaise with school bus operators to commence a dialogue and establish a schedule to avoid potential conflict.
25. Officers recommend that a standard condition requiring the proponent to rectify any damage to Bon Accord road should also be applied.

Amenity

26. Impact on amenity is a concern consistently raised in the submissions. Concerns primarily relate to noise generated from the proposed development and impacts on visual amenity.
27. With regard to noise issues, the proponents have submitted a Noise Management Plan. The Plan contains a number of provisions to control noise impacts, including;
  - Use of topsoil on the perimeter of the pit area to act as a noise attenuation bund;
  - A noise complaint system will be established, whereby any complaints relating to noise will be reported to the site manager. Details of the site manager will be erected at the site gate; and
  - A commitment to respond to noise control instructions issued by the City of Albany.
28. It should also be noted that the nearest dwelling is located 500 metres from the extraction area and any operations would be subject to ongoing compliance with the *Environmental Protection (Noise) Regulations 1997*.
29. It is recommended that the implementation and ongoing compliance with the Noise Management Plan be applied as a condition of approval.
30. In terms visual amenity, the staging and rehabilitation of areas will serve to reduce the overall visual impact of the proposed works. Extractive industries are subject to an annual licence renewal inspection to ensure that rehabilitation work is correctly carried out.
31. Further to the above, the closest section of the proposed extraction area would be approximately 180 metres from Chester Pass Road. In terms of visual impact, it should be noted that a number of rural industries have been developed adjacent to the preceding section of Chester Pass Road.
32. There is also a 180 metre section of screening vegetation which runs north along Chester Pass Road from the intersection with Bon Accord Road. The scattered vegetation on the lot boundary adjoining Bon Accord Road will also reduce the visual impact from public vantage points.
33. It is recommended that a planning condition is applied to require the implementation of screen planting along sections of Bon Accord road that do not have existing vegetation.
34. Further planning conditions would be applied in accordance with the *Extractive Industry and Mining* local planning policy to ensure ongoing compliance with the required setback distances from boundaries and watercourses (30 metres and 50 metres respectively).
35. In terms of amenity, concerns were also raised over potential dust issues.
36. In response to these concerns, the proponents have submitted a Dust and Particle Management Plan. The plan incorporates a number of dust mitigation measures, including;
  - Limiting stockpiles to anticipated output for the following days;

- Locating stockpiles away from prominent ridges or seasonal prevailing winds and limiting their heights no more than three metres;
  - Crushing equipment and conveyors will utilise spray bars as required;
  - Timing of earthworks will coincide with low wind conditions; and
  - A dust complaint system will be established, any complaints will be forwarded to the site manager. Site manager details will be displayed on the gate.
37. It is recommended that the implementation and compliance with the Dust Management Plan is applied as a condition of approval.
38. It is considered that the Dust Management Plan, in conjunction with the distance to nearby dwellings, will mitigate any potential amenity issues resulting from dust.

#### Environment

39. Concerns regarding environmental impacts were raised consistently in the submissions.
40. A number of concerns were raised in relation to water runoff from the extraction area and the detrimental impacts that this could have on waterways.
41. The Department of Water was consulted and has advised the City that standard water control conditions are applicable to the proposal, which includes surface water management being undertaken by the developer.
42. The proponents have also submitted a Drainage Management Plan. While it is likely that surface water collecting in the excavation area will soak into the ground in-situ, it is also advised that cut off drains are installed as required, to guide any run off into the existing approved dams on the lot.
43. The proponents have indicated an intention to remove sections of vegetation, in order to extract the underlying material, and will be required to apply for a clearing permit from the Department of Environment Regulation if they wish to pursue this course of action.
44. Approval of an extractive industry by the City of Albany does not grant approval to clear the vegetation identified on the plan for removal. The Department of Environment Regulation does not generally consider applications for clearing permits until local government has made a determination on the development proposal.
45. A number of submissions raised concerns regarding weed management on the lot. In order to specifically manage this issue through the rehabilitation process, it is recommended a condition is applied requiring the inclusion of weed management measures within the Rehabilitation Management Plan.
46. The proponents have submitted a Dieback Management Plan in order to reduce the risk of Dieback Disease being spread. Among other controls, the plan states that equipment will be washed down upon entering/exiting the site and that the trucks carrying material from the site will be covered to ensure there is no spillage. It is recommended that implementation of, and compliance with, the Dieback Management Plan is required as a condition of approval.

#### **GOVERNMENT & PUBLIC CONSULTATION**

47. The proposal was advertised for public comment for a period of 21 days, in accordance with clause 9.4 – *Advertising of Applications of Local Planning Scheme No. 1*. A sign was placed on site, an advert was published in a local newspaper and surrounding landowners were directly notified in writing.

48. A total of fourteen submissions were received during the advertising period. All fourteen submissions objected to the proposal. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed in paragraphs 13 – 43 above.

**STATUTORY IMPLICATIONS**

49. Extractive Industry is classified as an ‘A’ use within the ‘General Agriculture’ zone under *Local Planning Scheme No. 1*, meaning that the use is not permitted, unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the Scheme.
50. Voting requirement is a **Simple Majority**.

**POLICY IMPLICATIONS**

51. The primary assessment criteria for the application are set out in the City of Albany *Extractive Industry and Mining* local planning policy.
- a. The proposal is classified as a class 2 extractive industry under the policy. Class 2 extractive industries have site extraction areas of between 0.75 and 3 hectares with a maximum depth of 3 metres.
  - b. The Policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The Environmental Protection Authority’s *Separation Distances between Industrial and Sensitive Land Uses* guidelines set out a buffer of between 300-500 metres for these activities. Although this buffer is not contained within the lot boundaries, the closest dwelling is over 500 metres from both of the nominated extraction areas, and is therefore compliant with the intent of the *Separation Distances between Industrial and Sensitive Land Uses* guidelines.
  - c. A condition will be recommended in accordance with the policy which requires pits to be located 30 metres from any public road.
  - d. The proposed pit area complies with the requirement of being set back a minimum of 50 metres from a watercourse or body.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Organisational Operations and Reputation</b></p> <p>The proposed use could give rise to unacceptable detrimental impacts on the amenity of the area.</p>	Possible	Moderate	Medium	Mitigation of impacts to be achieved through adoption and enforcement of conditions.

**FINANCIAL IMPLICATIONS**

53. All costs associated with the development will be borne by the proponent.
54. However, should the proponents be aggrieved by Council’s decision or any attached conditions and seek a review of that decision or conditions through the State Administrative Tribunal, the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.

## LEGAL IMPLICATIONS

55. Council is at liberty to use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the State Administrative Tribunal, in accordance with Section 252 of the *Planning and Development Act 2005*.
56. The proponent has the right to seek a review of the Council's decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

## ENVIRONMENTAL CONSIDERATIONS

57. The subject lot is under pasture and slopes downward from north to south. There is a large stand of trees in the western half of the lot and scattered vegetation across the southern extent of the lot, adjacent to Bon Accord Road. The existing extraction sites lie to the east of the large stand of trees. A seasonal creekline runs across the western extent of the lot, approximately 140 metres from the proposed extraction area.

## ALTERNATE OPTIONS

58. Council has the following alternate options in relation to this item, which are:
- To determine that the proposed use is unacceptable and to resolve to refuse the application; or
  - To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

## SUMMARY CONCLUSION

59. The proposal is considered to be consistent with the objectives of the zone and the requirements of the City of Albany's *Extractive Industry and Mining* local planning policy. The matters raised in the public submissions received during the advertising period have also been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions. On this basis, it is considered the proposal can be appropriately managed through ongoing conditions and the yearly licence renewal process.
60. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Extractive Industries and Mining local planning policy</i> 4. <i>Environmental Protection (Noise) Regulations 1997</i> 5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses</i>
<b>File Number (Name of Ward)</b>	:	A69488 (Kalgan Ward)
<b>Previous Reference</b>	:	OCM – 24/06/2014 – PD036

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
16. **REPORTS OF CITY OFFICERS**
17. **MEETING CLOSED TO PUBLIC**
18. **CLOSURE**