



MINUTES

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING

Wednesday 7 November 2018

6.00pm

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) **Functions:** The Committee is responsible for:

Development Services:

The delivery of the “*Liveable Environmental Objectives*” contained in the City of Albany Strategic Plan:

- Advocate, plan and build connected, liveable communities.
- Create a community that supports people of all ages and backgrounds.
- Create vibrant neighbourhoods which are safe yet retain our local character and heritage.

Infrastructure Services:

The delivery of the “*Clean and Green Objectives*” contained in the City of Albany Strategic Plan:

- To protect and enhance our pristine natural environment.
- To promote environmental sustainability.
- To promote our region as clean and green.

(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) **Membership:** Open to all elected members.

(4) **Meeting Schedule:** Monthly

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

(6) **Executive Officers:** Executive Director Infrastructure and Environment, Executive Director Development Services

(7) **Delegated Authority:** None

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1. **DECLARATION OF OPENING** – 6.00pm
2. **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”.

3. **RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE**

Mayor D Wellington

Councillors:

Member	J Shanhun (Chair)
Member	S Smith
Member	R Sutton (Deputy Chair)
Member	B Hollingworth
Member	R Hammond
Member	R Stephens
Member	A Goode JP
Member	T Sleeman

Staff:

Chief Executive Officer	A Sharpe
Executive Director Development Services	P Camins
Executive Director Infrastructure and Environment	M Thomson
Reserves Officer	C Beck
Environmental Sustainability Officer	M Holt
Meeting Secretary	A Paulley

Apologies:

Member	G Stocks
Member	E Doughty
Member	A Moir
Member	P Terry
Manager City Reserves	J Freeman
Manager City Engineering	D King

Leave of Absence

Cr Hollingworth will be applying for leave of absence for the December 2018 meeting.
Cr Sutton will be applying for leave of absence from 1–14 December 2018.

4. DISCLOSURES OF INTEREST - Nil

Name	Committee/Report Item Number	Nature of Interest

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE - Nil

6. PUBLIC QUESTION TIME

6.02 pm Wayne Monks of 113 Riverside Drive, Kalgan.

Regarding DIS135

Mr Monk expressed concerns about the information and statistics relating to his application for Harvest Summer Fair events.

Mr Monks tabled a comments document dated 7 November 2018 which is attached to these minutes at Appendix A.

7. PETITIONS AND DEPUTATIONS - Nil

8. CONFIRMATION OF MINUTES

COMMITTEE RESOLUTION

MOVED: COUNCILLOR HOLLINGWORTH

SECONDED: COUNCILLORS GOODE

THAT the minutes of the Development and Infrastructure Services Committee meeting held on 10 October 2018, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 9-0

9. PRESENTATIONS

Carbon Footprint Reduction Strategy and Green Team – Mary Holt

This presentation was given at the end of the meeting after the confidential item DIS131.

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS - Nil

**DIS131: PURCHASE OF LOTS 877, 893 & 91 AND PART LOT 76,
HANRAHAN ROAD, ALBANY**

Land Description	: Lots 877, 893, 91 and part of Lot 76, Hanrahan Road, Mt Melville.
Proponent / Owner	: City of Albany / Wesfarmers CSBP Limited
Report Prepared By	: Manager City Engineering (D King)
Responsible Officers:	: Executive Director Infrastructure and Environment (M Thomson) and Executive Director Corporate Services (M Cole)

CONFIDENTIAL REPORT

This Report will be considered behind closed doors in accordance with section 5.23 (2)(e) of the Local Government Act 1995, being a matter that if disclosed, would reveal information that has a commercial value to a person.

RESOLUTION

**MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR STEPHENS**

THAT the meeting be closed to members of the public in accordance with 4.1 of the City of Albany Standing Orders Local Law 2014 (as Amended), to discuss the following confidential report:

DIS131: PURCHASE OF LOTS 877, 893 & 91 AND PART LOT 76, HANRAHAN ROAD, ALBANY

CARRIED 9-0

RESOLUTION

**MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR STEPHENS**

THAT the meeting be re-opened to members of the public.

CARRIED 9-0

DIS131: COMMITTEE RECOMMENDATION

**MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR SUTTON**

THAT Council SUPPORT the Confidential Responsible Officer Recommendation contained in confidential report DIS131: Purchase of Lots 877, 893 & 91, and Part Lot 76, Hanrahan Road, Albany.

CARRIED 9-0

DIS132: DOG EXERCISE, PROHIBITED AND RURAL LEASHING AREAS POLICY

Land Description	: Public Land and City Reserves
Proponent / Owner	: City of Albany
Attachments	: <ul style="list-style-type: none">• Draft Dog Exercise Area Map (Attachment A)• Community Engagement Results Report (Attachment B)• Draft Dog Exercise, Prohibited & Rural Leashing Areas Policy (C)
Report Prepared By	: Manager City Reserves (J Freeman) Manager Governance & Risk (S Jamieson)
Responsible Officers:	: Executive Director Infrastructure & Environment (M Thomson)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Themes:** Community Health & Participation, Leadership.
 - **Objectives:**
 - To develop and support a healthy inclusive and accessible community
 - To establish and maintain sound business and governance structures
 - **Community Priorities:**
 - Develop a range of activities and facilities that connect people, promote a healthy community and are appropriate for all ages.
 - Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflect the level of associated risk and are adequately explained to community.

Maps and Diagrams: Draft Dog Exercise Area Map (see Attachment A).

In Brief:

- The Draft Dog Exercise, Prohibited and Rural Leashing Areas Policy was developed in early 2018 and advertised for community comment.
- 90 submissions were received and considered by staff.
- Modifications to the proposed policy have been made based on the community feedback.

RECOMMENDATION

DIS132: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR STEPHENS**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

DIS132: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Dog Exercise, Prohibited and Rural Leashing Areas Policy be ADOPTED.

BACKGROUND

2. In 2013, the *Dog Amendment Act 2013* made various amendments to the *Dog Act 1976*.
3. This amendment transferred the power to local governments to administer the determination of places where dogs are prohibited or allowed.

4. On 31 October 2017 Council resolved to:
 - a. Adopt a new Dog Local Law 2017; and
 - b. Adopt an interim policy position based on what previously existed under the repealed elements of the *Animals Local Law 2001*.

DISCUSSION

5. The City of Albany currently manages a large number of reserves and public open spaces which the community use for a variety of purposes including the exercise of dogs.
6. Human interaction with dogs can provide a wide range of positive benefits (physical & mental health, etc.) but can also result in a range of negative issues if not managed appropriately.
7. The content of the policy position is to determine within the City's municipal boundary the following categories:
 - **Prohibited areas** – areas where dogs are prohibited at all times.
 - **Dog Exercise Areas** – areas where dogs may be exercised off leash (but still under effective control) at all times.
 - **Rural Leashing Areas** – areas outside of the City of Albany Boundary (as gazetted) where dogs must be exercised on a leash.
8. It is proposed that within the City's boundary, other than in a Dog Exercise or Dog Prohibited area, dogs must be exercised on a leash or under effective control at all times including on tracks/paths in natural reserves. Outside of the City boundary, other than "Rural Leashing Areas", dogs may be off leash.
9. The areas designated in each category in the draft policy are based on historical area use and consultation with internal stakeholders such as the Recreation Services, Reserve Management and Ranger teams and feedback received from the community during the community comment period.
10. The draft policy significantly expands the number of Dog Exercise Areas across the City and they are spaced to ensure residents have access to an area in close proximity to their residence.

GOVERNMENT & PUBLIC CONSULTATION

11. The *Dog Act 1976* (as amended) prescribes that prior to Council adopting a policy position, Council must:
 - a. seek public comment;
 - b. be advertise the proposed policy position for a minimum period of 28 days; and
 - c. be adopted by an **absolute majority**.
12. Community feedback is detailed in the Community Engagement Report (Attachment B).

STATUTORY IMPLICATIONS

13. *Dog Act 1976*, Part VI, Division 1, Section 31. Control of dogs in certain public places:

(2B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited —

 - (a) at all times; or
 - (b) at specified times.

(3A) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.

(3B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place that is under the care, control or management of the local government to be a rural leashing area.

14. Voting requirement for this item is **ABSOLUTE MAJORITY**.

POLICY IMPLICATIONS

15. The Council policy position that defines exercise, prohibited and rural leashing areas for dogs will be administered under the *Dog Act 1976*.
16. Once the policy is adopted, on ground demarcation (sign posting) of areas will commence and community educational material will be finalised.

RISK IDENTIFICATION & MITIGATION

17. The risk identification and categorisation relies on the City's Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation: Risk: Noting this proposed policy position attracted significant levels of community comment, some members of the public may not be happy.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Effectively communicate the rationale that formed the policy development and proposed implementation program based education prior to enforcement.</i> <i>If the proposed policy is not endorsed, staff will review and address areas of concern.</i>
<i>Opportunity: To classify dog prohibited, exercise and rural leashing areas within the City of Albany boundaries.</i>				

FINANCIAL IMPLICATIONS

18. Funds are allocated in the 2018/19 budget for implementation of on ground works and production of educational programs.

LEGAL IMPLICATIONS

19. Adoption of the policy will assist Rangers in enforcing responsible dog control.

ENVIRONMENTAL CONSIDERATIONS

20. It is acknowledged that dogs have the potential to impact significantly on environmental values especially where they are not controlled or on leash, and that Albany's natural reserves and beaches have a large number of significant native fauna species that use them.

ALTERNATE OPTIONS

21. Council could choose to not adopt the draft policy and retain the current Dog Exercise and Prohibited Areas or decide to undertake further consultation before adopting the policy.

CONCLUSION

22. The draft policy attracted significant levels of community comment, demonstrating the high level of community interest in this subject. The comments were very diverse and often directly opposed to each other, demonstrating the difficulty faced in developing a policy that would be acceptable to all community members.
23. The draft policy has endeavoured to provide a balanced approach this issue.
24. It is recommended that the proposed Dog Exercise, Prohibited & Rural Leashing Areas Policy be adopted.

Consulted References	:	<ul style="list-style-type: none"> • <i>Dog Act 1976</i> • <i>City of Albany's Dog Local Law 2017</i> • <i>Community Engagement Results Report (Attachment B).</i>
File Number	:	CR.COC.54 (All Wards)
Previous Reference	:	OCM 25/07/2017 Resolution DIS036

DIS133: FOSSICKER'S TIP SHOP - CR RAYMOND HAMMOND VOLUNTEER AUCTIONEER

Proponent	: Councillor Raymond Hammond
Report Prepared By	: Waste Sustainability Officer (J Passmore)
Responsible Officers:	: Chief Executive Officer (A Sharpe) Executive Director Environment & Infrastructure (M Thomson)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** Clean, Green & Sustainable.
 - **Objective:** To identify and deliver improvements in sustainability within the City and wider community
 - **Community Priority:** Deliver a sustainable and progressive approach to waste management including collaboration with neighbouring local governments.

In Brief:

- Cr Hammond has offered his services as a volunteer auctioneer for Fossicker's Tip Shop.
- Cr Hammond would register as an accredited auctioneer at his own cost.
- In this role, Cr Hammond would be inducted as a volunteer with Fossicker's Tip Shop and would not direct staff or be involved in any financial transaction.

RECOMMENDATION

DIS133: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR HOLLINGWORTH

THAT Council approve Cr Raymond Hammond being a volunteer auctioneer with Fossicker's Tip Shop subject to Cr Hammond becoming registered as an accredited auctioneer at his own cost.

CARRIED 9-0

DIS133: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE Councillor Raymond Hammond's induction as a volunteer auctioneer for Fossicker's Tip Shop.

BACKGROUND

2. Fossicker's Tip Shop is operated by the City of Albany at the Hanrahan Road Waste Facility.
3. Items are dropped at Fossicker's by individuals and businesses and, where suitable, made available for sale to the public. Some larger and more valuable items have been previously auctioned through Pickles Auctioneers to maximise profitability.

DISCUSSION

4. The August meeting of the Waste Management Working Group discussed opportunities to increase the commercial viability of Fossicker's Tip Shop.
5. Councillor Hammond suggested potential income could be increased by auctioning goods on an occasional basis and he would volunteer to be auctioneer to reduce overhead costs.
6. The Waste Management Working Group agreed the idea had merit and was worth trialling.

7. Since the August Waste Management Working Group meeting, Cr Hammond has approached Chief Executive Officer Andrew Sharpe to offer his services as a volunteer auctioneer at Fossicker's Tip Shop.
8. Cr Hammond would volunteer as an auctioneer on occasions such as:
 - a. When items of significant value are received at Fossicker's Tip Shop.
 - b. During community events such a Fossicker's Tip Shop Open Day.
9. Cr Hammond would register as an accredited auctioneer, as per the *Auction Sales Act 1973*, at his own expense.
10. Cr Hammond would receive induction as a Fossicker's Tip Shop volunteer and would not direct staff or be involved in any financial transaction.

GOVERNMENT & PUBLIC CONSULTATION

11. There has been no government or public consultation in relation to this item.

STATUTORY IMPLICATIONS

12. A person must be the holder of an auctioneer's licence to act as an auctioneer under the *Auction Sales Act 1973*.
13. Applications for an auctioneer's licence are to be made as per the *Auction Sales Regulations 1974*.
14. Voting Requirement: Simple Majority.

POLICY IMPLICATIONS

15. Council Members, Committee Members, City Volunteers and Staff will give effect to the lawful policies of the City, whether or not they agree with or approve of them.
16. Use of Organisational Resources. Volunteers must:
 - Be honest in their use of City of Albany resources and shall not misuse them or permit their misuse by any other person;
 - Use the City of Albany resources entrusted to them effectively and economically in the course of their volunteer duties; and
 - Not use the City of Albany resources (including the services of City of Albany staff) for private purposes unless properly authorised to do so.
17. The Code of Conduct stipulates:
 - a. A Councillor:
 - represents the interests of electors, ratepayers and residents of the district;
 - provides leadership and guidance to the community in the district;
 - facilitates communication between the community and the council;
 - participates in the City's decision-making processes at council and committee meetings; and
 - performs such other functions as are given to a Councillor by this Act or any other written law.
 - b. Council Members need to observe their statutory obligations which include, but are not limited to, the following, in part:
 - *accept that their role is a leadership, not a management or administrative one;*
 - *acknowledge that they have no capacity to individually direct members of staff to carry out particular functions;...*

RISK IDENTIFICATION & MITIGATION

18. The risk identification and categorisation relies on the City's Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Business Operation, Reputation & Financial.</p> <p><i>Risk: Perceived risk to reputation due to an elected member being involved in an operational financial transaction.</i></p>	Possible	Moderate	Medium	Procedure to be provided outlining the auctioneer's volunteer role.
Opportunity: Additional income and community attendance for Fossicker's Tip Shop.				

FINANCIAL IMPLICATIONS

19. There would be no cost to the City for Cr Hammond's auctioneer's licence or volunteer services.
20. There is potential for a small increase in income to Fossicker's Tip Shop through sales by auction.

LEGAL IMPLICATIONS

21. There are no direct legal implications directly relating to this item.
22. The City of Albany recognises that all volunteers have the right to be protected from financial costs in the event of personal injury and liability. Therefore, all approved (inducted) volunteers are insured for the following types of liability:
- Public Liability
 - Volunteer Personal Accident

ENVIRONMENTAL CONSIDERATIONS

23. There are no environmental implications.

ALTERNATE OPTIONS

24. Council may consider alternate options including to continue with the current arrangement of auctioning items of value through Pickles Auctioneers.

CONCLUSION

25. Council is requested to endorse Cr Hammond's registration, at his own cost, as an accredited auctioneer to conduct auctions at Fossicker's Tip Shop in a voluntary capacity.

Consulted References	:	<ul style="list-style-type: none"> • Local Government Act 1995 • Auction Sales Act 1973 • Council Policy: Code of Conduct Policy (Council Members, Committee Members, Staff and Volunteers) • City of Albany Volunteer Handbook
File Number (Name of Ward)	:	GO.CLS.23 (All Wards)
Previous Reference	:	Nil

DIS134: MIDDLETON BEACH ACTIVITY CENTRE - FORESHORE MANAGEMENT PLAN

Land Description	: Lot 8888 Flinders Parade and Lots 660 and 661 Marine Terrace, Middleton beach
Proponent / Owner	: Western Australian Land Authority.
Business Entity Name	: LandCorp
Attachments	: Middleton Beach Foreshore Management Plan
Report Prepared By	: Manager Planning and Land information Services (Jan v.d. Mescht)
Responsible Officers:	: Executive Director Development Services (P Camins)

STRATEGIC IMPLICATIONS

1. When exercising discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
2. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy (2010)*. The Albany Local Planning Strategy seeks to encourage the development of tourism uses that integrate with the City's unique natural landscape.
3. This item relates to the following elements of the City of Albany Strategic Community Plan:
 - **Theme: 5** - A connected and safe built environment.
 - **Objective: 5.1** - To develop vibrant neighbourhoods which retain local character and heritage.
 - **Community Priority: 5.1.2** - Provide proactive planning and building services that support sustainable growth while reflecting our local character and heritage.

Maps and Diagrams: Subject Site



In Brief:

- LandCorp is developing the Middleton Beach Activity Centre (MBAC) site and is required to undertake a Foreshore Management Plan (FMP) in conjunction with the City of Albany.
- The Foreshore Management Plan document required for the LandCorp development must also include an adaptation plan for the development site. This plan has to commit to some interventions in relation to Coastal Protection over the next 100 years (i.e. coastal adaptation pathway).
- The FMP must meet the requirements of State Planning Policy 2.6 including the requirement to protect the development from coastal processes for 100 years
- The City of Albany is currently undertaking a CHRMAP (coastal hazard risk management and adaptation planning) process for Emu Point to Ellen Cove that is required by the State for Coastal Communities.
- The CHRMAP process shows that the Middleton Beach Foreshore and associated infrastructure will be at risk within a 20-year time frame. The City will have to prepare an adaptation plan as part of this process for the areas that are at risk.
- The City of Albany has been successful in securing state and federal funds to complete works on the Middleton Beach Foreshore.
- The benefits of an integrated approach to coastal protection to the LandCorp development and the Middleton Beach foreshore include:
 - Coastal protection requirements are met for at least 50 years;
 - High quality community amenity improvements on the dilapidated foreshore;
 - Removal of drainage that currently flows directly onto the beach;
 - Creation of a new beach promenade over the buried seawall.
 - The ability to review and extend infrastructure to provide protection for an additional 50 years.
- Council endorsed the Foreshore Management Plan (FMP) for advertising at the December 2017 OCM, public consultation subsequently occurred in accordance with the deemed provisions contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- The public comment period commenced on 9 April 2018 and concluded on 21 May 2018. The consultation also included 2 workshop sessions which were held on 12 & 13 April 2018.
- The Middleton Beach Activity Centre Design Guidelines and Foreshore Management Plan public consultation processes were combined for practical and efficiency reasons.
- During consultation, 3 submissions were specifically received on the FMP. Submissions on the Middleton Beach Activity Centre Design Guidelines also include comments in relation to the FMP.
- The FMP has been reviewed in light of the submissions received and can be endorsed and recommended for approval subject to a number of modifications

RECOMMENDATION

DIS134: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR SUTTON**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

Cr Sleeman was temporarily absent from the room and did not vote.

DIS134: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. In accordance with LPS1, resolves to ADOPT and recommend that the Western Australian Planning Commission ENDORSE the Middleton Beach Activity Centre - Foreshore Management Plan subject to the following modifications:-
 - a) All diagrams being updated to ensure that they are consistent.
 - b) In the context of the funding now available, updating the implementation sections, tables (specifically table 4) and staging information in the document as appropriate to reflect the new expected time frames and responsibilities.
 - c) Removing all references to a seawall option around the Hotel in the body of the document and figures i.e. Figure K.
 - d) A stronger access link being shown between the Mt Adelaide carpark and Ellen Cove via the area between Three Anchors and the Hotel Site being shown in the Landscape Plan.
2. NOTE that staff will consider detailed comments relating to landscaping and drainage and undertake further consultation, as part of the detailed planning and design of the proposed foreshore development works.

BACKGROUND

4. The Foreshore Management Plan (FMP) has been prepared on behalf of LandCorp in conjunction with the City of Albany.
5. Council endorsed the Foreshore Management Plan (FMP) for advertising at the December 2017 OCM, public consultation subsequently occurred in accordance with the deemed provisions contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*.
6. The public comment period commenced on 9 April 2018 and concluded on 21 May 2018.
7. The consultation also included 2 workshop sessions that were held on the 12 & 13 April 2018.
8. Funding for the implementation of the works detailed as per the FMP have been secured from the Building Better Regions Fund (BBRF) and the State Government.

DISCUSSION

9. During consultation 3 submissions were specifically received on the FMP and most of the submissions on the Middleton Beach Activity Centre Design Guidelines also include comments in relation to the FMP.
10. Most of the submissions received support the FMP in principle and provide additional comments with some also raising a few concerns.
11. The comments and concerns as summarized were mainly centred on the following (for more detail please refer to the complete submissions):-
 - a) Proposed staging and prioritization of the landscape improvement works and the timing to improve/upgrade existing facilities and infrastructure. It is also mentioned that existing infrastructure like toilets etc. is in need of upgrading and maintenance.
 - b) A number of comments relate to detail that is included in the Landscaping Plan e.g. the location of paths, relocation of the existing play park, plant species, reticulation and the retention of large open space areas.
 - c) The area between Three Anchors and the Hotel Site. The plans do not show or provide for unhindered, comfortable and safe access from the Mt Adelaide carpark to Ellen Cove.
 - d) The inclusion of the coastal protection option around the hotel to be constructed in 2048 on public land if the preferred option is not implemented.

- e) The Middleton Beach Group would have preferred it if the comprehensive CHRMAP process was completed as part of the Scheme Amendment. This would have allowed for a better understanding of all the options available and also the cost involved in deciding on the best option.
 - f) The drainage and runoff of the proposed development.
 - g) Diagrams in the document are not consistent.
12. The FMP has been reviewed in light of these comments and concerns and can proceed subject to the following number of modifications:-
- a) All diagrams being updated to ensure that they are consistent.
 - b) In the context of the funding now available, updating the implementation sections, tables (table 4) and staging information in the document as appropriate to reflect the new expected time frames and responsibilities.
 - c) Removing all references to a seawall option around the Hotel in the body of the document and figures i.e. Figure K.
 - d) A stronger access link being shown between the Mt Adelaide carpark and Ellen Cove via the area between three anchors and the Hotel Site.
13. With regard to the detailed comments relating to the landscaping plan and drainage, it is recommended that staff take these comments into consideration as part of the detailed planning and design of the foreshore management works.
14. Comments relating to the upgrading and maintenance of existing facilities should be noted and investigated as part of future upgrades or programmes.
15. The FMP and the proposed modification are recommended for consideration and ultimate endorsement by the Western Australian Planning Commission

GOVERNMENT & PUBLIC CONSULTATION

16. The public comment period commenced on the 9 April 2018 and concluded on the 21 May 2018. The consultation also included 2 Community Information Sessions that were held on the Thursday evening 12 April and Friday morning 13 April 2018.
17. The Community Information Sessions were attended by about 50 members of the public.
18. The members of the Middleton Beach Working Group, comprising of LandCorp, DPLH, City of Albany, and GSDC have reviewed and provided input into the document prior to it being advertised.
19. The FMP was also referred to the Department of Water and Environmental Regulation which supports the Plan.
20. The FMP will be forwarded to the DPLH for final assessment and endorsement.

STATUTORY IMPLICATIONS

21. A number of conditions have been applied within the planning instruments for the Middleton Beach Activity Centre. Relevant to this item are condition 5 from the Scheme Amendment and condition 18 from the subdivision conditions. These are repeated below:-

Local Planning Scheme 1 Condition:

"Foreshore Protection and Management

5. Development within the Hotel/Mixed Use Precinct and/or creation of the Hotel/Mixed Use Lot will be subject to satisfactory arrangements for the implementation and ongoing management of coastal adaptation and protection measures consistent with State Planning Policy 2.6, including but not limited to:-

- *Public advertising, adoption and implementation of a Foreshore Management Plan that includes the existing foreshore reserve adjacent to the Special Use zone, prepared in conjunction with the City of Albany in accordance with SPP2.6 Sub-Clause 5.10 Coastal Strategies and Management Plans and endorsed by the WAPC; and*

- *Notification on Title stating that the lot is within a Vulnerable Coastal Area.”*

Subdivision Condition:

“18. Prior to the commencement of subdivision works on Lot 'DA6' and any Public Open Space depicted on the approved plan of subdivision, a foreshore management plan in accordance with Condition 5 of Special Use Area 25 in Albany's Local Planning Scheme No. 1 is to be prepared and approved for the installation and ongoing management of coastal adaptation and protection measures, to the satisfaction of the Western Australian Planning Commission.”

22. State Planning Policy No. 2.6 State Coastal Planning Policy and associated Guidelines is the most pertinent policy to inform and guide decision-making for coastal planning; including managing development and land use change; establishment of foreshore reserves; and to protect, conserve and enhance coastal values.
23. The most relevant section of the policy is section 5.5 and deals with coastal hazard risk management and adaptation planning.
24. The Foreshore Management Plan and any solution needs to meet/address the requirements of this policy.
25. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

26. Nil

RISK IDENTIFICATION & MITIGATION

27. The risk identification and categorisation relies on the City's Enterprise Risk and Opportunity Management Framework.

28. Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Property Risk: <i>There is a risk that doing nothing will result in damage to the foreshore and infrastructure.</i>	<i>Possible in the short term</i>	<i>Moderate in the short term</i>	<i>High</i>	<i>Undertake precinct-wide coastal protection works.</i>
Financial Risk: <i>There is a risk that doing nothing will result in damage to the foreshore and infrastructure.</i>	<i>Possible in the short term</i>	<i>Severe</i>	<i>Extreme</i>	<i>Undertake precinct-wide coastal protection works.</i>
Reputation Risk: <i>There is a risk that by protecting only the hotel site the City will be criticised by the community.</i>	<i>Possible in the short term</i>	<i>Major</i>	<i>High</i>	<i>Undertake precinct-wide coastal protection works.</i>
Opportunity: <i>There is an opportunity to receive a contribution from LandCorp for a precinct-wide protection strategy.</i>				

FINANCIAL IMPLICATIONS

28. The financial implications for implementation of the FMP were detailed as part of item CCS083 of the 28 August 2018 Ordinary Council Meeting (OCM).

LEGAL IMPLICATIONS

29. There are no known legal implications relating to this item.

ENVIRONMENTAL CONSIDERATIONS

30. The environmental implications are detailed within the Foreshore Management Plan.

ALTERNATE OPTIONS

31. Council may consider alternate options in relation to this item, such as resolving:
- a) To refuse to proceed with the Foreshore Management Plan.
 - b) To proceed with modified conditions to the Foreshore Management Plan.

CONCLUSION

32. The design guidelines have been prepared in accordance with the requirements of LPS1 and the MBAC structure plan.
33. The FMP has been reviewed in light of the submissions received during consultation and a number of modifications are being proposed to address the matters raised.
34. It is recommended that Council accept the FMP and recommend it for endorsement by the WAPC subject to the proposed modifications being completed.

Consulted References	:	<i>Local Government Act 1995, Planning and Development Act 2005. State Planning Policy No. 2.6 State Coastal Planning Policy and Guidelines and Local planning Scheme 1</i>
File Number (Name of Ward)	:	A217508 (Fredericktown)
Previous Reference	:	DIS065 - 19 December 2017 OCM and CCS083 -28 August 2018 OCM.

**DIS135: RECREATION PRIVATE – (KALGAN HARVEST SUMMER FAIR),
LOT 75, 113 RIVERSIDE ROAD, KALGAN**

Land Description	: Lot 75, 113 Riverside Road, KALGAN 6330
Proponent	: Wayne Monks
Owner	: Wayne Monks
Business Entity Name	: N/A
Directors	: N/A
Attachments	: 1. Site Plan 2. Engineers report 3. SAT orders 4. Recommended conditions should the proposal be supported
Supplementary Information & Councillor Workstation:	:
Report Prepared by	: Planning Officer (J Anderson)
Responsible Officer	: Executive Director Development Services (P Camins)

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:

- On 20 March 2018, staff refused an application using their delegation for Recreation Private – (Kalgan Harvest Summer Fair) at Lot 75, 113 Riverside Road, Kalgan. The proposal was for four events per year, held over eight days (one event per season).
- The applicant subsequently appealed the decision to the State Administrative Tribunal for review.
- In orders dated 26 July 2018, the State Administrative Tribunal invited the City to reconsider its decision in respect to the – Recreation Private – (Kalgan Summer Harvest Fair) at Lot 75, 113 Riverside Road, Kalgan for one event per year.
- The applicant formally submitted a revised application requesting one event per year on 14 August 2018.
- A temporary use like a festival would normally be exempt Under Schedule 2, Part 7 Cl 61 (2d) of the *Planning and Development (Local Planning Schemes) Regulations 2015* where it is in existence for less than 48 hours within any 12 month period.
- On 28 August 2018, staff resolved to approve one event per year given the exemption and the ability to control the event with appropriate conditions.
- At a SAT Directions Hearing on 28 September 2018, the applicant expressed that they were no longer satisfied with one event and the conditions imposed, and requested that the City reconsider the proposal allowing two events per year, during Summer and Spring with no requirement to go through the Events Approval process.
- In orders dated 28 September 2018, the State Administrative Tribunal invited Council to reconsider its decision at an Ordinary Council Meeting in respect to the Recreation - Private at Lot 75, 113 Riverside Road, Kalgan for two events per year, to be held in Spring and Summer.
- Through the SAT process, the proponent has provided the City with additional information in support of the application, including;
 - Revised site plan
 - Amended seasons of operation being Spring and Summer.
- In consideration of the revised information received, and the invitation to reconsider the proposal for two events per year, staff remain (despite its previous support for one event) of the view that the proposed intensification of the land use is not appropriate for this site and recommend that Council refuse the proposed development for the following reasons;
 - The inadequate access, traffic impact on the locality and potential risk of human health due to the capacity of the road system, (including a 3.5m wide shared access way).
 - In addition to this, staff consider this a vulnerable land use within a bushfire prone area, posing a considerable risk to human safety.
 - Objection to the proposal from residents in the area.

RECOMMENDATION

DIS135: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR HOLLINGWORTH
SECONDED: MAYOR WELLINGTON**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-2

Record of Vote

Against the Motion: Councillors Sutton and Sleeman

DIS135: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of REFUSAL for Recreation – Private for two events per year at Lot 75, 113 Riverside Road, Kalgan, for the following reasons:-

1. The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, namely;
 - (n) the amenity of the locality including the following — (ii) the character of the locality;
 - q) the suitability of the land for the development taking into account the possible risk of bush fire.
 - (r) the suitability of the land for the development taking into account the possible risk to human health or safety;
 - (s) the adequacy of — (i) the proposed means of access to and egress from the site; and
 - (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

BACKGROUND

1. *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.
2. The subject lot lies to the southern side of Riverside Road, approximately 16km north-east of the Albany City centre. The lot has an area of approximately 5.1 hectares and is zoned 'General Agriculture' under City of Albany *Local Planning Scheme No. 1*.
3. The subject lot is adjoined by 'General Agriculture' lots to the north, east, south and west. A 'Rural Village' area lies to the north, on the opposite side of Riverside Road.

4. The western end of Riverside Road is gravel, narrow and heavily vegetated; intended to provide access for residents and to a parking area servicing the Luke Penn Walk. The last traffic counts undertaken indicate that the western end of the road averages approximately 30 vehicle movements per day i.e. approximately 15 vehicles per day.
5. The site is accessed via a gravel shared access way at the end of Riverside Road, on City of Albany reserve, approximately 148m long and 3.5m wide, with no passing opportunities. This access way services two lots.
6. The applicant received an events approval which was obtained through the City of Albany Events team to hold a one off event on 27 and 28 January 2018.
7. Under Schedule 2, Part 7 Cl 61 (2d) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, temporary land uses which are in existence for less than 48 hours within any 12 month period can be considered exempt from requiring development approval. Due to being a temporary one-off event, this event was therefore considered to be exempt from requiring development approval. The proposed event was assessed and subsequently approved by the City of Albany Events team, in accordance with the City of Albany Event Approval Guidelines.
8. The event ran from 10am to 4pm on Saturday 27th and Sunday 28th January 2018. The applicant stated that the event attracted 270-350 people over two days. It was estimated by the applicant that this equated to approximately 90 cars visiting the site per day (based on 4 people per car). This equated to approximately 15 cars per hour, or 30 movements per hour.
9. On 17 January 2018, the applicant submitted a development application proposing to hold the event four times per year (once per season), on an ongoing basis. Each seasonal event was proposed to be held over two days, between the hours of 10am and 4pm.
10. Under the Local Planning Scheme No. 1, Recreation - Private is a “D” use which is a use that is not permitted unless the Local Government has exercised its discretion by granting development approval.
11. The initial proposal for four events was advertised for public comment for a period of 21 days. Nearby landowners were directly notified by letter. A total of eleven submissions were received, representing ten properties, all objecting or raising concerns with the proposal.
12. On 20 March 2018, staff resolved to refuse the application (for four events per year) under delegation for a Recreation Private (Kalgan Harvest Summer Fair) at Lot 75, 113 Riverside Road, Kalgan.
13. The applicant subsequently appealed the decision to the State Administrative Tribunal for review.
14. In trying to find a mediated outcome, staff subsequently worked with the applicant on alternative uses such as a Rural Pursuit use, which was considered to be a use more suitable for the site. The applicant pursued this alternative and submitted an application for a Rural Pursuit, which was approved under delegation on 24 July 2018. The applicant however still decided to continue with the SAT process.
15. In orders dated 26 July 2018, the State Administrative Tribunal invited Council to reconsider its decision in respect to the – Recreation Private (Kalgan Summer Harvest Fair) at Lot 75, 113 Riverside Road, Kalgan for one event per year.
16. The intention of the reconsideration was to provide a level of certainty to the applicant that they had an ongoing approval to hold one event per year enabling them to forward plan events, whilst being consistent with what they could potentially do under the exemption under the Planning Regulations.

17. The applicant had informed the City Officers that the running of the event was likely to change from season to season while they refined the event. Changes were likely to include the vendors and activities on the site. Therefore the proposal was considerably vague but still required a degree of flexibility.
18. The applicant formally submitted a revised application requesting one event per year on 14 August 2018.
19. On 28 August 2018, staff approved one event per year under delegation. Staff considered that due to the applicant being exempt from requiring development approval under Schedule 2, Part 7 Cl 61 (2d) of the *Planning and Development (Local Planning Schemes) Regulations 2015* where an event is in existence for less than 48 hours within any 12 month period, granting an approval for one event per annum would provide the City with an opportunity to control the event with appropriate conditions.
20. A condition of the reconsidered proposal required the applicant to lodge an events application through the City of Albany Events Team, in accordance with the City of Albany events approval process. This was intended to provide a degree of flexibility to the applicant so that vendors, and other minor details could be altered, assessed and conditioned when required via the events approval process without a further development approval or amendment to the approval.
21. It should be noted that the events application process overseen by the City of Albany Events team provides an opportunity for the relevant departments to assess and condition specific details of an event proposal, including that public health and safety is maintained.
22. Under the City of Albany Events Guidelines, any event that is open to the public and have any of the following is required to go through the events application process which is overseen by the City of Albany Events team;
 - Food
 - Structures
 - High risk activities
 - Traffic management in place
 - Liquor licences
23. At a SAT Directions Hearing on 28 September 2018, the applicant expressed that they were no longer satisfied with one event as previously submitted, and requested that the City reconsider the proposal a second time allowing them to hold two events per year. It was requested that the decision be made by Council at an Ordinary Council Meeting. The applicant also requested that there be no requirement to go through the City of Albany Events Approval process. The applicant also raised his dissatisfaction at the number of onerous conditions that were placed on the previous events approval and requested that no additional conditions be applied should an approval be granted.
24. In orders dated 28 September 2018, the State Administrative Tribunal invited Council to reconsider its decision at an Ordinary Council Meeting in respect to the – Recreation Private – Kalgan Summer Harvest Fair at Lot 75, 113 Riverside Road, Kalgan for two events per year, one in Spring and one in Summer.
25. Council is now requested to consider the matter along with the submissions received during the public advertising period and determine whether to grant development approval.
26. Unless the applicant withdraws from the SAT process, the decision will go to a scheduled hearing on 7th March 2019 at 10am.

DISCUSSION

27. The subject site is 5.1 hectares and is zoned 'General Agriculture' under *Local Planning Scheme No. 1*.
28. The applicant proposes to hold two events per year, one in Spring and one in Summer.
29. Each event would be held over two days being on a Saturday and Sunday between 10am to 4pm.
30. The applicant anticipates that there will be 270-350 people attending over the two days (this is based on actual numbers from a previous event held in January 2018). The applicant estimated that approximately 90 cars visited the site per day (based on 4 people per car). This equates to approximately 15 cars per hour (or 30 movements per hour).
31. Car parking is proposed to be on a grassed area within the site.
32. The site is designated as bushfire prone. The applicant provided a BAL Assessment, Bushfire Management Plan and Emergency Evacuation Plan, however these were prepared for a Bed and Breakfast and not for the event.
33. The site is accessed via a gravel shared access way, approximately 3.5 metres wide with a length of approximately 148 metres with no passing opportunities. This is located on City of Albany reserve at the end of a no through road.
34. The access way services two dwellings.
35. The subject site has no alternative access points.
36. Existing uses on the site include a single dwelling, Bed and Breakfast and Rural Pursuit.
37. The initial proposal for four events per year was referred to surrounding landowners.
38. Eight submissions objecting to the proposal (for four events) were received representing seven properties. In addition to this, a petition was received with ten signatures objecting to the proposal, this represented a further three properties, taking the total number of objections to 11, representing ten properties.
39. The concerns or objections related primarily to the following:
 - Inadequate access - resulting in safety of road users due to conditions and congestion. *Riverside Road* is a narrow, single lane, gravel road with limited passing opportunities and limited sight lines. The single access way servicing the two lots is too narrow further increasing safety concerns.
 - Amenity impacted – dust from traffic, noise from previous events from the music and traffic impacted the quiet semi-rural area.
 - Proximity to adjoining property – privacy and security will be impacted.
 - Concerns with increase in fire risk. In case of an emergency or fire, evacuation would be difficult. Emergency vehicles would struggle to gain access to the site in an emergency and people would struggle to exit the site given the restrictive access.
 - Impact on surrounding farming activities: The proponent states a “dog friendly event”. This would create problems for stock owners on adjoining properties. Not a compatible use with the adjoining active farming activities. Noise from cars, people and encouraging people to bring their dogs could have impacts on the ability to rotate grazing paddocks and rear livestock.

- Environment – increase in rubbish which was evident after the last Garden Open Day. Not only is it unsightly but poses a risk to livestock.
 - Use is inappropriate for this site given the constraints. The applicant has previously held two of these events which has demonstrated how unacceptable they are within this location. Events should be held at an appropriate location such as the Kalgan Hall.
 - Impact on community events held at the hall - Four events would detract from the success of the annual community events held at the appropriate halls which are essential in raising funds to maintain these community halls.
40. It should be noted that many of the concerns raised as part of the submission period were a direct result of the previous event held onsite on 27 and 28 January 2018.
41. The main concerns raised during the submission period will be broadly addressed via the headings below.

Inadequate access

42. A number of submissions raised concern regarding the safety of road users due to the current condition of Riverside Road, including the access way which services two dwellings.
43. One nearby landowner stated that the previous event made it difficult to obtain access to their property due to traffic congestion.
44. A City of Albany Engineer, an accredited Road Safety Auditor, assessed the road on 7 September 2018. The conclusions and recommendations are as follows;
- *Riverside Road is currently not suitable to service large-scale events, which are likely to generate significant increases to the current traffic volumes west of Myola Drive, without potential unacceptable congestion and safety issues.*
 - *Small-scale events may be possible with appropriate minor traffic management, and where the likelihood for passing 2-way traffic is expected to be low.*
45. A full copy of the Engineers report is attached.
46. Although the City of Albany do not have the statutory authority to restrict ‘as of right vehicles’ from using Riverside Road, it is considered that the estimated amount of traffic which is likely to be generated from the proposed use will exceed the roads current capacity, as per the Engineers report dated 7 September 2018.

Amenity impacted

47. Impact on the amenity is a concern consistently raised in the submissions. Concerns primarily related to noise and dust from the traffic and music from previous events.
48. Amenity is defined within Local Planning Scheme No.1 as
- “All those factors which combine to form the character of an area and include the present and likely future amenity”*
49. With regard to noise issues from music, the applicant states that only non-amplified music will be played and disputes that this impacted the amenity of the area.
50. With regard to dust issues, the proponent disputes that there were any dust issues from the road and suggested that the City of Albany provide dust suppression measures.
51. It is considered that although appropriate planning conditions could be applied to an approval mitigating amenity concerns in relation to noise from the music, the primary concern in regards to amenity is from the traffic generated as part of the proposal.

52. Although the City of Albany do not have the statutory authority to restrict ‘as of right vehicles’ from using Riverside Road, it is considered that the estimated amount of traffic which is likely to be generated from the proposed use will exceed the roads current capacity, as per the Engineers report dated 7 September 2018, and essentially have a detrimental impact on the amenity of the area.

Proximity to adjoining property

53. The dwelling to the west of the subject site is located 25 metres off the boundary and approximately 140 metres from the proposed car parking area. The adjoining dwelling is located downhill from the event and relatively exposed.
54. It is considered that the traffic generated from the event is likely to have a detrimental impact on the adjoining landowner due to the location of the drive way.
55. It is also considered that the adjoining landowner will be significantly impacted due to the shared access way being used.
56. Due to no alternative access point being available, it is considered that appropriate planning conditions could not be applied to mitigate this concern.

Concerns with increase in fire risk

57. A number of concerns were raised in relation to increasing the fire risk, or risk to human safety should there be an emergency due to the site access.
58. Officers undertook an assessment of SPP3.7 and formed the opinion that:
- i) The proposed use is a vulnerable land use
 - ii) The site offers very limited access and will present evacuation challenges in the case of a bushfire
59. The bushfire protection criteria are a performance-based system of assessing bushfire risk management measures. An assessment against the criteria is to be undertaken for any development application for a site that has or will, on completion, have a bushfire hazard level above ‘Low’. The bushfire protection criteria consist of four elements.
60. In terms of staff’s assessment against the four elements from the *Guidelines for Planning in Bushfire Prone Areas*, the following applies:
- Element 1 (Location) - Whilst the main activity on the lot will be in an area that can be classified as BAL LOW, the only access and egress is through a BAL 40 and FZ area
 - Element 2 (Siting and design of development) - the proposal complies with this element
 - Element 3 (Vehicular access) – the proposal does not comply as the lot is only serviced by a shared access way, approximately 4m wide with a length of approximately 140m with no passing opportunities. This is located at the end of a narrow road without passing opportunities that end in a Cul-de-Sac. No secondary access or egress is available to the Site.
 - Element 4 (Water) – can potentially comply.
61. SPP 3.7 requires that “*where a landowner/proponent has not satisfactorily demonstrated that the relevant policy measures have been addressed, responsible decision-makers should apply the precautionary principle to all ... development applications in designated bushfire prone areas. For example, if a landowner/proponent cannot satisfy the performance principles of the relevant policy measures through either the application of the acceptable solutions outlined in the Guidelines, or through the alternative solutions endorsed by the WAPC and State authority/relevant authority responsible for emergency services, the application may not be approved.*”

Issues with it being a “dog friendly event”.

62. Concerns were raised in relation to the proposed development impacting on existing agricultural uses due to the applicant advertising a “dog friendly event”.
63. Concerns were raised that encouraging large crowds and dogs would have impacts on the ability to rotate grazing paddocks, rear livestock and threaten biosecurity requirements farmers are required to meet.
64. Although “dog friendly events” are not a valid planning consideration, should an approval be granted an appropriate planning condition could be applied to mitigate any potential impacts on adjoining agricultural uses.

Concerns about litter

65. A number of concerns were raised in relation to the amount of rubbish that was evident after a previous open garden. The applicant disputes this.
66. It should be noted that many of the concerns raised as part of the submission period were a direct result of the previous events held on-site, some of which did not have approval.

Site constraints and availability of alternate locations

67. Although this Recreation – Private is a use that can be considered under the *Local Planning Scheme 1*, it is in the officers’ opinion that the site does have significant constraints in terms of access and therefore is not an appropriate site for this scale of use on an ongoing basis.
68. It should be noted that many of the concerns raised as part of the submission period were a direct result of the previous events held on-site, some of which did not have approval.

Competing with annual community events

69. A number of concerns were raised that the proposal should not be supported as it would impact the annual community events held at the halls which were integral in raising funds to maintain the community halls.
70. Although it is not considered an appropriate site given the access, this is not a valid planning concern.

GOVERNMENT & PUBLIC CONSULTATION

71. The proposal was advertised for public comment, in accordance with clause 64 – *Advertising Applications* of part two of the *Planning and Development (Local Planning Schemes) Regulations*. Surrounding landowners were directly notified in writing.
72. Eight submissions objecting to the proposal (for four events) were received representing seven properties. In addition to this, a petition was received with ten signatures objecting to the proposal, this represented a further three properties, taking the total number of objections to 11, representing ten properties.
73. Staff comments and recommendations are discussed in the above sections of this report.

STATUTORY IMPLICATIONS

74. Recreation – Private is classified as a “D” 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 development approval.
75. Voting requirement is a **Simple Majority**.

POLICY IMPLICATIONS

76. This matter has no direct planning policy implications.

RISK IDENTIFICATION & MITIGATION

77. The risk identification and categorisation relies on the City's Enterprise Risk Management Framework.

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

FINANCIAL IMPLICATIONS

78. All costs associated with the development will be borne by the proponent.

79. 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

80. 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*.

81. 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.

82. Should the applicant be aggrieved by the decision of Council, the decision will go straight to a SAT hearing which has been scheduled for 7 March 2019 at 10am.

ENVIRONMENTAL CONSIDERATIONS

83. The subject lot is under pasture and slopes downward from south to north. The site is approximately 40m from the Kalgan River. There are no environmental considerations pertaining to the application.

ALTERNATE OPTIONS

84. Council has the following alternate options in relation to this item, which are:

- To resolve to approve the proposal subject to conditions. If Council resolves to issue an approval, staff would recommend similar conditions as attached to this report.

SUMMARY CONCLUSION

85. The application seeks Development Approval for two events per year, during Spring and Summer, held over two weekends.

86. The initial proposal for four events has been advertised, with eleven objections representing ten properties received. There were no supporting submissions received.

87. In consideration of the revised information received, and the invitation to reconsider the proposal for two events per year, staff have formed the view that the proposed land use is not appropriate for this site, primarily due to the inadequate access, traffic impact on the locality and potential risk of human health due to the capacity of the road system, (including a 3.5m wide shared access way). In addition to this, staff consider this a vulnerable land use within a bushfire prone area, posing a considerable risk to human safety. Staff therefore recommend that Council refuse the proposed Development Application.
88. It is therefore recommended that Council refuse the proposed development, subject to the reasons provided.

Consulted References	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i>
File Number (Name of Ward)	:	A186838 (Kalgan Ward)
Previous Reference	:	Nil

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN - Nil

12. MEETING CLOSED TO THE PUBLIC - 7.01pm

DIS131 - PURCHASE OF LOTS 877, 893 & 91 AND PART LOT 76, HANRAHAN ROAD,
ALBANY

Carbon Footprint Reduction Strategy and Green Team – Mary Holt

13. CLOSURE

There being no further business and no members of the public who wished to return to the Chamber, the meeting was closed at 7.48pm

(Unconfirmed Minutes)

Cr John Shanhun
CHAIR

The City of Albany
Committee Meeting

7th November 2018

My name is Wayne Monks of 113 Riverside Drive Kalgan

Reference: DIS 135 Recreation Private - Kalgan Harvest Summer Fair, Lot 75, 113 Riverside Drive Kalgan

I would like to comment on this matter as follows:

After the SAT mediation hearing at my residence in late July I was so dismayed by both the City Officer's attitude that I wrote an email to Andrew Sharpe – in that email I stated
"I would like to withdrawal from the SAT process, have the City allow just 2 events per annum (for example late Spring/early Summer and Summer) under their planning scheme and without meeting more than the 23 conditions they have already provided to us (so that any future events are not overburdened with meeting in excess of 23 conditions that we cannot meet for example paying \$2000 on traffic management which would be ludicrous for 8 motor vehicles per hour)."

Reference Page 20 – Reason for rejecting the City's approval for one event pa

- a) We were prepared to seek one event per annum subject to:
- i) The event being conducted subject to the local planning regulations and not subject to the events application process to avoid repeated annual applications having to be submitted so that annual applications are not necessary and
 - ii) The 23 conditions we met in the City's letter dated 22nd January for the previous event are not altered dramatically or that no additional onerous or expensive conditions are added so as to make this application difficult and futile to action

However the City could not accommodate this which is why the process with SAT continues

Reference Page 20 – Bottom Paragraph

- b) Three main reasons are highlighted by the City Officers as reasons for the development refusal however in an email from Paul Camins dated 20th March 2018 he states "The decision has been based on a number of factors with the insufficient road/access being the main concern. The City must have due regard to all the 'Matters to be considered by local government' in the *Planning and Development (Local Planning Schemes) Regulations 2015*."

So my questions are: i) why are the other two reasons included in this agenda item when they may not be relevant and ii) do they all still apply when the original application has been changed from four events to two per annum.

- c) In addition I repeatedly questioned City Officers at the July meeting what was the possible risk to human health and safety and they could not respond apart to say that the dust may be a problem. This is quite ridiculous as there was no noticeable dust and I replied that the smoke from local Autumn burn-offs by neighbours creates a greater impact on human health and over a lengthier period of time. Also when questioned they could never state what was wrong with Riverside Drive apart from the 150metre narrow section into my property.

Reference Page 22 Clause 8 and Page 24 Clause 30

- d) The statistical information noted is incorrect as noted in my original submission to SAT dated 23rd March 2018 (page 3) – 270 people attended the January event over two days which equates to say 68 motor vehicles over 2 days (based on 4 people per mv) and this calculates at around 6-

7 motor vehicle per hour – and if based on 3 people per mv that equates to 90 motor vehicles over 2 days ie around 7-8 motor vehicles per hour – not 15 as stated by the City. In fact even if 600 people attend two events over 4 days that equates to around 38 motor vehicles per day or 25 people per hour. NOT 90 motor vehicles visiting the site per day as stated in the City report. In fact my statistics were also supplied in the 14th August application to the City and in the email to Andrew Sharpe in late July. The City has taken down the incorrect information without properly reading my applications and correspondence. This represents a gross misrepresentation of the facts and distorts this whole report.

Seven motor vehicles per hour equates to 14 traffic movements or one every 4-5 mins which is how long it takes to access Hunton Road so the passing opportunities are not really an issue.

Reference Page 22 Clause 17

- e) Changes can occur because some vendors may not be available but essentially the activities would remain consistent as noted in the submission to the City dated 14th August point 13 – there is nothing vague about this

Reference Page 23 Clause 19

- f) I draw your attention to the wording in the last sentence and the description “control the event.” My view is that this is not about control but about a “partnership” with the City.

Reference Page 23 Clause 23

- g) I accepted the 23 conditions that were placed upon the January event and reject the comment made about dissatisfaction at the number of onerous conditions etc.

Reference Page 25 Clause 40

- h) The City refers to the previous event held on 27 and 28 January 2018 – in fact this was the last event not the previous event

Reference Page 25 Inadequate access

- i) Page 2 item b) of my SAT submission states *“I have measured the road along Riverside Road – 1.2km to my main gate comprising 300metres of straight bitumen, 800 metres of straight gravel until a bend then 150 metres to my main gate adjacent to the Kalgan River. The gravel component has around 13 passing bays (mainly entrances to properties) and most of the road is over 6 metres in width with one narrower section around 4 metres in width.”*

The good family people who attend the event use light vehicles, travel between 40-50kms, have good visibility and travel at daytime. The risk of a major event occurring would have to be considered low risk

- j) I have a Scope of Works from the state engineering firm Wood and Grieve – the scope states *“Having reviewed the relevant background material available to me it is my view that the development proposal is supportable on traffic and transport grounds, subject to the findings of a site inspection, surveys and any subsequent recommendations....etc”* and when I questioned further the engineer stated *“Unfortunately, this is what would be contained in our report. In preparing the fee proposal we have had to complete some of the initial assessment.”*

In fact the City of Albany Engineer has based his/her opinion on grossly inaccurate data and also having around an average of 25 people on site at any time is certainly not a “large scale event” in my view as stated in Clause 44.

Reference Page 25 Amenity Impacted

- k) Page 3 item c) of my SAT submission in respect to noise, dust and music states *"There was no rubbish as I travelled down Riverside Drive on the Monday morning after the last event. We also suggested adding some 40km signage adjacent to several properties most likely affected to minimise any car noise or dust. The property concerned is over 50 metres from Riverside Road so the impact is probably moderate but can be dealt with."*

Page 5 item c) of my SAT submission also noted the comment on music (ref music was heard from the last event 350m away) *"This comment seems untrue as the music was low key, held between certain hours and held in a partly enclosed area ie the shearing shed. The music was light country, soul with NO heavy rock and they were not groups – just individuals or one duet that played and sang. They also played without any amplification."*

In fact if you refer to Clause 51 the City states "although appropriate planning conditions could be applied to an approval mitigating amenity concernsetc the primary concern in regards to amenity is from the traffic generated as part of the proposal."

Reference Page 26 Proximity to adjoining property

- l) The adjoining property is over 150 metres from where the activities occur, 80 metres from my main gate and around 70 metres from the closest section of my driveway. To state that there is a detrimental impact on the adjoining landowner is a gross exaggeration – in fact the adjoining landowner has access to Mt Boyle Road and seldom uses Riverside Drive.

Reference Page 26 Concerns with increase in fire risk

- m) My property is considered BAL LOW, I have fire fighting high pressure hoses in 3 locations, I have established emergency evacuation assembly points and in a crisis I can access the laneway to Mt Boyle Road if necessary thus avoiding Riverside Drive. In fact in a high risk bushfire situation any event would be cancelled.

There are also 13 passing lanes on Riverside Drive.

I believe that I can meet the 4 elements noted under clause 60. If you refer to the map on Page 19 you will see that the surrounding areas are all cleared farmland with pasture and stock so there is no large swathe of bushland adjoining that is likely to create a major fire source and even the Kalgan River verge vegetation is narrow at this point.

Finally it should be noted that any event in any situation is always subject to bushfire risk in summer and even autumn months as occurred earlier this year.

Reference Page 27 Issues with it being a "dog friendly event"

- n) There were possibly 6 pets on leashes and handled correctly at all times so the concerns are another attempt in my view to paint a negative picture of the event which was promoted as family and pet friendly. I have an email from the Dept of Agriculture which states *"There will always be a biosecurity risk with dogs being on property, as they may get loose or not follow instructions. Given that from what I read below you are implementing appropriate mitigation measures, I would consider the dogs of negligible risk to your neighbours' cattle."*

The comment about the impacts on the ability to rotate grazing paddocks, rear livestock and threaten biosecurity requirements is ludicrous in my view and a fabrication of facts.

Reference Page 27 Concerns about litter

- o) There was no litter as rubbish bins were available and I personally checked the property and Riverside Drive. There was only one previous event on site not "previous events" (ref clause 66 and 68)

Reference Page 27 Site constraints and availability of alternate locations

- p) In Clause 68 the City states that many of the concerns raised as part of the submission period were a direct result of the previous events held on site, some of which did not have approval. Again this statement is incorrect and false as there were not previous events – only one as made quite clear in my submissions to SAT and the City.

Reference Page 27 Competing with annual community events

- q) The Upper Kalgan Market is held on the first weekend of December and the Lower Kalgan Pumpkin Festival is held in April – the Kalgan Harvest Summer Fair was held approximately 2 months later than the former event on the January Australia Day weekend so how is this competing against other events. Again the facts do not support the comments made in the submissions
- r) In fact Free the Bears raised over \$6,000 for an event here 12 months ago (their previous venue was unsatisfactory because of serious storm damage) and Hospice raised \$650 here in January so our view is to engage with and encourage local community groups to participate with us and if we had been allowed to run the April event then the scouts were invited to participate.

Reference Page 27 Public Consultation

- s) Page 6 item d) of my SAT submission noted *"Of the 7 properties (excluding ours) two are within 20-30 metres setback from Riverside Road and these are unoccupied except during some school holiday periods, two are setback around 50+ from Riverside Road, two are setback over 100 metres from Riverside Road and one is around 300 metres away. Therefore the direct "potential" impact on any local residents on Riverside Road extending just over a kilometre are two dwellings occupied at limited times during the school holidays."*

So 3 properties (that make up the 10 properties) don't even exist on Riverside drive west of Myola Drive so in all fairness they should not be permitted to comment and 2 properties are unoccupied through most of the year leaving just 5 fully occupied properties over a stretch of 800 metres.

Reference Page 27 Risk Identification and Mitigation

- t) The risk rating is based upon the contents of the agenda report which in my view comprise misleading and inaccurate statements, overstated traffic related statistics, exaggerated and personal negative subjective views from a small number of residents and a risk analysis with a rating of "medium" based upon the observations of City Officers who cannot even tell me what the risks are to human health and safety apart from some dust.

In respect to the nearest local neighbours – they were invited to the January event (one was asked to participate with a photography display) however they declined and both were contacted after the event by me in person suggesting they speak to me when they receive a letter from the City so we may be able to resolve any matters. Neither accepted the invitation and instead wrote submissions and they were most likely involved in the petition. I also asked the City Officers if there had been any complaints after both events and they never acknowledged any had been received at all. The only complaints came later when they were prompted to by the City.

These events are also intended to promote the produce from the Kalgan area.

In summary the City Officers report contains many misleading and inaccurate comments. The motor vehicle statistics are totally inaccurate so the Engineer's Report (Page 25) is based upon inaccurate data and makes that assumption that we are having large scale events which is not accurate and in my view the City Officers and the Engineers Reports must be dismissed outright. The comments by a handful of neighbours are also totally exaggerated and in some cases false and misleading and they can be taken as irrelevant when they applied to four events per annum which has now been changed to two events.

We have reduced the proposed number of events from 4 to 2 and are happy to accept the 23 conditions that enabled us to have an event in January and we are willing to purchase some 40kmh signage for part of Riverside Drive. In the 9 months since February 2018 when the application was lodged the City has made absolutely no concessions and has wasted both the SAT's and my time.

Some of the additional conditions the City is proposing (reference the "suggested conditions") are onerous and costly and we reject outright for the number of people expected to attend.

Mr Chair I request that the Committee give a favourable response to my application at both this and the full Council meeting.

Regards
Wayne Monks
113 Riverside Drive Kalgan WA 6330