



ATTACHMENTS

Development and Infrastructure Services Committee Meeting

14 June 2017

6.00pm

City of Albany Council Chambers

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MAINTENANCE PROGRAM REPORT YEAR 1

Ellen Cove Swimming Enclosure

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2016/17 HIGHLIGHTS

- No bycatch reported.
- No swimmer safety incidents.
- No shark/predator breaches.
- After initial replacement, very minimal damage recorded.
- Proven its ability to withstand seagrass influx.
- Endured many winter storms and swell breaking at Middleton Point.
- Growth found to be stable and does not require cleaning.
- An established eco-system has formed on the barrier.
- Upgrades performed include:
 - Adding vertical ropes to reinforce barrier.
 - Modify materials of clips to strengthen in surf zone.
 - Introduce new float design in surf zone.
 - Improve the rock anchor section to reduce wear and increase longevity.
 - Increased the height in surf zone to account for bathymetry changes.

Over the first 12 months of the Aquarius Barrier at Ellen Cove there were a number of modifications and upgrades made to improve the barrier’s ability to withstand its environment. The barrier was installed at arguably the most challenging time of the year and consecutive easterly swells brought in a massive influx of seagrass causing damage in the first week. A large section of the barrier was replaced with new and improved barrier materials and vertical ropes were introduced across the whole barrier. Flotation was reduced to minimise forces in high swell environments.

The upgraded barrier proved to withstand some very challenging swell conditions across the winter period, with 5-6m swells and 100kph winds at times threatening the area. The barrier was sheltered from the worst of it inside Ellen Cove but nonetheless survived when other infrastructure did not. The

only damage recorded over the winter period was a few floats missing and the odd clip that needed replacement.

The barrier was further upgraded in the surf zone following GME's trial in Lennox Head. New floats were added to reduce the stress on the barrier in the high-impact surf zone area and there have been no missing floats since. The height of the barrier in this section was also increased following bathymetric changes over the first 8 months.

The barrier has since been performing extremely well and we are confident that the knowledge gained over the first 12 months has resulted in a solution that fits well in the unique environment at Ellen Cove. There are some early signs of wear in the abrasive areas near the seabed in the surf zone but otherwise the barrier is in a very sound condition.

The monitoring program was taken over by South Coast Diving Services which provided reliability and continuity between the monitoring and maintenance. The maintenance program has been conducted with the assistance of GME which will continue for the remainder of the three year trial period.

APRIL 2016

- No bycatch reported.
- No swimmer safety incidents reported.
- New section of Aquarius Barrier delivered and fitted on the 6th April.
- Minimal seaweed accumulation on barrier.
- No observable beach sand accretion or erosion.
- Minimal damage recorded since new section installed – only three float ties needed replacement.
- Cleaning procedure trialled; balanced jets selected as preferred cleaning method.
- Monitoring duties taken over by South Coast Diving Services.
- First monthly report released.



MAY 2016

- No bycatch reported.
- No swimmer safety incidents reported.
- No observable beach sand accretion or erosion.
- Minor storm damage recorded on the 11th May 2016 to a strut and three floats.
- No accumulation on barrier as seagrass migrates out of Ellen Cove.
- Fouling on barrier found to be minimal: seagrass passing through the barrier appears to clean excess growth.
- Very minimal heavy barnacle fouling due to algae growth.
- Monthly service of barrier conducted by South Coast Diving Services on 3rd June 2016.



JUNE 2016

- No bycatch reported.
- No swimmer safety incidents reported.
- Minimal seagrass migration during this period.
- No fouling issues on the barrier – barrier cleaning is not required.
- Chafing on the rocks evident and addressed with Denso tape and spiral wrap.
- Red floats upgraded and a new glow-in-the-dark float trialled.
- A single strut found broken during monthly service.
- Bathymetric change in the surf zone; to be addressed by adding an extra row of struts in this area at the next service.
- Monthly service of barrier conducted by Global Marine Enclosures and South Coast Diving Services on 8th July 2016.



JULY / AUGUST 2016

- No bycatch reported.
- No swimmer safety incidents.
- Limited fouling/growth and no seagrass issues.
- 4 x floats replaced in surf zone during monitoring.
- Signage near rock anchor damaged and returned to the City of Albany.
- Chafing on rocks due to winter swell surges leaving Ellen Cove. Three ropes repaired and new protection installed.



SEPTEMBER / OCTOBER / NOVEMBER 2016

- No bycatch reported.
- No swimmer safety incidents.
- No seagrass issues.
- Enclosure popularity growing as weather warms up.
- Monitoring program reduced in frequency due to stable barrier performance.
- Upgrades proposed following Lennox Head trial.



DECEMBER 2016

- No bycatch reported.
- No swimmer safety incidents.
- No seagrass issues.
- New aquadynamic floats introduced in the surf zone, an 80m section of barrier upgraded.
- Rock anchor fixings upgraded to increase the longevity of the barrier.



JANUARY / FEBRUARY 2017

- No bycatch reported.
- No swimmer safety incidents.
- No seagrass issues.
- New floats in surf zone and rock anchor reinforcements performing well.



MARCH 2017

- No bycatch reported.
- No swimmer safety incidents.
- No seagrass issues.
- Large quantity of mussels accumulating on barrier.
- Small amount of wear near seabed in surf zone and around concrete block.

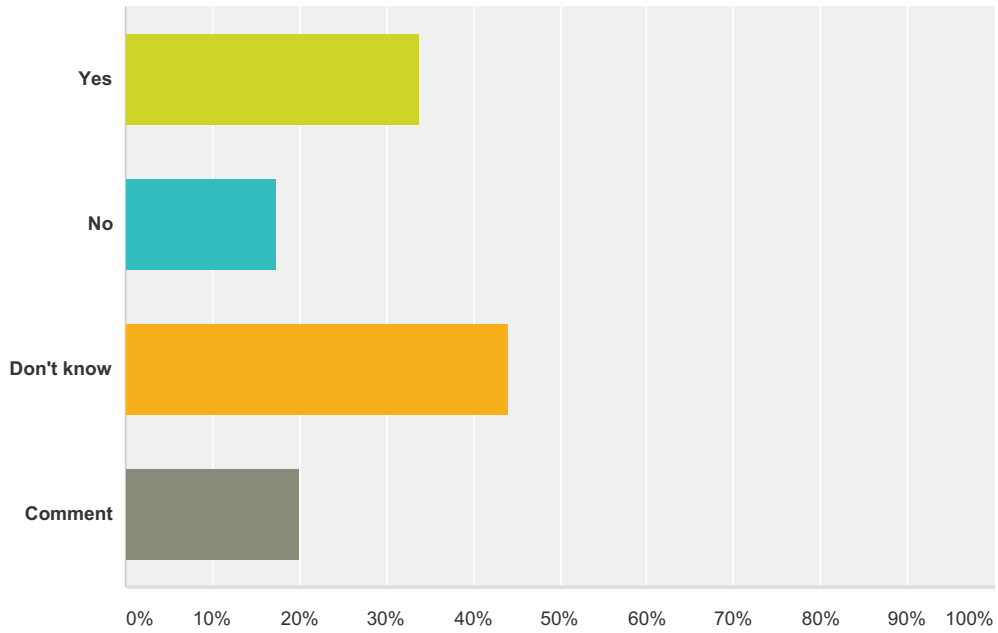


City of Albany
Review of Ellen Cove
Swimming Enclosure
March 2017

Community
Experience POST
Installation

Q4 Do you feel that the amount of shark encounters has been reduced?

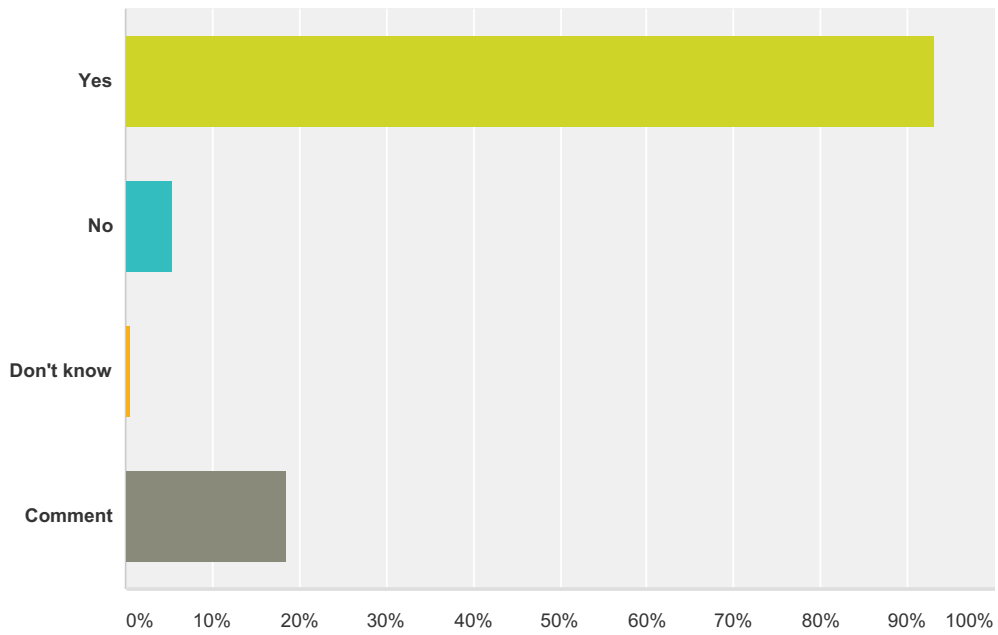
Answered: 145 Skipped: 1



Answer Choices	Responses	Count
Yes	33.79%	49
No	17.24%	25
Don't know	44.14%	64
Comment	20.00%	29
Total Respondents: 145		

Q5 Do you see value in the City installing and maintaining the Swimming Enclosure?

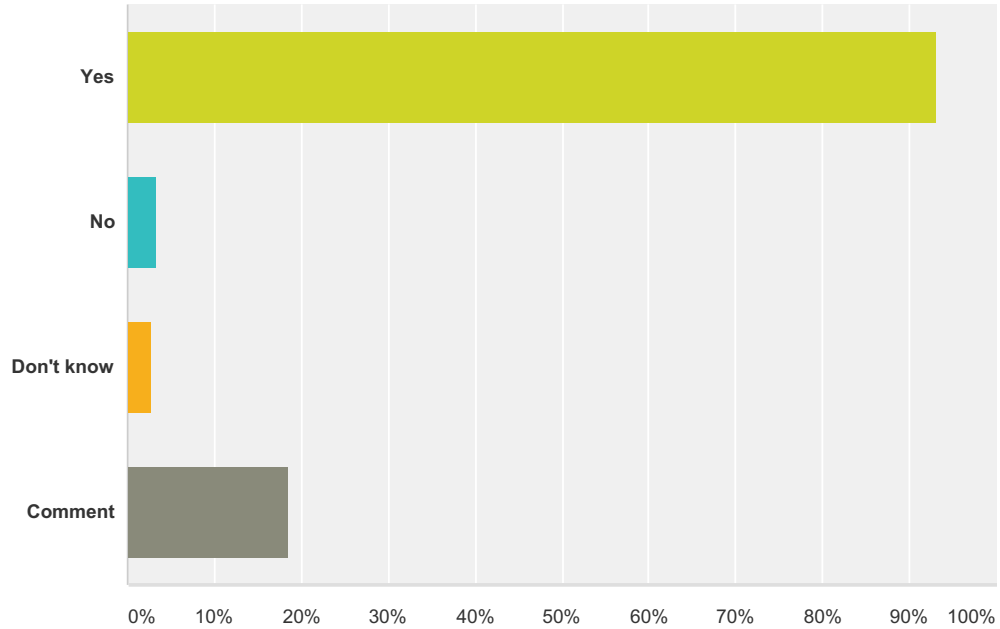
Answered: 146 Skipped: 0



Answer Choices	Responses	Count
Yes	93.15%	136
No	5.48%	8
Don't know	0.68%	1
Comment	18.49%	27
Total Respondents: 146		

Q6 The development of the Swimming Enclosure was meant to offer a safe swimming area at the beach. Do you think this has been achieved?

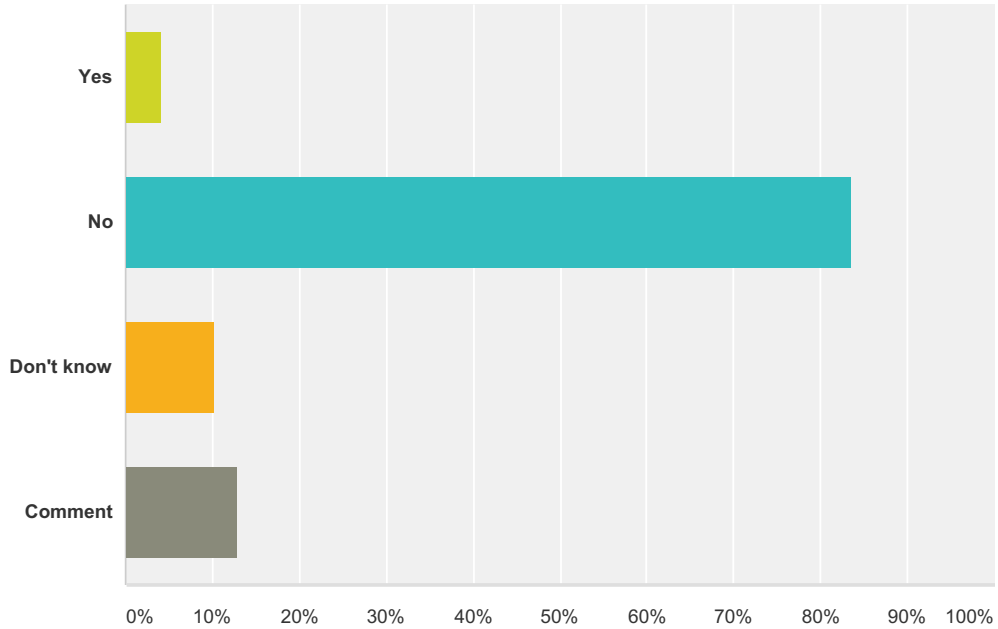
Answered: 146 Skipped: 0



Answer Choices	Responses	Count
Yes	93.15%	136
No	3.42%	5
Don't know	2.74%	4
Comment	18.49%	27
Total Respondents: 146		

Q7 Since the Swimming Enclosure has been installed have you noticed any damage to the environment at this location?

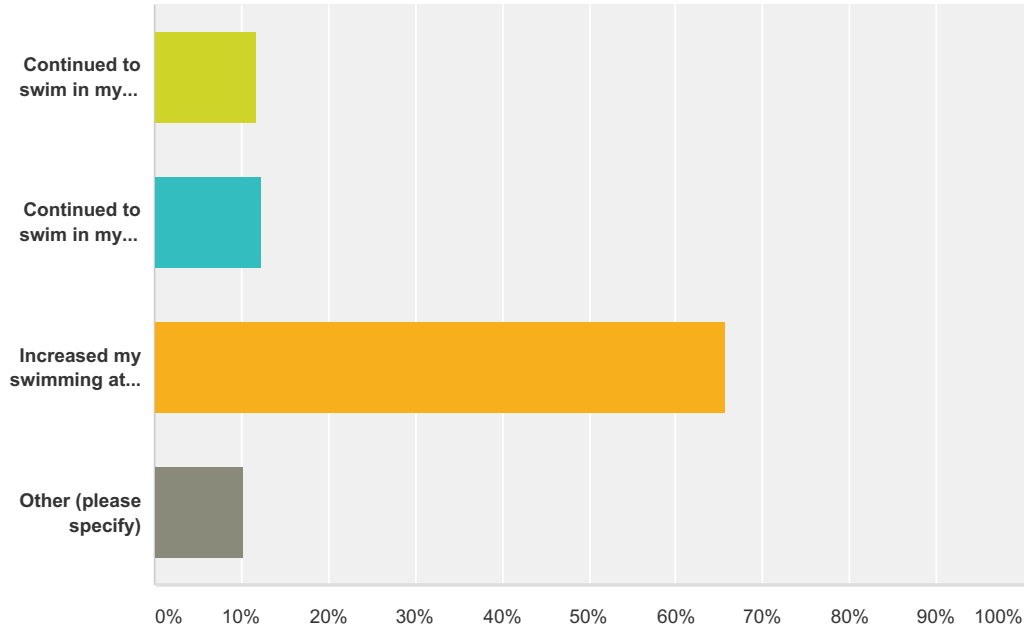
Answered: 146 Skipped: 0



Answer Choices	Responses
Yes	4.11% 6
No	83.56% 122
Don't know	10.27% 15
Comment	13.01% 19
Total Respondents: 146	

Q8 Since the Swimming Enclosure has been installed I have: (please choose from the following)

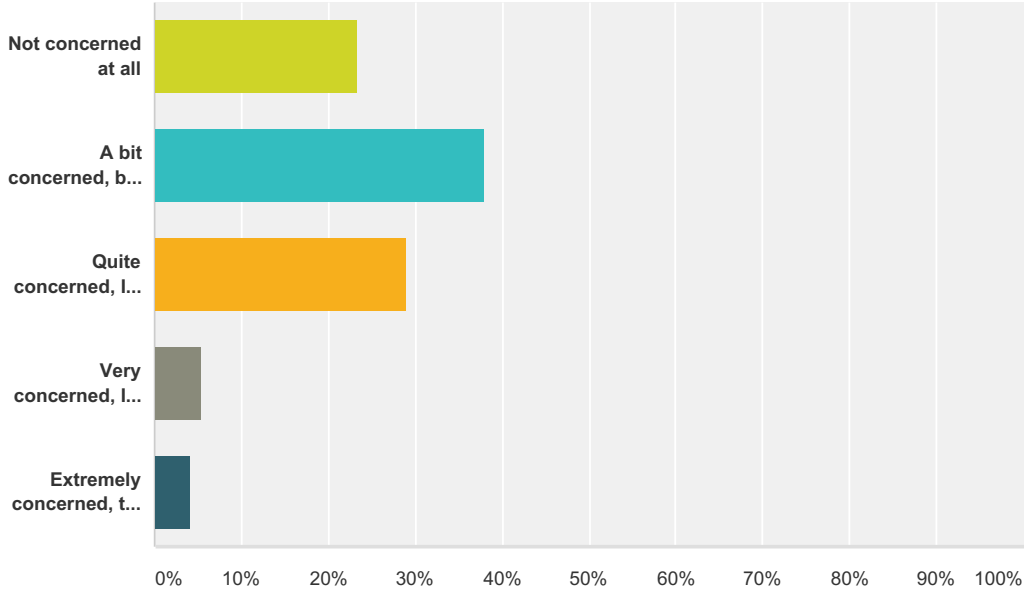
Answered: 146 Skipped: 0



Answer Choices	Responses
Continued to swim in my normal location outside of the Enclosure	11.64% 17
Continued to swim in my normal location inside the Enclosure	12.33% 18
Increased my swimming at this location because of the Enclosure	65.75% 96
Other (please specify)	10.27% 15
Total	146

Q9 Generally speaking, how concerned are you now about the risk of a shark encounter?

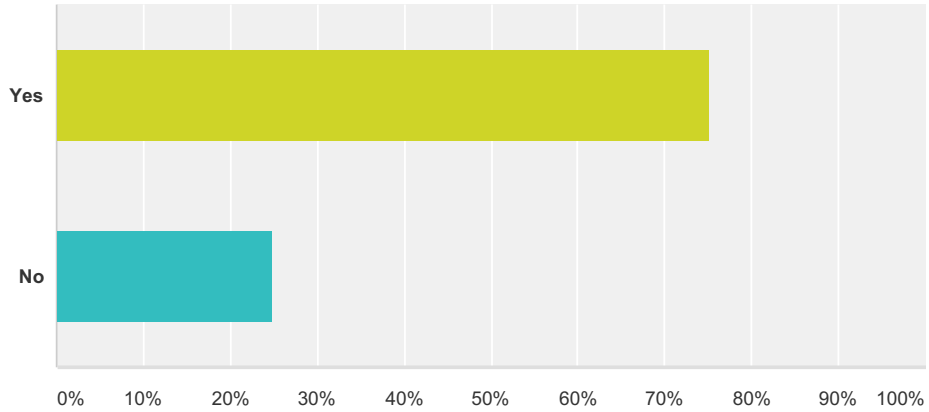
Answered: 145 Skipped: 1



Answer Choices	Responses	Count
Not concerned at all	23.45%	34
A bit concerned, but it does not affect my behaviour or enjoyment of the water	37.93%	55
Quite concerned, I am somewhat afraid to go in the water, but still would	28.97%	42
Very concerned, I would not enter the water for fear of a shark encounter	5.52%	8
Extremely concerned, this should be the City of Albany's highest priority	4.14%	6
Total		145

Q10 Do you think there have been any social benefits to you since the Swimming Enclosure has been installed?

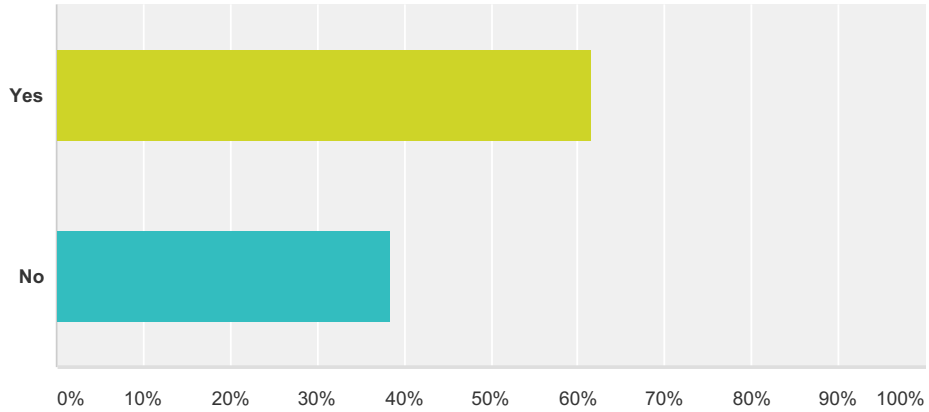
Answered: 145 Skipped: 1



Answer Choices	Responses
Yes	75.17% 109
No	24.83% 36
Total	145

Q11 Have you read the information boards located on the steps outside the Albany Surf Life Saving Club and outside the toilet amenities adjacent to the Three Anchors restaurant?

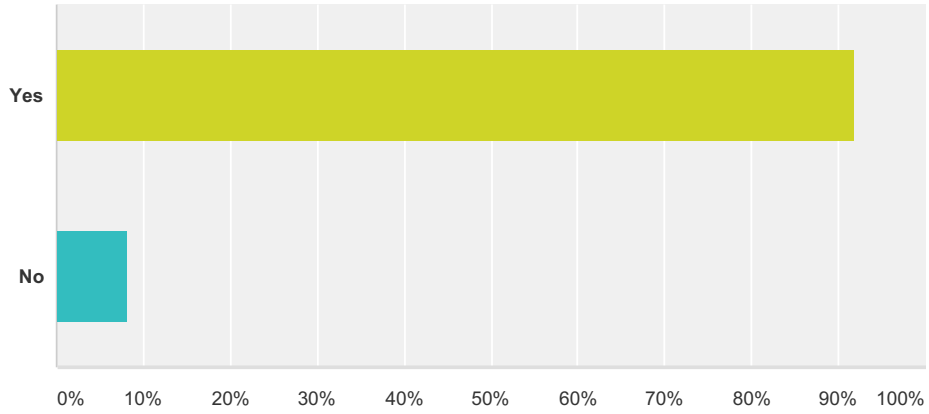
Answered: 146 Skipped: 0



Answer Choices	Responses	
Yes	61.64%	90
No	38.36%	56
Total		146

Q12 Do you support the continuation of the three-year trial of the Swimming Enclosure at Ellen Cove?

Answered: 146 Skipped: 0



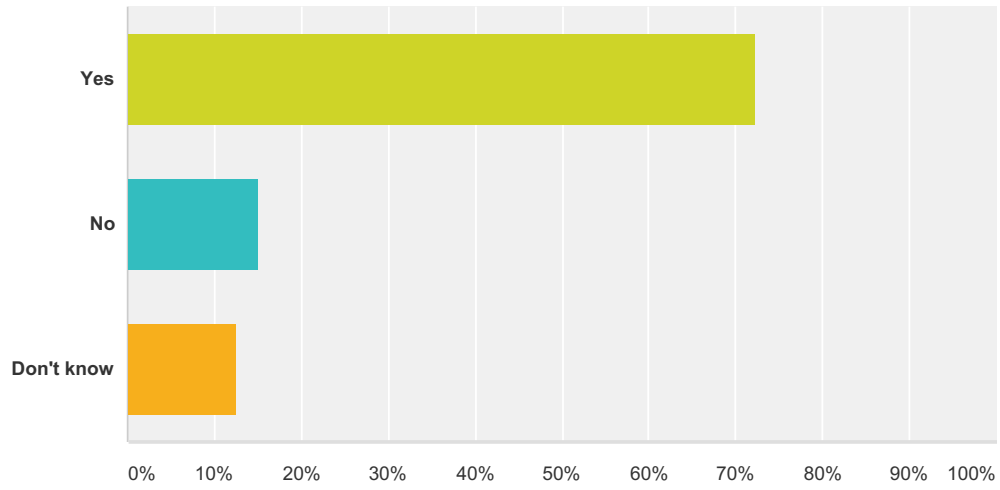
Answer Choices	Responses
Yes	91.78% 134
No	8.22% 12
Total	146

City of Albany
Shark Barrier Feasibility Study
October 2015

Community Perception
PRIOR to Installation

Q4 It reduces the amount of shark encounters amongst swimmers

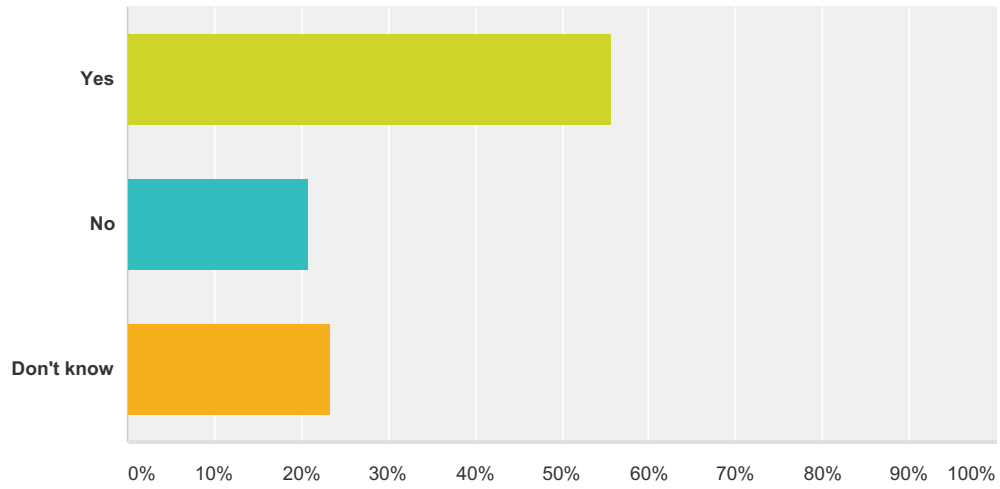
Answered: 119 Skipped: 1



Answer Choices	Responses	
Yes	72.27%	86
No	15.13%	18
Don't know	12.61%	15
Total		119

Q5 Are expensive to install and maintain

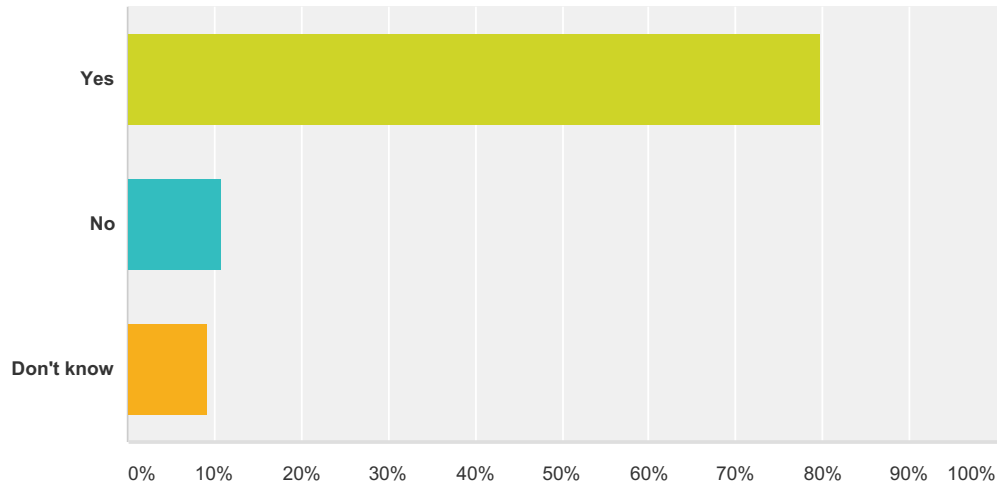
Answered: 120 Skipped: 0



Answer Choices	Responses	
Yes	55.83%	67
No	20.83%	25
Don't know	23.33%	28
Total		120

Q6 Offers safe swimming areas at the beach

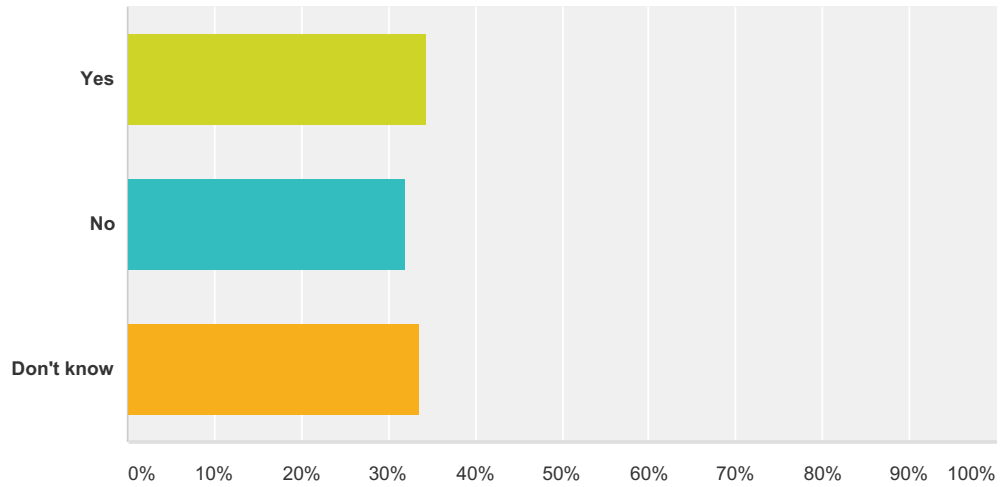
Answered: 119 Skipped: 1



Answer Choices	Responses
Yes	79.83% 95
No	10.92% 13
Don't know	9.24% 11
Total	119

Q7 May cause potential damage to the environment

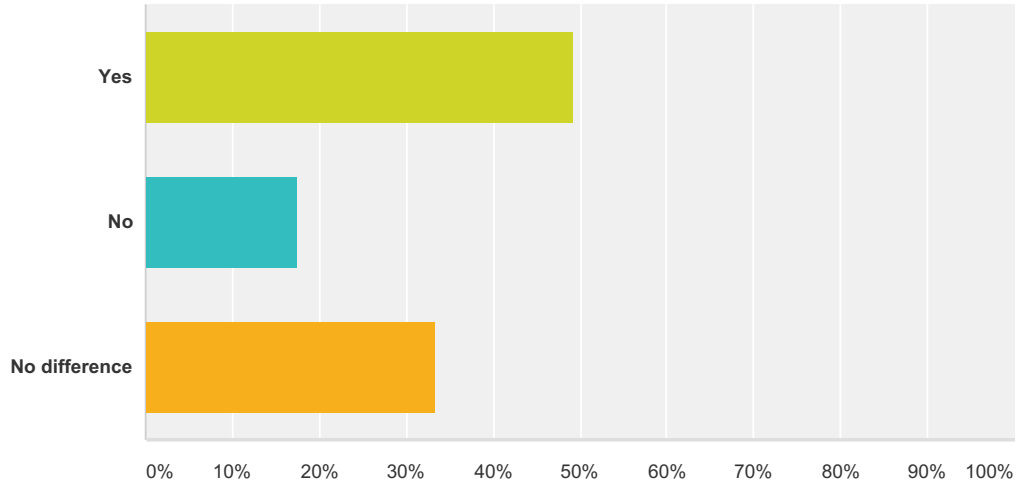
Answered: 119 Skipped: 1



Answer Choices	Responses	
Yes	34.45%	41
No	31.93%	38
Don't know	33.61%	40
Total		119

Q8 If a shark barrier was installed at a section of Middleton Beach, would you choose to visit Middleton Beach as opposed to a beach with no barrier?

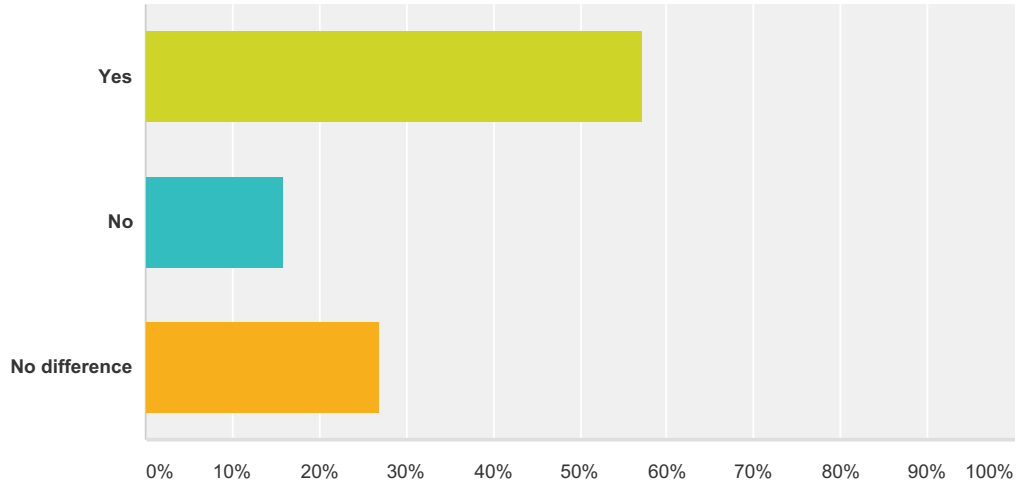
Answered: 120 Skipped: 0



Answer Choices	Responses	
Yes	49.17%	59
No	17.50%	21
No difference	33.33%	40
Total		120

Q9 If a shark barrier was installed at a section of Middleton Beach would you be more likely to swim in the water at this location as compared to if there were no barrier?

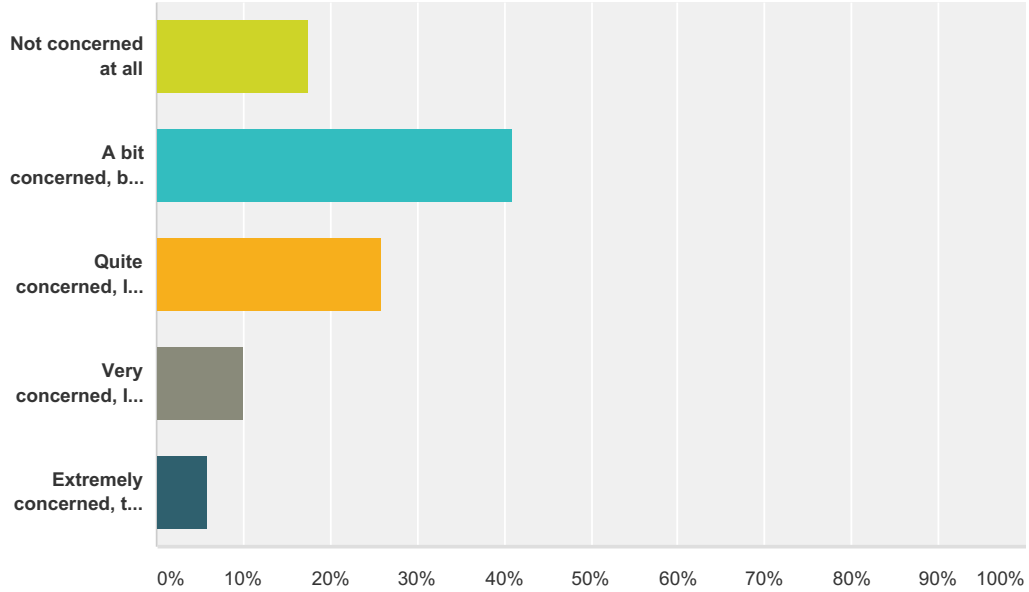
Answered: 119 Skipped: 1



Answer Choices	Responses	Count
Yes	57.14%	68
No	15.97%	19
No difference	26.89%	32
Total		119

Q10 Generally speaking, how concerned are you about the risk of a shark encounter at Middleton Beach and other beaches?

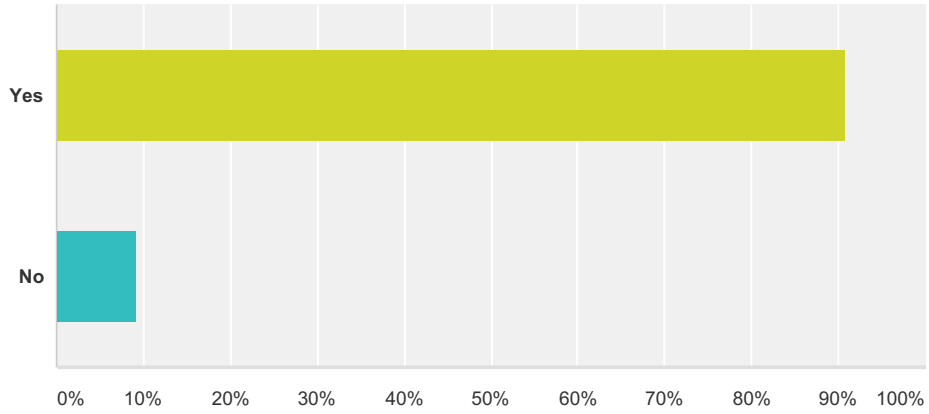
Answered: 120 Skipped: 0



Answer Choices	Responses
Not concerned at all	17.50% 21
A bit concerned, but it does not affect my behaviour or enjoyment of the water	40.83% 49
Quite concerned, I am somewhat afraid to go in the water, but still would	25.83% 31
Very concerned, I would not enter the water for fear of a shark encounter	10.00% 12
Extremely concerned, this should be the City of Albany's highest priority	5.83% 7
Total	120

Q11 Have you read the information sheet and do you understand the background information?

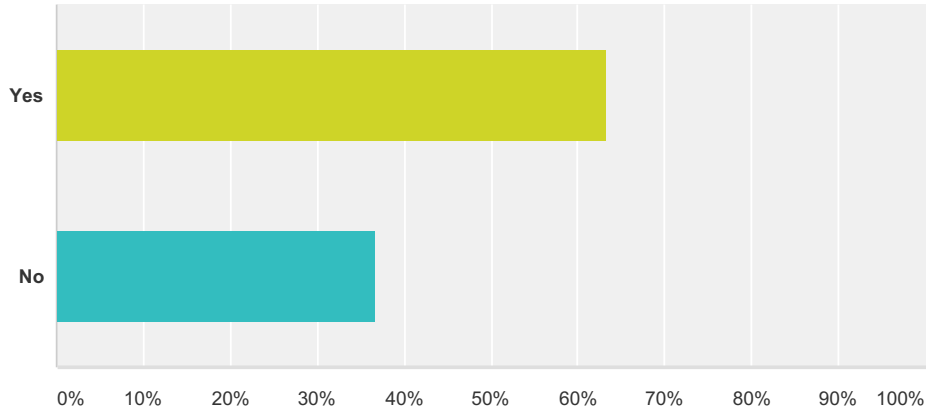
Answered: 120 Skipped: 0



Answer Choices	Responses
Yes	90.83% 109
No	9.17% 11
Total	120

Q12 Do you support the installation of a shark barrier at a section of Middleton Beach?

Answered: 120 Skipped: 0



Answer Choices	Responses	
Yes	63.33%	76
No	36.67%	44
Total		120



City of Albany Records
Doc No: ICR17248656
File: LAMD22
Date: 03 JAN 2017
Officer: PLA,MPS

Attach:
Box:
Vol:
Box+Vol:

Mr Jan Van Der Mescht
Manager Planning Services
City of Albany
PO Box 484
ALBANY WA 6331

Our Ref: CMS16318 AC04-2016-0257
Enquiries: Gerard O'Brien, 6145 0814
Email: gerard.obrien@epa.wa.gov.au



Dear Mr Van Der Mescht

**SCHEME AMENDMENT: CITY OF ALBANY LPS 1 AMENDMENT 22
LOCATION: BAYONET HEAD**

Thank you for your correspondence dated 6 December 2016 in relation to the above proposed scheme amendment.

The information you have provided is insufficient to enable the Environmental Protection Authority (EPA) to comply with s48A of the *Environmental Protection Act 1986* (EP Act) in relation to the proposed scheme amendment and consequently does not constitute a valid referral under section 81 of the *Planning and Development Act 2005* (PD Act).

To enable the EPA to comply with s48A of the EP Act the following information is requested:

The EPA notes that Amendment 22 is within the area assessed as a strategic proposal by the EPA under s38 of the EP Act. The EPA's Report 1447 *Bayonet Head Plan for Development* resulted in the Minister for Environment issuing Ministerial Statement 942 (MS 942) regarding the implementation of future proposals.

The submitted amendment documentation incorrectly states:

The Minister also determined that the proposal was a 'derived' proposal, and that future clearing within the development footprint does not require further assessment from the EPA.

I can advise that no proposal within the strategic proposal area has been declared a 'derived' proposal.

The documentation needs to be amended to provide correct information as future development proposals within the area may require further consideration by the EPA.

REPORT ITEM DIS029 REFERS

MS 942 Schedule 1 sets out that a derived proposal can be a subdivision and development proposal for residential purposes outside of the conservation or foreshore areas, or a reservation of land for conservation within the conservation or foreshore areas. The process for the implementation of future proposals within the area is as follows:

- In accordance with s39B of the EP Act, a future proposal can be referred to the EPA, and the proponent may request it to be a derived proposal.
- In accordance with s45A(3) of the EP Act, the Minister for Environment may then identify the relevant conditions of MS 942 which apply to the derived proposal.
- Alternatively, a proposal can be referred to the EPA under s38 of the EP Act for consideration on its own merits.

Please also complete the EPA s48A referral form for Amendment 22, complete with the City of Albany resolution to adopt the scheme or amendment. Please find a copy of the referral form attached.

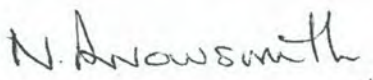
The EPA requests you provide the amended documentation by 20 January 2017.

Please forward the above information to the Chairman of the EPA, Locked Bag 10, EAST PERTH WA 6892, marked to the attention of Gerard O'Brien.

Upon receipt of sufficient information, as required by s81 of the PD Act, the EPA will comply with section 48A of the EP Act and advise you accordingly.

If you have any questions in relation to this letter you should Gerard O'Brien on 6145 0814.

Yours sincerely



Naomi Arrowsmith
Director
Strategic Policy and Planning Division

21 December 2016



Environmental Protection Authority

EPA REFERRAL
FORM

Referral of a Scheme or Scheme Amendment to the Environmental Protection Authority for consideration under Section 48A of the *Environmental Protection Act 1986*.

GUIDE TO COMPLETING THE REFERRAL FORM

STATUTORY REQUIREMENTS

The *Planning and Development Act 2005*, the *Metropolitan Redevelopment Act 2011* and the *Hope Valley Wattleup Redevelopment Act 2000* (Scheme Acts) require all proposed schemes and scheme amendments¹ to be referred to the Environmental Protection Authority (EPA) by the authority responsible for the scheme. The Scheme Acts provide that the responsible authority is to refer to the EPA a written notice of the responsible authority's resolution to prepare or amend the scheme; and such written information about the scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the *Environmental Protection Act 1986* (EP Act). Schemes and scheme amendments can only be referred to the EPA by the responsible authority.

Upon receipt of a scheme or scheme amendment and such written information about the scheme or scheme amendment which enables the EPA to comply with section 48A of the EP Act, the EPA will decide whether the referred scheme or scheme amendment:

- a) should not be assessed (advice and recommendations may be provided); or
- b) should be assessed; or
- c) is incapable of being made environmentally acceptable.

This decision must be made within 28 days of referral of the scheme or scheme amendment and sufficient information to enable the EPA to comply with section 48A of the EP Act.

PURPOSE OF THE REFERRAL FORM

The purpose of this referral form is to ensure that sufficient information is provided to the EPA to enable the EPA to comply with section 48A of the EP Act in a timely manner.

It is important that there is sufficient supporting evidence and documentation about the likely environmental issues raised by the scheme or scheme amendment.

EPA ENVIRONMENTAL FACTORS AND OBJECTIVES

The EPA's environmental factors and objectives, and how the EPA makes decisions are outlined in Environmental Assessment Guideline 8 *Environmental factors and objectives* (EAG 8) and Environmental Assessment Guideline 9 *Application of a significance framework in the environmental impact assessment process* (EAG 9) which are available through the EPA website at www.epa.wa.gov.au/Policies_guidelines/EAGs

¹ Referred to as master plans under the *Hope Valley-Wattleup Redevelopment Act 2000*

REFERRAL INFORMATION REQUIREMENTS

If insufficient information is provided with the referral of the scheme or amendment, the referral may be deemed to be incomplete and will not be accepted.

The following outlines the information required to be provided by responsible authorities or their authorised agents.

- **Referral Form** – complete all sections.
- **Responsible authority's resolution to adopt the scheme or amendment** – until the scheme or scheme amendment has been prepared there is unlikely to be sufficient information available.
- **Spatial data** - GIS data is considered critical to informing the EPA's decision and record-keeping for referrals.

(GIS or CAD) on CD, depicting the scheme or scheme amendment extent, geo-referenced and conforming to the following parameters:

- GIS: polygons representing all activities and named;
- CAD: simple closed polygons representing all activities and named;
- Datum: GDA94;
- Projection: Geographic (latitude/longitude) or Map Grid of Australia (MGA);
- Format: Arcview shapefile, Arcinfo coverages, Microstation or AutoCad.

Spatial data may not be required for all referrals, for example text amendments which apply across a scheme. Spatial data must be provided where a scheme amendment area consists of multiple lots and/or partial lots.

- **New schemes that replace existing schemes and/or incorporate existing schemes into a single scheme** - provide maps with notes showing changes to zones and a summary of changes to the scheme text/s. Identify any amendments in progress for the existing scheme/s. The Environmental Planning Branch at the Office of the EPA can provide further advice where required.
- **One hard (if mailed to the EPA) and one electronic copy (all referrals) of documentation relating to the scheme or scheme amendment** e.g. Council Minutes, environmental reports, subdivision guide plan, maps etc. on CD, in PDF file format. The EPA may forward documentation to other agencies for technical advice.

Please ensure any attachments are below eight megabytes (8MB) as they may be published on the Department's website for public comment. To minimise file size, enclose maps and figures as separate files if necessary. File names should be descriptive and must not include any special characters such as the following: ~ ` ^ : & * () | ' " , ? © [] < >

Please mail completed referrals to:

Locked Bag 10
EAST PERTH WA 6892

Or Email to registrar@epa.wa.gov.au

For further information:

EPA website: www.epa.wa.gov.au

Email: info@epa.wa.gov.au

REPORT ITEM DIS029 REFERS
REFERRAL OF A SCHEME OR SCHEME AMENDMENT TO THE ENVIRONMENTAL
PROTECTION AUTHORITY

REFERRAL FORM

RESPONSIBLE AUTHORITY AND SCHEME (or SCHEME AMENDMENT) INFORMATION

Name of Responsible Authority:

Name of the Responsible Authority's Chief Executive Officer (for correspondence):

Salutation: First Name:.....Surname:.....

Scheme Type (choose one): **Local** **Region** **Redevelopment** **Improvement** **Other**

Scheme Title:

Amendment No.:

If the referral concerns an amendment to a Local Planning Scheme does the amendment conform to a WAPC endorsed Local Planning Strategy? **Yes** **No** Date of endorsement.....

ENVIRONMENTAL CHECKLIST

This checklist is intended to assist responsible authorities identify potential environmental issues, and to ensure they supply sufficient information with the referral to enable the EPA to decide whether or not to assess a scheme or scheme amendment.

The questions below have been grouped together under themes in accordance with the EPA's environmental factors and objectives as listed in Environmental Assessment Guideline No. 8.

For clarification of any terms or descriptions used, please refer to EPA Guidance No. 33 "Environmental Guidance for Planning and Development" through the EPA website.

Please tick the appropriate box and supply the information indicated at the end of this section.

LAND, WATER and SEA	Yes	No	Unsure
1. Does the scheme (or amendment) apply to land which contains or adjoins any of the following?			
a) Native vegetation.			
If yes, identify:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b) Wetland (includes seasonally damp land), watercourse or river			
If yes, identify:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c) Estuary or inlet.			
If yes, identify:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d) Coastal area or near-shore marine area.			
If yes, identify:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e) Public water supply area.			
If yes, identify:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
f) Landform of special interest, for example, karst, beach, ridge, plain.			
If yes, identify:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

REPORT ITEM DIS029 REFERS

- | | Yes | No | Unsure |
|--|-----------------------|-----------------------|-----------------------|
| 2. Does the scheme (or amendment) apply to land which is the subject of any significant or potentially significant soil or land degradation issues, for example, salinity, waterlogging, erosion, acid sulphate soil?
If yes, identify issue/s: | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 3. Does the scheme (or amendment) allow for a land use/s that will or could discharge a pollutant to the air, surface water, soil or groundwater?
If yes, identify the land use/s, and associated pollutants: | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 4. Does the scheme (or amendment) apply to a site that has been used for a past land use which may have contaminated the soil or groundwater, for example, market garden, industrial use, fill?
If yes, identify: | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 5. Does the scheme (or amendment) apply to any land with a high watertable? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

PEOPLE and AIR

- | | Yes | No | Unsure |
|---|-----------------------|-----------------------|-----------------------|
| 6. Does the scheme (or amendment) allow development that may cause emissions (noise, gases, odour, dust, light, vibration) to impact on sensitive land uses (including land that may be used for future residential use)?
If yes, identify the nearby sensitive land uses: | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 7. Does the scheme (or amendment) allow a sensitive land use to be situated in an area likely to be affected by emissions (noise, gases, odour, dust, light, vibration) from land uses such as industry, agriculture or infrastructure?
If yes, identify: | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 8. Does the scheme (or amendment) raise any environmental issues of concern to the public?
Please specify the environmental issue(s) of concern:..... | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 9. Does the scheme (or amendment) adversely affect any historical and/or cultural association?
If yes, identify: | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Additional information

- If all answers to the questions above are "no", no other environmental information is required to accompany this checklist.
- If answers include "yes" or "unsure", please provide information for those items on:
 - the existing environment
 - potential environmental impacts and their magnitude/significance
 - how the impacts will be managed to ensure a good environmental outcome.

The EPA will review the checklist and information submitted and if the response or information is insufficient to enable the EPA to decide whether or not to assess the scheme, the EPA may request additional information. Processing of the referral cannot be commenced until the information is provided.

REFERRAL INFORMATION CHECKLIST

Information to be included with the referral	Yes	N/A
A copy of the Responsible Authority's resolution to adopt the scheme or scheme amendment	<input type="checkbox"/>	
New schemes that replace existing schemes and/or incorporate existing schemes into a single scheme:		
Maps showing changes to zones	<input type="radio"/>	<input type="radio"/>
A summary of changes to the scheme text/s	<input type="radio"/>	<input type="radio"/>
Amendments in progress for the existing scheme/s	<input type="radio"/>	<input type="radio"/>
Spatial data (see guide) If not, identify why (eg a text amendment that applies across the scheme): ----- -----	<input type="radio"/>	<input type="radio"/>
One electronic and one hard copy of the referral documentation (if mailed to the EPA)	<input type="radio"/>	<input type="radio"/>
A letter of authorisation to act on behalf of the Responsible Authority (only required if the referral is being submitted by an agent acting on behalf of the Responsible Authority)	<input type="radio"/>	<input type="radio"/>

DECLARATION (for completion by Responsible Authority or authorised agent):

I, -----, (*full name*) declare that I am authorised on behalf of ----- (being the Responsible Authority referring the scheme/ scheme amendment) to submit this form and further declare that the information contained in this form is true and correct.

Signature:	Name (print):
Position:	Responsible Authority/ Company:
Date:	Contact Phone/Email:

Environmental Protection Authority



Chief Executive Officer
City of Albany
PO Box 484
ALBANY WA 6331

Doc No: City of Albany Records
ICR17256113
File: LAMD22
Date: 17 MAR 2017
Officer: PLA.MPS

Your Ref:
Our Ref: CMS16318
Enquiries: Gerard O'Brien, 6145 0800
Email: Gerard.O'Brien@epa.wa.gov.au

Dear Sir/Madam

**DECISION UNDER SECTION 48A(1)(a)
Environmental Protection Act 1986**

SCHEME: City of Albany - Local Planning Scheme 1 -
Amendment 22
LOCATION: Lot 1 Jason Road Lot 476 Sibbald Road and Lot
1001 Lower King Road Bayonet Head
RESPONSIBLE AUTHORITY: City of Albany
DECISION: Referral Examined, Preliminary Investigations
and Inquiries Conducted. Scheme Amendment
Not to be Assessed Under Part IV of EP Act.
Advice Given. (No Appeals)

Thank you for referring the above proposed scheme to the Environmental Protection Authority (EPA).

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) and provides the attached advice and recommendations.

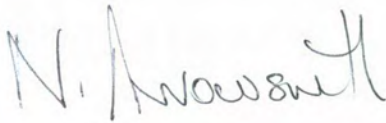
Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.

- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely



Naomi Arrowsmith
Director
Strategic Policy and Planning Division

Delegate of the Chairman of the Environmental Protection Authority
Under Notice of Delegation No. 33 published 17 December 2013

13 March 2017

Encl. Scheme Advice and Recommendations
Ministerial Statement 942

**ADVICE UNDER SECTION 48A(1)(a)
ENVIRONMENTAL PROTECTION ACT 1986**

City of Albany Local Planning Scheme No. 1 Amendment 22

Location: Bayonet Head, Albany

Determination: Scheme Not Assessed – Advice Given (no appeals)

Determination Published: 13 March 2017

Summary

The City of Albany proposes to rezone approximately 22 hectares (ha) from 'General Agriculture' to 'Future Urban' zone, and 48 hectares of 'General Agriculture' zoned land to an 'Environmental Conservation' reserve, in Bayonet Head. The amendment area covers 71.5 ha.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the scheme amendment is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act, providing the following advice is implemented.

1. Environmental Factors

The EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Flora and Vegetation;
- Terrestrial Fauna; and
- Inland Waters Environmental Quality.

2. Advice regarding Environmental Factors

The EPA has examined the City of Albany's referral documentation and conducted investigations, and has decided not to assess the amendment. The following advice is provided:

Amendment 22 is within the area assessed by the EPA as a strategic proposal in Report 1447 *Bayonet Head Plan for Development*.

The *Bayonet Head Plan for Development* was assessed as a strategic proposal so that the EPA could consider the environmental impacts over the whole area ensuring that the key environmental values could be identified, retained and managed in one proposal.

The EPA considered that in order for future residential developments to occur within the strategic proposal area the retention of a consolidated area of 58.84 ha is to be reserved as a 'Conservation Area' and 4.75 ha as a 'Foreshore Reserve' to protect the

key environmental values. The Minister for Environment subsequently issued Ministerial Statement 942 (MS 942) regarding the implementation of future 'derived' proposals including conditions for the future creation and management of the 'Conservation Area' and 'Foreshore Reserve'.

The EPA supports the modification of the amendment report which now clarifies the details in MS 942 regarding 'derived proposals'. All residential development will either require a referral to the EPA requesting it to be declared a 'derived proposal' or as a proposal under s38 of the EP Act for consideration on its own merits, separate from the strategic proposal.

The EPA supports the creation of the 'Environmental Conservation Reserve' within the City of Albany planning scheme through Amendment 22. The EPA notes that Amendment 22 does not reserve all of the land shown in MS 942 as 'Conservation Area' and 'Foreshore Reserve' which is not consistent with aim of the strategic proposal.

The EPA's preference is that all land within the Strategic Proposal area is zoned consistent with the Strategic Proposal. Therefore, the EPA expects the City of Albany to initiate a future amendment which zones and reserves all remaining land within the Bayonet Head Strategic Proposal area as set out in MS 942 as a priority.

THIS DOCUMENT

This document has been produced by the Office of the Appeals Convenor as an electronic version of the original Statement for the proposal listed below as signed by the Minister and held by this Office. Whilst every effort is made to ensure its accuracy, no warranty is given as to the accuracy or completeness of this document.

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Published on: 9 August 2013

Statement No. 942

**STATEMENT THAT A FUTURE PROPOSAL(S)
IDENTIFIED IN A STRATEGIC PROPOSAL MAY BE IMPLEMENTED
(Sections 40B and 45 of the *Environmental Protection Act 1986*)**

- Strategic Proposal:** Plan for the future urban development and conservation of Lots 37, 38 and Part Lot 39 Elizabeth Street, Lots 2, 3, and 286 Alison Parade, Lot 1000, 1001 and Part Lot 42 Lower King Road, Part Lot 1 Yatana Road, Location 476 Sibbald Road and Lot 0 Bayonet Head, within the Bayonet Head Outline Development Plan Area (as defined in City of Albany Town Planning Scheme No. 3).
- Proponents:** Lowe Pty Ltd, Housing Authority, MB and EM Cameron, K Slee, M Greer and City of Albany
- Proponent Address:** c/o Heath Development Company
PO Box 381 Cottesloe WA 6911
- Assessment Number:** 1758

Report of the Environmental Protection Authority: Report 1447

Pursuant to sections 40B and 45 of the *Environmental Protection Act 1986* (the Act), it has been agreed that in the event of a declaration by the EPA pursuant to section 39B of the Act that it is a derived proposal, a proposal to do one or more of the Developments or Changes in Land Use listed in Column 1 of Table 1 in this Statement and which was identified in the Strategic Proposal to which Report 1447 relates, may be implemented. Upon declaration that the proposal is a derived proposal, subject to the Minister for Environment's identification of relevant conditions under section 45A(3) of the Act, the implementation of the proposal shall be subject to the following conditions and procedures and Schedule 2 details definitions of terms and phrases used in the implementation conditions and procedures:

1 Development, Activities, Operations or Changes in Land Use shall not exceed limits/extents in Table 1

- 1-1 Proposals referred to the EPA and declared to be derived proposals containing one or more of the Developments or Change in Land Use listed in Column 1 of Table 1 of Schedule 1, shall not exceed the Description of Limits/Extent, relevant to the Developments or Change in Land Use, provided for in Column 2 of Table 1 of Schedule 1.

Note: More than one proponent may implement the proposal identified in Table 1 of Schedule 1.

2 Contact Details

- 2-1 The proponent shall notify the CEO of any change of its name, physical address or postal address for the serving of notices or other correspondence within 28 days of such change. Where the proponent is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.

3 Time Limit for Proposal Implementation

- 3-1 The proponent shall not commence implementation of the proposal after the expiration of 10 years from the date of issue of the Section 45A Notice, and any commencement, within this 10 year period, must be substantial.
- 3-2 Any commencement of implementation of the proposal, within 10 years from the date of date of issue of the Section 45A Notice, must be demonstrated as substantial by providing the CEO with written evidence, on or before the expiration of 10 years from the date of this statement.

4 Compliance Reporting

- 4-1 The proponent shall prepare and submit a compliance assessment plan to the satisfaction of the CEO at least 6 months prior to the first compliance report required by condition 4-6 or prior to the commencement of future proposals, whichever is sooner.
- 4-2 The proponent shall implement and maintain to the satisfaction of the CEO the compliance assessment plan required by condition 4-1. The compliance assessment plan shall indicate:
- (1) the frequency of compliance reporting;
 - (2) the approach and timing of compliance assessments;
 - (3) the retention of compliance assessments;
 - (4) the reporting of potential non-compliances and corrective actions taken;
 - (5) the table of contents of compliance reports; and
 - (6) the public availability of compliance reports.
- 4-3 The proponent shall assess compliance with conditions in accordance with the compliance assessment plan required by condition 4-1.
- 4-4 The proponent shall retain reports of all compliance assessments described in the compliance assessment plan required by condition 4-1 and shall make those reports available when requested by the CEO.
- 4-5 The proponent shall advise the CEO of any potential non-compliance as soon as practicable.
- 4-6 The proponent shall submit a compliance assessment report annually from the date of issue of the Section 45A Notice addressing the previous twelve month period or other period as agreed by the CEO. The compliance assessment report shall:

- (1) be endorsed by the proponents' Managing Director or a person, approved in writing by the Office of the EPA, delegated to sign on the Managing Director's behalf;
- (2) include a statement as to whether the proponent has complied with the conditions;
- (3) identify all potential non-compliances and describe corrective and preventative actions taken;
- (4) be made publicly available in accordance with the compliance assessment plan; and
- (5) indicate any proposed changes to the compliance assessment plan required by condition 4-1.

5 Public Availability of Data, Plans, Programs and Surveys

5-1 Subject to condition 5-2, within a reasonable time period approved by the CEO from the date of issue of the Section 45A Notice and for the remainder of the life of the proposal the proponent shall make publicly available, in a manner approved by the CEO, all validated environmental data (including sampling design, sampling methodologies, empirical data and derived information products (e.g. maps)) relevant to the assessment of this proposal and implementation of this proposal.

5-2 If any of the data referred to in condition 5-1 contains particulars of:

- (1) a secret formula or process;
- (2) confidential commercially sensitive information; or
- (3) the location of threatened species or other important environmental assets that may be threatened if their location was published,

the proponent may submit a request for approval from the CEO to not make this data publicly available. In making such a request the proponent shall provide the CEO with an explanation and reasons why that data should not be made publicly available.

5-3 The proponent is to make all plans approved under these conditions, and all programs and surveys which meet the requirements of these conditions, to be made available to the public in a manner approved by the CEO.

6 Subdivision and Development for Residential and Urban Bushland Conservation

6-1 Any outline development plan or plan of subdivision must demonstrate how it will:

- (1) relate to:
 - a. existing subdivision and development;
 - b. the Conservation Area and Foreshore Reserve identified in Figure 1 of this Statement; and
- (2) implement the management plans and strategies required by conditions 7-3, 8-2, 9-1 and 10-1.

7 Conservation Area

- 7-1 Any outline development plan, plan of subdivision or development shall ensure that the Conservation Area is subdivided solely as an area for conservation for the protection of key environmental values.
- 7-2 The Conservation Area shall not be divided by any sealed access road for use by vehicles, and shall remain a consolidated area of 58.84 hectares as delineated in Figure 1 of Schedule 1.
- 7-3 Prior to any ground disturbing activities the proponent shall submit a Conservation Area Management Plan to the CEO for approval.
- 7-4 The Conservation Area Management Plan shall address:
- (1) fencing, access and signage;
 - (2) rehabilitation and revegetation;
 - (3) weed control;
 - (4) fire management;
 - (5) dieback management and monitoring;
 - (6) completion criteria for handover to a management authority/authorities; and
 - (7) a Conservation Area Monitoring Program to provide data about the long-term viability of the Conservation Area.
- 7-5 Upon request of the CEO the proponent shall review the Conservation Area Management Plan, required pursuant to condition 7-3, to the satisfaction of the CEO.
- 7-6 The proponent shall implement the approved Conservation Area Management Plan for 10 years from the date of onsite works or until such time as the land is ceded to a management authority/authorities approved by the CEO, whichever is sooner.
- 7-7 In the compliance assessment report required by condition 4-6 the proponent shall also report on work carried out under the approved Conservation Area Management Plan during the report period.
- 7-8 The Conservation Area Monitoring Program required pursuant to condition 7-4(7) shall target the following:
- (1) statutory listed flora and fauna species under State and Commonwealth legislation;
 - (2) Department of Parks and Wildlife (DPaW) listed Priority flora and fauna species; and
 - (3) *Banksia coccinea* Shrubland / *Eucalyptus staeri* / Sheoak Woodland Priority Ecological Community.
- 7-9 The proponent shall implement the approved Conservation Area Monitoring Program for 10 years from the date of onsite works or until such time as the Conservation Area is ceded to a management authority/authorities approved by the CEO, whichever is sooner.
- 7-10 Upon conclusion of implementation of the approved Conservation Area Monitoring Program as per condition 7-9, the proponent shall provide the data from monitoring

and a written report to the CEO on the findings of the Conservation Area Monitoring Program specifically addressing the extent to which the environmental values of the Conservation Area have been maintained, and conclusions regarding the long term viability of an area of this size.

8 Foreshore Reserve

- 8-1 Any outline development plan or plan of subdivision shall ensure that the Foreshore Reserve is subdivided solely as a foreshore reserve for the protection of key environmental values and some community use.
- 8-2 Prior to any ground disturbing activities the proponent shall submit a Foreshore Management Plan to the CEO for approval.
- 8-3 The Foreshore Management Plan shall address:
 - (1) fencing, access and signage;
 - (2) rehabilitation and weed management;
 - (3) erosion control and water management;
 - (4) fire management;
 - (5) treatment of foreshore and development interface; and
 - (6) disease management (dieback).
- 8-4 Upon request of the CEO the proponent shall review the approved Foreshore Management Plan to the satisfaction of the CEO.
- 8-5 The proponent shall implement the approved Foreshore Management Plan for 10 years from the date of onsite works adjacent to the Foreshore Reserve or until such time as the land is ceded to a management authority/authorities approved by the CEO, whichever is sooner.

9 Construction Management Plan

- 9-1 Prior to ground disturbing activities the proponent shall prepare a Construction Management Plan to ensure that the adverse impacts from urban construction and associated activities do not unnecessarily threaten conservation values of the Conservation Area and prevent impacts outside of the Conservation Area.
- 9-2 The Construction Management Plan shall address:
 - (1) vegetation clearing protocols (including retrieval of hollows and rehabilitation);
 - (2) fauna management during clearing of native vegetation, including the translocation of Western Ringtail Possums (*Pseudocheirus occidentalis*) to a suitable habitat;
 - (3) dieback hygiene and management;
 - (4) weed control and management;
 - (5) indigenous heritage issues.
- 9-3 Upon request of the CEO the proponent shall review the approved Construction Management Plan to the satisfaction of the CEO and with advice from DPaW.

9-4 The proponent shall implement the approved Construction Management Plan until such time as the CEO agrees implementation may cease.

10 Acid Sulfate Soils Management Plan

10-1 Prior to any ground disturbing activities within the Acid Sulfate Soils Risk Boundary mapped in Figure 2 of Schedule 1, the proponent shall prepare an Acid Sulfate Soils Management Plan.

10-2 The Acid Sulfate Soils Management Plan shall address:

- (1) testing of soils and groundwater to determine treatment regimes and management; and
- (2) the requirements of the Acid Sulfate Soil Guidelines Series *Identification and Investigation of Acid Sulfate Soils and Acidic Landscapes* (2009) and *Treatment and Management of Soils and Water in Acid Sulfate Soil Landscapes* (2011), or any approved update of these guidelines.

10-3 Upon request of the CEO the proponent shall review the approved Acid Sulfate Soils Management Plan to the satisfaction of the CEO.

10-4 The proponent shall implement the approved Acid Sulfate Soils Management Plan until such time as the CEO agrees implementation may cease.

[Signed 9 August 2013]

Albert Jacob MLA
MINISTER FOR ENVIRONMENT; HERITAGE

Table 1: Summary of Key Proposal Characteristics

Development /Change of Land Use	Description of and limits/extent
Subdivision and development proposals for residential purposes.	Within the development area identified in Figure 1, including: (1) public open spaces areas for the purposes of active recreation; and (2) the provision of public infrastructure directly related to the subdivision and development proposals for residential purposes.
Subdivision/reservation/vesting for nature conservation.	63.59 hectares within the area identified in Figure 1 comprised of areas labelled "Conservation Area" and "Foreshore Reserve."

Figures

Figure 1: Conservation Area and Foreshore Reserve Boundary.

Figure 2: Acid Sulfate Soils Risk Mapping within the SEA Area

Co-ordinates

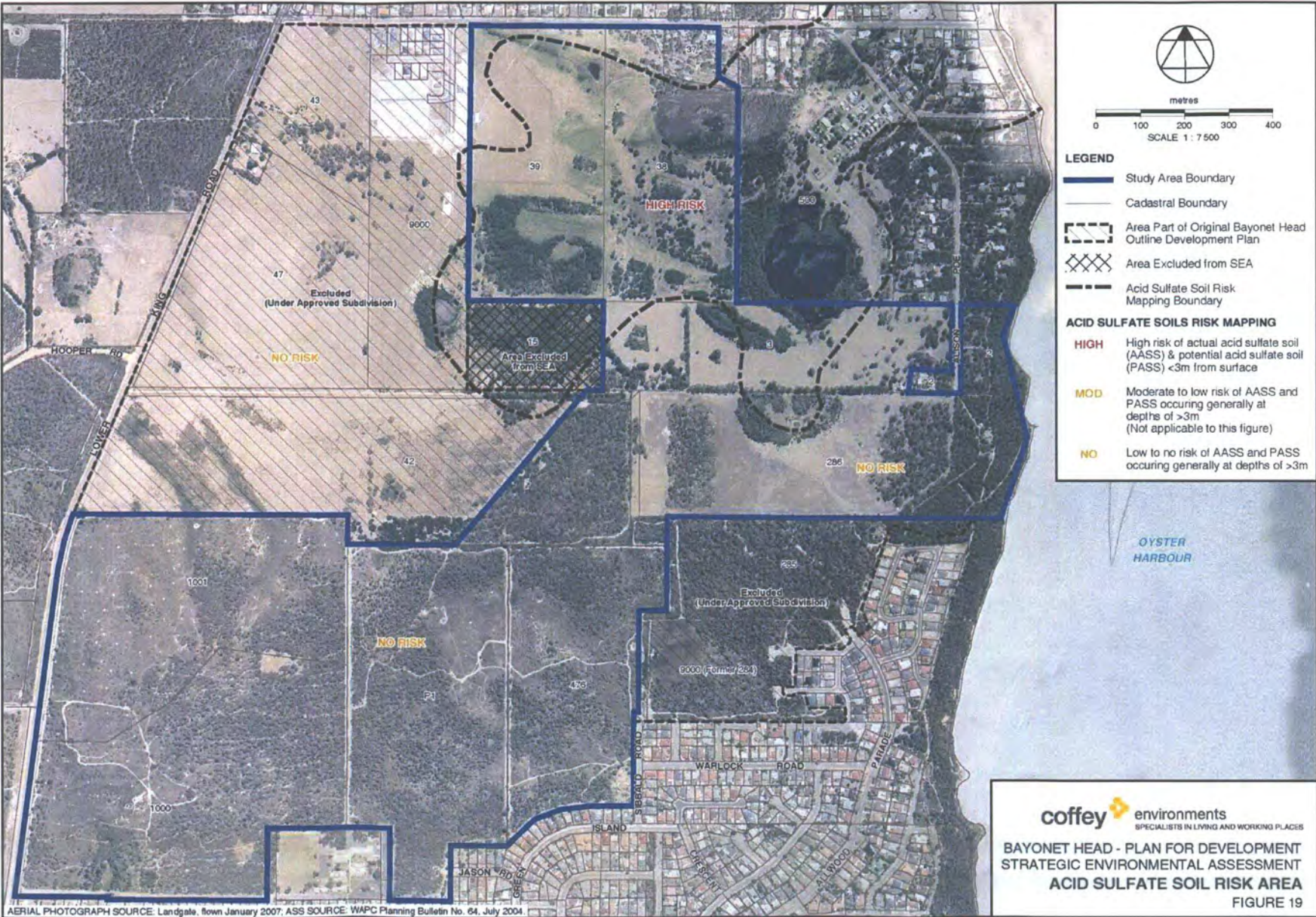
Co-ordinate List 1: Conservation Area (58.84 hectares)

Co-ordinate List 2: Foreshore Reserve (4.75 hectares)

Figure 1: Conservation Area and Foreshore Reserve Boundary



Figure 2: Acid Sulfate Soils Risk Mapping within the SEA Area.



Co-ordinates defining the *Conservation Area* and *Foreshore Reserve* dataset are prescribed below, noting that the correct recreation of the boundary requires the sequential connection of the co-ordinates as per its co-ordinate number.

All co-ordinates are listed in Map Grid of Australia Zone 50 (MGA Zone 50), datum of Geodetic Datum of Australia 1994 (GDA94).

Co-ordinate List 1: Conservation Area (58.84 hectares)

Co-ordinate No.	Easting	Northing
1	585184.12	6129700.53
2	585383.89	6129699.49
3	585660.03	6129743.38
4	585658.94	6129550.96
5	585383.65	6129552.47
6	585383.32	6129353.34
7	585348.64	6129314.85
8	584946.27	6129314.85
9	584926.27	6129314.85
10	584526.71	6129314.85
11	584492.01	6129078.72
12	584209.05	6129078.72
13	584232.45	6129256.81
14	584282.88	6129640.58
15	584290.01	6129674.49
16	584297.14	6129708.41
17	584315.02	6129764.54
18	584318.09	6129771.77
19	584928.94	6129768.17
20	584938.95	6129768.11
21	584938.55	6129701.81
22	584948.55	6129701.76
23	585184.12	6129700.53

Co-ordinate List 2: Foreshore Reserve (4.75 hectares)

Co-ordinate No.	Easting	Northing
1	586425.06	6130244.46
2	586446.61	6130244.26
3	586420.12	6130177.27
4	586450.62	6130043.11
5	586473.59	6129942.35
6	586413.88	6129759.09
7	586353.72	6129759.44
8	586350.46	6129759.46
9	586331.51	6129759.57
10	586246.80	6129760.07
11	586317.71	6129817.58
12	586356.47	6129849.02
13	586362.86	6129866.33
14	586387.58	6129927.18
15	586391.96	6129942.50
16	586384.45	6129959.55
17	586307.52	6129968.52
18	586307.12	6129990.05
19	586308.80	6130004.18
20	586309.23	6130017.27
21	586355.97	6130017.53
22	586378.99	6130027.73
23	586381.15	6130039.14
24	586383.47	6130054.18
25	586370.38	6130071.43
26	586362.38	6130083.33
27	586351.23	6130106.08
28	586342.91	6130141.53
29	586342.74	6130178.16
30	586348.16	6130208.02
31	586361.49	6130245.03
32	586425.06	6130244.46

END OF CO-ORDINATE LISTINGS

Schedule 2

Term or Phrase	Definition
Approved Acid Sulfate Soils Management Plan	The Acid Sulfate Soils Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 10-2. The DER will be consulted in the CEO's determination process
Approved Conservation Area Management Plan	The Conservation Area Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 7-4. DPaW will be consulted in the CEO's determination process.
Approved Conservation Area Monitoring Program	The Conservation Area Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 7-4(7).
Approved Construction Management Plan	The Construction Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 9-2. DPaW will be consulted in the CEO's determination process.
Approved Foreshore Management Plan	The Foreshore Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 8-3. DPaW will be consulted in the CEO's determination process.
CEO	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the <i>Environmental Protection Act 1986</i> , or his delegate.
Conservation Area	The 58.84 hectare area depicted as the "Conservation Area" in Figure 1 of Schedule 1.
DER	Department of Environment Regulation
DPaW	Department of Parks and Wildlife
EPA	Environmental Protection Authority
Foreshore Reserve	The 4.75 hectare area depicted as the "Foreshore Reserve" in Figure 1 of Schedule 1.
Section 45A Notice	Means the notice issued by the Minister under section 45A of the <i>Environmental Protection Act 1986</i>
The Act	<i>Environmental Protection Act 1986</i>

Notes

The following notes are provided for information and do not form a part of the implementation conditions of the Statement:

- The proponent for the time being nominated by the Minister for Environment under section 38(6) of the Act is responsible for the implementation of the proposal unless and until that nomination has been revoked and another person is nominated.
- If the person nominated by the Minister, ceases to have responsibility for the proposal, that person is required to provide written notice to the EPA of its intention to relinquish responsibility for the proposal and the name of the person to whom responsibility for the proposal will pass or has passed. The Minister for Environment may revoke a nomination made under section 38(6) of the Act and nominate another person.
- To initiate a change of proponent, the nominated proponent and proposed proponent are required to complete and submit *Post Assessment Form 1 – Application to Change Nominated Proponent*.
- The General Manager of the Office of the EPA was the Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the Act at the time the Statement was signed by the Minister for Environment.

Schedule on Submissions				
No.	Address	Copy/Summary of Submissions	City of Albany Comments on submissions	Proposed modifications to address issues raised in the submissions
1.	ATCO Gas	ATCO Gas do not have any gas mains or infrastructure within the said Lots (application area) nor within the surrounding road reserves. ATCO Gas do not have any objection to the proposed Local Planning Scheme 1 Amendment No. 22	No objection noted.	Pertaining to comments received from ATCO Gas Australia, it is recommended that the Council agree to support the amendment without modification.
2.	Department of Education	The Department of Education wishes to advise that it has no objections to the proposed Scheme Amendment.	No objection noted.	Pertaining to comments received from the Department of Education, it is recommended that the Council agree to support the amendment without modification.
3.	Department of Parks and Wildlife	The Department of Parks and Wildlife South Coast Region has reviewed Local Planning Scheme Amendment No. 22 and has no objections to this proposal. The rezoning of Lot 1001 and partial Lots 1 and 476 from 'General Agriculture ' to 'Environmental Conservation' reserve is in accordance with Ministerial Statement 942. The establishment of this reserve contributes to biodiversity conservation through maintaining landscape native vegetation linkage and habitat for native flora and fauna including listed Threatened species and communities. The department notes that the balance of the environmental conservation reserve identified in Ministerial Statement 942 occurs within Lot 1000 on Plan 47513 and expects that this will be the subject of a future scheme amendment.	No objection noted.	Pertaining to comments received from the Department of Parks and Wildlife, it is recommended that the Council agree to support the amendment without modification.
4.	Telstra	At present, Telstra Corporation Limited has no objection.	No objection noted.	Pertaining to comments received from Telstra, it is recommended that the Council agree to support the amendment without modification.
5.	Water Corporation	The Water Corporation has prepared conceptual water and wastewater planning for the area, which provides a guide for the future servicing of the area. The developers of this land will need to fund the extension of reticulation-sized water mains and gravity sewers from established networks. The subject land is some distance from the current development front and the development of the land relies on the development of adjoining land for the efficient extension of water and sewerage. The developer's consulting engineers can adapt the Corporation's planning and may be able to stage servicing of the development area in consultation with the Corporation.	The City notes that: <ul style="list-style-type: none"> • development of the land relies on the development of adjoining land for the efficient extension of water and sewerage; • The Water Corporations planning may be adapted to suit future proposed development; and • The servicing of future development may be completed in stages. 	Pertaining to comments received from the Water Corporation, it is recommended that the Council agree to support the amendment without modification.
6.	Department of Water	As the proposal has no water resource related issues, the department has no objection and no comments to make.	No comment noted.	Pertaining to comments received from the Department of Water, it is recommended that the Council agree to support the amendment without modification.
7.		The EPA concluded the proposed development is environmentally acceptable. The EPA's decision was made given significant native vegetation will be protected for conservation purposes in perpetuity in the conservation area. The conservation area will become public land which will benefit the local and wider Albany community.	Noted concerns in relation to bushfire risk and a need for a secondary egress to Lower King Road. Future structure planning, required prior to development in the 'Future Urban' zone may require additional egress in accordance with a Bushfire Hazard Level Assessment and Transport	Pertaining to comments received from A Nicholson, it is recommended that the Council agree to support the amendment without modification.

		<p>The development will assist to provide a range of housing and promote job creation.</p> <p>I have been uneasy for some years that there is considerable risk in the case of bushfire in Bayonet Head because we have only one road in and out.</p> <p>Having another access road connecting with Lower King Rd is an important aspect of this development to us.</p> <p>We respectfully request that the Council support the rezoning of the property as proposed.</p>	<p>Assessment Plan submitted as an appendix to a structure plan and/or subdivision application.</p>	
8.		<p>Given Bayonet Head currently has one road in and out, development of this land will assist to lower fire risks.</p> <p>Bushfire risks for the new development can be designed to meet City and State Government requirements.</p> <p>I suggest the provision of the generous public open space will be a great asset to the area.</p>	<p>Noted comments in relation to bushfire risk and public open space.</p> <p>Future structure planning, required prior to development in the 'Future Urban' zone may require additional egress and suitable areas for public recreation in accordance with a Public Open Space assessment, a Bushfire Hazard Level Assessment and Transport Assessment Plan submitted as an appendix to a structure plan or subdivision application.</p>	<p>Pertaining to comments received from Merrifield Real Estate, it is recommended that the Council agree to support the amendment without modification.</p>
9.		<p>We would like to provide the following comments on the above listed Planning Scheme Amendment.</p> <p>1) Since the earlier studies for the "Bayonet Head plan for development" (Coffey Environments, 2010) the conservation status of the western ringtail possum (<i>Pseudocheirus occidentalis</i>) has changed from vulnerable to critically endangered under the WA State Government <i>Wildlife Conservation (Specially Protected Fauna) Notice 2016</i> issued under S 14(4) of the <i>Wildlife Conservation Act 1950</i>. The species is also listed as vulnerable under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>. A recovery plan has been developed for the western ringtail possum (Department of Parks and Wildlife 2014).</p> <p>2) The change in conservation status for the western ringtail possum has not been considered in the layout of the 'Environment Conservation' reserve with much of the known habitat for this critically endangered species lying outside the currently proposed conservation area. The western ringtail possum was confirmed to be present in the south and south east corner of Lot 1000 adjacent to Lot 7350 (Coffey Environments, 2010) - see Figure 1.</p> <p>3) The topsoil changes from sand over gravel at the northern end of Lot 1001 and Lot 476 to ironstone gravels at the south-eastern area of Lot 1000 (see Figure 1, Figure 2). The changes in soil type have resulted in different vegetation types and structure between the areas. The vegetation community in the south-eastern area of Lot 1000 is <i>Eucalyptus marginata</i> and <i>Allocasuarina fraseriana</i> Closed Forest (Coffey Environments, 2010). High canopy continuity, such as closed forests are essential habitat for the western ringtail possum (Department of Parks and Wildlife 2014). Additionally, peppermint (<i>Agonis flexuosa</i>) found in the south-eastern area of Lot 1000 (Figure 3) is a preferred food plant for the western ring tail possum due to higher foliage nitrogen content and lower lignin (Department of Parks and Wildlife 2014). This area also contains habitat trees with hollows (Figure 4, Coffey</p>	<p>Comments noted and request for modified conservation areas dismissed.</p> <p>The amendment was referred to the Department of Parks and Wildlife (DPAW) and the Environmental Protection Authority (EPA) for assessment of environmental factors, including flora and vegetation, terrestrial fauna and inland waters.</p> <p><u>EPA</u> The EPA considers that the scheme amendment is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act.</p> <p>The EPA notes that Amendment 22 does not reserve all of the land shown in a previous Ministerial Statement 942 as 'Conservation Area' and 'Foreshore Reserve' which is not consistent with aim of the strategic proposal.</p> <p>The EPA expects the City of Albany to initiate a future amendment which zones and reserves all remaining land within the Bayonet Head Strategic Proposal area as set out in a previous Ministerial Statement 942.</p> <p><u>DPAW</u> The DPAW considers that the rezoning of Lot 1001 and partial Lots 1 and 476 from 'General Agriculture'</p>	<p>Pertaining to comments received from A & L Lillicrap, it is recommended that the Council agree to support the amendment without modification.</p>

	<p>Environments, 2010) that are important for western ringtail possum survival (Department of Parks and Wildlife 2014).</p> <p>4) The ironstone gravels with <i>Eucalyptus marginata</i> and <i>Allocasuarina fraseriana</i> Closed Forest containing peppermints and tree-hollows that provide the essential habitat for the western ringtail possum are currently not represented in the proposed Environmental conservation reserve. There are no areas in the proposed Environmental conservation reserve that offer comparable optimal habitat for the western ringtail possum with closed forest, peppermints and tree hollows. The <i>Eucalyptus marginata</i> and <i>Allocasuarina fraseriana</i> Closed Forest in the south-eastern area of Lot 1000 is in excellent condition (Coffey Environments, 2010).</p> <p>5) The south-eastern area of Lot 1000 also provides habitat for Baudin's cockatoo (<i>Calyptorhynchus baudinii</i>) and Carnaby's cockatoo (<i>Calyptorhynchus latirostris</i>) listed as endangered under the <i>Wildlife Conservation (Specially Protected Fauna) Notice 2016</i>. The area is also habitat for the red-tailed black cockatoo (<i>Calyptorhynchus banksii naso</i>) listed as vulnerable under the <i>Wildlife Conservation (Specially Protected Fauna) Notice 2016</i>. These species are also listed as threatened under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>. The Priority 3 species, <i>Leucopogon latissimus</i>, is also present in the south-eastern area of Lot 1000 (Coffey Environments, 2010).</p> <p>6) Habitat loss is listed as a threatening process in the recovery plan for the western ringtail possum (Department of Parks and Wildlife 2014). Therefore it is recommended that the proposed Environment conservation area be extended along a corridor to include southeast of Lot 1000 (Figure 1) for the following reasons:</p> <ul style="list-style-type: none"> a. the presence of the critically endangered western ringtail possum, b. this area provides optimal habitat for the western ring tail possum consisting of a closed forest with high canopy continuity, preferred food species (peppermint) and tree hollows. These unique combination of factors, essential for the species survival (see recovery plan Department of Parks and Wildlife 2014), are not present in other areas on the site c. this vegetation type and habitat, found on ironstone gravels, is not conserved in the proposed reserve d. the area also provides habitat to other threatened species such as; Baudin's cockatoo, Carnaby's cockatoo and the red-tailed black cockatoo. <p>7) Areas from the proposed 'Environment Conservation' reserve can be removed to allow for the new western ringtail possum habitat; such making the eastern corridor on Lot 1 and 476 narrower.</p>	<p>to 'Environmental Conservation' reserve is in accordance with Ministerial Statement 942.</p> <p>The establishment of this reserve contributes to biodiversity conservation through maintaining landscape native vegetation linkage and habitat for native flora and fauna including listed Threatened species and communities.</p>	
<p>10.</p>	<p>I strongly support the amendment.</p> <p>The area proposed for future development has been well balanced with a generous conservation area.</p> <p>There is exciting prospects attached to any development that might eventuate which would open new access in and out of Bayonet Head. This has long been a concern for many residents in the area.</p>	<p>Support noted.</p>	<p>Pertaining to comments received from B Cameron, it is recommended that the Council agree to support the amendment without modification.</p>

		<p>It would also reduce dramatically the fire risk involved when a large area such as currently exists of natural bushland has redefined boundaries that are more manageable.</p> <p>The EPA concluded the proposed development is environmentally acceptable. The EPA's decision was made given significant native vegetation will be protected for conservation purposes in perpetuity in the conservation area. The conservation area will become public land which will benefit the local and wider Albany community.</p> <p>The area is part of a naturally developing suburb and logical in-fill as Albany resists urban sprawl.</p> <p>Existing services will become much more sustainable as a result of changed land use allowing residential development.</p> <p>It is respectfully requested that the Council support the rezoning of the property as proposed.</p>		
11.		<p>I would like to register my support for the above rezoning proposal for the following reasons:</p> <ol style="list-style-type: none"> 1. This would require at least one more access road to the housing development already in existence, which would surely prove invaluable in the case of a bushfire in the area, to say nothing of the increasing volume of traffic using Bayonet Head Road. 2. This land is well situated for the future development of another school, which will soon be needed, as well as being close to the existing Flinders Park School, and Bayonet Head Shopping Centre. 3. Provision can be made in the planning, for public open space, while it is available. 4. This land has been identified for urban development for many years, and considerable studies have been carried out on the advisability of same, with positive results. 	Support noted.	Pertaining to comments received from M Cameron, it is recommended that the Council agree to support the amendment without modification.
12.		<p>The site is an ideal location for residential development given it is surrounded by residential development or planned urban development. The portion of the site proposed to be rezoned to 'Future Urban' is considered suitable and capable of accommodating urban development for predominantly residential use.</p> <p>The EPA concluded the proposed development is environmentally acceptable. The EPA's decision was made given significant native vegetation will be protected for conservation purposes in perpetuity in the conservation area. The conservation area will become public land which will benefit the local and wider Albany community.</p> <p>The development will assist to provide a range of housing and promote job creation.</p> <p>It is respectfully requested that the Council support the rezoning of the property as proposed.</p>	Support noted.	Pertaining to comments received from L Hall, it is recommended that the Council agree to support the amendment without modification.
13.		<p>I am a long term resident of 8 Jason Road, Bayonet Head, having purchased the property in 1979. I also own the block next door to my house, ie: 10 Jason Road. In reference to the proposed Local Planning Scheme Amendment to the area, I have major concerns.</p> <ol style="list-style-type: none"> 1. The area designated for residential, which runs at the back of my properties, is an area which is widely used for recreational purposes by many of the local 	<p>Comments on environmental attributes noted and request to modify conservation area dismissed.</p> <p>Approximately 67% of the proposed development area is being zoned for conservation purposes. The areas proposed for conservation is a result of</p>	Pertaining to comments received from B McCann, it is recommended that the Council agree to support the amendment without modification.

	<p>residents. It contains abundant wildflowers and is home to a sizeable number of local native animals. This includes birds, reptiles, possums, kangaroos etc.</p> <ol style="list-style-type: none"> 2. When looking at the plan is it very obvious that an increase in residential numbers is forecast. Many of these residents will have families. Yet there is no provision for park/recreational or play areas close to the housing areas. Please to look at where parks are situated, there are two for the whole of this area. And may I complement the people responsible for looking after the said parks, they do an excellent job. However two parks, for thousands of people, this is not responsible planning surely? Also to consider is the growing number of older residents, such as myself, who value the opportunity to walk in and around bush areas, an important recreation for health and happiness. 3. There is a need for green space, with access to our natural environment, for a community to thrive. Even in inner cities, such as Melbourne, there is more 'green' space than in Bayonet Head. You may well say there is a great deal of bush, but increasingly access to this bush is cut off through legislation and private ownership. 4. Could I please suggest that some of the area designated for 'environmental conservation' is swapped for some of the area marked 'future urban'. In doing so a green corridor could be developed with all the identified benefits this would bring. 5. Changing Jason Road from its present 'dead end' status to a through road to the school area would be a nightmare for residents. Please to come and look at the effect buses going up and down Jason Road four times a day would bring. Flinders Park School will grow substantially over the next few years, encouraging a bike/walk track through the present bush would be excellent. Presently many students ride their bikes up Jason Road and through this area. Let's encourage this. <p>This is a very important decision, it will effect the quality of life in this area for decades to come I request that you hold a public meeting of people in this area to discuss the proposed changes.</p>	<p>environmental assessments reviewed by the Environmental Protection Authority.</p> <p>Note comments regarding public open space (lack of). At the time of subdivision, land for public open space is ceded at a rate of 10% of the gross subdivision area. Standards propose that public open space is given up considerate of community needs, which includes active and passive recreation.</p> <p>Request to keep Jason Road as a 'dead end' road noted. At a later structure planning or subdivision stage, a Transport Impact Assessment will determine road design in accordance with Australian Standards.</p>	
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City of Albany
Local Planning Scheme No. 1
Scheme Amendment No. 22

Lot 1 Jason Road, Lot 476 Sibbald Road and
Lot 1001 Lower King Road, Bayonet Head

Prepared by Edge Planning & Property

www.edgeplanning.com.au

August 2016

PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME

CITY OF ALBANY LOCAL PLANNING SCHEME No. 1

AMENDMENT No. 22

RESOLVED that the Council, in pursuance of Section 75 of the *Planning and Development Act 2005*, amend the above local planning scheme by:

1. Creating a new 'Environmental Conservation' reserve.
2. Adding a notation to the Scheme Map legend.
3. Rezoning Lot 1 Jason Road and Lot 476 Sibbald Road, Bayonet Head from 'General Agriculture' zone to 'Future Urban' zone and 'Environmental Conservation' reserve.
4. Transferring Lot 1001 Lower King Road, Bayonet Head from 'General Agriculture' zone to 'Environmental Conservation' reserve.
5. Amending the Scheme Maps accordingly.

The Amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:

- The amendment is consistent with the *Albany Local Planning Strategy*, which sets a strategic objective to support urban infill development based on compatibility of land uses and infrastructure capacity;
- The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and
- The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.

Dated this day of 20.....

.....

CHIEF EXECUTIVE OFFICER

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PROPOSAL TO AMEND A LOCAL PLANNING SCHEME

- | | |
|--|--|
| 1. LOCAL AUTHORITY: | City of Albany |
| 2. DESCRIPTION OF LOCAL PLANNING SCHEME: | Local Planning Scheme No. 1 |
| 3. TYPE OF SCHEME: | Local Planning Scheme |
| 4. SERIAL NUMBER OF AMENDMENT: | 22 |
| 5. PROPOSAL: | <ol style="list-style-type: none"> 1. Creating a new 'Environmental Conservation' reserve. 2. Adding a notation to the Scheme Map legend. 3. Rezoning Lot 1 Jason Road and Lot 476 Sibbald Road, Bayonet Head from 'General Agriculture' zone to 'Future Urban' zone and 'Environmental Conservation' reserve. 4. Amending Lot 1001 Lower King Road, Bayonet Head from 'General Agriculture' zone to 'Environmental Conservation' reserve. 5. Amending the Scheme Maps accordingly. |



View towards site from Lower King Road

REPORT BY THE CITY OF ALBANY

1. INTRODUCTION

The City of Albany seeks the support of the Western Australian Planning Commission (WAPC) and the approval of the Hon. Minister for Planning to amend the *City of Albany Local Planning Scheme No. 1 (LPS1)*. In particular, the Amendment proposes to rezone Lot 1 Jason Road, Lot 476 Sibbald Road, Lot 1001 Lower King Road, Bayonet Head (the 'site') from 'General Agriculture' zone to 'Environmental Conservation' reserve and portion of Lot 1 and Lot 476 to 'Future Urban' zone.

The purpose of this report and associated plans are to explain the proposal and set out the planning merits of approximately 67% of the site (48.26 hectares) being included in an Environmental Conservation reserve and approximately 33% of the site (23.22 hectares) being included in the Future Urban zone.

The Amendment is consistent with the decision of the Minister for Environment; Heritage on 9 August 2013 (Ministerial Statement No. 942) and is consistent with the planning framework. The Amendment will facilitate the creation of an Environmental Conservation reserve and future urban development of the land consistent with the strategic planning framework objectives of the locality, including the *Albany Local Planning Strategy (ALPS)*.

The site is surrounded by existing and planned urban development. The portion of the site proposed to be rezoned to 'Future Urban' is considered suitable and capable of accommodating urban development for predominantly residential use. This area is referred to as the 'development footprint' in this report.

In order to progress development investigation of the site, in accordance with its strategic identification and to address LPS1, the proposed Future Urban zone requires the preparation of a Structure Plan to inform the subdivision and development of the site. More detailed planning and investigations will occur at the Structure Plan and subdivision stages.



The site adjoins existing residential and other urban development.

2. BACKGROUND

2.1 Cadastral details

Cadastral details for the site are summarised below:

Lot	Plan	Volume	Folio	Area (hectares)
Lot 1 Jason Road	Diagram 27229	2036	496	26.261
Lot 476 Sibbald Road	Diagram 47264	1384	891	18.607
Lot 1001 Bayonet Head	Deposited Plan 47513	2605	320	26.62

The registered proprietor of Lots 1 and 1001 is half owned by the Department of Housing and Works (previously the State Housing Commission and the Housing Authority) and half owned by Lowe Pty Ltd. The owner of Lot 476 is Maureen Cameron. Copies of the current Certificate of Titles are set out in Attachment 1.

2.2 Context

The site is situated in the City of Albany which is located 409 kilometres south-east of Perth. Albany is the regional centre for the Great Southern Region and it provides a wide range of services and facilities to residents and visitors.

The site is located approximately 6 kilometres north-east of the Albany city centre in the locality of Bayonet Head (see Attachment 2). The site adjoins and is near various uses including residential development, a primary school, community uses and the Bayonet Head Shopping Centre (see Attachment 3). From a spatial and geographical perspective, the Amendment provides a logical infill to development in Bayonet Head as planned for decades.

2.3 Physical characteristics

The site, shown in Attachment 4, has the following characteristics and features:

- it has a combined area of 71.488 hectares;
- it is largely undeveloped and predominantly covered in remnant vegetation including forest, woodland and scrub. Key species include Jarrah, Marri, Sheoak and Banksia. There is some clearing associated with the various tracks and firebreaks that traverse the site.

Details relating to vegetation are outlined in Attachment 5;

- there are three Conservation Category Wetlands;
- a dwelling and outbuilding are located on Lot 476;
- the land is overall gently sloping ranging from approximately 20 metres AHD (Australian Height Datum) in the north-east section to 48 metres in the north-west;
- it is underlain by bedrock, comprising gneiss, metamorphic rock and granatoid in the Nornalup Complex of the Albany-Fraser Orogen;
- there are various soil types which generally relate to the associated vegetation. Previous geotechnical investigations for the locality generally reveal topsoil with a thickness of 50 – 350mm, overlying sand and silty sand, overlying laterite at higher elevations and cemented sand at lower levels; and
- it is not classified as a registered contaminated site.

The site attributes are considered overall favourable to urban development in the development footprint. More detailed investigations, at future planning stages, will include geotechnical investigations

2.4 Existing services

The site adjoins Lower King Road and Sibbald Road and has access to Jason Road. There are also various nearby dual use paths and footpaths.

The surrounding urban area is provided with standard 'hard' infrastructure, including an existing 500mm diameter water supply pipe located in the Lower King Road reserve adjoining the site. Infrastructure is required to

be extended and as required upgraded to facilitate future urban development.

2.5 Heritage

The Department of Aboriginal Affairs' Aboriginal Heritage Inquiry System shows no known sites of Aboriginal significance on the site. The *Aboriginal Heritage Act 1972* provides for the protection and preservation of Aboriginal heritage and culture throughout Western Australia, including places and objects that are of significance to Aboriginal people.

The site does not contain any structure or place of heritage significance on the *City of Albany Municipal Heritage Inventory*.

2.6 Strategic Environmental Assessment and Ministerial Statement No. 942

Coffey Environmental, on behalf of the landowners, referred the *Bayonet Head Plan for Development* to the Environmental Protection Authority (EPA) in September 2008 which included the site, a large area to the north of the site and Lot 1000 to the south-west. The EPA determined the proposal to be a 'Strategic Proposal' as defined under section 37B of the *Environmental Protection Act 1986*. The Strategic Environmental Assessment (SEA) was subject to a six week public review in April 2010.

The EPA decided that the key environmental factor relevant to the proposal was conservation values, in particular the protection of native vegetation, flora, fauna and wetlands.

In August 2012, the EPA released their report *Bayonet Head Plan for Development* (Report 1447) to the Minister for Environment; Heritage regarding the site and the proposed development. The report assessed the development proposal and gave advice and recommendations to the Minister in relation to the key environmental factors. An extract of Report 1447 is outlined in Attachment 5.

The SEA proposal sets aside 62.75 hectares for conservation purposes within the SEA area. The SEA proposal recommended the clearing of native vegetation within the development footprint.

The EPA concluded the proposed development is environmentally acceptable.

The EPA's decision was made given significant native vegetation will be protected for conservation purposes in perpetuity in the conservation area. The EPA report stated the conservation area 'provides for long-term security of a consolidate area while still providing a substantial developable area for the proponent' (page ii). Page ii also states:

'The EPA has therefore concluded that the proposal can be managed to meet the EPA's objectives for the environmental factors, provided future proposals are subject to the recommended conditions to out in Appendix 4 and summarised in Section 4.1.'

The Minister for Environment; Heritage considered EPA Report 1447. The Minister, on 9 August 2013, released Ministerial Statement 942 regarding the implementation of future proposals, which is provided in Attachment 6.

Future development proposals within the area may require further consideration by the EPA.

Ministerial Statement 942 sets out that a derived proposal can be a subdivision and development proposal for residential purposes outside of the conservation or foreshore areas, or a reservation of land for conservation within the conservation or foreshore areas. The process for the implementation of future proposals within the area is as follows:

- In accordance with s39B of the EP Act, a future proposal can be referred to the EPA, and the proponent may request it to be a derived proposal.
- In accordance with s45A(3) of the EP Act, the Minister for Environment may then identify the relevant conditions of MS 942 which apply to the derived proposal.
- Alternatively, a proposal can be referred to the EPA under s38 of the EP Act for consideration on its own merits.

3. PLANNING FRAMEWORK

3.1 Overview

The site and proposed urban development are subject to a range of State Planning Policies, WAPC policies and bulletins, WAPC regional strategies, along with EPA bulletins, various City strategies and policies, along with LPS1.

The following section outlines how the Amendment suitably addresses the State, regional and local planning framework. In summary, the Amendment is considered consistent with the planning framework. It is also noted that there have been a number of plans and deliberations regarding urban expansion of Bayonet Head, which includes the site, over decades.

3.2 State Planning Strategy 2050 (2014)

The *State Planning Strategy 2050* sets a broad strategic plan for Western Australia built on sustained growth and prosperity. The vision (page 20) is:

'Sustained growth and prosperity

The vision of sustained growth and prosperity envisages a future where Western Australians enjoy high standards of living, improved public health and an excellent quality of life **for present and future generations.'**

The Strategy sets out that sustained growth consists of a diverse, liveable, connected and collaborative State.

The Strategy classifies Albany as a regional centre. Amongst matters, the Strategy supports affordable and well-located land, promoting walking and cycling, using land in an efficient manner and promoting ecological linkages.

The Amendment is consistent with the Strategy given it promotes urban development in a regional centre, it supports sustained growth and prosperity in Albany, the site is well-located, supports affordability, will promote walking and cycling and an environmental corridor (ecological linkage) will be conserved in perpetuity.

3.3 State Planning Policy 2 – Environment and Natural Resources Policy (2003)

The Policy defines the principles and considerations that represent good and responsible planning, in terms of environment and natural resource issues, within the framework of the *State Planning Strategy*. The Policy is supplemented by more detailed planning policies on particular natural resources matters that require additional information and guidance.

The EPA and the Minister for Environment; Heritage considered Government policies in assessing *Strategic Environmental Assessment – Bayonet Head Plan for Development*. It is suggested the Ministerial statement addresses the key aspects of SPP 2.

3.4 State Planning Policy 2.5 Land Use Planning in Rural Areas (2013)

This Policy applies to rural and rural living land in Western Australia. The objectives of the Policy include 'To promote sustainable settlement in, and adjacent to, existing urban areas.'

The provisions of the Policy have been applied in ALPS through the identification of agricultural areas, urban areas, future urban and other land uses. ALPS identifies the site as 'Future Urban'.

The site is not used for agriculture and the Amendment will not result in a loss of agriculture land.

The Amendment is consistent with the Policy given the ALPS classification, **the site's current use and the site's context**. The Amendment will not threaten or adversely impact agricultural resources in the area.

3.5 State Planning Policy No. 2.9 Water Resources (2006)

The State's water resources are subject to wide ranging impacts and demands. Effective planning should contribute to the protection and wise management of water resources by ensuring planning strategies, schemes, structure plans, subdivisions and other proposals adopt a sustainable approach. The Policy supports an integrated approach, taking account of the total water cycle management, supporting water sensitive urban design principles and provides

guidance on appropriate buffers to watercourses and waterways.

To address the requirements of SPP 2.9, a Local Water Management Strategy (LWMS) will be prepared as part of a future Structure Plan. The LWMS will be refined at the subdivision stage through an Urban Water Management Plan (UWMP).

3.6 State Planning Policy No. 3 – Urban Growth and Settlement (2006)

This Policy sets out the principles and considerations which apply for urban growth and settlement in Western Australia. The Policy promotes a sustainable settlement pattern, supports building on existing communities, using land efficiently, the provision of a wide variety and choice of housing, and seeks convenient access to employment and services.

The Amendment is consistent with SPP 3 given it promotes development in a regional centre, it is identified in ALPS as 'Future Urban', the site is surrounded by existing and planned urban development, future subdivision will be fully serviced and environmental impacts are manageable based on Ministerial Statement 942.

3.7 State Planning Policy No. 3.1 Residential Design Codes (2015)

The requested Future Urban zoning requires the preparation and approval of a Structure Plan. The Structure Plan is expected to incorporate a range of residential densities along with complementary non-residential uses. Future residential development will be guided by the R Codes including setbacks, site planning and design, vehicular access and car parking.

3.8 State Planning Policy 3.7 Planning in Bushfire Prone Areas (2015)

The intent of the Policy is to 'implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.' The Policy is to be duly considered in higher order strategic planning documents through to strategic planning proposals, subdivision applications and development applications. Amongst matters, the Policy sets out information to accompany proposals and applications. SPP 3.7 is

complemented by *Guidelines for Planning in Bushfire Prone Areas*.

A Bushfire Attack Level Assessment and Bushfire Hazard Level Mapping Report is set out in Attachment 7. This assessment addressed SPP 3.7 and the Guidelines.

3.9 Liveable Neighbourhoods (2009)

Liveable Neighbourhoods is an operational policy of the WAPC, which implements *State Planning Strategy* objectives, to guide sustainable urban development. The principal aim of *Liveable Neighbourhoods* is to provide for walkable neighbourhoods which are located around activity centres of compatible mixed uses in order to reduce car dependence and foster a strong local identity.

Liveable Neighbourhoods provides guidance on a number of design elements including the movement network, lot layout, public parkland, urban water management and utility planning. The objectives of community design are a balance between urban and environmental outcomes.

A general principle of *Liveable Neighbourhoods* is to plan residential neighbourhoods around existing/planned activity centres. Generally, residential neighbourhoods should be located within 400 metres (i.e. 5 minute walk) of an activity centre.

Proposed residential development on the site is located over 1 kilometre from the Bayonet Head Shopping Centre and over 1 kilometre to the future Bayonet Head local centre to the north of the site. Based on previous planning for the locality, no additional activity centres are proposed for the site.

The site adjoins the Flinders Park Primary School and will be within walking distance of generous areas of public open space. The Amendment will assist to achieve key principles of walkable communities.

The required Structure Plan will be designed to have regard to relevant elements of *Liveable Neighbourhoods*. This includes the movement network, range of housing types and lot sizes, lot layout, provision of environmental conservation/public parkland, and effectively managing stormwater.

3.10 Environmental Protection Bulletins

There are a number of bulletins that were considered by the EPA and the Minister for Environment; Heritage in assessing *Strategic Environmental Assessment – Bayonet Head Plan for Development*. This included *Environmental Protection Bulletin 13 Guidance for the use of the Albany Regional Vegetation Survey in Environmental Impact Assessment* (2011) and *Environmental Protection Bulletin No. 20 – Protection of naturally vegetated areas through planning and development* (2013). Bulletin 13 included the EPA's endorsement of the *Albany Regional Vegetation Survey in Environmental Impact Assessment* (2011).

Based on Ministerial Statement 942, it is suggested the Amendment appropriately addresses EPA bulletins.

3.11 Great Southern Regional Planning and Infrastructure Framework (2015)

The Framework sets the strategic direction for future development in the Great Southern region for the next 20 years. The Framework addresses the scale and distribution of future population growth and opportunities for economic development and associated infrastructure priorities in the region.

The Framework's vision for the Great Southern Region (page 6) states:

'A future that promotes economic development and diversification, offers an attractive lifestyle and improved quality of life to a growing multicultural population and recognises the important links between economic activity, ecosystem functions and the region's outstanding nature conservation, biodiversity and heritage values.'

The vision is expressed through objectives and an agreed strategic direction for economic growth, population and sustainable settlements, transport, community infrastructure, essential services, natural assets, and culture, heritage and visual landscape. There is also a list of regional planning initiatives, a list of committed projects, a list of anticipated directions for regional infrastructure, and a framework map.

The Framework highlights that the region's population will continue to grow for reasons including in-migration from retirees, sea-changers and tree-changers. The Framework promotes the efficient use of land, promotes development in or near existing communities, and promotes a mix of lot sizes and dwelling types.

The Framework identifies Albany as a regional centre. It notes population and development growth will continue with the Framework promoting a more compact form of settlement planning.

The Amendment is considered consistent with the Framework.

3.12 Lower Great Southern Strategy 2016 (2016)

The Strategy sets out the broad strategic direction for the City of Albany and the Shires of Denmark, Plantagenet and Cranbrook for a 20 year timeframe. Its purpose is to guide regional land use and infrastructure planning and development, especially on matters of regional significance.

The Strategy seeks to balance economic, social and environmental considerations and to encourage development near existing settlements. The Strategy is designed to provide the region-wide context and ensure consistency when local governments are setting priorities for their respective areas through local planning strategies and schemes.

Albany is classified as a regional centre and the Strategy promotes development in Albany.

Of particular relevance to the Amendment is that it makes general recommendations regarding sustainable settlements and community development and makes reference to consolidating settlements and using infrastructure in a sustainable manner.

The Regional Land Use Plan shows the site as part of the Albany regional centre and Lower King Road as a secondary road.

The Amendment is considered consistent with the Strategy including supporting the development of Albany.

3.13 Albany Local Planning Strategy (2010)

ALPS sets the vision and long term land use planning direction for the City of Albany. It is suggested that ALPS is key strategic document relating to the site, given it has regard to relevant State and regional planning strategies/policies and has applied it spatially at a precinct level.

ALPS supports the growth of Albany and the need to ensure availability of appropriately located, serviced, planned and coordinated land to support this. Amongst matters, a key ALPS aim is supporting infill development and the consolidation of development within existing urban areas. Some of the objectives relating to strategic settlement planning include promoting energy conservation, providing greater housing choice, minimising journey length from home to work, school, and services, encouraging the use of public transport, cycling and walking, and reducing government expenditure on servicing current and future populations.

Vegetation linkages, or environmental corridors, are considered essential to preserve habitats for flora and fauna and maintain biodiversity.

The Strategic Plan: Urban is provided in Attachment 8. ALPS classifies the southern section of the site as 'Future Urban' while the northern section of the site is classified as a 'Local Reserve' (environmental corridor). In terms of future urban development, the site is identified as 'Priority 2'.

Page 127 of ALPS in part states 'Priority 2 promotes the continuing extension of the fronts in ...Bayonet Head'... Priority 2 areas have been structure-planned and/or are the subject of current subdivision applications. They can supply new lots within a short to medium development time frame.'

ALPS recognises the need to protect and plan for future residential areas. Structure Plans are required as mechanisms to coordinate future development. ALPS also reiterates the objectives of *Liveable Neighbourhoods*. These principles are required to be applied in the preparation of Structure Plans.

The Amendment is consistent with the strategic direction set by ALPS including the provision of an environmental corridor and promoting future urban development. Future structure planning will coordinate

subdivision/development. In particular, the Amendment meets ALPS objectives given:

- it supports the consolidation of development within existing urban areas and correspondingly contains the spread of fragmented urban areas;
- it is an efficient use of serviceable and developable land within or close to existing urban areas;
- the development proposal concentrates urban development within 33% of the site, retaining 67% in its natural state;
- lots can be oriented to allow for solar orientation to support solar passive dwellings;
- a wide variety of housing options will be provided at a range of densities;
- the development will promote walking and cycling;
- the site has the potential to be serviced by public transport, especially along Lower King Road; and
- it will be fully serviced.

3.14 City of Albany Local Planning Scheme No. 1 (2014)

The site is currently zoned 'General Agriculture' in a 'Development Contribution Area' in LPS1. The current LPS1 zonings and reservations surrounding the site are shown on the Existing Scheme Map. Land to the south and east of the site is land zoned 'Residential' with a density coding of R20. Land to the north and south-west of the site is zoned 'Future Urban'. Land to the north-east is zoned 'General Agriculture' in a 'Development Contribution Area'. The land to north-east is identified as 'Future Urban' in ALPS.

Clause 1.6 'Aims of the Scheme' of LPS1 includes the following aims:

- (a) Implement the findings of the *Albany Local Planning Strategy* (ALPS) within the City.
- (d) Promote a network of reserves and vegetated corridors throughout the City to protect areas of high conservation or scenic values and create corridors for fauna and flora linkages.

- (k) Provide for increased population growth within the City by establishing controls for the co-ordinated planning and development of land to be used for residential purposes allowing for complimentary uses to provide a range of services to meet the needs of the local residents.

Clause 4.2.3 of LPS1 sets out objectives for the Future Urban Zone. LPS1 states:

4.2.3 Future Urban Zone

- (a) Maintain viable uses for existing lots until the land is required to be fully-serviced urban development;
- (b) Preserve individual land parcels with their maximum area, so that the land will not be prematurely fragmented and future development options compromised;
- (c) Maintain and enhance the physical characteristics, environmental qualities and scenic qualities in the locality;
- (d) Permit limited development which is in keeping with the existing character of the locality and compatible with the likely future use of the land for urban or other purposes as determined by the Local Government following the preparation of a Structure Plan; and
- (e) Provide for structure planning of land within the zone to guide and coordinate land use and infrastructure provision where multiple ownerships or larger parcels of land requiring the staging of development is involved so that:
 - (i) Future urban land is not fragmented or developed in such a way as to make urban development more costly or difficult;
 - (ii) Development does not create an unreasonable or uneconomic demand

- (iii) for agencies to provide or extend public infrastructure or services; There is equitable sharing of the costs of infrastructure between owners and to ensure that cost contributions are only required towards such infrastructure as is reasonably required as a result of the subdivision and development of land; and
- (iv) Servicing agencies and Local Government can coordinate the timely provision of infrastructure to support the subdivision and development.

The Zoning Table (Table 1) states 'All land use and development to comply with clause 5.5.3'.

Sub-clause 5.5.3.1 states 'Notwithstanding any other requirement of the Scheme, for any lot within the Future Urban zone, the Local Government may only permit the following land uses...unless a Structure Plan has been prepared and adopted under clause 5.9 of the Scheme.' The deemed provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015* now set out the process to prepare, progress and approve Structure Plans.

Schedule 13 Development Contribution Areas applies to the site. The Amendment does not change its inclusion in the Development Contribution Area.

The Amendment introduces the 'Environmental Conservation' reserve which is consistent with Ministerial Statement 942. The *Planning and Development (Local Planning Schemes) Regulations 2015* (the 'Regulations') includes the 'Environmental Conservation' reserve in Schedule 3.

LPS1 is complemented by the *Planning and Development (Local Planning Schemes) Regulations 2015*. The Regulations include deemed provisions in Part 4 – Structure plans. This sets out the process for preparing, advertising, assessing and determining Structure Plans.

The Amendment is consistent with LPS1 requirements. A Structure Plan will be prepared to meet the requirements of the City and the WAPC.

3.15 Conceptual District Structure Plan

The City's *Conceptual District Structure Plan* identifies the southern section of the site as 'Future Urban' while the northern section of the site is classified as a 'Local Reserve' (environmental corridor). In terms of future urban development, the site is identified as 'Priority 2'.

Lower King Road is classified as an 'Integrator Arterial' road (4 Lanes/60kph/30-40m). An east-west 'Neighbourhood Collector' road (2 Lanes/60kph/20-25m) is conceptually shown to the north of the site.

3.16 Interim Bayonet Head Outline Development Plan (2007)

The Outline Development Plan, shown in Attachment 9, indicatively showed extensive urban development (residential R25 and R30) over the site along with linear public open space/conservation and an indicative road pattern. It stated 'Subject to environmental investigation & resolution' over the site. A future primary school site is identified to the north of the site.

The Outline Development Plan was endorsed by the WAPC in 2007. The area beyond the red boundary, including the site, was not however endorsed by the WAPC. There is accordingly no endorsed/approved Structure Plan covering the site.

3.17 City of Albany Community Strategic Plan 2023 (2014)

The City's vision is 'To be Western Australia's most sought-after and unique regional City to work, live and visit'. Key themes include 'Smart, Prosperous & Growing', 'Clean Green & Sustainable', 'A Connected Built Environment' and 'A Sense of Community'.

The Amendment is consistent with the Community Strategic Plan including that the proposal has manageable environmental and landscape impacts, it promotes public access and management of conservation areas, it promotes a safe and connected transport network, and it supports local job creation.

3.18 Planning framework implications for Amendment proposal

Common themes of the planning framework and their implications for the Amendment include:

- consolidation of existing settlements, including Albany, is preferable to isolated 'stand-alone' developments;
- Albany will remain the regional centre and a focus for employment and population growth;
- the southern section of the site is strategically identified as 'Future Urban' while the northern section of the site is classified as a 'Local Reserve' (environmental corridor);
- support for a variety of housing and promoting affordability;
- seeking a balance between conservation and urban consolidation/expansion;
- ensuring that key environmental assets are conserved;
- appropriate servicing including addressing stormwater management;
- addressing bushfire management and landscape impact;
- promoting residential development in appropriate locations. The Bayonet Head locality is a key residential development area in Albany;
- a requirement for sustainable and quality design;
- supporting local communities and local economies; and
- the need for structure planning and adopting relevant principles of *Liveable Neighbourhoods*.

Based on the above, the Amendment is consistent with the planning framework.

4. AMENDMENT PROPOSAL

4.1 Proposed Scheme Amendment

The Amendment proposes to rezone the site from 'General Agriculture' zone to 'Environmental Conservation' reserve and 'Future Urban' zone. In particular, approximately 67% of the site (48.26 hectares) will be included in an Environmental Conservation reserve and approximately 33% of the site (23.22 hectares) will be included in the Future Urban zone.

The Regulations state that a purpose of the Environmental Conservation reserve is 'To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision.'

Future Urban is considered to be the most appropriate zoning to facilitate subdivision/development in the development footprint. The rezoning of the land to Future Urban is a precursor to the preparation of additional technical investigations and a Structure Plan. The Future Urban zoning will put in place the statutory planning framework to enable structure planning, subdivision and development to occur.

The development of large areas requires some degree of flexibility as details in the design can change during the site's development. Factors that may alter the design include servicing requirements and issues and market demand. The most suitable zone to provide for this flexibility is the Future Urban zone. Through the guidance of an approved Structure Plan, it allows for detailed area planning to take place in an orderly and coordinated manner. This Future Urban zone has been used on land to the north, east and south-west of the site. It is also used on a number of other land parcels in Albany.

As outlined in section 3.14, sub-clause 5.5.3.1 of LPS1 requires the preparation and approval of a Structure Plan. This process will occur once the rezoning is in place. An Indicative Concept Plan has however, been prepared (see Attachment 10) which provides a general indication of the development that is envisaged for the site. Further details are outlined in section 4.2.

4.2 Indicative Concept Plan

In support of the Amendment, an Indicative Concept Plan is provided in Attachment 10. This outlines one way as to how the land might be developed following gazettal of this Amendment. The Indicative Concept Plan will be refined through more detailed investigations that will occur at the Structure Plan and subdivision stages.

The Indicative Concept Plan is conceptual only. It has been prepared to respond to the site's key opportunities and constraints and provides for an integrated planning outcome, complementing the site's context.

The Indicative Concept Plan covers the site along with Lot 1000 Lower King Road. It is intended to broadly show the allocation of key land uses and roads/movement systems. The rationale behind the Indicative Concept Plan includes to:

- provide an environmental conservation area (environment corridor) consistent with Ministerial Statement 942;
- reflect previous planning in the locality including the *Interim Bayonet Head Outline Development Plan* and the location of activity centres;
- provide pedestrian, cyclist and vehicle connections to surrounding urban areas guided by *Liveable Neighbourhoods* and the *City's Conceptual District Structure Plan*;
- address bushfire risk and provide multiple access routes and provide separation between future dwellings and the Environmental Conservation reserve through road reserves; and
- promote coordination between landowners.

Open space areas, other than the Environmental Conservation reserve, are not shown on the Indicative Concept Plan.

4.3 Future Structure Plan

The preparation and approval of a Structure Plan is a mandatory but separate statutory process to the rezoning of the site. A future Structure Plan will be prepared for the site to facilitate master-planned development. The Structure Plan will be prepared in accordance with the WAPC's *Structure Plan Framework* (2015).

To inform the Structure Plan, it will be necessary to undertake appropriate technical investigations. This will explore and resolve more detailed servicing, design and land management considerations. The Structure Plan will provide an explanation to the design approach and demonstrate how general planning principles and objectives have been taken into consideration.

The future Structure Plan will provide the overarching planning framework to guide and control the proposed development of the site for urban development. It is an appropriate means of assessing land capability and long term opportunities for the future development of the site in context with the broader local planning objectives.

The future Structure Plan will assess the future development of the land having considered its physical form and relationship with the surrounding natural landscape. The Structure Plan will provide a framework to develop the site for urban land use, consistent with a strategic planning vision to establish an identity and character for its future residents and the community.

As part of the Structure Plan, land will be allocated for housing, open space, infrastructure and possible community facilities. The predominant land use for the development footprint is residential. The Structure Plan will set proposed land uses, densities and the estimated lot/dwelling yield. It is expected that the Structure Plan will support a variety of lot sizes, budgets and lifestyles. This includes providing housing suitable for families, singles, younger adults and the active aged. It is expected that more detailed investigations and feasibility will include establishing a retirement/lifestyle village.

The Structure Plan will adopt principles including connectivity, walkability, affordability and quality of life. The future Structure Plan will integrate with surrounding and planned development. It is expected that the Structure Plan will set out a movement network that facilitates future lots being primarily orientated either east/west or north/south to accommodate solar efficiency. Future design should seek to promote the site's 'sense of place' and create a built and nature form that is site responsive.

The Regulations outline the requirements and procedure for the preparation and approval of Structure Plans. The future Structure Plan will be subject to community and stakeholder consultation.



Part of the wetland vegetation that will be protected and incorporated into the Environmental Conservation Reserve.

5. PLANNING CONSIDERATIONS AND PLANNING JUSTIFICATION

5.1 Overview

This section brings together an assessment of the site's attributes and the planning framework in considering key planning considerations and justifying the Amendment.

5.2 Suitability of proposed reservation and zoning

The Amendment is consistent with the decision of the Minister for Environment; Heritage on 9 August 2013 (Ministerial Statement No. 942) which is set out in Attachment 6. This concluded that there is a requirement to conserve significant conservation areas in perpetuity along with supporting urban development in other parts of the SEA area. This included supporting urban development in the south-east section of the site (the 'development footprint').

The Amendment sets aside approximately 67% of the site (48.2 hectares) within the Environmental Conservation reserve which is consistent with the Ministerial Statement. Approximately 33% of the site is proposed to be rezoned to 'Future Urban'.

The development footprint is considered suitable for urban development for reasons including:

- key environmental impact considerations were reviewed in the SEA and addressed in Ministerial Statement No. 942;
- numerous planning policies and strategies support residential use in areas which are within or adjoining cities and townsites (see section 3). More specifically, ALPS and the *Conceptual District Structure Plan* identify the southern section of the site as 'Future Urban';
- it forms part of the Albany urban area which provides educational, recreational, commercial and community services along with employment opportunities;
- it adjoins the Flinders Park Primary School and is near activity centres and other facilities. This facilitates walking and cycling which reduces the reliance on cars;

- is it compatible with adjoining and nearby land uses/development;
- it will be appropriately serviced in accordance with local government and State Government requirements; and
- the site is gentle sloping land on soil types which are generally consistent with surrounding urban development.

5.3 Environmental impact

Environmental studies and associated assessments have been going on for nearly a decade for this site and nearby land. More recently, the EPA has assessed the SEA and the Minister for the Environment; Heritage on 9 August 2013 issued Ministerial Statement 942 (Attachment 6). The Ministerial Statement allows clearing and urban development for 33% of the site and for 67% of the site to be ceded as an Environmental Conservation reserve. Background details are outlined in section 2.6.

The Ministerial Statement includes various conditions, including requirements for a Conservation Area Management Plan and Construction Management Plan. The developer is responsible for managing the conservation area for 10 years or until the land is ceded to the City. In time, the conservation area will be ceded to and managed by the City.

The Amendment and associated subdivision/development will have manageable environmental impacts for reasons including:

- the SEA and Ministerial Statement 942 addressed key environmental impact considerations;
- the Amendment is consistent with the Ministerial Statement;
- the Amendment will continue to provide important vegetation and associated conservation values, including habitat for threatened flora and fauna species.
- 67% of the site will be set aside for environmental conservation and ceded to the City. This will retain an east-west environmental corridor;
- as set out in the SEA, there no acid sulphate soil risk within the development footprint;
- lots will be connected to reticulated sewerage system;

- stormwater will be effectively managed in accordance with a LWMS and UWMP;
- the site is capable of accommodating urban development and limitations can be overcome by design and management inputs;
- creative engineering solutions including road design, lot layout and orientation, on-site stormwater management and minimal disturbance of the existing topography will further reduce the environmental impact of the proposal;
- there are opportunities for appropriate revegetation/landscaping on portions of the site;
- integration with the existing shared paths network provides further opportunity to reduce dependence on cars. Additionally, the site adjoins the Flinders Park Primary School and is near commercial development and other facilities which facilitates walking and cycling which reduces the reliance on cars; and
- it is not a contaminated site.

It is suggested that subject to addressing conditions of Ministerial Statement 942 and subdivision conditions, that future subdivision/development is expected to result in minimal on-site or off-site environmental impacts.

5.4 Landscape impact

The Amendment will have minimal landscape impacts. Importantly, 67% of the site will be set aside for environmental conservation including most of the land adjoining Lower King Road which is an important tourist route. It is expected that there will be sensitive interface between the development and Lower King Road.

It is also expected that subject to addressing bushfire management considerations, that various mature trees and vegetation will be retained in the area zoned 'Future Urban' including in road reserves. The retained native vegetation will assist to create a sense of place. There will also be replanting on future lots along with anticipated design guidelines.

5.5 Bushfire management

Bushfire management is a fundamental planning consideration given the majority of site is vegetated. A Bushfire Attack Level Assessment and Bushfire Hazard Level Mapping Report (BHLA) was prepared by Bio Diverse Solutions (see Attachment 7). The BHLA addresses *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP 3.7) and the *Guidelines for Planning in Bushfire Prone Areas* (2015).

Bio Diverse Solutions conclude that subdivision/development on the site will meet the *Guidelines'* acceptable solutions for:

- Element 1 - Location;
- Element 2 - Siting and Design of Development;
- Element 3 - Vehicular Access; and
- Element 4 - Water.

Future development can achieve a BAL rating between BAL – Low to BAL 29. Accordingly, it is suggested that bushfire risks can be appropriately managed within acceptable limits.

The Indicative Concept Plan promotes a permeable access network, with the proposed development to be served by multiple access routes. Roads will border the environmental conservation reserve. This will provide a hazard separation zone between the environmental conservation reserve and residential and associated development. It is also expected that the hazard separation zone will include a dual use path, introducing fire retardant native plants and road-side drainage swales.

Future subdivision/development will be serviced with reticulated water and fire hydrants. There will be an Asset Protection Zone, dwellings in Bushfire Prone Areas will be built to AS 3959 *Construction of Buildings in Bush Fire Prone Areas*, and other measures to reduce bushfire risk.

There is a requirement to prepare a Bushfire Management Plan to support the Structure Plan. Additional more detailed bushfire investigations will occur at the subdivision, development and building permit stages.

5.6 Movement networks

5.6.1 Traffic impact

Various traffic impact studies have been prepared for the locality including by Riley Consulting in 2007. In summary, these studies conclude that the proposed, adjoining and nearby road network and intersections have sufficient capacity to address traffic generation from the proposed development.

The previous assessments were based on virtually the entire undeveloped portion of Bayonet Head being developed for residential use. Ministerial Statement 942 however significantly changed the extent of urban development in the vegetated sections of the locality. As a result, the Amendment proposes that around 67% of the site will remain undeveloped. The associated lot yield and traffic impacts from the site are accordingly considerably lower than envisaged in previous traffic impact studies.

5.6.2 Roads

There is a high level of connectivity to the Albany city centre and the Albany urban area. This will ensure convenient vehicular access that meets safety and amenity objectives.

The Indicative Concept Plan shows some of the indicative roads on the site along with connections to adjoining areas. This will be refined through the Structure Plan process and at the subdivision stage. *Liveable Neighbourhoods* and relevant engineering standards, such as *Local Government Guidelines for Subdivisional Development*, will inform the design process at the Structure Plan and subdivision stages.

There are appropriate vehicular sight distances from the anticipated key access road onto Lower King Road which will facilitate safety for road users. In the medium to longer term, there may be a future need to widen Lower King Road to provide a four lane dual carriageway.

Roads will provide a boundary to Environmental Conservation reserve. This will assist with management and increasing vigilance and safety.



View of Lower King Road showing that a future intersection will have appropriate sight distances.

The future road layout will provide a connected, legible and logical movement system whilst remaining responsive to landform. It will make use of existing access points into the site and will spread the traffic load across a number of routes. It is expected that the design will incorporate measures to create an appropriate speed environment throughout the development. This may in part include some round-a-bouts, median islands, change of road construction materials and the use of street trees.

The alignment and orientation of roads will cater for stormwater management requirements as well as maximising solar access.

5.6.3 Walking and cycling

The site's location and attributes provide opportunities for cycling and walking. This includes the proposed generous environmental conservation areas to be ceded to the City along with an adjacent cycle path that connects Lower King to Albany's central business district and further afield.

Walking and cycling will be promoted through the provision of a footpath/dual use path network and low-speed roads to encourage convenient and safe pedestrian and cycling movement. Footpaths/dual use paths will be established by developers on the site in accordance with *Liveable Neighbourhoods* at the subdivision stage.

5.7 Servicing

5.7.1 Overview

The site is capable of being serviced by all necessary utilities required for subdivision/development. It is understood that capacity allowances have been made to provide services to the locality. Detailed service planning and design will occur as structure planning and the subdivision proposals advance.

Future subdivision will be appropriately serviced in accordance with City, WAPC and other government agency requirements. Future subdivision will require the extension and upgrading of essential civil infrastructure such as reticulated water, reticulated sewer, power and stormwater.

5.7.2 Stormwater management

There have been various drainage and water management plans prepared for the locality. This includes the *Bayonet Head Drainage Study* by Wood & Grieve in 1999 and the *Bayonet Head Flood Management Plan* by PPK Environment & Infrastructure Pty Ltd in 2000. These plans concluded there were no 'fatal flaws' in addressing drainage associated with urban development on the site.

Stormwater management systems will be required to be designed in accordance with the objectives, principles and delivery approach outlined in the *Stormwater Management Manual for Western Australia*. This will require a water sensitive design that detains stormwater, promotes at source infiltration and removes nutrients and contaminants. This includes that post development hydrology is required to be designed to be as close as possible to the pre-development hydrology.

Based on surrounding urban development, it is suggested that stormwater can be effectively managed on proposed lots, within sub-catchments and for the site. For instance, infiltration on the site appears appropriate with little current surface runoff. Additional runoff generated by the development will be detained within the site and managed through the use of rainwater tanks, soak wells, pervious paving, vegetated swales and detention basins.

In addition to reticulated water supplies, onsite rainwater catchment and storage is encouraged as a sustainability measure and will assist in stormwater attenuation.

A Local Water Management Strategy (LWMS) will be prepared to inform and complement the Structure Plan. The approved LWMS will be refined through the preparation of an Urban Water Management Plan (UWMP) to support subdivision applications.

5.8 Activity centres, employment and supporting economic development

The site is near the Bayonet Head Shopping Centre and a planned future Bayonet Head local centre to the north of the site. Based on previous planning for the locality, no activity centres are proposed within the site. The established planning framework is to not compete directly with existing and planned activity centres.

While noting the above, a future Structure Plan may determine that a community hub should be established to complement development such as a retirement/lifestyle village. The possible range of uses could include community, office and incidental/small-scale retail. An example of a complementary use is a medical consulting room.

In keeping with sustainability principles of creating a walkable residential area and reduction of car use it is important to encourage local sources of employment wherever possible. Home business, home occupation, home office and other low-key uses are expected to be appropriate in future residential areas. These land uses encourage local employment with little effect on residential amenity.

Future subdivision and development of the site will have various economic benefits. This includes supporting local employment through the construction of subdivision works and new dwellings. Increasing population in Albany will add to its overall viability, vitality and prosperity and build onto an existing community with established facilities, services and infrastructure and assist to strengthen and sustain Albany.

5.9 Schools

The Flinders Park Primary School adjoins the site. There are also a number of public and private schools (K-12) within a short car or bus journey from the site.

Based on previous planning for the locality, it is expected that a future primary school will in time be required to be developed to the north of the site (shown indicatively in Attachment 9). It is expected that developers will be required to make a pro-rata contribution towards the cost of acquiring the new primary school site in the locality.

5.10 Development contributions

The site is located within a Development Contribution Area in LPS1. At future planning stages, there will be a need to clarify developer contributions for development on the site. Developer contributions are to be consistent with LPS1 and *State Planning Policy 3.6 – Development Contributions for Infrastructure*.

5.11 Staging

As outlined in section 2.1, the site is owned by different landowners. Accordingly, it is anticipated that a staged development will occur. The formulation of stages will be based on considerations including the location and capacity of services, demand and feasibility considerations. While noting this, there will be a need to adopt a coordinated approach to service provision and securing and implementing two access routes to address bushfire management considerations.

5.12 Land supply

The *State Planning Strategy 2050* and other planning documents support the on-going growth of Albany as a regional centre. The site forms part of Albany's 'development footprint' as established by the planning framework. As outlined in section 3.13, ALPS identifies the locality as 'Priority 2' in terms of future urban development.

There is a recognised need to provide affordable residential land in Albany. The

proposed lots, when approved and created, will provide an important supply of residential lots in a desirable part of Albany. The site provides an opportunity for a wide range of housing choices to the purchasing public.

5.13 Moratorium

At the Ordinary Council Meeting held Tuesday 28 July 2015, the following question was taken on notice Will the moratorium delay or adversely affect the Oyster Harbour Joint Venture land that is currently zoned agricultural? The City's Executive Director Planning and Development provided the following response:

The City considers that development of the Oyster Harbour Joint Development land that is currently zoned agriculture will be rezoned and developed in accordance with the endorsed structure plan, and that planning for the site will not be delayed or adversely affected by the moratorium on subdivision of productive agricultural land.

Development of the site will not result in a loss of productive agricultural land given it is mostly covered in remnant vegetation and not used for agriculture. The site is also surrounded by existing and proposed urban development making it unsuitable for normal farming operations.

5.14 Lot 1000 Bayonet Head Road

Lot 1000 is currently zoned 'Future Urban' in LPS1. To reflect Ministerial Statement 942, the land identified as Environmental Conservation will be ceded to the Crown free of cost as part of a future subdivision application. In time, the land to be ceded as Environmental Conservation will be included in an Environmental Conservation Reserve. Lot 1000 will also be included in a future Structure Plan.

5.15 Planning justification

The planning justification for the Amendment is summarised below in Table 2:

Table 2 – Summarised planning justification for Amendment				
Strategic	Land Use Planning	Environment and Landscape	Transport and Servicing	Economic
<p>The proposal is consistent with the State, regional and local planning framework including that the southern section of site is allocated as 'Future Urban' in ALPS.</p> <p>The development reinforces Albany as a regional centre.</p> <p>The proposal will assist to meet the demand for residential development in a planned, orderly and sustainable manner.</p> <p>It will result in no loss of agricultural land.</p> <p>It will provide an important supply of land which can offer a variety of lot sizes, budgets and lifestyles. The development can assist to improve housing affordability.</p> <p>It utilises land resources in close proximity to the Bayonet Head Shopping Centre, Flinders Park Primary School and urban infrastructure.</p> <p>It provides additional community benefits to the local and wider Albany community including the provision of public land.</p>	<p>The site is well located for proposed urban development and it will be compatible with adjoining and nearby uses.</p> <p>It will facilitate and complement residential development in a locality that is already urbanised. The site is surrounded by existing, approved and proposed urban development.</p> <p>The site is considered suitable and capable for urban development.</p> <p>Development will be effectively controlled through LPS1 provisions and a future Structure Plan.</p> <p>A Structure Plan is required prior to subdivision. This provides the City and the WAPC assurances that more detailed planning and servicing considerations are appropriately addressed.</p> <p>The site is a significant sized land parcel that can achieve a cohesive and well planned development. It presents an opportunity for a master planned community.</p>	<p>Ministerial Statement 942 concludes that urban development within the development footprint is environmentally acceptable.</p> <p>67% of the site (or 48.2 hectares) will be retained as natural bushland and will become an Environment Conservation reserve. This land will be transferred from private ownership to the City.</p> <p>Bushfire management measures will comply with the objectives of SPP 3.7 and the <i>Guidelines for Planning in Bushfire Prone Areas</i>.</p> <p>The site is not subject to heritage constraints nor is it located in a public drinking water source area.</p> <p>There will be minimal landscape impacts when viewed from major roads and tourist routes.</p>	<p>The site has excellent road connectivity and easy access to Albany and other areas.</p> <p>The site enjoys direct access and frontage to various roads. This allows a choice of routes as well as the spread of traffic load.</p> <p>There are appropriate vehicular sight distances from the anticipated road accessing Lower King Road.</p> <p>Traffic impacts can be readily accommodated on Lower King Road.</p> <p>Future development will provide opportunities for cycling and walking.</p> <p>There are opportunities to progressively enhance accessibility and connectivity in the locality.</p> <p>The development will be fully serviced.</p> <p>Stormwater management can be appropriately located and designed.</p>	<p>The development will promote job creation which is consistent with the planning framework.</p> <p>The proposal will assist to enhance Albany through increasing its population, adding to its overall viability, vitality and prosperity, increasing the economic viability of existing services and potentially adding to the range of services that can be provided.</p> <p>The development footprint provides scope for an important supply of residential land.</p> <p>Larger parcels of land are more likely to be developed comprehensively than more fragmented parcels of land.</p>

In view of the above, the Amendment is considered consistent with the planning framework and the principles of orderly and proper planning.

6. CONCLUSION

This report has set out that the Amendment is consistent with the planning framework and that a portion of the site, the development footprint, is considered to be both suitable and capable of accommodating urban development.

The Amendment implements State, regional and local planning objectives by providing for zoning controls which allow the orderly planning of the site and ultimately provide for the sustainable use and development of the land. A co-ordinated approach to the planning of this site will be achieved through the zoning controls and the need to prepare and gain approval to a Structure Plan.

The support of the WAPC and the Hon. Minister for Planning is requested to approve the Amendment to rezone the site from 'General Agriculture' zone to 'Future Urban' zone and 'Environmental Conservation' reserve.

PLANNING AND DEVELOPMENT ACT 2005

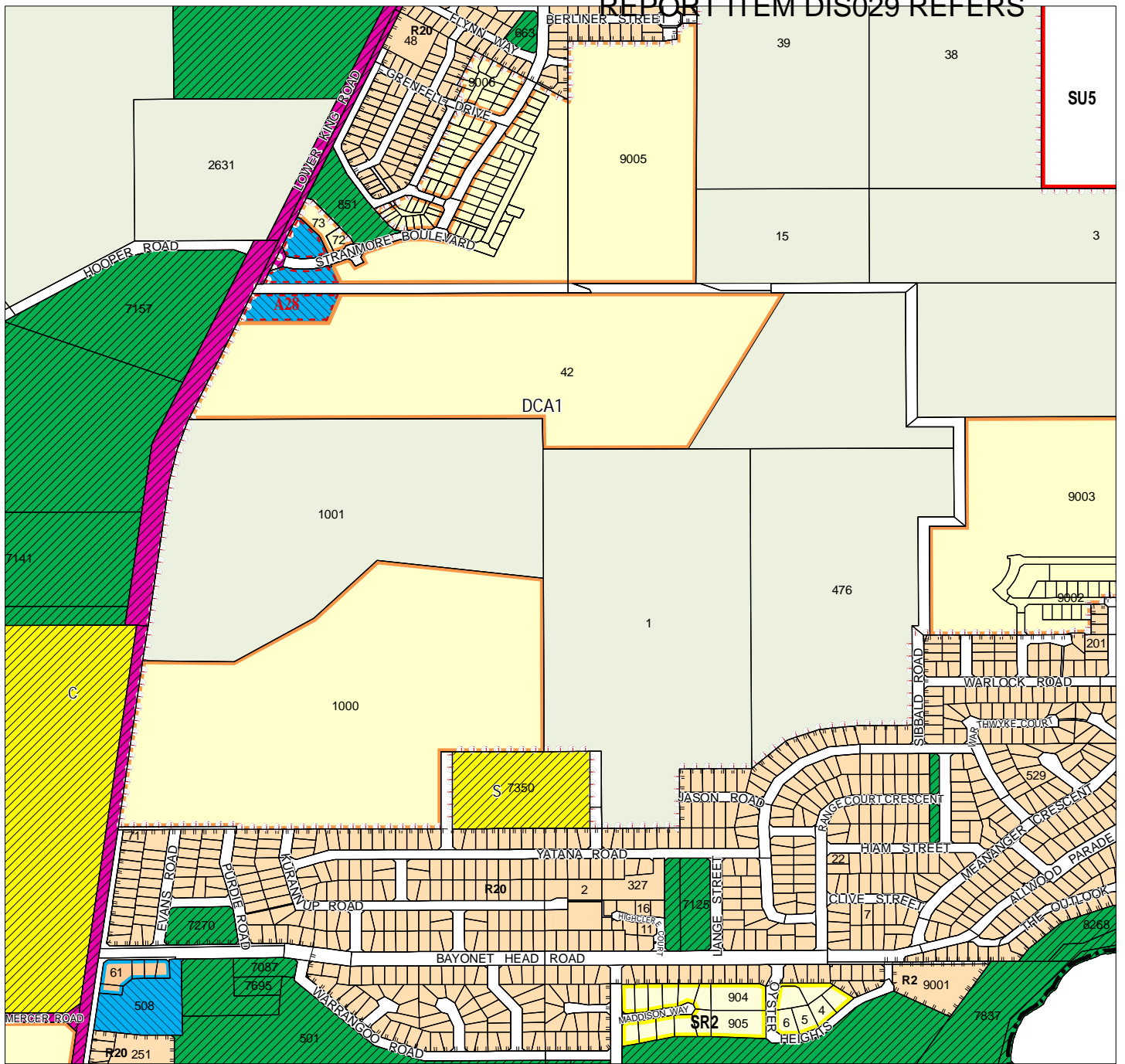
CITY OF ALBANY

LOCAL PLANNING SCHEME No. 1

AMENDMENT No. 22

The City of Albany under and by virtue of the powers conferred upon it in that behalf by the *Planning and Development Act 2005* hereby amends the above local planning scheme by:

1. Creating a new 'Environmental Conservation' reserve.
2. Adding a notation to the Scheme Map legend.
3. Rezoning Lot 1 Jason Road and Lot 476 Sibbald Road, Bayonet Head from 'General Agriculture' zone to 'Future Urban' zone and 'Environmental Conservation' reserve.
4. Transferring Lot 1001 Lower King Road, Bayonet Head from 'General Agriculture' zone to 'Environmental Conservation' reserve.
5. Amending the Scheme Maps accordingly.



EXISTING SCHEME MAP

Legend

- | | | |
|--------------------------|----------------------|------------------------------------|
| Cadastre with Lot number | Residential | C Public use : Cemetery |
| Scheme boundary | Special residential | S Public use : School |
| R Codes | Special use | LPS Other Categories |
| LPS Zones | LPS Reserves | DCA1 Development contribution area |
| Future urban | Local road | |
| General agriculture | Parks and recreation | |
| Local centre | Priority road | |
| Neighbourhood centre | Public use | |

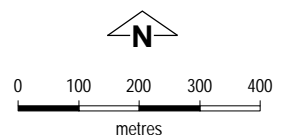


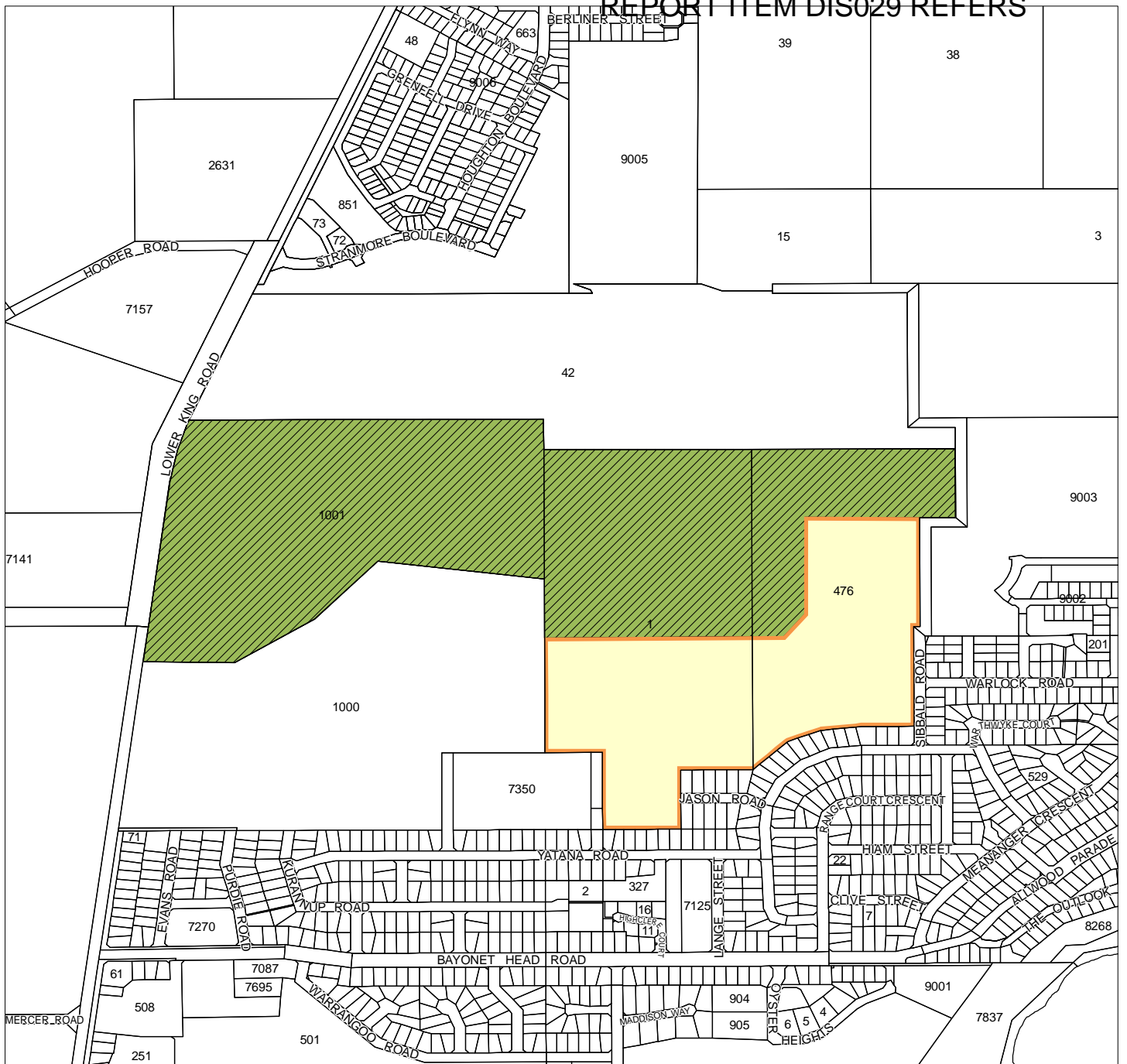
Department of Planning

City of Albany

Local Planning Scheme No. 1




Amendment No. 22





PROPOSED SCHEME AMENDMENT MAP

Legend

-  Cadastre with Lot number
- LPS Zones and Reserves Amendments**
-  Environmental conservation reserve
-  Future urban

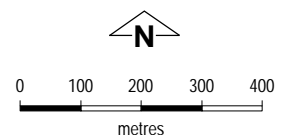


Department of Planning

City of Albany

Local Planning Scheme No. 1

Amendment No. 22



COUNCIL RECOMMENDED/SUBMITTED FOR APPROVAL

Supported for submission to the Minister for Planning for approval by resolution of the City of Albany at the Meeting of the Council held on the and the Common Seal of the City of Albany was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....

MAYOR

.....

CHIEF EXECUTIVE OFFICER

WAPC RECOMMENDED/SUBMITTED FOR APPROVAL

.....

DELEGATED UNDER S.16 OF THE
PLANNING AND DEVELOPMENT ACT 2005

DATE.....

APPROVAL GRANTED

.....

MINISTER FOR PLANNING
S.87 OF THE PLANNING AND DEVELOPMENT ACT 2005

DATE.....

ATTACHMENT 1

WESTERN



AUSTRALIA

REGISTER NUMBER 1/D27229	
DUPLICATE EDITION 2	DATE DUPLICATE ISSUED 11/8/2005

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME
2036

FOLIO
496

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 1 ON DIAGRAM 27229

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

THE STATE HOUSING COMMISSION OF 99 PLAIN STREET, EAST PERTH
IN 1/2 SHARE
LOWE PTY LTD OF SUITE 6, 132-136 RAILWAY STREET, COTTESLOE
IN 1/2 SHARE
AS TENANTS IN COMMON

(T J367904) REGISTERED 21 JULY 2005

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

1. THE LAND THE SUBJECT OF THIS CERTIFICATE OF TITLE EXCLUDES ALL PORTIONS OF THE LOT DESCRIBED ABOVE EXCEPT THAT PORTION SHOWN IN THE SKETCH OF THE SUPERSEDED PAPER VERSION OF THIS TITLE. VOL 2036 FOL 496.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 2036-496 (1/D27229).
PREVIOUS TITLE: 1529-854.
PROPERTY STREET ADDRESS: NO STREET ADDRESS INFORMATION AVAILABLE.
LOCAL GOVERNMENT AREA: CITY OF ALBANY.
RESPONSIBLE AGENCY: DEPARTMENT OF HOUSING (SSHC) AS TO SHARE ONLY.

WESTERN



AUSTRALIA

REGISTER NUMBER 1001/DP47513	
DUPLICATE EDITION 2	DATE DUPLICATE ISSUED 24/10/2006

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME
2605

FOLIO
320

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 1001 ON DEPOSITED PLAN 47513

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

HOUSING AUTHORITY OF 99 PLAIN STREET, EAST PERTH
LOWE PTY LTD OF SUITE 6, COTTESLOE CHAMBERS, 132-136 RAILWAY STREET, COTTESLOE
AS TENANTS IN COMMON IN EQUAL SHARES

(T J941329) REGISTERED 6 OCTOBER 2006

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: DP47513.
PREVIOUS TITLE: 1550-170.
PROPERTY STREET ADDRESS: NO STREET ADDRESS INFORMATION AVAILABLE.
LOCAL GOVERNMENT AREA: CITY OF ALBANY.
RESPONSIBLE AGENCY: DEPARTMENT OF HOUSING (SSHC) AS TO SHARE ONLY.

NOTE 1: A000001A PENDING SURVEY - PLAN 23051.



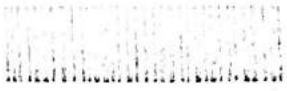
Application A855693

WESTERN



AUSTRALIA

Volume 1376 Folio 404



1384 891

CERTIFICATE OF TITLE

UNDER THE "TRANSFER OF LAND ACT, 1893" AS AMENDED

I certify that the person described in the First Schedule hereto is the registered proprietor of the undermentioned estate in the undermentioned land subject to the easements and encumbrances shown in the Second Schedule hereto.

DATED 31st July, 1974

McQuarling
ACTING REGISTRAR OF TITLES



ESTATE AND LAND REFERRED TO

Estate in fee simple in portion of Plantagenet Location 3470 and being Lot 476 on Diagram 47264, delineated and coloured green on the map in the Third Schedule hereto, limited however to the natural surface and therefrom to a depth of 60.96 metres.

FIRST SCHEDULE (continued overleaf)

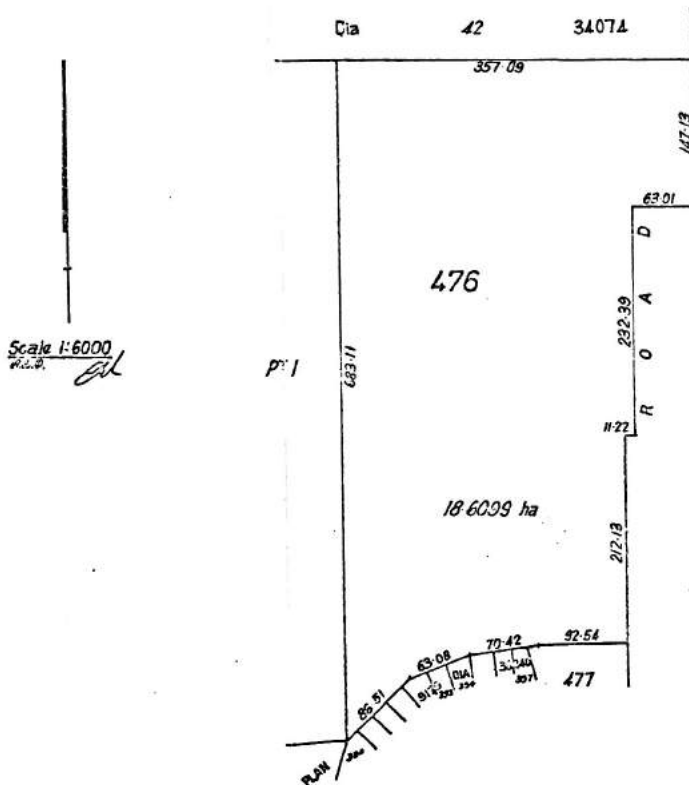
~~Charles Johnson, Farmer, of three undivided fourth shares and Sadie Mary Johnson, his wife, of one undivided fourth share, both of Lower Kalga, via Albany, as tenants in common~~

SECOND SCHEDULE (continued overleaf)

~~1. MORTGAGE 65870/66 to Commonwealth Trading Bank of Australia, Registered 21.9.66 at 9.56 p.c. Discharged (A912251, 13.1.75)~~

McQuarling
ACTING REGISTRAR OF TITLES

THIRD SCHEDULE

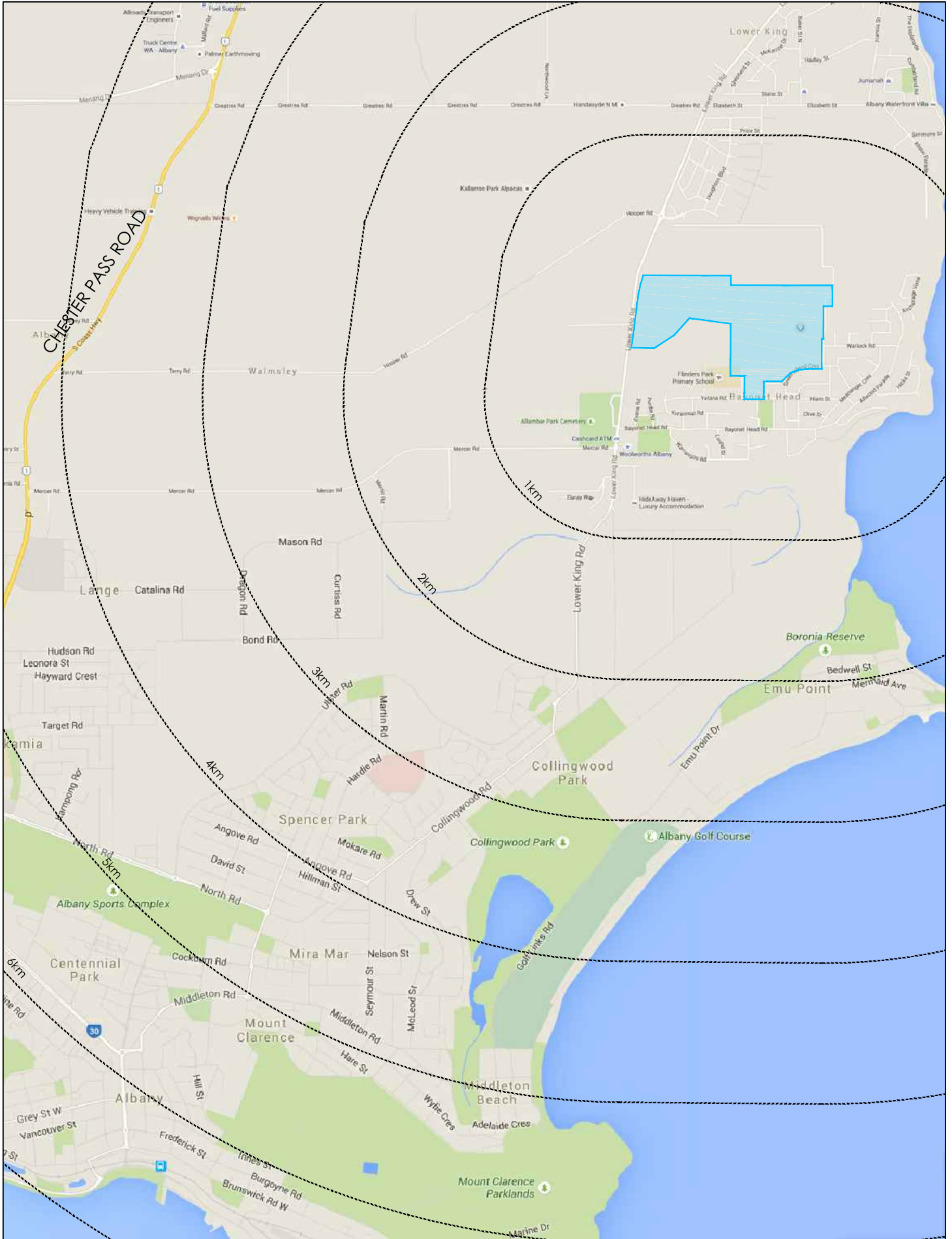


NOTE: RULING THROUGH AND SEALING WITH THE OFFICE SEAL INDICATES THAT AN ENTRY NO LONGER HAS EFFECT. ENTRIES NOT RULED THROUGH MAY BE AFFECTED BY SUBSEQUENT ENDORSEMENTS.

PERSONS ARE CAUTIONED AGAINST ALTERING OR ADDING TO THIS CERTIFICATE OR ANY NOTIFICATION HEREON

Page 1 (of 2 pages) 1384 891 VOL. FOL.

ATTACHMENT 2



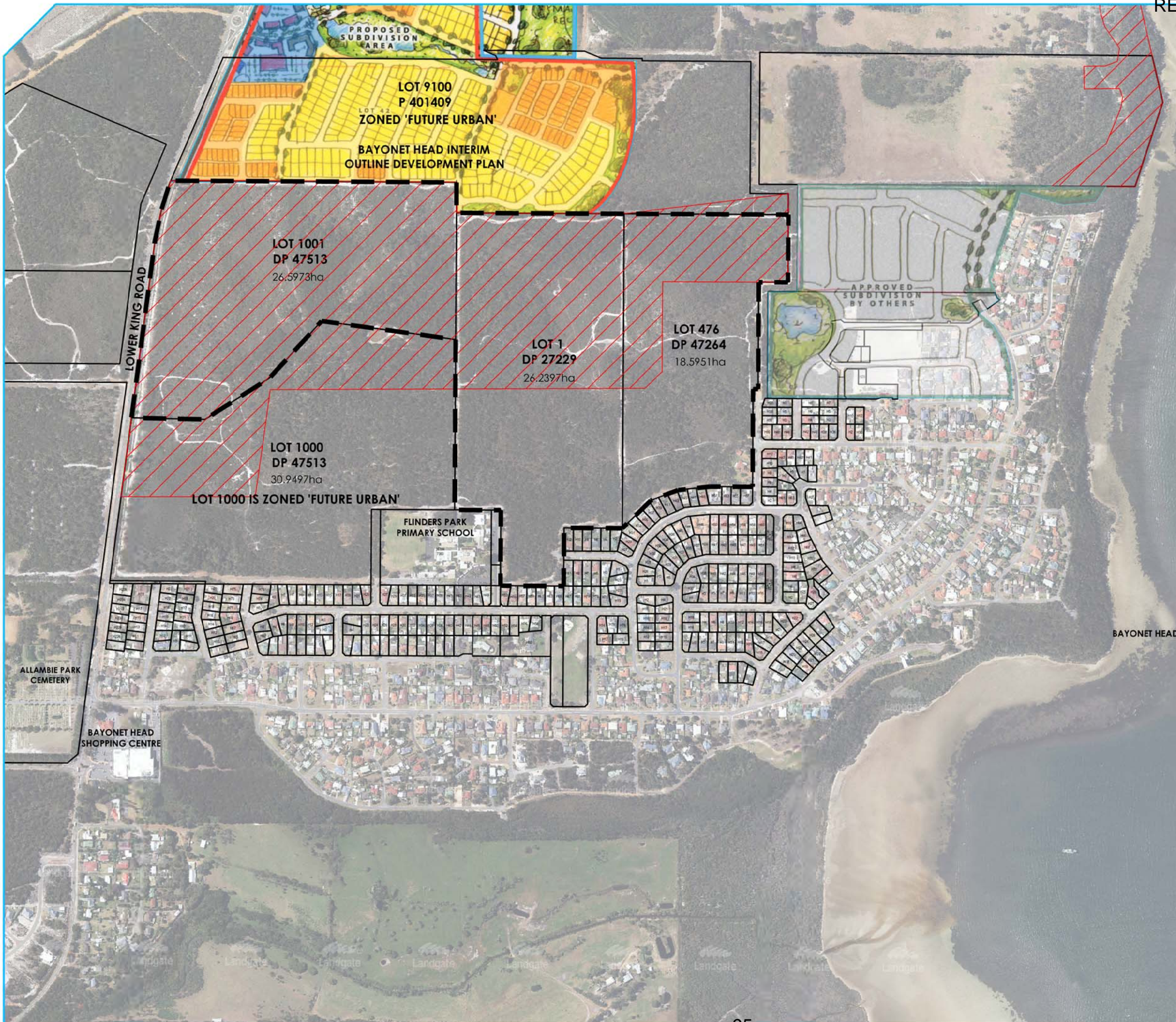
LOCATION PLAN
City of Albany



ATTACHMENT 3

CONTEXT AND CONSTRAINTS PLAN

Lot 1001 Lower King Road,
 Lot 1 Jason Road and
 Lot 476 Sibbald Road
 Bayonet Head
 City of Albany



LEGEND

- SCHEME AMENDMENT BOUNDARY
- EXISTING CADASTRE
- STRATEGIC ENVIRONMENTAL ASSESSMENT CONSERVATION AREA



REV	DESCRIPTION	DATE	BY	ST
B	MINOR MODIFICATIONS	1/20/04	SJ	ST
A	AMENDMENT SITE	1/6/04	SJ	ST
		YYMMDD	DRAWN	APPRVD

edge
 PLANNING & PROPERTY
 Edge Planning & Property
 104 Hale Street, Mount Clarence
 ALBANY WA 6330
 W: www.edgeplanning.com.au
 E: jstev@edgeplanning.com.au
 M: 0409 107 334

DRAWING NUMBER REV
 EP 160404 DT B

ATTACHMENT 4

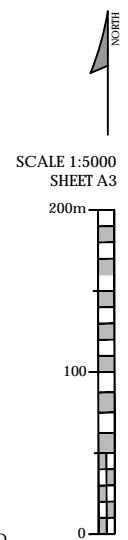
AMENDMENT SITE

Lot 1001 Lower King Road,
 Lot 1 Jason Road and
 Lot 476 Sibbald Road
 Bayonet Head
 City of Albany



LEGEND

- AMENDMENT SITE
- $\frac{1}{1005}$ EXISTING LOT DETAILS
- U/GROUND SEWER PIPE
- U/G WATER PIPE



REV	DESCRIPTION	DATE	BY	CHK
B	MINOR MODIFICATIONS	160506	SJ	ST
A	AMENDMENT SITE	160406	SJ	ST
REV	DESCRIPTION	YMMDD	DRAWN	APPRVD

edge PROPERTY
 Edge Planning & Property
 134 Hans Street, Mount Clarence
 ALBANY WA 6330
 W www.edgeplanning.com.au
 E steve@edgeplanning.com.au
 M 0409 107 336

DRAWING NUMBER
 EP 160404 01

REV
 B

Issued for design intent only.
 All areas and dimensions are
 subject to detail design + survey.

ATTACHMENT 5



Report and recommendations of the Environmental Protection Authority



Bayonet Head Plan for Development

Lowe Pty Ltd
Housing Authority
K Slee
E and M Cameron
M Greer
City of Albany

Report 1447

August 2012

Management Environmental Impact Assessment Process Timelines

Date	Progress stages	Time (weeks)
24/11/08	Level of Assessment set (date appeals process completed)	
20/04/09	Scoping document released for public comment	21
4/05/09	Public comment period closed	2
19/05/09	Final proponent response to the issues raised	2
3/05/10	Proponent document released for public comment	50
14/06/10	Public comment period closed	6
30/06/11	Final proponent response to the issues raised	54
21/05/12	Proponent's modification to proposal	43
08/08/12	EPA report to the Minister for Environment (including 3 weeks consultation on conditions)	11
13/08/12	Publication of EPA report	0.5
27/08/12	Close of appeals period	2

STATEMENT ON TIMELINES

Timelines for an assessment may vary according to the complexity of the project and are usually agreed with the proponent soon after the level of assessment is determined.

In this case, the Environmental Protection Authority did not meet its agreed timeline objective for the completion of the assessment and provision of a recommendation to the Minister, due to extended discussions with the proponent and key government agencies during the consultation on conditions.



Dr Paul Vogel
Chairman
9 August 2012

ISSN 1836-0483 (Print)
ISSN 1836-0491 (Online)
Assessment No. 1758

Summary and recommendations

This report provides the Environmental Protection Authority's (EPA's) advice and recommendations to the Minister for Environment on the strategic proposal to develop Bayonet Head for urban purposes (Bayonet Head Plan for Development) by Lowe Pty Ltd, Housing Authority, MB and EM Cameron, K Slee, M Greer and the City of Albany.

The Bayonet Head Plan for Development was referred to the EPA, and has been assessed as a strategic proposal as it identifies a future staged urban subdivision and urban development of land, with each stage subject to consideration as a derived proposal under section 39B of the *Environmental Protection Act 1986* (EP Act).

Pursuant to sections 44 and 40B of the EP Act the EPA is required to report to the Minister for Environment on the outcome of its assessment of a proposal. The report must set out:

- the key environmental factors identified in the course of the assessment; and
- the EPA's recommendations as to whether or not the future proposals identified in the strategic proposal may be implemented, and, if the EPA recommends that the future proposal may be implemented, the conditions and procedures to which implementation should be subject.

The EPA may include in the report any other advice and recommendations as it sees fit.

The EPA is also required to have regard for the principles set out in section 4A of the EP Act.

Key environmental factors and principles

The EPA decided that the following key environmental factor is relevant to the strategic proposal and required detailed evaluation in the report:

- (a) Conservation values - the protection of native vegetation, flora, fauna and wetlands.

There were a number of other factors which were relevant to the strategic proposal, but the EPA is of the view that they are evaluated sufficiently in Appendix 3.

The following principles were considered by the EPA in relation to the strategic proposal:

- (a) the precautionary principle
- (b) the principle of intergenerational equity; and
- (c) the principle of the conservation of biological diversity and ecological integrity.

Conclusion

The EPA has considered the strategic proposal to develop Bayonet Head for urban purposes and identify a conservation area within the 191 hectare (ha) Strategic Environmental Assessment (SEA) area.

The SEA area contains significant environmental values which require protection. Therefore, identifying a conservation area, which is intended to protect and enhance

the key environmental values within the SEA area in the context of the proponents' aim of providing land for urban purposes, was determined to be the key issue in assessing this proposal.

The EPA notes that the proponents have modified the strategic proposal to include a total of 62.75 ha of land within the SEA area for conservation purposes, increasing the provision of land for conservation by 23 ha. This modification comprises 58 ha for a Conservation Area and 4.75 ha for a Foreshore Reserve. The EPA also notes that in order to ensure the long term maintenance of conservation values the proponent has committed to manage this proposed Conservation Area and Foreshore Reserve for 10 years.

The proponents' provision of land for conservation purposes represents 32.8% of the entire SEA area, and 42% of the native vegetation present in the SEA area.

The EPA has recommended that the Conservation Area be modified to exclude a proposed road reserve of 0.84 ha to ensure that it remains a consolidated area and is not threatened through further fragmentation, bringing the total Conservation Area to 58.84 ha. The EPA considers that while the Conservation Area does not conserve all of the environmental values present within the SEA area, it provides for long-term security of a consolidated area while still providing a substantial developable area for the proponent.

The EPA has therefore concluded that the proposal can be managed to meet the EPA's objectives for the environmental factors, provided future proposal are subject to the recommended conditions set out in Appendix 4 and summarised in Section 4.1.

Recommendations

The EPA submits the following recommendations to the Minister for Environment:

1. That the Minister notes that the strategic proposal being assessed is for the development of the Bayonet Head 'Plan for Development' area for urban purposes;
2. That the Minister considers the report on the key environmental factors and principles as set out in Section 3.
3. That the Minister notes that the EPA has concluded that the proposal can be managed to meet the EPA's environmental objectives provided future proposals are subject to the recommended conditions set out in Appendix 4 and summarised in Section 4.1.
4. That the Minister applies the implementation statement recommended in Appendix 4 of this report to the strategic proposal.
5. That the Minister notes the EPA's other advice presented in Section 5 in relation to existing EPA referrals within the SEA area.

Conditions

Having considered the information provided in this report, the EPA has developed an implementation statement that the EPA recommends be applied to the strategic proposal and any subsequent derived proposal if the strategic proposal by Lowe Pty Ltd, Housing Authority, MB and EM Cameron, K Slee, M Greer and City of Albany to develop the Bayonet Head 'Plan for Development' area for urban purposes is approved for implementation.

The implementation statement is presented in Appendix 4. Matters addressed in the conditions include the following:

1. Prohibiting the construction of a road through the Conservation Area.
2. The preparation of a Conservation Area Management Plan to protect and improve the environmental values of the Conservation Area.
3. The requirement for the proponents to implement the Construction Management Plan, Foreshore Management Plan and a Monitoring Program for 10 years from the commencement of onsite works.
4. The preparation of an Acid Sulfate Soils Management Plan to address the Department of Environment and Conservation Acid Sulfate Soil Guidelines Series 2009.

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1. Introduction and background

This report provides the advice and recommendations of the Environmental Protection Authority (EPA) to the Minister for Environment, following the Strategic Environmental Assessment¹ (SEA), on the key environmental factors and principles for the strategic proposal by Lowe Pty Ltd, Housing Authority, MB and EM Cameron, K Slee, M Greer and City of Albany, to develop the Bayonet Head 'Plan for Development' area (SEA area) for urban purposes.

The proposal was referred to the EPA in September 2008 and it was determined that the proposal would be assessed as a SEA. The final SEA 'Bayonet Head Plan for Development' document was approved and released by the EPA for a six week public review in April 2010. This level of assessment was set due to the potential for impacts on vegetation, flora, fauna, wetlands, foreshore, surface and groundwater quality, soil contamination, acid sulfate soils, and Aboriginal heritage.

Prior to this, two referrals to the EPA had been made under Part IV of the *Environmental Protection Act 1986* (EP Act) in relation to this location; however, none of these have resulted in an environmental impact assessment that has been taken through to completion (Figure 2). The proposed subdivision of Lot 1000 Lower King Road (previously known as Part Lot 760 Lower King Road) was referred to the EPA by the then Department for Planning and Infrastructure. In January 2006 the EPA set the level of assessment at 'Public Environmental Review' (Assessment No. 1623). In addition, the EPA decided to formerly assess Amendment 242 to the Albany District Town Planning Scheme 3 for Part Lot 1 Yatana Road and Lot 476 Sibbald Road, Bayonet Head. This amendment proposed to change the zoning from 'Rural' to 'Residential Development'. The assessment process for the subdivision and rezoning are being held in abeyance while the SEA is being assessed.

Further details of the strategic proposal are presented in Section 2 of this report. Section 3 discusses the key environmental factors and principles for the strategic proposal. The conditions to which the proposal should be subject, if the Minister determines that it may be implemented, are set out in Section 4. Section 5 provides other advice by the EPA and Section 6 presents the EPA's recommendations.

Appendix 5 contains a summary of submissions and the proponent's response to submissions and is included as a matter of information only and does not form part of the EPA's report and recommendations. Issues arising from this process, and which have been taken into account by the EPA, appear in the report itself.

¹ The term 'Strategic Environmental Assessment' was in use by the OEPA at the time this proposal was referred to the EPA and set a level of assessment in 2004. It has since been replaced by the term 'Assessment of a Strategic Proposal'.

2. The strategic proposal

The proposal was referred to the EPA in 2008 by Coffey Environments on behalf of the landowners of the 2001 Bayonet Head Outline Development Plan area. The EPA determined the proposal to be a 'Strategic Proposal' as defined under section 37B of the EP Act and it has been assessed as an SEA.

An SEA provides the means for a proponent to voluntarily refer a strategic proposal for assessment by the EPA, even if the proposal itself does not have an immediate significant effect on the environment. In essence, a strategic proposal might be a plan, program, or conceptual development that will lead to future specific proposals with likely environmental impacts.

When a future proposal is referred to the EPA, which is under the umbrella of, and consistent with, a previous strategic environmental assessment, the EPA may declare that this proposal is a 'derived proposal' under section 39B of the EP Act. A proposal declared as a derived proposal would not require further assessment by the EPA.

Subdivisions and provision of infrastructure have been identified as future proposals that may be considered by the EPA to be 'derived' proposals under this Strategic Environmental Assessment.

The Bayonet Head Plan for Development relates to the future development of 191 hectares (ha) of land within Bayonet Head, which is currently zoned 'Residential' and 'Rural' in the City of Albany's Town Planning Scheme No. 3. The future development set out by the proponent in the SEA review document (Coffey Environments 2010) is for Bayonet Head to be developed for urban purposes. There are six land owners over the SEA area, with the majority of the landholding being jointly owned by Lowe Pty Ltd together with the Housing Authority. The regional location of the proposal is shown in Figure 1. The original proposal as presented in the SEA document (Coffey Environments 2010) is shown in Figure 3. The proposal was modified by the proponent at its presentation to the EPA on 16 February 2012, and formally detailed to the EPA in correspondence dated 21 May 2012 (Figure 4).

The modified proposal as shown in Figure 4 is to develop 128.35 ha of the 191.1 ha total area, consisting of the following components:

Table 1: Summary of key proposal characteristics

Land Use	Area (ha) approximate
SEA area	191.1
Conservation Area	58
Foreshore Reserve	4.75
Area to be developed	128.35

Since the release of the SEA document, the proponent has made a number of modifications to the strategic proposal. These include:

- The conservation of 62.75 ha (an increase from 39.5 ha as originally proposed for Public Open Space 'Natural Values' in the SEA document)

REPORT ITEM DIS029 REFERS

- The commitment of the proponent to manage the Conservation Area and Foreshore Reserve for 10 years from the commencement of on-site works or until such time as the land is ceded to an appropriate management body.
- The commitment of the proponent to prepare a Conservation Area Management Plan to address:
 - Fencing, access and signage.
 - Design and implementation of appropriate monitoring of vegetation condition, threatened Priority flora and key fauna species to provide data about the long-term viability the Conservation Area.
 - Rehabilitation and revegetation.
 - Weed control.
 - Fire management and response.
 - Dieback management and monitoring.
 - Completion criteria for handover to management authority.

The potential impacts of the strategic proposal initially predicted by the proponent in the SEA and their proposed management are summarised in Table 2 of the SEA document (Coffey Environments 2010).



Figure 1: Bayonet Head regional location

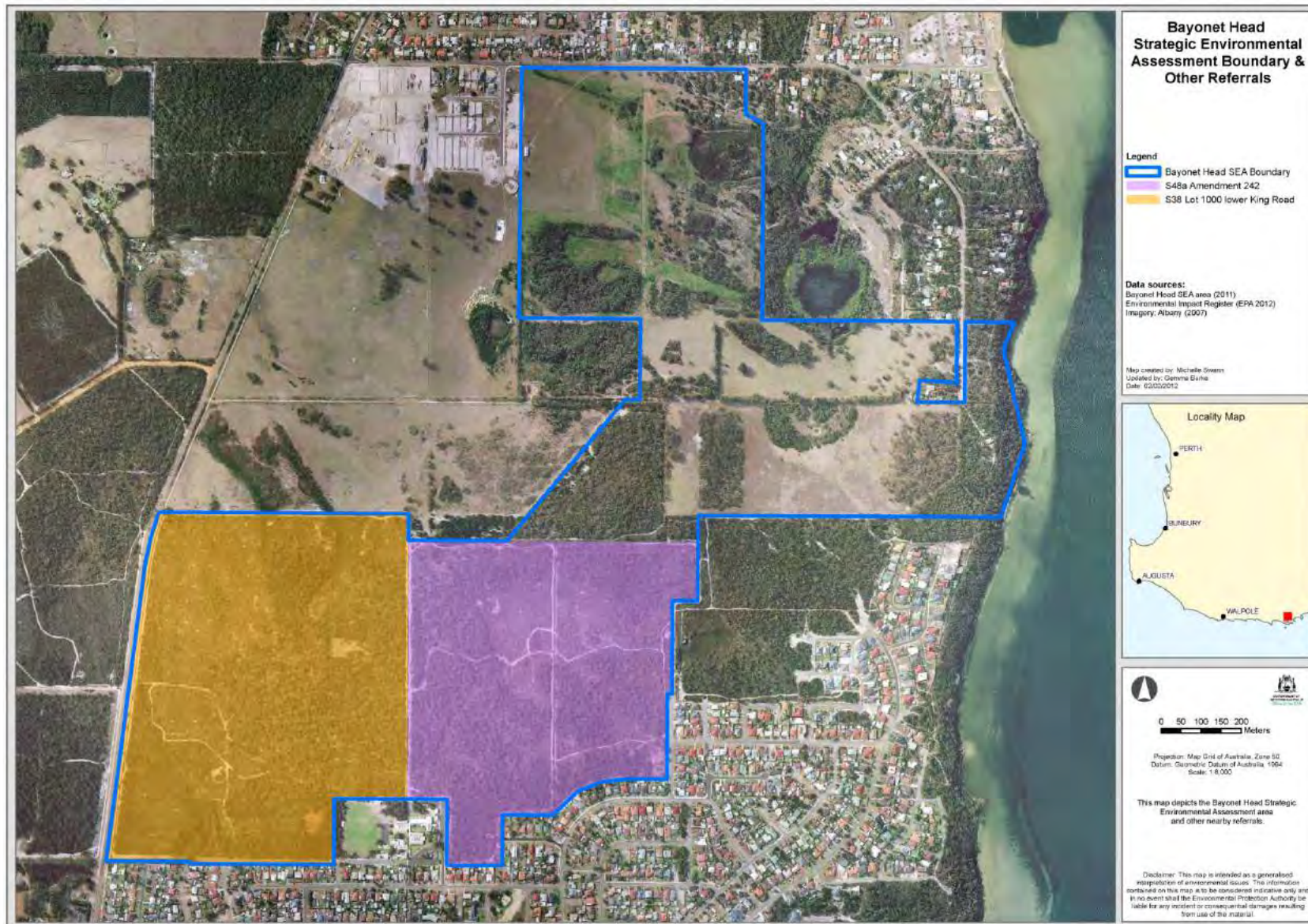


Figure 2: SEA area and EPA referrals within the SEA area boundary

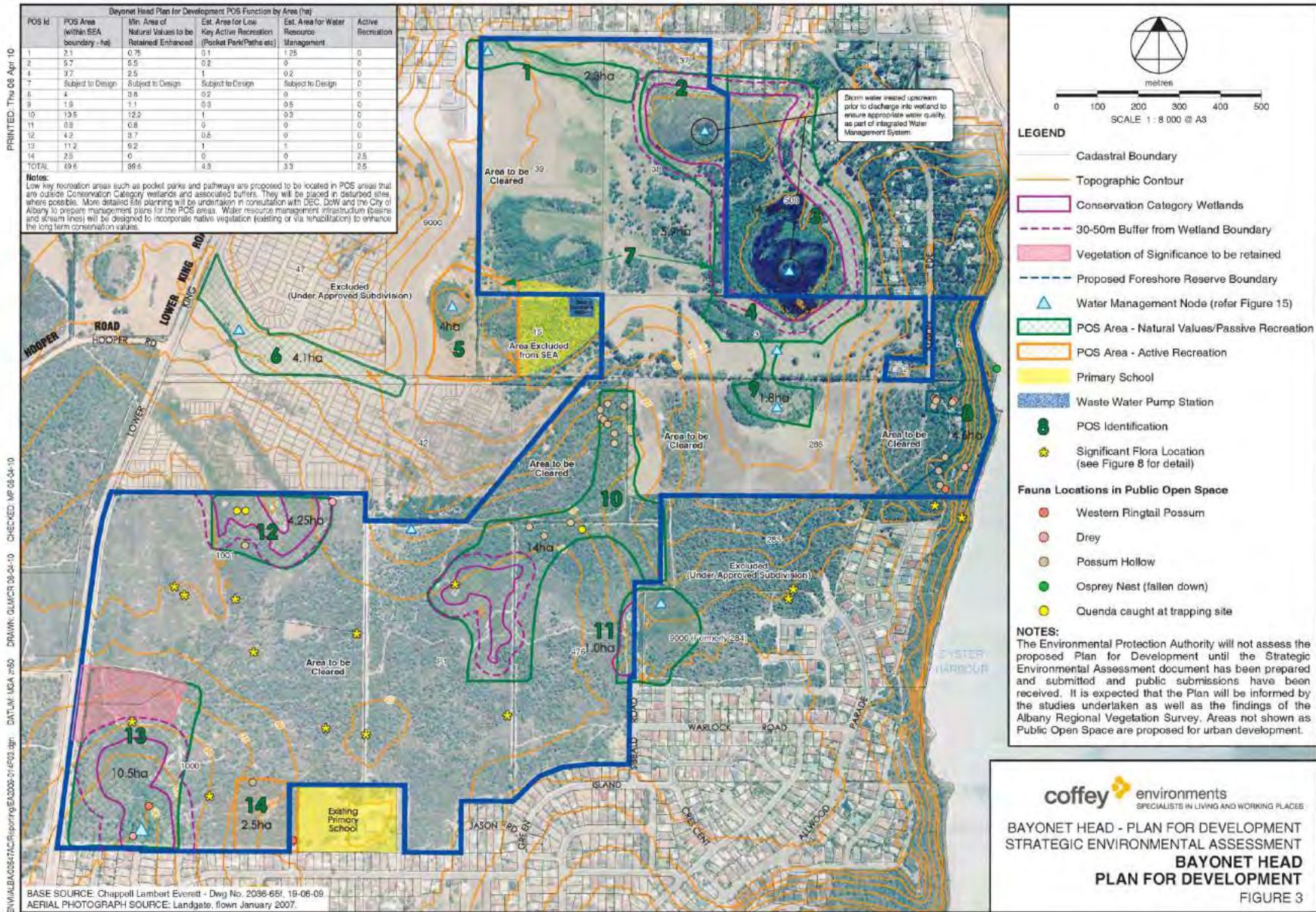


Figure 3: Bayonet Head Plan for Development as presented in the SEA document

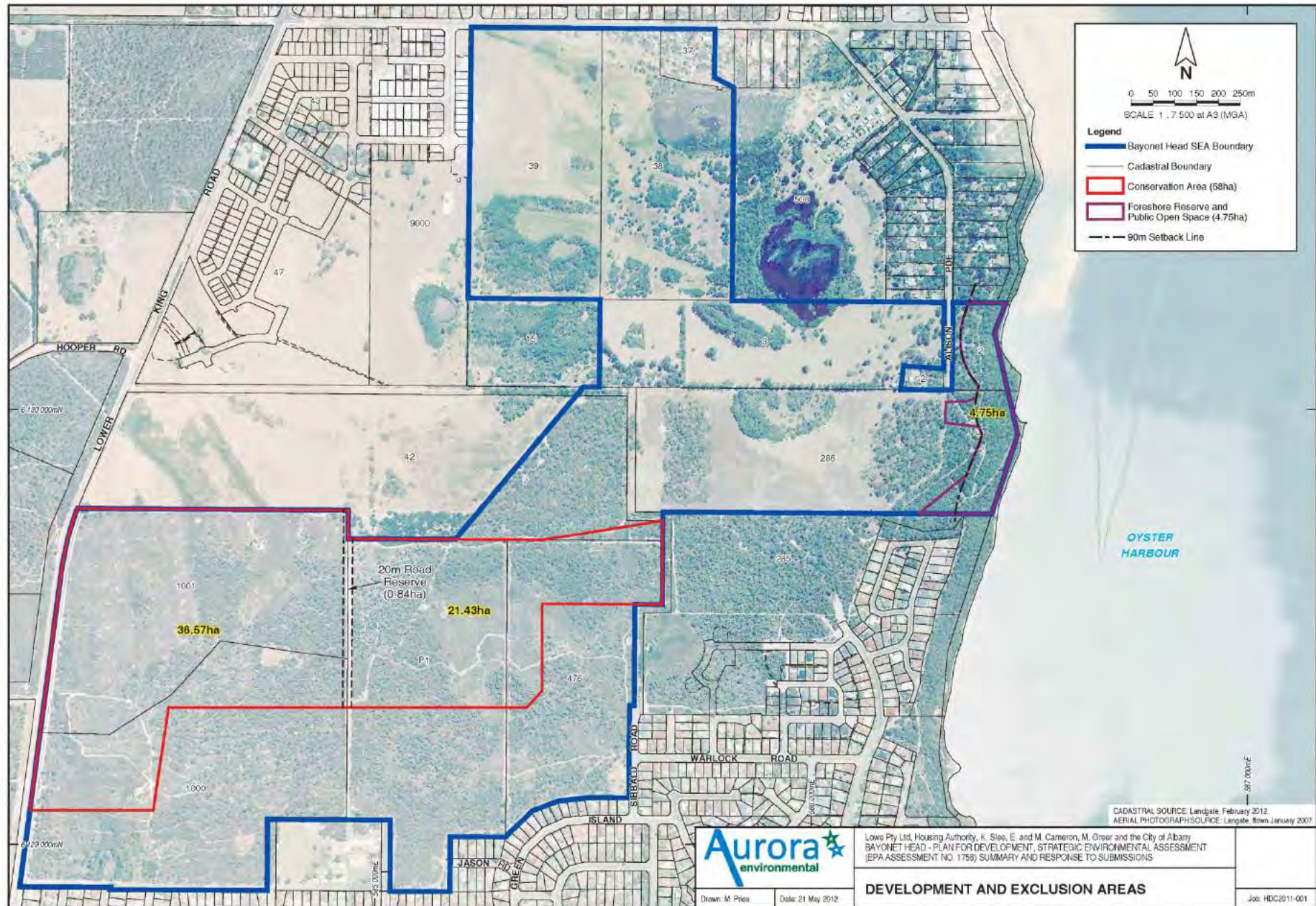


Figure 4: SEA modified proposal

3. Key environmental factors and principles

Section 44 of the EP Act requires the EPA to report to the Minister for Environment on the key environmental factors relevant to the strategic proposal and the conditions and procedures, if any, to which the proposal should be subject. In addition, the EPA may make recommendations as it sees fit.

The identification process for the key factors selected for detailed evaluation in this report is summarised in Appendix 3. The reader is referred to Appendix 3 for the evaluation of factors not discussed below. A number of these factors, such as surface and groundwater quality, soil contamination, acid sulfate soils, and Aboriginal heritage, are relevant to the strategic proposal, but the EPA is of the view that the information set out in Appendix 3 provides sufficient evaluation.

It is the EPA's opinion that the following key environmental factor for the strategic proposal requires detailed evaluation in this report:

- (a) Conservation values – the protection of native vegetation, flora, fauna and wetlands.

The above key factor was identified from the EPA's consideration and review of all environmental factors generated from the SEA document and the submissions received, in conjunction with the proposal characteristics.

Details on the key environmental factor and its assessment are contained in Section 3.1. The description of the factor shows why it is relevant to the strategic proposal and how it will be affected by the strategic proposal. The assessment of each factor is where the EPA decides whether or not a proposal meets the environmental objective set for that factor.

The following principles were considered by the EPA in relation to the strategic proposal:

- (b) the precautionary principle
- (c) the principle of intergenerational equity; and
- (d) the principle of the conservation of biological diversity and ecological integrity.

3.1 Conservation values

The key environmental factor of conservation values was selected for further detailed evaluation in order to identify the area to be reserved for conservation and protection of the highest environmental values. Early in this assessment, vegetation, flora, fauna and wetlands were identified as key issues and these are described below. Because there is a close relationship between these environmental factors, they have all been incorporated into the assessment of the overarching key environmental factor of 'conservation values'.

Description

Native vegetation and flora

The SEA area contains approximately 136.2 ha of native vegetation based on the Albany Regional Vegetation Survey (ARVS) (Sandiford & Barrett, 2010).

The vegetation condition within the SEA area was assessed according to the condition rating scale presented in Bush Forever (Government of WA, 2000). The SEA document (Coffey, 2010) states that the majority of remnant vegetation in the southern part of the study area is considered to be in 'Excellent' condition with few weed species and little sign of disturbance. Vegetation in the northern part of the SEA area is relatively degraded (with condition ratings of 'Good' to 'Completely Degraded'). Dieback has been recorded in Lots 1000 and 1001 Lower King Road. The eastern portion of the study area (with the exception of the area directly adjacent to Oyster Harbour) comprises vegetation in 'Completely Degraded' to 'Good' condition which is largely due to a history of agricultural land use and clearing. Vegetation directly adjacent to the foreshore at the eastern extent of the study area is considered to be in 'Excellent' condition.

The SEA document further states that the vegetation of the study area has previously been broadly mapped according to rainfall variations and landform/soil properties (Beard 1981). Beard described the vegetation of the Albany area as representative of the Albany System within the Menzies Subdistrict Vegetation Unit, and more specifically mapped the study area as a Jarrah (*Eucalyptus marginata*) and Jarrah-Sheoak (*Allocasuarina fraseriana*) Low Woodland. A total of 18 vegetation associations were identified in the study area, which are mapped in Figure 5. The SEA document did not provide the pre clearing extent with regards to these vegetation associations.

Coffey Environments (2009) also undertook a regional vegetation analysis, which compared the classification of quadrats within the SEA area with quadrats recorded in regional reserves to identify floristic groups. Six floristic groups were identified in the SEA area; Floristic Group 1, Group 2, Group 5 (5a and 5b), Group 6 and Group 7. The SEA states that of the six floristic groups identified, four are not represented in conservation reserves or are found in 2 or less reserved areas.

The ARVS completed for the region identified 13 vegetation units within the SEA area (Figure 6). The ARVS states that three vegetation units within the SEA area are likely to have less than 30% of their pre clearing extent remaining, which includes units; 13 (Jarrah/Sheoak/*Eucalyptus staeri* Sandy Woodland), 14 (*Banksia coccinea* Shrubland/*Eucalyptus staeri*/Sheoak Woodland) and 39 (*Pericalymma spongiocaula* Shrubland).

The SEA document states that flora of conservation significance include *Drakaea micrantha* (Declared Rare Flora (DRF)), *Andersonia jamesii* ms (Priority 1), *Andersonia depressa* (Priority 3), *Chorizema reticulatum* (Priority 3), *Leucopogon altissimus* (Priority 3), *Drosera fimbriata* (Priority 4), *Laxmannia jamesii* (Priority 4), and *Stylidium plantagineum* (Priority 4).

There is also a Priority 1 Ecological Community (PEC) - Open Low *Allocasuarina fraseriana* – *Eucalyptus staeri* woodland in association with *Banksia coccinea* thicket, within the SEA area. This PEC is mapped in the ARVS as ARVS Unit 14 - *Banksia coccinea* Shrubland/*Eucalyptus staeri*/Sheoak Open Woodland. The Department of

Environment and Conservation (DEC) has stated that some variation in the mapping of this community exists between the DEC database, the Coffey Environments mapping and the ARVS. However, sufficient concurrence exists for planning and conservation purposes, and DEC has stated that Coffey Environment's mapping of the PEC is reliable. The SEA document states that the PEC area is also the habitat in which the DRF occurrence was recorded.

Fauna

The SEA document states that the SEA area contains fauna habitat typically found in the Albany region with three broad fauna habitat types present; Jarrah/Sheoak Woodland, Heath Shrubland and Wetland Mosaic.

One hundred and twenty eight species of vertebrate fauna were recorded within the Bayonet Head project area during December 2006, March 2007 and March 2009. This includes 7 amphibian species, 21 reptile species, 86 bird species and 14 mammal species (including four introduced species). The bird species include three Schedule 1 species (Carnaby's Black-Cockatoo, Forest Red-tailed Black-Cockatoo and Baudin's Black-Cockatoo), under the *Wildlife Conservation Act 1950*. The ten native mammal species recorded include one Schedule 1 species (Western Ringtail Possum) and one Conservation Dependent species (Quenda) listed by the DEC as Priority listed fauna.

The species recorded in the project area occurred in a range of habitats across the region and were recorded from other habitats surveyed in the Albany region at Emu Point and Yakamia.

Wetlands

Eleven wetlands are present within the SEA area. Eight are classed with a management category of Conservation Category Wetlands (CCW), two are Resource Enhancement and one Multiple Use Wetland.

The SEA document states that all CCWs are proposed to be retained in the SEA area, and the development may involve modification or clearing of wetlands with a Resource Enhancement or Multiple Use management category.

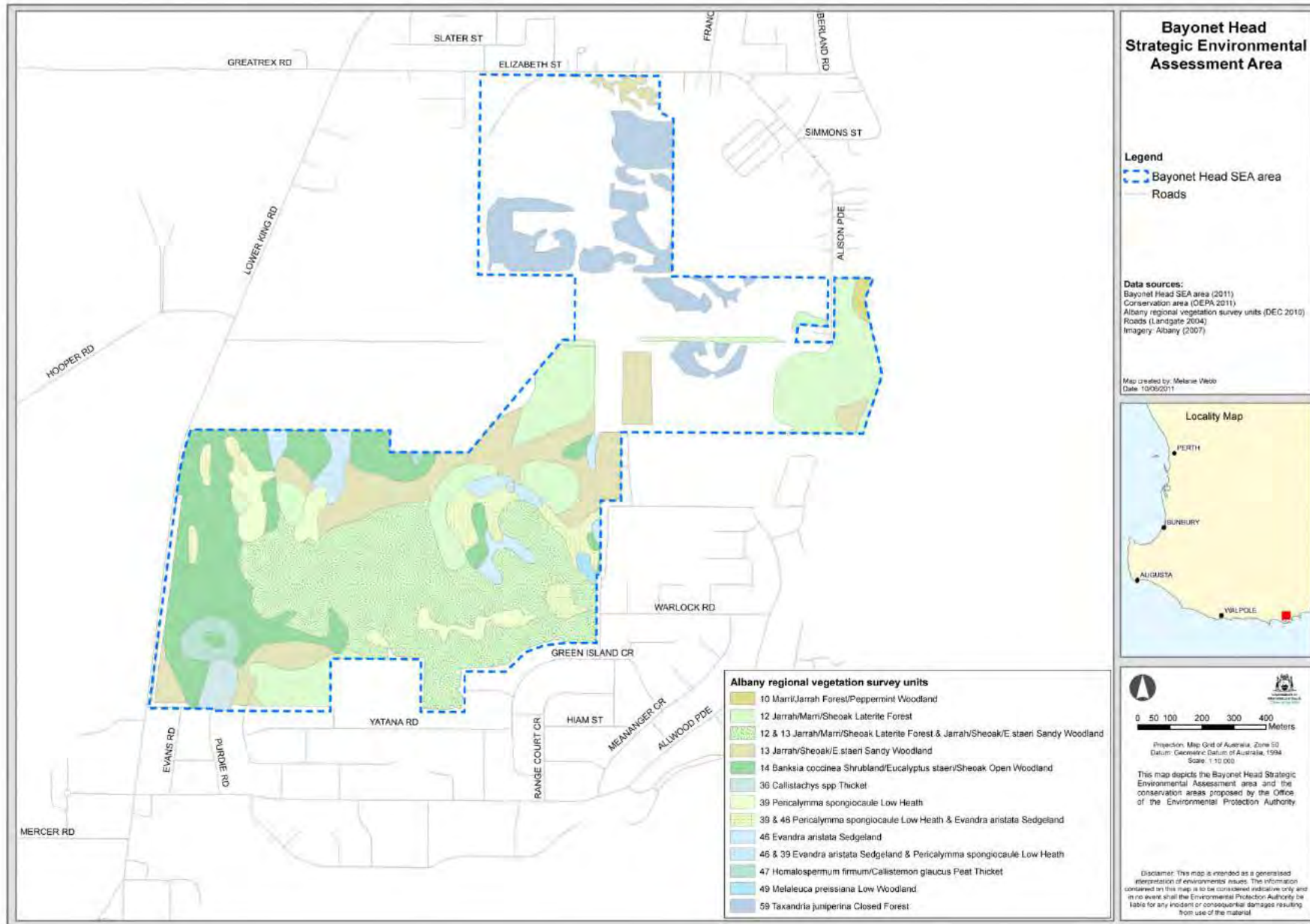


Figure 6: Albany Regional Vegetation Survey Units within SEA area

Submissions

Eight submissions were received from government agencies and non government organizations; and 35 submissions were received from members of the public.

The majority of the public submissions focused on the preservation of all of the remaining native vegetation within the SEA area. The submissions stated that the Albany region is highly cleared and the proposal will have unacceptable impacts on the critically important flora and vegetation biodiversity. Submitters argued that this area is the last tract of high quality suburban bushland of its type in Albany.

Public submissions also questioned the ability of the proposed Public Open Space (POS) 'Natural Values' areas to protect both significant flora and fauna species and its ability to be ecologically viable in the long term. They also stated that the proposal does not provide significant protection for the wetlands.

The DEC submitted that the development will not maintain biodiversity values in the area as most priority flora is not in POS and the DRF may occur outside of the POS areas. The PEC also needs to be reserved with a sufficient buffer to protect against dieback. The DEC also contended that the SEA document does not reflect the more detailed vegetation assessment work undertaken in the ARVS, and that the proposal would not 'maintain abundance, diversity distribution and productivity of flora' through the protection of significant flora and vegetation values. The DEC has advised that the record of the *Leucopogon altissimus* (P3) is of regional significance, as the record is the most westerly known occurrence. The loss of this population would result in a large reduction in the known extent of the species and potential genetic diversity within the species.

The Commonwealth government Department of Sustainability, Environment, Water, Population and Communities (DSEWPAC) submission stated that the proposal is contentious and likely to have a significant impact on matters of national environmental significance protected under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act). In particular the proposal may result in a loss of habitat to known populations of Western Ring-tail Possum, Quokka, and Carnaby's Black Cockatoo, amongst others.

The Department of Planning stated that the proposed foreshore reserve does not appear to satisfactorily protect areas of significant faunal values. It is recommended that the coastal foreshore reserve be extended to include fauna habitat for Western Ringtail Possums and Black Cockatoos

The Department of Water stated that wetland buffers need to relate to the values of each site and the threats that residential development may bring, and these values need to be maintained within an urban context. The suggested buffers appear inconsistent and not fully explained. CCWs should not be used for the management of storm water.

Assessment

The EPA's environmental objective for this factor of conservation values is to protect and enhance the environmental values of areas identified as having significant environmental attributes.

The EPA considers the highest conservation values of the SEA area include:

- ***Native vegetation***
The SEA area contains regionally significant remnant vegetation. While there are several conservation reserves within the vicinity of the SEA area there are no native vegetation areas within a 10 km radius that have a similar combination and variation within a similar size area. The majority of remnant vegetation in the southern portion of the SEA area is considered to be in 'Excellent' condition with few weed species and little disturbance. This portion is also comprised of complex and varied vegetation communities that are mosaic in nature. Thirteen vegetation units described in the ARVS have been identified as occurring within the SEA area, three of these are likely to have less than 30% of their pre clearing extent remaining.
- ***Flora***
There is one DRF species present within the SEA area, as well as seven Priority species. There is also one Priority 1 PEC within the southern portion of the SEA area.
- ***Fauna***
The SEA area also has a high faunal richness and diversity. This includes at least 88 bird species, ten native mammal species, eight amphibian species and 21 reptile species. The SEA area contains four Schedule 1 species and one Priority listed species.
- ***Wetlands***
Eleven wetlands are present within the SEA area, eight are CCWs.

Proponent's proposed Conservation Area

In the original 'Bayonet Head Plan for Development' (Figure 3) the proponent proposed to create 21 Public Open Space (POS) 'Natural Values' areas to be set aside for conservation purposes, covering 39.6 ha.

After further discussion and correspondence with the EPA, the proponent has modified the strategic proposal to include a Conservation Area of 58 ha, and a Foreshore Reserve of 4.75 ha (Figure 4). This provides a total of 62.75 ha of land for conservation purposes.

The proponents' provision of land for conservation purposes represents 32.8% of the entire SEA area, and 42% of the native vegetation present in the SEA area.

The EPA considers that the proponent's proposed Conservation Area represents:

- Complex and varied vegetation communities that are mosaic in nature and transition from wetland to upland vegetation units in short distances.
- A suite of ARVS vegetation units that are not duplicated in a 10 km radius within formal or informal reserves.
- Reservation of Threatened Flora, Priority 1 Ecological Community and Priority Flora.
- Reservation of vegetation units which are restricted in the ARVS study area, specifically ARVS vegetation unit 14.

- An area that is of the minimum size which will maintain flora, vegetation and fauna viability on site.
- A consolidated area that would limit edge effects and fragmentation, and retain the high faunal richness and diversity that is currently present within the SEA area.

In addition to providing areas for conservation the proponents have also committed to manage the proposed Conservation Area and Foreshore Reserve for 10 years from the commencement of onsite works. This will include the preparation and implementation of management plans, and the undertaking of monitoring of key species within the Conservation Area.

In considering the strategic proposal and the opportunities for a Conservation Area, the EPA has consulted with the proponents, the DEC, the City of Albany and the Department of Planning.

The EPA considers that the Conservation Area provided in the proponents' modified proposal (Figure 4) will only be viable if the area remains consolidated, and is not divided through the provision of a 20 metre (m) road reserve (0.84 ha). The EPA considers that this proposed road area may be retained as a firebreak within the consolidated area, but that the construction of a sealed suburban road would greatly diminish the environmental values of the area through fragmentation and the edge-effects. The EPA also notes that there appears to be the provision for a road reserve (continuation of Sibbald Road) along the south-eastern boundary of the SEA area which would potentially provide a north-south link for traffic should it be needed. The EPA therefore recommends that no road should be constructed through the proposed Conservation Area (Condition 7-2, Appendix 4), increasing the original 58 ha Conservation Area to 58.84 ha.

The EPA acknowledges that the proposed Conservation Area does not conserve the record of the P3 flora *Leucopogon altissimus* which the DEC has advised is of regional significance, being at its western most extent. The EPA also acknowledges that the decision not to retain all the wetlands (CCW, Resource Enhancement and Multiple Use) of the SEA area within the proposed Conservation Area represents a less than optimal outcome.

However, the EPA considers that while the *Leucopogon altissimus* and wetlands have high environmental value and it would be desirable to include them in the Conservation Area, on balance a better overall outcome would be achieved through a consolidated Conservation Area with a high level of management which includes the key environmental values within the SEA area while still providing a substantial developable area for the proponent.

In coming to this conclusion the EPA carefully considered what size of conservation area is needed in order to maintain the environmental values in the long term. There is information from other regions that when an area is less than 100 ha in size there is an incremental drop off in fauna species survival and that below 80 ha in size there is a catastrophic drop off in species surviving. In the Albany region, with its relatively higher rainfall, it is likely that there is an increased capacity for fauna species to survive in slightly smaller areas. So while the EPA considers that the proposed 58 ha area should be able to sustain most fauna species in the long-term, it recommends that a monitoring program be put in place to gather empirical data on this issue in the Albany region which can be used to inform future conservation decisions in the region (Condition 7-4, Appendix 4).

Therefore the EPA concludes that the proponent may develop for urban purposes within an area of 127.51 ha, which does not include the Conservation Area and Foreshore Reserve (combined 63.59 ha) within the SEA area (Conditions 7 and 8, Appendix 4).

If a proposal for subdivision outside the Conservation Area is referred to the EPA it would be considered a 'derived proposal' and hence not require further consideration by the EPA subject to having in place:

- a Conservation Area Management Plan to provide for the establishment and long-term maintenance of the conservation area; and
- a Foreshore Management Plan to prevent direct impacts on the Foreshore Reserve through uncontrolled access and edge effects;
- a monitoring program to provide empirical data on the effectiveness of areas of this size in the Albany region to maintain environmental values in the long-term;
- a Construction Management Plan, to prevent direct impacts on the Conservation Area through unplanned clearing and limit indirect impacts such as the spread of disease and weeds; and
- an Acid Sulfate Soils Management Plan for those areas where acid sulfate soils may exist.

Summary

The EPA considers that with regard to the provision of a Conservation Area of 58.84 ha and Foreshore Reserve of 4.75 ha, the proposal can be managed to meet the EPA's environmental objective for this factor subject to the implementation of conditions for the future management of the Conservation Area and Foreshore Reserve.

3.2 Environmental principles

In preparing this report and recommendations, the EPA has had regard for the object and principles contained in s4A of the *Environmental Protection Act (1986)*. Appendix 3 contains a summary of the EPA's consideration of the principles.



Figure 7: EPA Conservation Area and Foreshore Reserve

4. Conditions

Section 44 of the Environmental Protection Act 1986 requires the EPA to report to the Minister for Environment on the key environmental factors relevant to the strategic proposal and on the conditions and procedures to which the strategic proposal should be subject, if implemented. In addition, the EPA may make recommendations as it sees fit.

4.1 Recommended conditions

Having considered the information provided in this report, the EPA has developed a set of conditions that the EPA recommends be imposed for the strategic proposal by Lowe Pty Ltd, Housing Authority, MB and EM Cameron, K Slee, M Greer and City of Albany, to develop the Bayonet Head 'Plan for Development' area for urban purposes.

These conditions are presented in Appendix 4. Matters addressed in the conditions include the following:

- (a) Conditions to be applied to the strategic proposal, namely:
1. a Conservation Area Management Plan to provide for the establishment and long-term maintenance of the conservation area; and
 2. a Foreshore Management Plan to prevent direct impacts on the Foreshore Reserve through uncontrolled access and edge effects;
 3. a monitoring program to provide empirical data on the effectiveness of areas of this size in the Albany region to maintain environmental values in the long-term;
 4. a Construction Management Plan, to prevent direct impacts on the Conservation Area through unplanned clearing and limit indirect impacts such as the spread of disease and weeds; and
 5. an Acid Sulfate Soils Management Plan for those areas where acid sulfate soils may exist.
- (b) Identification of derived proposals, as well as a description of key characteristics to guide future development.

4.2 Consultation

In developing these conditions, the EPA consulted with the proponent, the DEC, the Department of Planning and the City of Albany in respect of matters of fact and matters of technical or implementation significance. Minor changes, which did not change the intent or scope, were made to Conditions 7, 8, 9, and 10.

4.3 Derived proposals

The conditions and procedures attaching to the implementation of the strategic proposal are to attach to the implementation of any proposal that is declared by the EPA to be derived from the strategic proposal.

As stated in Section 3.1, if a proposal for subdivision outside the Conservation Area or Foreshore Reserve is referred to the EPA it may be considered a 'derived proposal' and hence not require further consideration by the EPA.

The EPA notes that not all recommended conditions would apply to all derived proposals. In accordance with the EP Act, the EPA may recommend to the Minister for Environment which conditions apply to the derived proposals.

The EPA considers that only derived proposals within the acid sulfate soils risk boundary would be required to prepare an Acid Sulfate Soils Management Plan. Derived proposals which are going to require significant clearing adjacent to the Conservation Area or Foreshore Reserve would require the Conservation Area and Foreshore Reserve Management Plans, and the Monitoring Program to be complete.

The EPA understands the Department of Education intends to develop 2.2 ha adjacent to Flinders Park Primary School for use as a school oval. The EPA may consider that if a derived proposal to develop this oval does not significantly impact on native vegetation, it would not require the imposition of the recommended conditions for the establishment and management of the Conservation Area.

5. Other advice

While the two related assessments (Assessment Nos. 1632 and 1640) are yet to be finalised, the proponents and responsible authorities for these should note that the EPA's conclusions from this assessment will guide any future assessment of the related proposals.

6. Recommendations

The EPA submits the following recommendations to the Minister for Environment:

1. That the Minister notes that the strategic proposal being assessed is for the development of the Bayonet Head 'Plan for Development' area for urban purposes;
2. That the Minister considers the report on the key environmental factors and principles as set out in Section 3.
3. That the Minister notes that the EPA has concluded that the proposal can be managed to meet the EPA's environmental objectives provided future proposals are subject to the recommended conditions set out in Appendix 4, and summarised in Section 4.1.
4. That the Minister applies the implementation statement recommended in Appendix 4 of this report to the strategic proposal.
5. That the Minister notes the EPA's other advice presented in Section 5 in relation to existing EPA referrals within the SEA area.

Appendix 3

Summary of identification of key environmental factors and principles

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
BIOPHYSICAL			
<p>Conservation Values – The protection of the vegetation, flora, fauna and wetlands.</p>	<p>The proponents' modified proposal includes 62.75ha for conservation purposes in the Conservation Area and Foreshore Reserve.</p> <p>Remnant vegetation within the SEA area is regionally significant. The SEA area contains complex and varied vegetation communities which are mosaic in nature and transition from wetland to upland in short distances. This area also has a suite of ARVS vegetation units which are not duplicated in a 10kms radius within formal or informal reserves.</p>	<p><u>DEC</u></p> <ul style="list-style-type: none"> The development will not maintain biodiversity values in the area as most priority flora is not in POS and the DRF may occur outside of the POS areas. The PEC also needs to be reserved with a sufficient buffer to protect against dieback. <p><u>Non-government Organisations/Public</u></p> <ul style="list-style-type: none"> The allocation of small bushland areas to POS is farcical and they will not be ecologically viable in the long term. The POS areas will not enable diversity, productivity or enhance the environment for benefit of future generations. The City of Albany is the future manager of the Conservation Areas and responsible for implementing the proposed management plans. They will require adequate resources by the proponents to enable long term management. 	<p>Considered to be a key environmental factor</p>
<p>Native Vegetation and Flora</p>	<p>Approximately 136.2ha of the site is vegetated (according to the ARVS). Development would result in the clearing of several Priority Flora species.</p>	<p><u>DEC</u></p> <ul style="list-style-type: none"> The SEA does not reflect the more detailed vegetation assessment work undertaken in the ARVS. The proposal will not meet the stated objectives to 'maintain abundance, diversity distribution and productivity of flora' through the protection of significant flora and vegetation values. In order to maintain a dieback free core, the PEC will need to be protected with the provision of an effective buffer. 	<p>The protection of native vegetation and flora values is a significant issue which is considered to be directly linked with the other environmental factors.</p> <p>As such the issue of 'Native Vegetation and Flora' will be</p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<p><u>Non-government Organisations/Public</u></p> <ul style="list-style-type: none"> The Albany region is highly cleared and the proposal will have unacceptable impacts on the critically important flora and vegetation biodiversity. This area is the last tract of high quality suburban bushland of its type in Albany. There is no justification to clear native vegetation which is intact and contains a wide variety of vegetation communities and significant flora (DRF, PEC and Priority Flora). The POS areas will be constantly degraded by edge effects, fire hazards and bushland vandalism (dumping and weed invasion). There is similar habitat in which the DRF species may occur. Further protection of these areas is required. It is also unacceptable that some Priority flora species are not being conserved. 	<p>addressed under the 'Conservation Values' key environmental factor.</p>
Fauna	Development would involve clearing of remnant vegetation which provides habitat for native fauna.	<p><u>DEWHA - now Department of Sustainability, Environment, Water, Population and Communities (DSEWPAC)</u></p> <ul style="list-style-type: none"> This proposal is contentious and likely to have a significant impact on matters of national environmental significance protected under the <i>EPBC Act 1999</i>. In particular the proposal may result in a loss of habitat to known populations of Western Ring-tail Possum, Quokka, and Carnaby's Black Cockatoo, amongst others. <p><u>Department of Planning</u></p> <ul style="list-style-type: none"> The proposed foreshore reserve does not appear to satisfactorily protect areas of significant faunal values. It is recommended that the coastal foreshore reserve be extended to include fauna habitat for Western Ringtail Possums and Black Cockatoos <p><u>Non-government Organisations/Public</u></p>	<p>The protection of fauna values is a significant issue which is considered to be directly linked with the other environmental factors.</p> <p>As such the issue of 'Fauna' will be addressed under the 'Conservation Values' key environmental factor.</p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<ul style="list-style-type: none"> • Existing development in Albany is having an impact on fauna species. The loss of 100ha vegetation will have a significant impact on local fauna fragmenting the bushland into island remnants. • The POS is scattered and will not facilitate the movement of fauna. The proposal will also result in the removal of significant foraging and nesting area. • Not enough information is available on the Black Cockatoos in the south coast. This population should not decline further. • Albany is the eastern extent of the Western Ring-tail Possum range. The loss foraging habitat and nesting sites will reduce the viability of these possums. • The bandicoot and western false Pipistrelle are priority species and will suffer with the loss and fragmentation of bush. • The POS ignores the scale of area required for wildlife function if it is to persist. • Domestic pets will decimate any remaining native fauna within the development area. 	
Wetlands	11 wetlands are present within the SEA area which could be affected by development, of which 8 are classed with a management category of Conservation Category Wetlands.	<p><u>Department of Water</u></p> <ul style="list-style-type: none"> • Wetland buffers need to relate to the values of each site and the threats that residential development may bring, and these values need to be maintained within an urban context. The suggested buffers appear inconsistent and not fully explained. • CCWs should not be used for the management of storm water. • The preparation of a Wetland Management Plan is supported. <p><u>Department of Planning</u></p> <ul style="list-style-type: none"> • In accordance with the WAPC, the subdivisable area shall not include CCWs or foreshore reserves. The calculation of the POS should be recalculated to exclude these areas. 	<p>The protection of wetland values is a significant issue which is considered to be directly linked with the other environmental factors.</p> <p>As such the issue of 'Wetlands' will be addressed under the 'Conservation Values' key environmental factor.</p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<p><u>Non-government Organisations/Public</u></p> <ul style="list-style-type: none"> The proposal does not provide significant protection for the wetlands. It is also not known whether the wetland buffer distances are sufficient to protection the hydrological and ecological values. The wetlands have important local values which form a linkage with nearby Oyster Harbour and upland areas. 	
Coastal Foreshore	Development may impact the geophysical values of the foreshore reserve which comprises native vegetation on a steep scarp.	<p><u>Department of Transport</u></p> <ul style="list-style-type: none"> A geotechnical survey is required to confirm this section of coast is a Rock Shoreline as defined in SPP 2.6. <p><u>Department of Planning</u></p> <ul style="list-style-type: none"> Subdivision should only occur if the identified coastal foreshore reserve is ceded to the crown free of cost and managed by the City of Albany. <p><u>Department of Water</u></p> <ul style="list-style-type: none"> Foreshore reserve width needs to be sufficient to protect environmental and social values of Oyster Harbour. The setback needs to allow sufficient distance to protect geophysical values and allow for recreational infrastructure along the top of the slope. A buffer of vegetation between houses and proposed active space is suggested. <p><u>Non-government Organisations/Public</u></p> <ul style="list-style-type: none"> There is no discussion on the impact of the development on Oyster Harbour. 	<p>Given that the parameters to determine a foreshore boundary are for the consideration of the Department of Planning and Department of Transport, the EPA concludes that this issue can be adequately managed through the development of a detailed foreshore management plan through the planning process.</p> <p>The EPA has recommended this management plan be a condition on any derived proposal.</p> <p>Not a relevant environmental factor</p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
POLLUTION			
<p>Surface and Groundwater Quality-including Acid Sulfate Soils (ASS)</p>	<p>Development may impact water quality through disturbance to ASS and the water table, nutrient and sediment export, stormwater management, weed and pest management and increased human activity.</p>	<p><u>Department of Water</u></p> <ul style="list-style-type: none"> The preparation of a Local Water Management Strategy is required based on the principles of the Better Urban Water Management and Stormwater Management Manual for WA. <p><u>Non-government Organisations/Public</u></p> <ul style="list-style-type: none"> The SEA is deficient in details, evidence, examples and appropriately proven case studies regarding the maintenance of hydrology. Clearing will affect the hydrology of the remaining 'islands' and result in spread of weeds and disease. It is important that agreed design and resources for water management, from the block and street level up, are provided before approval to alter the current hydrology of the conservation category wetlands is allowed. If the proposal goes ahead, it should be with the highest level of water and wetland management to ensure the protection of wetlands within and adjacent to the development boundary. 	<p>Given that the preparation of an ASS Management Plan and a Local Water Management Plan is proposed, and that the development will be connected to reticulated sewerage, the EPA concludes that there is little risk of water contamination.</p> <p>The proponent has identified the 'high risk' ASS area which is within the area the EPA has identified for possible urban uses. The proponent has committed to developing an ASS management plan in accordance with DEC guidelines. The EPA considers that the potential impacts can be managed if the DEC guidelines area followed.</p> <p>The EPA has recommended this commitment be a condition on any derived proposal.</p> <p>Refer to Appendix 4, Condition 10</p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
Noise and Light Pollution	Use of active POS areas may cause noise and light pollution which may affect surrounding residents.	<p><u>Public</u></p> <ul style="list-style-type: none"> The proposed active open space will lead to heavy utilisation with unreasonable noise and light which will interfere with the health, welfare, convenience, comfort and amenity of neighbouring properties. 	<p>This is not an environmental impact to be considered by the EPA. These matters would be given regard during future stages of planning.</p> <p>Not a relevant environmental factor</p>
SOCIAL SURROUNDINGS			
Aboriginal Heritage	One previously recorded site (Site ID 5524 – Kylie Site) is located within the south western portion of Lot 1000 Lower King Road.	No comments received	<p>In June 2007 the then Minister for Indigenous Affairs granted consent for the land to be used for urban purposes.</p> <p>The proponent has committed to managing any cultural material unearthed during development in consultation with the Albany Heritage Reference Group Aboriginal Corporation.</p> <p>The Minister for Indigenous Affairs is also considered a Decision Making Authority (Appendix 4).</p> <p>Not a relevant environmental factor</p>

PRINCIPLES		
Principle	Relevant Yes/No	If yes, Consideration
<p>1. The precautionary principle <i>Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.</i> <i>In application of this precautionary principle, decisions should be guided by –</i> <i>(a) careful evaluation to avoid, where practicable, serious or irreversible damage to the environment; and</i> <i>(b) an assessment of the risk-weighted consequences of various options.</i></p>	Yes	The SEA contains extensive scientific study and there is sufficient knowledge to address potential environmental impacts. Specialist studies of the relevant environmental factors have been undertaken to assess the potential environmental impacts.
<p>2. The principle of intergenerational equity <i>The present generation should ensure that the health, diversity and productivity of the environment is maintained and enhanced for the benefit of future generations.</i></p>	Yes	The EPA is recommending to protect an area containing representations of all significant environmental features in the Plan for Development area in a Conservation Area to be managed by the City of Albany (potentially to be changed to DEC pending consultation).
<p>3. The principle of the conservation of biological diversity and ecological integrity <i>Conservation of biological diversity and ecological integrity should be a fundamental consideration.</i></p>	Yes	Investigations undertaken for native vegetation, flora and fauna have been undertaken in accordance with the EPA's guidance statements. This information, along with the <i>Albany Regional Vegetation Survey</i> has informed the EPA's recommendation for an area of conservation within the Plan for Development area.

<p>4. Principles relating to improved valuation, pricing and incentive mechanisms</p> <ol style="list-style-type: none"> 1. <i>Environmental factors should be included in the valuation of assets and services.</i> 2. <i>The polluter pays principles – those who generate pollution and waste should bear the cost of containment, avoidance and abatement.</i> 3. <i>The users of goods and services should pay prices based on the full life-cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste.</i> 4. <i>Environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structure, including market mechanisms, which enable those best placed to maximize benefits and/or minimize costs to develop their own solution and responses to environmental problems.</i> 	<p>No</p>	
<p>5. The principle of waste minimisation</p> <p><i>All reasonable and practicable measures should be taken to minimize the generation of waste and its discharge into the environment.</i></p>	<p>No</p>	

ATTACHMENT 6

THIS DOCUMENT

This document has been produced by the Office of the Appeals Convenor as an electronic version of the original Statement for the proposal listed below as signed by the Minister and held by this Office. Whilst every effort is made to ensure its accuracy, no warranty is given as to the accuracy or completeness of this document.

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Published on: 9 August 2013

Statement No. 942

**STATEMENT THAT A FUTURE PROPOSAL(S)
IDENTIFIED IN A STRATEGIC PROPOSAL MAY BE IMPLEMENTED
(Sections 40B and 45 of the *Environmental Protection Act 1986*)**

Strategic Proposal: Plan for the future urban development and conservation of Lots 37, 38 and Part Lot 39 Elizabeth Street, Lots 2, 3, and 286 Alison Parade, Lot 1000, 1001 and Part Lot 42 Lower King Road, Part Lot 1 Yatana Road, Location 476 Sibbald Road and Lot 0 Bayonet Head, within the Bayonet Head Outline Development Plan Area (as defined in City of Albany Town Planning Scheme No. 3).

Proponents: Lowe Pty Ltd, Housing Authority, MB and EM Cameron, K Slee, M Greer and City of Albany

Proponent Address: c/o Heath Development Company
PO Box 381 Cottesloe WA 6911

Assessment Number: 1758

Report of the Environmental Protection Authority: Report 1447

Pursuant to sections 40B and 45 of the *Environmental Protection Act 1986* (the Act), it has been agreed that in the event of a declaration by the EPA pursuant to section 39B of the Act that it is a derived proposal, a proposal to do one or more of the Developments or Changes in Land Use listed in Column 1 of Table 1 in this Statement and which was identified in the Strategic Proposal to which Report 1447 relates, may be implemented. Upon declaration that the proposal is a derived proposal, subject to the Minister for Environment's identification of relevant conditions under section 45A(3) of the Act, the implementation of the proposal shall be subject to the following conditions and procedures and Schedule 2 details definitions of terms and phrases used in the implementation conditions and procedures:

1 Development, Activities, Operations or Changes in Land Use shall not exceed limits/extents in Table 1

1-1 Proposals referred to the EPA and declared to be derived proposals containing one or more of the Developments or Change in Land Use listed in Column 1 of Table 1 of Schedule 1, shall not exceed the Description of Limits/Extent, relevant to the Developments or Change in Land Use, provided for in Column 2 of Table 1 of Schedule 1.

Note: More than one proponent may implement the proposal identified in Table 1 of Schedule 1.

2 Contact Details

- 2-1 The proponent shall notify the CEO of any change of its name, physical address or postal address for the serving of notices or other correspondence within 28 days of such change. Where the proponent is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.

3 Time Limit for Proposal Implementation

- 3-1 The proponent shall not commence implementation of the proposal after the expiration of 10 years from the date of issue of the Section 45A Notice, and any commencement, within this 10 year period, must be substantial.
- 3-2 Any commencement of implementation of the proposal, within 10 years from the date of date of issue of the Section 45A Notice, must be demonstrated as substantial by providing the CEO with written evidence, on or before the expiration of 10 years from the date of this statement.

4 Compliance Reporting

- 4-1 The proponent shall prepare and submit a compliance assessment plan to the satisfaction of the CEO at least 6 months prior to the first compliance report required by condition 4-6 or prior to the commencement of future proposals, whichever is sooner.
- 4-2 The proponent shall implement and maintain to the satisfaction of the CEO the compliance assessment plan required by condition 4-1. The compliance assessment plan shall indicate:
- (1) the frequency of compliance reporting;
 - (2) the approach and timing of compliance assessments;
 - (3) the retention of compliance assessments;
 - (4) the reporting of potential non-compliances and corrective actions taken;
 - (5) the table of contents of compliance reports; and
 - (6) the public availability of compliance reports.
- 4-3 The proponent shall assess compliance with conditions in accordance with the compliance assessment plan required by condition 4-1.
- 4-4 The proponent shall retain reports of all compliance assessments described in the compliance assessment plan required by condition 4-1 and shall make those reports available when requested by the CEO.
- 4-5 The proponent shall advise the CEO of any potential non-compliance as soon as practicable.
- 4-6 The proponent shall submit a compliance assessment report annually from the date of issue of the Section 45A Notice addressing the previous twelve month period or other period as agreed by the CEO. The compliance assessment report shall:

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- (1) be endorsed by the proponents' Managing Director or a person, approved in writing by the Office of the EPA, delegated to sign on the Managing Director's behalf;
- (2) include a statement as to whether the proponent has complied with the conditions;
- (3) identify all potential non-compliances and describe corrective and preventative actions taken;
- (4) be made publicly available in accordance with the compliance assessment plan; and
- (5) indicate any proposed changes to the compliance assessment plan required by condition 4-1.

5 Public Availability of Data, Plans, Programs and Surveys

5-1 Subject to condition 5-2, within a reasonable time period approved by the CEO from the date of issue of the Section 45A Notice and for the remainder of the life of the proposal the proponent shall make publicly available, in a manner approved by the CEO, all validated environmental data (including sampling design, sampling methodologies, empirical data and derived information products (e.g. maps)) relevant to the assessment of this proposal and implementation of this proposal.

5-2 If any of the data referred to in condition 5-1 contains particulars of:

- (1) a secret formula or process;
- (2) confidential commercially sensitive information; or
- (3) the location of threatened species or other important environmental assets that may be threatened if their location was published,

the proponent may submit a request for approval from the CEO to not make this data publicly available. In making such a request the proponent shall provide the CEO with an explanation and reasons why that data should not be made publicly available.

5-3 The proponent is to make all plans approved under these conditions, and all programs and surveys which meet the requirements of these conditions, to be made available to the public in a manner approved by the CEO.

6 Subdivision and Development for Residential and Urban Bushland Conservation

6-1 Any outline development plan or plan of subdivision must demonstrate how it will:

- (1) relate to:
 - a. existing subdivision and development;
 - b. the Conservation Area and Foreshore Reserve identified in Figure 1 of this Statement; and
- (2) implement the management plans and strategies required by conditions 7-3, 8-2, 9-1 and 10-1.

7 Conservation Area

- 7-1 Any outline development plan, plan of subdivision or development shall ensure that the Conservation Area is subdivided solely as an area for conservation for the protection of key environmental values.
- 7-2 The Conservation Area shall not be divided by any sealed access road for use by vehicles, and shall remain a consolidated area of 58.84 hectares as delineated in Figure 1 of Schedule 1.
- 7-3 Prior to any ground disturbing activities the proponent shall submit a Conservation Area Management Plan to the CEO for approval.
- 7-4 The Conservation Area Management Plan shall address:
- (1) fencing, access and signage;
 - (2) rehabilitation and revegetation;
 - (3) weed control;
 - (4) fire management;
 - (5) dieback management and monitoring;
 - (6) completion criteria for handover to a management authority/authorities; and
 - (7) a Conservation Area Monitoring Program to provide data about the long-term viability of the Conservation Area.
- 7-5 Upon request of the CEO the proponent shall review the Conservation Area Management Plan, required pursuant to condition 7-3, to the satisfaction of the CEO.
- 7-6 The proponent shall implement the approved Conservation Area Management Plan for 10 years from the date of onsite works or until such time as the land is ceded to a management authority/authorities approved by the CEO, whichever is sooner.
- 7-7 In the compliance assessment report required by condition 4-6 the proponent shall also report on work carried out under the approved Conservation Area Management Plan during the report period.
- 7-8 The Conservation Area Monitoring Program required pursuant to condition 7-4(7) shall target the following:
- (1) statutory listed flora and fauna species under State and Commonwealth legislation;
 - (2) Department of Parks and Wildlife (DPaW) listed Priority flora and fauna species; and
 - (3) *Banksia coccinea* Shrubland / *Eucalyptus staeri* / Sheoak Woodland Priority Ecological Community.
- 7-9 The proponent shall implement the approved Conservation Area Monitoring Program for 10 years from the date of onsite works or until such time as the Conservation Area is ceded to a management authority/authorities approved by the CEO, whichever is sooner.
- 7-10 Upon conclusion of implementation of the approved Conservation Area Monitoring Program as per condition 7-9, the proponent shall provide the data from monitoring

and a written report to the CEO on the findings of the Conservation Area Monitoring Program specifically addressing the extent to which the environmental values of the Conservation Area have been maintained, and conclusions regarding the long term viability of an area of this size.

8 Foreshore Reserve

- 8-1 Any outline development plan or plan of subdivision shall ensure that the Foreshore Reserve is subdivided solely as a foreshore reserve for the protection of key environmental values and some community use.
- 8-2 Prior to any ground disturbing activities the proponent shall submit a Foreshore Management Plan to the CEO for approval.
- 8-3 The Foreshore Management Plan shall address:
- (1) fencing, access and signage;
 - (2) rehabilitation and weed management;
 - (3) erosion control and water management;
 - (4) fire management;
 - (5) treatment of foreshore and development interface; and
 - (6) disease management (dieback).
- 8-4 Upon request of the CEO the proponent shall review the approved Foreshore Management Plan to the satisfaction of the CEO.
- 8-5 The proponent shall implement the approved Foreshore Management Plan for 10 years from the date of onsite works adjacent to the Foreshore Reserve or until such time as the land is ceded to a management authority/authorities approved by the CEO, whichever is sooner.

9 Construction Management Plan

- 9-1 Prior to ground disturbing activities the proponent shall prepare a Construction Management Plan to ensure that the adverse impacts from urban construction and associated activities do not unnecessarily threaten conservation values of the Conservation Area and prevent impacts outside of the Conservation Area.
- 9-2 The Construction Management Plan shall address:
- (1) vegetation clearing protocols (including retrieval of hollows and rehabilitation);
 - (2) fauna management during clearing of native vegetation, including the translocation of Western Ringtail Possums (*Pseudocheirus occidentalis*) to a suitable habitat;
 - (3) dieback hygiene and management;
 - (4) weed control and management;
 - (5) indigenous heritage issues.
- 9-3 Upon request of the CEO the proponent shall review the approved Construction Management Plan to the satisfaction of the CEO and with advice from DPaW.

9-4 The proponent shall implement the approved Construction Management Plan until such time as the CEO agrees implementation may cease.

10 Acid Sulfate Soils Management Plan

10-1 Prior to any ground disturbing activities within the Acid Sulfate Soils Risk Boundary mapped in Figure 2 of Schedule 1, the proponent shall prepare an Acid Sulfate Soils Management Plan.

10-2 The Acid Sulfate Soils Management Plan shall address:

- (1) testing of soils and groundwater to determine treatment regimes and management; and
- (2) the requirements of the Acid Sulfate Soil Guidelines Series *Identification and Investigation of Acid Sulfate Soils and Acidic Landscapes* (2009) and *Treatment and Management of Soils and Water in Acid Sulfate Soil Landscapes* (2011), or any approved update of these guidelines.

10-3 Upon request of the CEO the proponent shall review the approved Acid Sulfate Soils Management Plan to the satisfaction of the CEO.

10-4 The proponent shall implement the approved Acid Sulfate Soils Management Plan until such time as the CEO agrees implementation may cease.

[Signed 9 August 2013]

Albert Jacob MLA
MINISTER FOR ENVIRONMENT; HERITAGE

Table 1: Summary of Key Proposal Characteristics

Development /Change of Land Use	Description of and limits/extent
Subdivision and development proposals for residential purposes.	Within the development area identified in Figure 1, including: (1) public open spaces areas for the purposes of active recreation; and (2) the provision of public infrastructure directly related to the subdivision and development proposals for residential purposes.
Subdivision/reservation/vesting for nature conservation.	63.59 hectares within the area identified in Figure 1 comprised of areas labelled "Conservation Area" and "Foreshore Reserve."

Figures

Figure 1: Conservation Area and Foreshore Reserve Boundary.

Figure 2: Acid Sulfate Soils Risk Mapping within the SEA Area

Co-ordinates

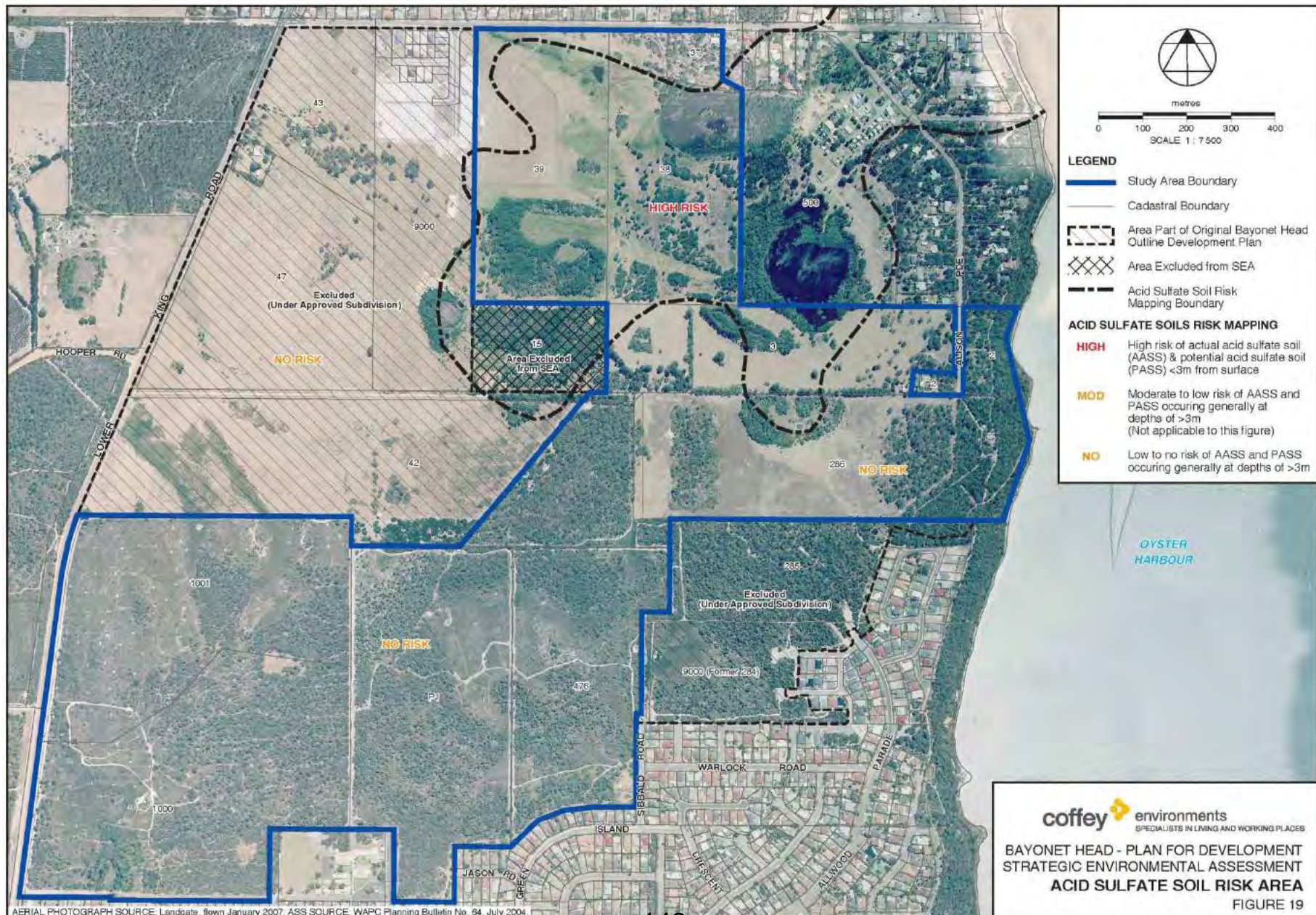
Co-ordinate List 1: Conservation Area (58.84 hectares)

Co-ordinate List 2: Foreshore Reserve (4.75 hectares)

Figure 1: Conservation Area and Foreshore Reserve Boundary



Figure 2: Acid Sulfate Soils Risk Mapping within the SEA Area.



Co-ordinates defining the *Conservation Area* and *Foreshore Reserve* dataset are prescribed below, noting that the correct recreation of the boundary requires the sequential connection of the co-ordinates as per its co-ordinate number.

All co-ordinates are listed in Map Grid of Australia Zone 50 (MGA Zone 50), datum of Geodetic Datum of Australia 1994 (GDA94).

Co-ordinate List 1: Conservation Area (58.84 hectares)

Co-ordinate No.	Easting	Northing
1	585184.12	6129700.53
2	585383.89	6129699.49
3	585660.03	6129743.38
4	585658.94	6129550.96
5	585383.65	6129552.47
6	585383.32	6129353.34
7	585348.64	6129314.85
8	584946.27	6129314.85
9	584926.27	6129314.85
10	584526.71	6129314.85
11	584492.01	6129078.72
12	584209.05	6129078.72
13	584232.45	6129256.81
14	584282.88	6129640.58
15	584290.01	6129674.49
16	584297.14	6129708.41
17	584315.02	6129764.54
18	584318.09	6129771.77
19	584928.94	6129768.17
20	584938.95	6129768.11
21	584938.55	6129701.81
22	584948.55	6129701.76
23	585184.12	6129700.53

Co-ordinate List 2: Foreshore Reserve (4.75 hectares)

Co-ordinate No.	Easting	Northing
1	586425.06	6130244.46
2	586446.61	6130244.26
3	586420.12	6130177.27
4	586450.62	6130043.11
5	586473.59	6129942.35
6	586413.88	6129759.09
7	586353.72	6129759.44
8	586350.46	6129759.46
9	586331.51	6129759.57
10	586246.80	6129760.07
11	586317.71	6129817.58
12	586356.47	6129849.02
13	586362.86	6129866.33
14	586387.58	6129927.18
15	586391.96	6129942.50
16	586384.45	6129959.55
17	586307.52	6129968.52
18	586307.12	6129990.05
19	586308.80	6130004.18
20	586309.23	6130017.27
21	586355.97	6130017.53
22	586378.99	6130027.73
23	586381.15	6130039.14
24	586383.47	6130054.18
25	586370.38	6130071.43
26	586362.38	6130083.33
27	586351.23	6130106.08
28	586342.91	6130141.53
29	586342.74	6130178.16
30	586348.16	6130208.02
31	586361.49	6130245.03
32	586425.06	6130244.46

END OF CO-ORDINATE LISTINGS

Schedule 2

Term or Phrase	Definition
Approved Acid Sulfate Soils Management Plan	The Acid Sulfate Soils Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 10-2. The DER will be consulted in the CEO's determination process
Approved Conservation Area Management Plan	The Conservation Area Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 7-4. DPaW will be consulted in the CEO's determination process.
Approved Conservation Area Monitoring Program	The Conservation Area Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 7-4(7).
Approved Construction Management Plan	The Construction Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 9-2. DPaW will be consulted in the CEO's determination process.
Approved Foreshore Management Plan	The Foreshore Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 8-3. DPaW will be consulted in the CEO's determination process.
CEO	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the <i>Environmental Protection Act 1986</i> , or his delegate.
Conservation Area	The 58.84 hectare area depicted as the "Conservation Area" in Figure 1 of Schedule 1.
DER	Department of Environment Regulation
DPaW	Department of Parks and Wildlife
EPA	Environmental Protection Authority
Foreshore Reserve	The 4.75 hectare area depicted as the "Foreshore Reserve" in Figure 1 of Schedule 1.
Section 45A Notice	Means the notice issued by the Minister under section 45A of the <i>Environmental Protection Act 1986</i>
The Act	<i>Environmental Protection Act 1986</i>

Notes

The following notes are provided for information and do not form a part of the implementation conditions of the Statement:

- The proponent for the time being nominated by the Minister for Environment under section 38(6) of the Act is responsible for the implementation of the proposal unless and until that nomination has been revoked and another person is nominated.
- If the person nominated by the Minister, ceases to have responsibility for the proposal, that person is required to provide written notice to the EPA of its intention to relinquish responsibility for the proposal and the name of the person to whom responsibility for the proposal will pass or has passed. The Minister for Environment may revoke a nomination made under section 38(6) of the Act and nominate another person.
- To initiate a change of proponent, the nominated proponent and proposed proponent are required to complete and submit *Post Assessment Form 1 – Application to Change Nominated Proponent*.
- The General Manager of the Office of the EPA was the Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the Act at the time the Statement was signed by the Minister for Environment.

ATTACHMENT 7

AS 3959 Bushfire Attack Level (BAL) Assessment & Bushfire Hazard Level (BHL) Mapping Report (Concept Planning)

Site Details			
Project Name	Lot 1001 & Lot 1000 Lower King Road, Lot 1 Jason Road and Lot 476 Sibbald Road Albany BAL Assessment and BHL Report		
Address:	Lot 1001 & Lot 1000 Lower King Road, Lot 1 Jason Road and Lot 476 Sibbald Road		
Suburb:	Bayonet Head	State:	WA
Local Government Area:	City of Albany		
Description of Building Works:	Proposed Residential		
Stage of WAPC Planning	Scheme Amendment		

Report Details			
Report / Job Number:	EPP001	Report Version:	FINAL
Assessment Date:	16/5/16	Report Date:	28/7/2016



DOCUMENT CONTROL

TITLE

Lot 1001 & Lot 1000 Lower King Road, Lot 1 Jason Road and Lot 476 Sibbald Road Albany BAL Assessment and BHL Report

Author (s): Kathryn Kinnear

Reviewer (s): Steve Thompson

Job No. EPP001

Client: Shari Abbott

REVISION RECORD

Revision	Summary	Revised By	Date
Draft Id 27/07/2016	Internal Q.A review	K.Kinnear	27/7/2016
Draft ID 27/7/2016	Issued to S.Thompson	K.Kinnear	27/7/2016
Final ID 28/7/2016	Issued to S.Thompson	K.Kinnear	28/7/2016



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SECTION 1: Background

This brief report has been prepared for the subject site to address bushfire management issues associated with concept planning stages of Lot 1001 & Lot 1000 Lower King Road, Lot 1 Jason Road and Lot 476 Sibbald Road Albany during the Scheme Amendment Stage and is consistent with State and Local Government planning instruments.

The report has been prepared in accordance with:

- AS 3959-2009 "Construction of Buildings in Bushfire Prone Areas" current and endorsed standards;
- State Planning Policy 3.7 (SPP 3.7) Planning in Bushfire-Prone Areas (WAPC, 2015b);
- Guidelines for Planning in Bushfire Prone Areas (WAPC, 2015a);
- *Fire and Emergency Services (Bush Fire Prone Areas) Order 2015;*
- *Planning and Development (Local Planning Scheme) Amendment Regulations 2015;*
- *Bushfires Act 1954;* and
- City of Albany Annual Fire Management Notice.

Additional methodology on the BAL Assessment process is provided in Appendix 1.

The publicly released bushfire prone mapping (Bushfire Prone Area Mapping, SLIP 8/12/15 & 2016) outlines the site to be Bushfire Prone as per the above regulations, as it is situated within 100m of >1 ha of bushfire prone vegetation. Refer to extract from the Office of Bushfire Risk Management (OBRM) as released in December 2015 Appendix 2.

This project is as the scheme amendment stage which is supported by an Indicative Concept Plan (Appendix 3). The proponent will be seeking to rezone the site from 'General Agriculture' to 'Future Urban' and are proposing that detailed technical investigations are deferred to support a future Structure Plan in the future. The scope of this report did not therefore support BAL Contour mapping which will be undertaken at a later stage of planning.

This document and the recommendations contained are aligned to the following policy and guidelines:

- AS 3959-2009 "Construction of Buildings in Bushfire Prone Areas" current and endorsed standards;
- State Planning Policy 3.7 (SPP 3.7) Planning in Bushfire-Prone Areas (WAPC, 2015b);
- Guidelines for Planning in Bushfire Prone Areas (WAPC, 2015a);
- *Fire and Emergency Services (Bush Fire Prone Areas) Order 2015;*
- *Planning and Development (Local Planning Scheme) Amendment Regulations 2015;*
- *Bushfires Act 1954;* and
- City of Albany Annual Fire Management Notice.

Suitably Qualified Bushfire Consultant

This BMP has been prepared by Kathryn Kinnear (nee White), who has 10 years operational fire experience with the (formerly) DEC (1995-2005) and has the following accreditation in Bushfire Management:

- Incident Control Systems;
- Operations Officer;
- Prescribed Burning Operations;
- Fire and Incident Operations;
- Wildfire Suppression 1, 2 & 3;
- Structural Modules – Hydrants and hoses, Introduction to Structural Fires, and Fire extinguishers; and
- Ground Controller.

Kathryn Kinnear currently has the following Tertiary Qualifications:

- BAS Technology Studies & Environmental Management;
- Diploma Business Studies; and
- Graduate Diploma of Environmental Management.

Kathryn Kinnear is an accredited Level 1 BAL Assessor (Accreditation No: BPAD30794) and is classified as an Experienced Level 2/3 Practitioner pending provisional accreditation. Bio Diverse Solutions is a Bronze member of Fire Protection Australia Association and Kathryn is a committee member of the Bushfire Subcommittee Western Australia. Kathryn is a suitably qualified Bushfire Practitioner to prepare this Bushfire Management Plan.

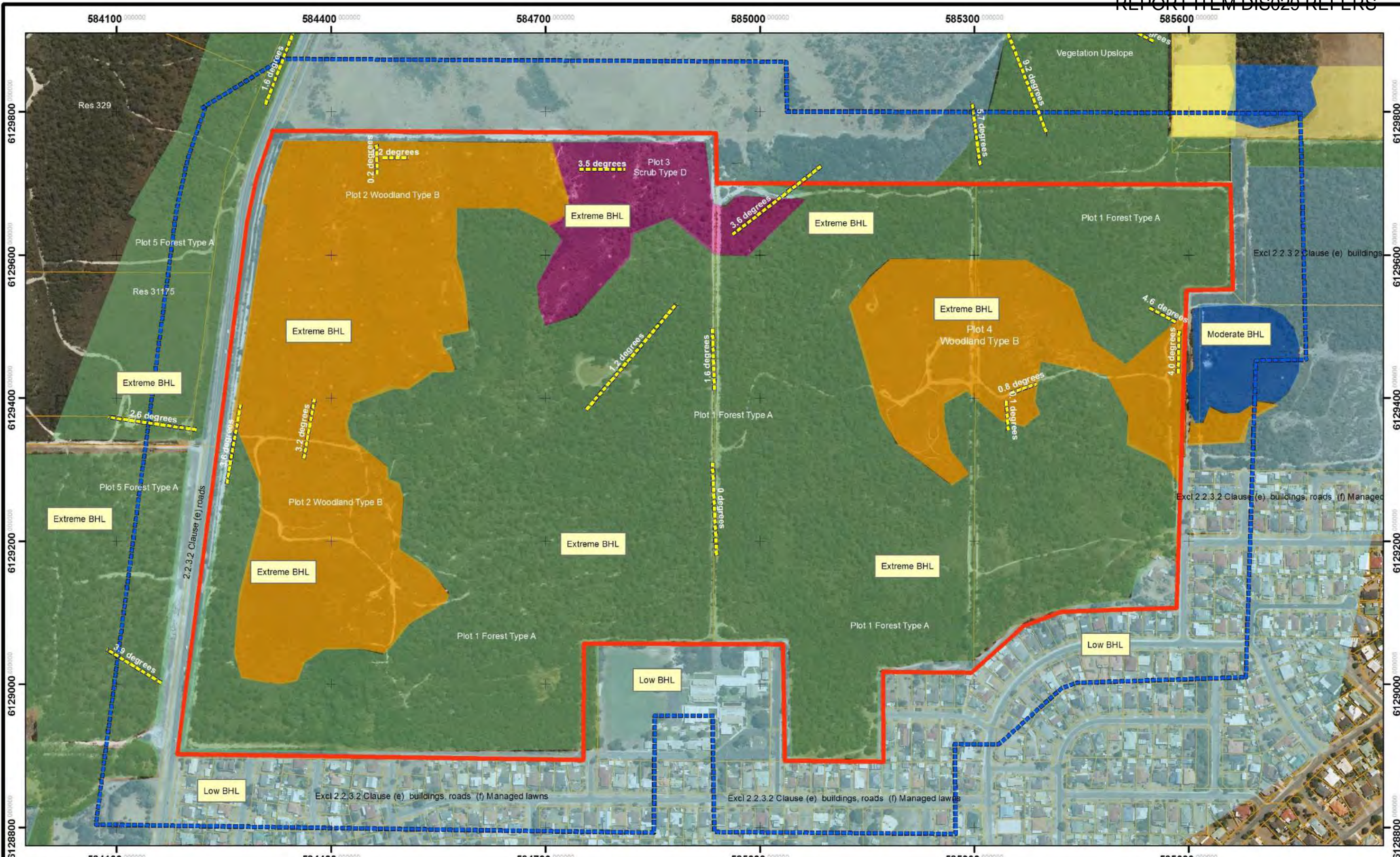
Consultation

Consultation with DFES and the City of Albany has not occurred at concept planning stages. It is recommended that their input is sought at subsequent planning stages. Brief assessment to the Guidelines for Planning in

Bushfire Prone Areas (WAPC, 2015 a) and State Planning Policy (SPP) 3.7 (WAPC, 2015b) has been provided in Appendix 4.

SECTION 2 - Vegetation Classification




All vegetation within 100m of the site / proposed development was classified in accordance with Clause 2.2.3 of AS 3959-2009. Refer to Bushfire Hazard Level (BHL) mapping and Vegetation Classification Mapping over the page and Section 3.






Legend <ul style="list-style-type: none"> Slope degrees 100m Assessment boundary Subject site Scrub Type D Copy 2 Forest Type A Grassland Type G Low fuel or non vegetated 2.2.3.2 Shrubland Type C Woodland Type B Cadastral 		Scale 1:5,000 @ A3 MGA GDA 94		This BAL Contour Plan was prepared by Kathryn Kinnear Bio Diverse Solutions Accreditation No. BPAD36794 Valid to: Feb 2017 Jurisdiction: Level 1 - WA	CLIENT Lot 1001 Lower King Road, Lot 1 Jason Road & Lot 476 Sibbald Road Lower King WA 6330
		BPAD Bushfire Planning & Design Accredited Practitioner Level 1	BIO DIVERSE SOLUTIONS 55 Peppermint Drive Albany, WA 6330 Australia Tel: 08 9841 3936 Fax: 08 9841 3936 Mob: 0447 559 516	Vegetation Classes Map & BHL	
STATUS FINAL	FILE EPP001	DATE 27/7/2016			

SECTION 3 - Vegetation Classification

All vegetation within 100m of the site / proposed development was classified in accordance with Clause 2.2.3 of AS 3959-2009. Each distinguishable vegetation plot with the potential to determine the Bushfire Attack Level (BAL) is identified below.

Plot	1	Classification or Exclusion Clause	Forest Type A
			<p>Peppermint, Jarrah and Marri Low forest with understorey consisting of smaller eucalypts, scrubs and tall shrubs. Trees averaging 10 – 12 m >30 – 70 % vegetative cover Fuel loading 25 – 35 t /ha Effective slope under vegetation Upslope (western extents) and Downslope >0 to 5 degrees in the eastern extents of the proposal. Located 0m from the urban proposal boundary 25-35T/ha of available fuels</p>
<p><i>Photo ID: Photo 1 view of Forest Type A in the north east of subject site. View from north to south.</i></p>			
Plot	2	Classification or Exclusion Clause	Woodland Type B
			<p>Located in the north of the subject site Eucalyptus Woodland with low scrub Trees 3-4m high <10-30% foliage cover Grassy/sedge understorey with some scrubs Located upslope of proposal and 0m along the southern boundary 15-25T/Ha available fuels</p>
<p><i>Photo ID: Photo 2 view of Woodland Type B in the north west of the subject site. View from North to south.</i></p>			
Plot	3	Classification or Exclusion Clause	Scrub Type D
			<p>Closed scrub located south of subject site in private property. Scrubs <4m in height Understorey of grasses and sedges. Occasional eucalypt to 3m >30% foliage cover Upslope from proposed development Effective slopes >0 to 5 degrees Dense available fuels 25T/ha fuel loading Located 189m to the north of the urban area</p>
<p><i>Photo ID: Photo 3 view of Scrub Type D in northern area of subject site. View from east to west.</i></p>			

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Plot	4	Classification or Exclusion Clause	Woodland Type B
			<p>Located in the north east of the subject site Jarrah, Marri and Casuarina Low Woodland with low scrub understorey and grasses Trees 4-8m high <10-30% foliage cover Grassy/sedge understorey with some scrubs Located upslope of proposal and downslope in the north west portion of the subject site</p>
<i>Photo ID: Photo 4 view of Scrub Type D in the south west of the subject site. View from north to south.</i>			
Plot	5	Classification or Exclusion Clause	Forest Type A
			<p>Located in subject site on western extents Jarrah, Marri and Casuarina trees, occasional banksia and Acacia scrub >10-30% vegetative cover Grassy understorey, kikuyu, cape weed, clover (200-300mm) Multilayered Located upslope of subject site. Effective Slope – Upslope Surface fuels 25-35 T/ha. Possible Woodland fuel loading at present due to fire/burn. Regenerate to Forest Type A structure. Located 50m (Lower King Road Reserve) from urban area.</p>
<i>Photo ID: Photo 5 view of Forest Type A in CoA reserves to the west of the subject site. Located upslope of the proposal.</i>			
Plot	6	Classification or Exclusion Clause	Low Fuel and Non Vegetated areas (e) & (f)
			<p>Low fuel and non vegetated areas associated with Buildings, roads, firebreaks and low fuel areas associated with APZ areas around houses. Located to the south of the development area</p>
<i>Photo ID: Photo 8 view of Lower King road reserve view from west to east.</i>			

	<p>Low fuel and non vegetated areas associated with Buildings, roads, firebreaks and low fuel areas associated with APZ areas around houses.</p>
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Photo ID: Photo 9 view of Bayonet head built up area

SECTION 4: Potential Bushfire Impacts

The potential bushfire impact to the site / proposed development from each of the identified vegetation plots are identified below. Refer to BAL Assessment Map (note not a detailed BAL Contour) Plan Page 10.

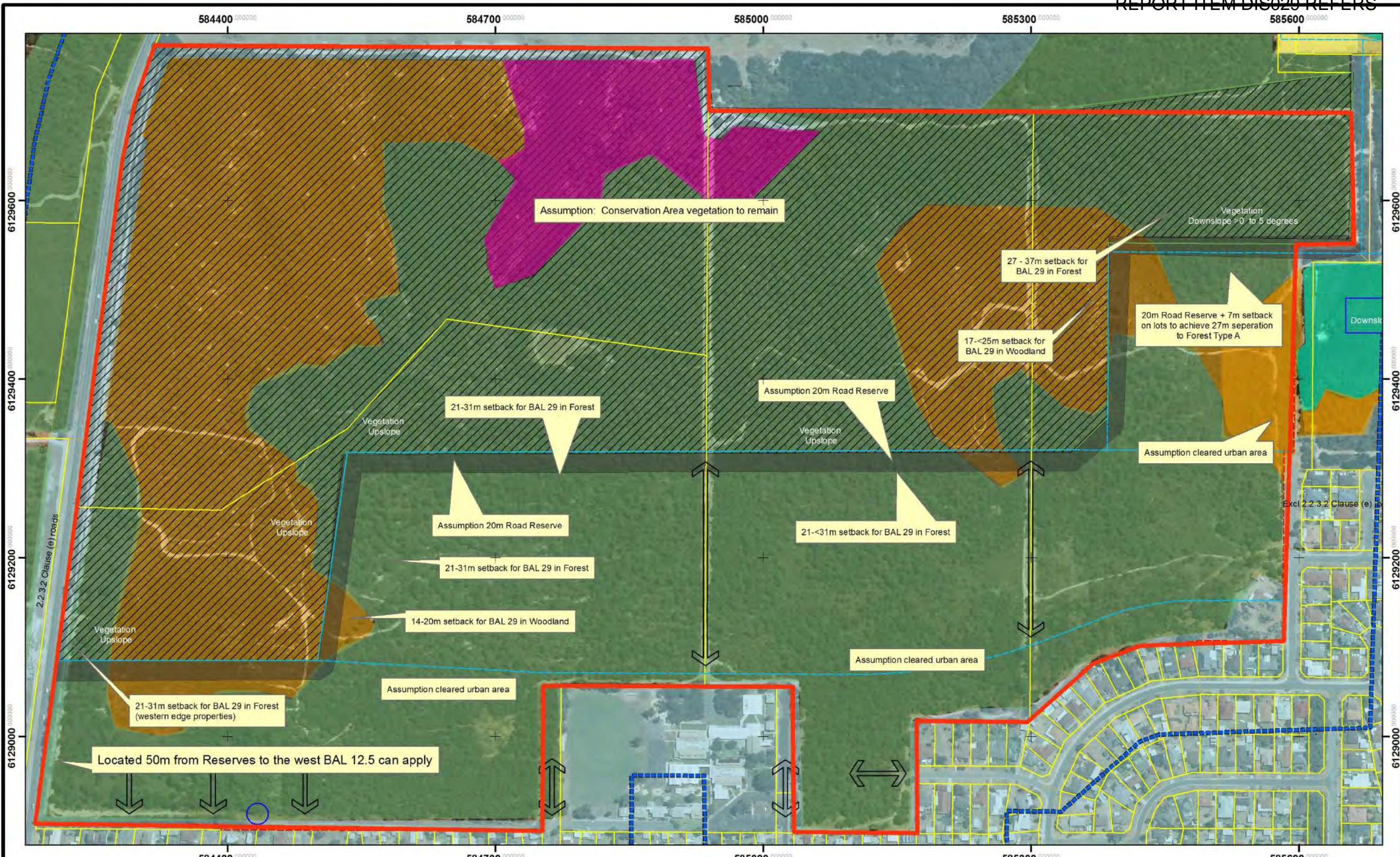
Plot	Vegetation Classification	Effective Slope	Separation (m)	BAL
1	Forest Type A	Upslope and Flat Land >0 to 5 degrees	20m (Road Reserve) 20m (Road Reserve) & 7m setback	Utilise road reserve of 20m and BAL 29-12.5 and BAL Low can apply to lots TBC
2	Woodland Type B	Upslope and Flat Land	20m (Road Reserve)	Utilise road reserve of 20m and BAL 29-12.5 and BAL Low can apply to lots TBC
3	Scrub Type D	Upslope and Flat Land	189	Excluded 2.2.3.2 (a)
4	Woodland Type B	Upslope and Flat Land	20m (Road Reserve)	BAL 29-12.5 and BAL Low can apply to lots BAL 29-12.5 and BAL Low can apply to lots
5	Forest Type A	Upslope and Flat Land	50m	BAL 12.5 and BAL Low can apply to lots
6	Low Fuel or non vegetated area 2.2.3.2 (e) & (f)	N/A	N/A	BAL –Low

COMMENTS ON BAL CALCULATIONS:

- Distances from vegetation were made based on surface fuels to edge of lot (subject site) boundary;
- Effective slopes were measured in the field using a Nikon Forestry Pro and represented on the respective plots;
- Method 1 (AS3959-2009) Simplified procedure was used for vegetation classification and BAL Assessment process;
- Vegetation was classified within 100m of the lot boundary;
- The perimeter of the vegetation was measured using field GPS and notations on field GIS maps;
- The BAL Assessment Map (note not detailed BAL Contour Plan) was prepared by an Experienced Level 2 Bushfire Planning Practitioner (pending Accreditation by FPA).

ASSUMPTIONS

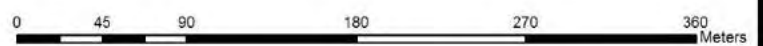
- The northern portion of the proposal is to remain vegetated as conservation reserve.
- Internal urban areas of the subdivision will be maintained in a low fuel state (as per APZ standards and AS3959-02009 Clause 2.2.3.2 (f)) by the developer until individual lot construction occurs.
- A 100m separation will occur to the balance of land zoned urban and within ownership of the developer.
- Where titles are owned by separate owners, all owners are to have an undertaking that 100m separation in urban zoned areas will be maintained to low fuel conditions to urban construction at all times
- A 20m APZ area can be applied to all dwellings either within the lots or by using low fuel POS, low fuel maintained (as per AS3959-2009 Clause 2.2.3.2 (f)) setback areas (balance of land) and road reserve areas.
- POS areas internal (excepting Conservation area north) will be managed and maintained as per low fuel definitions of as per AS3959-2009 Clause 2.2.3.2 (f).
- Subject to detailed BAL Contour in subsequent stages.



Legend

- 100m Assessment boundary
- Subject site
- Scrub Type D Copy 2
- 20m Road Reserve
- Forest Type A
- Grassland Type G
- Scrub Type C
- Woodland Type B
- Low fuel or non vegetated 2.2.3.2
- Cadastre

Scale
1:4,000 @ A3
MGA GDA 94



This BAL Contour Plan was prepared by
Kathryn Kinnear, Bio Diverse Solutions
Accreditation No. SPAD30794
Valid to Feb 2017
Jurisdiction: Level 1 - WA

BPAD
Bushfire
Planning & Design
Accredited Practitioner
Level 1

BIO DIVERSE SOLUTIONS

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Albany WA 6330
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Mob: 0447 935 016

CLIENT Lot 1001 Lower King Road, Lot 1 Jason Road & Lot 476 Sibbald Road Lower King WA 6330		
BAL Assessment Map		
STATUS FINAL	FILE EPP001	DATE 28/7/2016

SECTION 5: DISCLAIMER

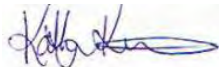
The recommendations and measures contained in this assessment report are based on the requirements of the Australian Standards 3959-2009 – Building in Bushfire prone Areas, WAPC State Planning Policy 3.7 (WAPC, 2015), WAPC Guidelines for Planning in Bushfire Prone Areas (WAPC, 2015), and CSIRO’s research into Bushfire behaviour. These are considered the minimum standards required to balance the protection of the proposed dwelling and occupants with the aesthetic and environmental conditions required by local, state and federal government authorities. They DO NOT guarantee that a building will not be destroyed or damaged by a bushfire. All surveys and forecasts, projections and recommendations made in this assessment report and associated with this proposed dwelling are made in good faith on the basis of the information available to the fire protection consultant at the time of assessment. The achievement of the level of implementation of fire precautions will depend amongst other things on actions of the landowner or occupiers of the land, over which the fire protection consultant has no control. Notwithstanding anything contained within, the fire consultant/s or local government authority will not, except as the law may require, be liable for any loss or other consequences (whether or not due to negligence of the fire consultant/s and the local government authority, their servants or agents) arising out of the services rendered by the fire consultant/s or local government authority.

AS3959-2009 disclaimer: It should be borne in mind that the measures contained within this Standard (AS3959-2009) cannot guarantee that a building will survive a bushfire event on every occasion. This is substantially due to the unpredictable nature and behaviour of fire and extreme weather condition.
(AS3959, 2009)

Building to AS3959-2009 is a standard primarily concerned with improving the ability of buildings in designated bushfire prone areas to better withstand attack from bushfire thus giving a measure of protection to the building occupants (until the fire front passes) as well as to the building itself.

SECTION 6: Certification

I hereby certify that I have undertaken the assessment of the above site and determined the Bushfire Attack Level stated above in accordance with the requirements of AS 3959-2009 (Incorporating Amendment Nos 1, 2 and 3).



SIGNED, ASSESSOR: DATE:

Kathryn Kinnear, Bio Diverse Solutions
Accredited Level 1 BAL Assessor (Accreditation No: BPAD30794)
“Experienced” Level 2 and 3 Bushfire Practitioner pending accreditation.



References

AS 3959-2009 Australian Standard, *Construction of buildings in bushfire-prone areas*, Building Code of Australia, Primary Referenced Standard, Australian Building Codes Board and Standards Australia.

Western Australian Planning Commission (WAPC) (2015a) Guidelines for Planning in Bushfire Prone Areas. Western Australian Planning Commission and Department of Planning WA, Government of Western Australia.

Western Australian Planning Commission (WAPC) (2015b) State Planning Policy 3.2 Planning in Bushfire Prone Areas. Department of Planning WA and Western Australian Planning Commission.

State Land Information Portal (SLIP) (2015 & 2016) map of Bushfire Prone Areas. Office of Bushfire Risk management (OBRM) data retrieved from:

<https://maps.slip.wa.gov.au/landgate/bushfireprone/>

Appendix 1: – Additional Information / Advisory Notes / Justifications Related to Assessment

Vegetation types analysed to A3959-2009 with the following justifications:

Forest Type A

- Trees 10-15m high;
- Multilayered;
- 25-35T/ha fuel loading; and
- >30% vegetative cover.

Woodland Type B

- Not multi-layered vegetation structure;
- Surface fuels and could reach 15-25T/ha surface fuels;
- <30% vegetative structure/cover;
- Eucalypt Trees 8-15m; and
- Grassy understorey.

Scrub Type D

- Melaleuca Scrub to 3- 4m;
- Occasional tree at 5m;
- 15T/ha available fuel loading; and
- Not multi layered.

Grassland Type G

- Unmanaged grasslands – not regularly slashed or grazed;
- Average heights of grasses 50-400mm;
- Dominated by grass species; and
- <10% tree/scrub species present.

Low Fuel and non-vegetated areas (AS3959-2009 2.2.3.2):

Clause (e) – Non-vegetated areas, including waterways, roads, footpaths, buildings and rocky outcrops.

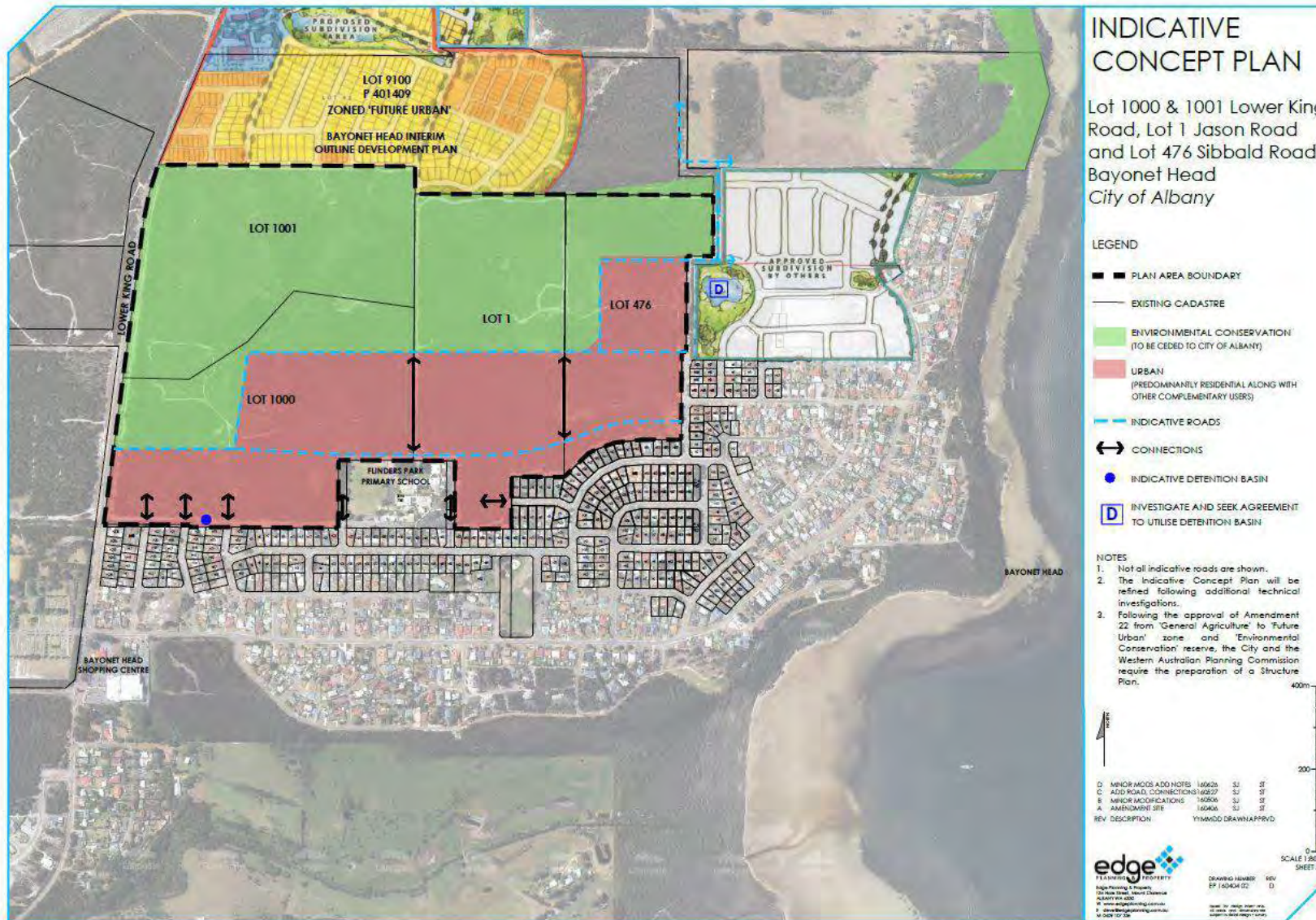
- Footpaths;
- Buildings;
- Bare ground;
- Carparks; and
- Roads

Clause (f) – Low threat vegetation including managed grassland in minimal fuel condition, maintained lawns, golf courses, maintained public reserves and parklands, vineyards, orchards, cultivated ornamental gardens, commercial nurseries, nature strips and wind breaks.

- Low fuel areas associated with managed grasslands, ornamental gardens in APZ areas of established buildings/dwellings.
- Managed grasses <100mm in height, evidence of regular mowing.

BAL Assessment undertaken by an Experienced Level 2 Bushfire Practitioner. Method 1 AS3959-2009 applied for BAL Assessment.

Appendix 3: – CONCEPT PLAN



Appendix 4 – Brief Assessment to the Guidelines and SPP3.7

Checklist for proposal compliance and justification to SPP3.7 (2015) & Guidelines for Planning in Bushfire Prone Areas (2015)			
BDS Project Name	Lot 1001 & Lot 1000 Lower King Road, Lot 1 Jason Road and Lot 476 Sibbald Road Albany BAL Assessment and BHL Report (Concept Planning)		
BDS Job Number	EPP001		
Date	27/7/2016	WAPC#	N/A
Client name	Shari Abbott	Condition #	N/A
Bushfire Prone Area	Yes (see Appendix 2)	Mapping	Yes see attached
Planning proposal	Concept Planning for Scheme Amendment	Lots created	N/A
1. Bushfire Protection Criteria Acceptable Solutions as defined by Guidelines for Planning for Bushfire Prone Areas (WAPC 2015).			
Element	Compliant to Acceptable Solution– Yes/No	Justification	
Element 1 – Location	Yes	<p>Site has internal areas which upon construction will be classified as low Bushfire Hazard Level. Moderate and Extreme external BHL's are located internal and external. Proposed buildings can be in BAL 29, 19, 12.5 and BAL-Low zones with 20m road reserves and a possible setback in eastern portion of development area.</p> <p>Plan of subdivision is deemed to meet Acceptable Solutions for Element 1.</p>	
Element 2 - Siting and design of development	Yes	<p>A2.1: 20m APZ can be achieved within the proposed lots and within the parent lot and utilise low fuel areas such as road reserves.</p> <p>A2.2 Setbacks and building to BAL/AS3959-2009 can be achieved on all lots. No higher BAL allocation than BAL 29 to apply to proposed lots. Large 20m road reserves to assist in BAL setbacks from conservation areas. A dwelling setback to 7m may be required in the eastern portion of the development area.</p> <p>Plan of subdivision is deemed to meet Acceptable Solutions for Element 2.</p>	
Element 3 - Vehicular access	Yes	<p>A3.1: Two access routes connecting east to west and north and south onto Lower King Road.</p> <p>A3.2 Public roads to meet minimum grades.</p> <p>A3.3 Cul-de-sacs not recommended.</p> <p>A3.4 Battle axes not recommended.</p> <p>A3.5 Private Driveways will meet minimum requirements.</p> <p>A3.6 No EAW proposed in proposal use the internal road network.</p> <p>A3.7 Possible FSA along northern boundary along existing firebreak system.</p> <p>A3.8 Firebreaks compliant by current owner.</p> <p>Deemed to meet Acceptable Solutions for Element 3.</p>	
Element 4 – Water	Yes	<p>Connect to reticulated water, hydrants to WCWA standards.</p> <p>Deemed to meet Acceptable Solutions for Element 4.</p>	
BHL Assessment required	Yes	See Vegetation Classes/BHL Plan.	
BAL Contour required	Yes	See attached BAL Assessment Map, when lot layout is known a detailed BAL Contour Plan is to be provided.	

REPORT ITEM DIS029 REFERS

BMP required	No	Detailed BMP required at subsequent planning stages.
2. Policy measures SPP3.7		
Policy Measure	Applicable – Yes/No	Justification
6.1 - Higher order strategic planning documents in bushfire prone areas	Yes	Concept Structure Planning Stages – bushfire hazards identified, see Section 6.2.
6.2 – Strategic planning proposals, subdivision and development applications:	Yes	<p>a) Subdivision proposal within a designated bushfire prone area, BAL and AS3959-2009 to apply to lots. Dwellings to be built to AS3959-2009 applying Acceptable Solutions. Brief BAL Assessment indicates with a wide road reserve separation to the conservation area BAL 29, 19, 12.5 and BAL –Low may be applied in newly created lots. BAL Assessment undertaken in accordance with AS3959-2009 and BHL in accordance with WAPC (2015) Guidelines for Planning in Bushfire Prone Areas. Brief Assessment found can comply with Policy Measures with the support of a detailed BMP report.</p> <p>b) Lot layout not known brief assessment using AS3959-2009 indicates that the proposal can be undertaken in accordance with Policy measures 6.3, 6.4 or 6.5. See Section 6.3.</p> <p>c) Designated Bushfire Prone Area as designated by the FES Commissioner 7/12/2015 and 21/5/2016.</p>
6.3 - Information to accompany strategic planning proposals:	Yes	<p>a) Results of the BHL/Vegetation classes in accordance with the detailed methodology in Guidelines/AS3959-2009. Prepared by a Level 2 Experienced Bushfire Practitioner (pending accreditation). Lot layout not known concept planning stages only.</p> <p>b) Bushfire hazard issues arising from assessment:</p> <ul style="list-style-type: none"> • BAL 29, 19, 12.5 and BAL –Low may be applied in newly created lots with the creation of 20m internal road reserves to assist in hazard separation from conservation areas for BAL setbacks and APZ areas. • Setbacks can be achieved in the concept plan to mitigate Extreme and Moderate bushfire hazards. • Extreme and Moderate Bushfire hazards predominantly upslope of the development (excepting eastern portion). The 20m internal road reserve and a setback of dwellings (7m) may be required in the eastern portion of the development area. • If the development is staged then balance of title in low fuel areas to be maintained in a low fuel condition for 100m in urban areas. If separate ownership of titles, all owners to be aware of BMP (yet to be done) and agree to management requirements. • Linking road reserves achieved and grades to acceptable standards to be detailed. • Cul-de-sacs and battle axes not recommended and should be avoided in bushfire prone areas. • Reticulated water to be provided. <p>c) Brief assessment to Bushfire Protection Criteria (Elements) in the Guidelines indicated can meet all the elements by applying Acceptable Solutions and can be achieved in subsequent planning stages. Detailed BMP will be required.</p>

REPORT ITEM DIS029 REFERS

6.4 - Information to accompany subdivision application	No	Not applicable - at Subdivision application stages of planning, will be required in subsequent stages.
6.5 Information to accompany Development applications	No	Not applicable – not a Development Application.
6.6 Vulnerable or high-risk land uses	No	No vulnerable or high risk uses proposed. Urban proposal. Vulnerable land uses (i.e. child care, hospital, school, aged care) not recommended in Moderate or Extreme Bushfire risk areas.
6.7 Strategic Planning proposals, subdivision or development applications in areas where an extreme BHL and/or BAL-40 or BAL –FZ applies	No	Not applicable. No BAL 40 or FZ proposed if 20m road reserves and dwelling setbacks are used to separate from bushfire risks (conservation reserve).
6.8 Advice of State/relevant authorities for emergency services sought	Yes	Applied in subsequent stages during BMP preparation.
6.9 Advice of State/relevant agencies/authorities for environmental protection to be sought	Yes	Being undertaken by other consultants at a State and Federal Level regarding the conservation areas proposed to protect Flora and Fauna Values.
6.10 Bushfire conditions may be imposed	Yes	Yes, recommend notification on any new titles that building to AS3959-2009 to apply to any new buildings. BMP report required.
6.11 Precautionary principle	No	Not applied.

3. Recommendations based on above checklist

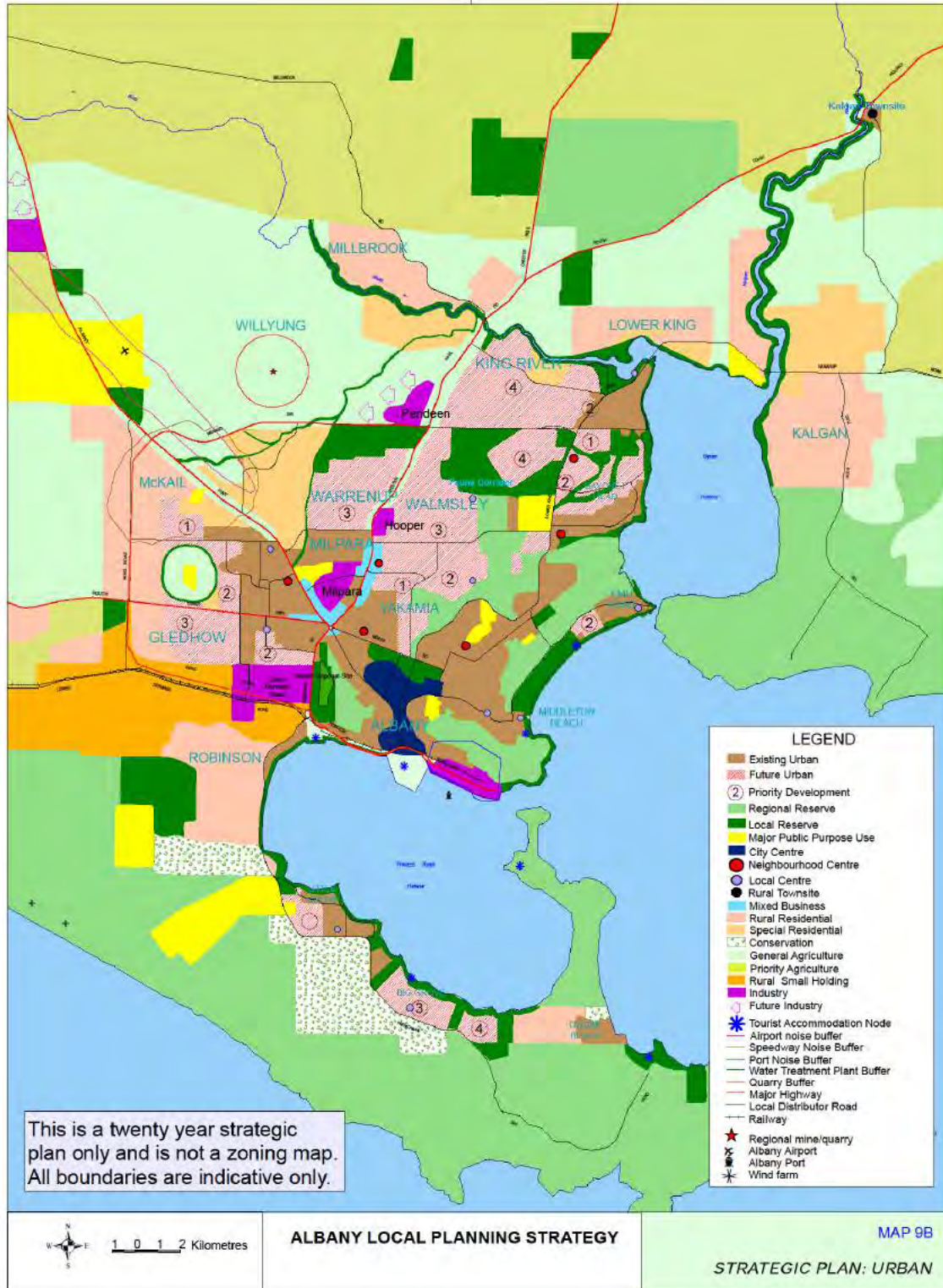
1. Subject site is located in a Bushfire Prone Area as gazetted by the FES commissioner.
2. SPP3.7 policy measures to apply to the development proposal.
3. Assessment to SPP3.7 indicates that the subdivision has Moderate and Extreme BHLs internal and external to the site.
4. BAL 29, 19, 12.5 and BAL – Low may be achieved in the proposal, 20m road reserves and dwelling setbacks to separate bushfire hazards in conservation areas to north and assist in achieving BAL setbacks and APZ areas.
5. Brief assessment to Guidelines indicated can meet the Elements by applying Acceptable Solutions can be achieved in the subsequent stages.
6. Detailed BMP required document developer and new lot owner responsibilities, to be undertaken in subsequent stages (concept planning only at this point in time).
7. BAL Contour Plan not detailed, BAL assessment undertaken at concept stages only.
8. Notification on title for newly created lot as condition of subdivision, building to AS3959-2009 to apply to any new dwellings.
9. Bushfire prone area mapping is correct as per the Map of Bush Fire Prone Areas identifying land falling within, or partially within, a bush fire prone area of Western Australia as designated by the Fire and Emergency Services (FES) Commissioner dated 8/12/2015 and 21/5/2016. Updates of this mapping will occur at the discretion of the FES Commissioner and the BAL Contour Mapping is considered valid for a period of 12 months from the date of production.

Prepared by:

Kathryn Kinnear, Bio Diverse Solutions
Accredited Level 1 BAL Assessor (Accreditation No: BPAD30794)
Experienced Level 2/3 BAL Assessor (Pending Accreditation)



ATTACHMENT 8



ATTACHMENT 9



Planning & Development

City of Albany Policy

BAYONET HEAD INTERIM OUTLINE DEVELOPMENT PLAN

ATTACHMENT 10

INDICATIVE CONCEPT PLAN

Lot 1000 & 1001 Lower King Road, Lot 1 Jason Road and Lot 476 Sibbald Road Bayonet Head City of Albany

LEGEND

- PLAN AREA BOUNDARY
- EXISTING CADASTRE
- ENVIRONMENTAL CONSERVATION
(TO BE CEDED TO CITY OF ALBANY)
- URBAN
(PREDOMINANTLY RESIDENTIAL ALONG WITH OTHER COMPLEMENTARY USERS)
- INDICATIVE ROADS
- CONNECTIONS
- INDICATIVE DETENTION BASIN
- INVESTIGATE AND SEEK AGREEMENT TO UTILISE DETENTION BASIN

NOTES

1. Not all indicative roads are shown.
2. The Indicative Concept Plan will be refined following additional technical investigations.
3. Following the approval of Amendment 22 from 'General Agriculture' to 'Future Urban' zone and 'Environmental Conservation' reserve, the City and the Western Australian Planning Commission require the preparation of a Structure Plan.

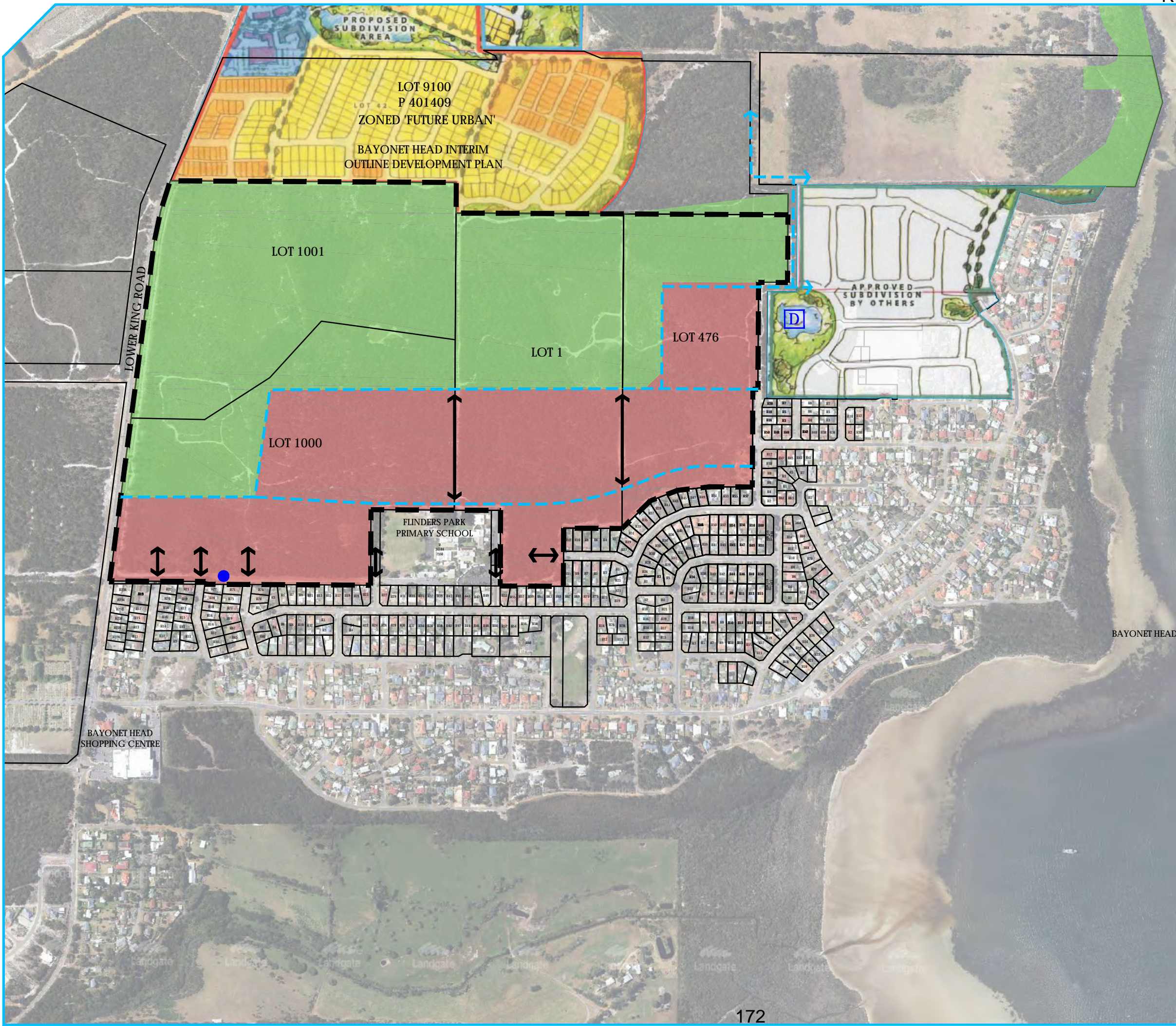
D	MINOR MODS ADD NOTES	160626	SJ	ST
C	ADD ROAD, CONNECTIONS	160527	SJ	ST
B	MINOR MODIFICATIONS	160506	SJ	ST
A	AMENDMENT SITE	160406	SJ	ST
REV	DESCRIPTION	YYMMDD	DRAWN	APPRVD

SCALE 1:8000
SHEET A3

edge
PLANNING & PROPERTY
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134 Hare Street, Mount Clarence
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W www.edgeplanning.com.au
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M 0409 107 336

DRAWING NUMBER EP 160404 02 REV D

based for design intent only. All areas and dimensions are subject to detail design + survey.



Council Policy - Regulatory Compliance

1 OBJECTIVES

This policy provides guidance to:

- (a) Ensure there is a consistent approach in the undertaking of compliance and enforcement action.
- (b) Ensure transparency, procedural fairness and that the principles of natural justice are enacted.

2 POLICY STATEMENTS

- 2.1 The City shall administer its statutory responsibilities under the applicable legislation in a fair, unbiased and equitable manner in the interest of public health, safety, order, and amenity.
- 2.2 The City of Albany recognises the need for the separation of powers in respect of the adoption of regulation and the enforcement thereof.
- 2.3 The City acknowledges that the enforcement of regulations is an administrative function for which statutory responsibility rests with the Chief Executive Officer.
- 2.4 Each compliance investigation undertaken by the City will be assessed case by case on its merits.
- 2.5 Complaints will be prioritised for investigation based upon the seriousness of the alleged breach or offence when assessed against criteria established in the Compliance and Prosecution Guidelines.
- 2.6 Assessment of the priority of the matter, prior to prosecution, will include a public interest test as described in the Compliance and Prosecution Guidelines.
- 2.7 Authorised City staff may undertake compliance checks on a random or routine basis. Evidence of a breach of legislation identified may result in an investigation and subsequent compliance action.
- 2.8 City of Albany staff, volunteers, and Councillors will be bound by the City of Albany Code of Conduct Policy when undertaking the investigation and resolution of compliance issues.
- 2.9 The City's communications with members of the public will be in accordance with the Customer Service Commitment and Complaints Resolution policy.
- 2.10 The City of Albany is unable to condone the continuation of a breach or offence once it has been brought to the City's notice. The City's compliance efforts will be applied in accordance with the Compliance and Prosecution Guidelines and within available resources. Accordingly, the investigation of relatively minor instances of non-compliance may be deferred or not pursued.
- 2.11 The City may refuse to investigate a complaint where the City has formed the opinion that the compliance issue is either minor or unreasonable as described in the Ombudsman Western Australia *Managing unreasonable complainant conduct: Practice Manual*.
- 2.12 The enforcement measures applied will be those considered by the CEO or delegate to be most appropriate to achieve compliance with the law and serves the public interest.
- 2.13 Enforcement action will be commensurate with the seriousness of the alleged breach or offence assessed against criteria established in the Compliance and Prosecution Guidelines and consistent with legal requirements.

3 SCOPE

- 3.1 This policy applies to any City officer with responsibilities under delegated authority for ensuring compliance with WA state legislation and City of Albany local laws.
- 3.2 This policy primarily applies to the investigation and resolution of:
- (a) offences against, or breaches of legislation for which the City of Albany (the City) is administratively responsible; and
 - (b) failure to comply with lawful directions.
- 3.3 It also applies to any appeals arising out of proceedings brought by the City.
- 3.4 This policy will apply to all relevant State and local laws, including but not limited to the *Planning and Development Act 2005*, the *Public Health Act 2016*, the *Building Act 2011*, *Dog Act 1976*, *Cat Act 2011* and the *Bush Fires Act 1954*.

4 LEGISLATIVE CONTEXT

- 4.1 The *Local Government Act 1995*, s3.1(11) identifies that one of the general functions of Local Government is the “*good government of persons in its district*”.
- 4.2 The *Local Government Act 1995* s 3.18(1) provides that: “*a local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act*”.
- 4.3 The *Local Government Act 1995* s.2.7 identifies the role of council as:
- “(1) *The council —*
 - (a) *governs the local government’s affairs; and*
 - (b) *is responsible for the performance of the local government’s functions.*
 - (2) *Without limiting subsection (1), the council is to —*
 - (a) *oversee the allocation of the local government’s finances and resources;*
 - and*
 - (b) *determine the local government’s policies.*”

4.4 This policy is guided by the Statement of Prosecution Policy and Guidelines 2005 issued under the *Director of Public Prosecutions Act 1991*.

5 REVIEW POSITION AND DATE

This policy and procedure is to be reviewed by the document owner every two years.

6 ASSOCIATED DOCUMENTS

City Guideline – Compliance & Enforcement.

7 DEFINITIONS

- **Amenity** means the same as defined in Local Planning Scheme No 1.
- **City** means the City of Albany
- **Infringement Notice** means a notice issued under a written law, other than this Act, to a person alleging the commission of an offence and offering the person an opportunity, by paying an amount of money prescribed under the written law and specified in the notice, to have the matter dealt with out of court.
- **Officer** means an employee of the City of Albany

REPORT ITEM DIS030 REFERS

- **Public safety** means the welfare and protection of the general public.
- **Proactive compliance** means the commencement of compliance investigations into an activity without a written complaint.
- **Unreasonable complaint** has the meaning given in the Ombudsman Western Australia *Managing unreasonable complainant conduct: Practice Manual*.
- **Warning** means verbal or written notice given to an individual or business that an offence has allegedly been committed. The warning advises of the nature of the breach or non-compliance, appropriate remedial action and the potential consequences of further non-compliance.

Document Approval			
Document Development Officer:		Document Owners:	
Manager Ranger & Emergency Services		Executive Director Development Services	
Document Control			
File Number - Document Type:	CM.STD.7 – Policy		
Synergy Reference Number:	NP1763803		
Meta Data: Key Search Terms	Compliance, prosecution, court action		
Status of Document:	Council decision: Draft		
Document file details:	Location of Document: Intranet		
Quality Assurance:	Executive Management Team, Council Committee, and Council.		
Distribution:	Public Document		
Document Revision History			
Version	Author	Version Description	Date Completed
0.1	Ranger Team Leader	Draft – v1. Prepared for internal review and stake holder workshop.	07/04/2017
0.2	Ranger Team Leader	Draft – v2. Minor formatting changes.	26/05/2017

City Guideline – Compliance & Enforcement

Purpose

1. To provide guidance to City of Albany authorised officers who have a compliance and enforcement role to ensure:
 - a. there is a consistent approach in the undertaking of compliance and enforcement action; and
 - b. that transparency, procedural fairness and the principles of natural justice are applied.

Scope

2. This policy applies to any City officer with responsibilities under delegated authority for ensuring compliance with WA state legislation and City of Albany local laws.
3. This policy primarily applies to the investigation and resolution of:
 - a. offences against, or breaches of legislation for which the City of Albany (the City) is administratively responsible;
 - b. failure to comply with lawful directions; and
 - c. any appeals arising out of proceedings brought by the City.

Compliance

4. Where a complaint relates to a breach of statute or local law for which the City is responsible for administering, the City may request those complaints to be made in writing and should include:
 - a. name, address and phone number or email address of the complainant;
 - b. address of the property to which the complaint relates;
 - c. details of the alleged breach or offence; and
 - d. details of how the matter is affecting the complainant.
5. The City of Albany is unable to condone the continuation of a breach or offence once it has been brought to the City's notice. The City's compliance efforts will be applied in accordance with enforcement criteria listed in sections 9 and 10 of this Guideline and within available resources. Accordingly the investigation of relatively minor instances of non-compliance may be deferred or not pursued.
6. Complaints will be prioritised for investigation based upon the seriousness of the alleged breach or offence when assessed against the criteria prescribed in clause 12 of this Guideline.

Enforcement

7. Enforcement options may only be exercised by officers with relevant delegated authority or authorisation relating to enforcement action or otherwise by Council resolution.
8. City of Albany may, where appropriate, favour education over other enforcement options but only where this is in the public interest and appears likely to achieve compliance.

REPORT ITEM DIS030 REFERS

9. At the conclusion of an investigation, authorised officers shall pursue the most appropriate action which may include one or more of the following enforcement options, listed below:
 - a. acknowledge, with no further action
 - b. granting of public amnesty
 - c. informal action (including education)
 - d. formal warning
 - e. cancellation of permits
 - f. infringement notice
 - g. statutory notice and/or direction notice
 - h. prosecution
 - i. injunction
10. Decisions on enforcement action may have regard to any or all of the following considerations:
 - a. whether there has been a failure to comply with any written law, any formal request, lawful direction or notice given by the City;
 - b. the length of time since the occurrence of the incident;
 - c. whether the breach or offence was committed deliberately or accidentally;
 - d. any mitigating or aggravating circumstances;
 - e. any demonstrated history of non-compliance;
 - f. the potential short and long term consequences of non-compliance;
 - g. the need for deterrence of further breach or offences; or
 - h. precedent which may be set by any failure to take enforcement action.
11. Enforcement action will be commensurate with the seriousness of the alleged breach or offence and consistent with legal requirements.
12. In determining the seriousness of an alleged breach or offence resulting from a complaint or proactive compliance action, the City will have regard to:
 - a. the penalty prescribed in the relevant legislation for the alleged breach or offence;
 - b. the nature or relative seriousness of the breach;
 - c. the potential harm caused by, or effect of, the breach/offence on public health and safety, environment (built and natural), or the amenity of the district; and
 - d. whether or not it is in the public interest for the City to take action.

Prosecution

13. Prosecution is an enforcement option that may be used when there are reasonable grounds for suspecting that an offence has been committed contrary to an Act, regulation, or local law. The objects of prosecution include but are not limited to:
 - a. enforcing legislation;
 - b. protecting the public from loss, harm, injury, or damage;
 - c. satisfying the public interest that legislation is properly enforced; and
 - d. act as a deterrent to others who might consider committing the same or similar offences.
14. For the purpose of this Guideline, a prosecution is commenced when a prosecution notice is lodged with the court.
15. The City may also become involved in prosecution proceedings if:
 - a. at the election of the alleged offender;
 - b. escalation following a court decision; or
 - c. escalation following a State Administrative Tribunal (SAT) decision.
16. Prosecution will only be initiated following consideration of all the available information and circumstances of the individual case. Determining if prosecution is an appropriate option involves two identifiable steps:
 - a. the establishment of a prima facie case with reasonable prospects of success, and
 - b. establishing that a prosecution is in the “public interest”.
17. Prima facie case:
 - a. A prosecution should not be instituted or continued unless there is sufficient admissible, evidence to address the burden of proof that an offence has been committed by the alleged offender. The existence (or otherwise) of a prima facie case should be determined as early as possible in the prosecution process. However, the existence of a prima facie case does not of itself justify prosecution of a matter.
 - b. Consideration should also be given to the prospects of conviction. Prosecution should not ordinarily proceed if there is no reasonable prospect of a conviction being secured.
18. Public Interest:
 - a. The public interest dictates that prosecutions are initiated, or continued, only in circumstances where it is apparent that the offence, or the circumstances of its commission, are of such a nature that a prosecution is in the public interest.
 - b. The factors to be taken into account when deciding whether or not the public interest requires prosecution will vary from case to case. The following factors, which should be considered at all stages of the process, may be relevant in determining whether the public interest supports prosecution of a matter:
 - (i) The seriousness or triviality of the alleged offence or technical non-compliance.
 - (ii) Any mitigating or aggravating circumstances.
 - (iii) The age, mental ability, physical health, mental health, or special infirmity of the alleged offender or a witness.
 - (iv) The alleged offender’s previous history in relation to relevant compliance activity.

REPORT ITEM DIS030 REFERS

- (v) The degree of culpability of the alleged offender in connection with the offence.
 - (vi) The effect on public order.
 - (vii) Whether the prosecution would be perceived as counter-productive, for example, by bringing the law into disrepute.
 - (viii) The availability and efficacy of any alternatives to prosecution.
 - (ix) The prevalence of the alleged offence and the need for deterrence (including the likely deterrent value of the prosecution).
 - (x) Whether the alleged offence is of considerable public/environmental concern.
 - (xi) Any entitlement of the City or other person/body to compensation, reparation, or forfeiture if a prosecution is secured.
 - (xii) The likely length and expense of a trial (if disproportionate to the seriousness of the offence).
 - (xiii) Whether the alleged offender is willing to co-operate in the investigation or prosecution of others, or the extent to which the alleged offender has done so.
 - (xiv) The likely outcome in the event of a finding of guilt having regard to the sentencing options available to the court.
 - (xv) The necessity to maintain public confidence in the City and the courts.
 - (xvi) The potential financial benefit the alleged offender stands to make from the illegal activity.
- c. The relevance and weight of these factors will vary depending upon the particular circumstances of the case.
19. A decision whether or not to prosecute **must not be influenced by**:
- a. the race, religion, gender, national origin, political associations, activities or beliefs of the alleged offender or any other person involved;
 - b. personal feelings concerning the alleged offender or their legal representative;
 - c. possible political advantage or disadvantage to any individual, Council or any political group or party; and
 - d. the possible effect of the decision on the personal or professional circumstances of those responsible for the decision.
20. A prosecution should only to be discontinued if:
- a. the prosecution complaint is wrong at law or there is an error in the charges;
 - b. the prosecution involves a mistake of fact;
 - c. the alleged offender be deceased, cannot be located, or is declared bankrupt;
 - d. upon legal advice;
 - e. where the age, state of physical health and/or mental health of the alleged offender is a determining factor;
 - f. in consultation with or following comments made by the court; or

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- g. after consultation with the legal representative of the defendant or personally with the defendant if the defendant is unrepresented.
 - h. The complainant withdraws the matter prior to first mention in court.
21. The decision to discontinue a prosecution shall be made by the CEO or delegate.
22. If, following the commencement, but prior to the conclusion of prosecution action, an alleged offender complies with any prior order that gave rise to the prosecution, or submits any application for approval, the City will not discontinue the prosecution.

Injunctions

23. In instances of serious non-compliance with legislation and where efforts to resolve that non-compliance have proven ineffective, the City may seek an injunction requiring a person not to breach, or to cease breaching, a statute.
24. Decisions on whether to seek an injunction shall be made in accordance with the Chief Executive Officer's statutory responsibilities in relation to legal proceedings

Recovery of Legal Costs & Penalties

25. The City will seek to recover its fair and reasonable costs in all matters where costs are recoverable, either by consent or by order of the Court.
26. The City is unable to assist third parties in the recovery of legal costs.

Disclosure of Information

27. Requests for information relating to compliance or enforcement matters made pursuant to the Freedom of Information Act 1992 (FOI Act) and will be handled in accordance with the processes set out in the FOI Act. Any decision to release or refuse to release information will be considered on a case-by-case basis in accordance with the provisions of the FOI Act.
28. Officers shall not release information on specific compliance and enforcement activities, such as active investigations, to the public. The City may provide a press statement if it is absolutely necessary or required through the investigative process. Information may be shared with co-regulators and police.

Legislative and Strategic Context

29. The *Local Government Act 1995*, s3.1(1) identifies that one of the general functions of Local Government is the "good government of persons in its district".
30. The *Local Government Act 1995* s 3.18(1) provides that: "a local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act".
31. The *Local Government Act 1995* s.2.7 identifies the role of council as:
- "(1) The council —*
 - (a) governs the local government's affairs; and*
 - (b) is responsible for the performance of the local government's functions.*
 - (2) Without limiting subsection (1), the council is to —*
 - (a) oversee the allocation of the local government's finances and resources;*
 - and*
 - (b) determine the local government's policies."*
32. This policy is guided by the Statement of Prosecution Policy and Guidelines 2005 issued under the *Director of Public Prosecutions Act 1991*.

Review Position and Date

33. This guideline is to be reviewed by the document owner every two years.

Associated Documents

34. Council Policy – Compliance & Prosecutions.

Definitions

35. The key terms and acronyms used in the guideline, and their definitions are detailed in the Council Policy – Compliance & Prosecutions.

Document Approval			
Document Development Officer:		Document Owner: <i>(Member of EMT)</i>	
Manager Ranger & Emergency Services		Executive Director Development Services	
Document Control			
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0.1	Team Leader Ranger Services	Draft – v1. Internal stake holder workshop completed, referred to EMT for approval and endorsement by Council Committee.	26/05/2017

City Procedure – Heritage List

1.0 OBJECTIVES

The objectives of the procedure are:

- to achieve transparency and consistency in the designation of a heritage list;
- to provide clear guidelines on how challenges to inclusion will be assessed;
- to ensure that the heritage list is maintained in a manner and form that is consistent with the local planning scheme; and
- to clarify which places fall outside the scheme provisions for heritage considerations.

2.0 SCOPE

This procedure applies to the administration and operation of the heritage list associated with the City of Albany Local Planning Scheme No.1.

3.0 LEGISLATIVE CONTEXT

Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015* lists a range of 'deemed provisions' that have effect and may be enforced as part of the local planning scheme. Requirements noted within the deemed provisions are therefore required under the local planning scheme.

The Local Planning Scheme allows for special provisions to be applied to heritage places, which ensure that consideration is given to the cultural heritage significance of the place or area when making a planning decision.

The heritage list allows the City to identify those places whose cultural heritage significance is, in its opinion, such that these additional provisions are necessary and appropriate. By inclusion in the heritage list, notice is given to present and future owners that heritage, and the impact on heritage, should be addressed as part of a development application.

Inclusion in the heritage list does not limit the ability of an applicant to propose any works, nor does it limit the ability of the City to determine an application in the manner it considers most appropriate. However, proposals that respect and retain the heritage values of the place are likely to be encouraged and may, where appropriate, be required.

Clause 61(b) of the deemed provisions requires that works to the interior of a building require development approval where a place is noted in the heritage list as having an interior of cultural significance. This procedure identifies how this will be assessed and how the designation will be indicated.

PROCEDURE (GUIDING PRINCIPLES)

4.0 FORMAT OF THE HERITAGE LIST

The definitive version of the heritage list is the most recent dated document of that designation that has been adopted by a resolution of Council. The heritage list is available for inspection during business hours at the City's North Road offices and on the local government website.

The heritage list will be compiled in a format consistent with the heritage list template given in Schedule 1 of this procedure. While best efforts will be made to provide information for all parts of the heritage list, absence of data in one or more fields does not invalidate the inclusion of a place in the heritage list.

Due to the extent of information associated with the statement of significance and physical description, this information may be provided on the individual place record in the heritage survey. In such circumstances the heritage survey place record should be considered part of the place entry on the heritage list.

The City will endeavour to include all relevant information relating to the heritage list in the Heritage Council's online database inHerit (www.inherit.stateheritage.wa.gov.au). If there is any inconsistency between sources, the City's hard copy is determined to be the correct version.

5.0 THRESHOLD FOR INCLUSION IN THE HERITAGE LIST

Establishment and maintenance of the heritage list is a requirement of clause 8(1) of the deemed provisions. Inclusion in the heritage list will be based on an assessment of cultural heritage significance and the designation of this significance as detailed in the City's local government inventory, also known as the heritage survey (formerly known as the municipal inventory or MI).

Inclusion in the heritage list will be based on the level of cultural heritage significance identified in the heritage survey, as indicated in Table 1.

Level of Significance	Category	Description	Heritage List status
Exceptional significance	1	Essential to the heritage of the locality. Rare or outstanding example.	All places included in the heritage list.
Considerable significance	2	Very important to the heritage of the locality. Shows a high degree of integrity / authenticity.	All places included in the heritage list.
Some / Moderate significance	3	Contributes to the heritage of the locality. Has some altered or modified elements, not necessarily detracting from the overall significance of the place.	Places may be included in the heritage list.
Little significance	4	Has elements or values worth noting for historical interest but otherwise makes little contribution.	Below the threshold for inclusion in the heritage list.

Table 1. Heritage significance and inclusion in the heritage list

Places of some / moderate significance (Category 3) will be included in the heritage list unless and until a request to the contrary is made in writing by the owner(s) of the affected property.

In the case of a property under multiple ownership, the request must demonstrate the consent of at least 75% of owners. It is the responsibility of the applicant to provide supporting evidence that this criterion has been met.

6.0 CHANGES TO THE HERITAGE LIST

Consultation requirements for modifying the heritage list are set out in clause 8(3) of the deemed provisions. This process applies to the initial entry of a place, subsequent changes or removal of an entry.

6.1 Initiating the entry of a place

Requests for the City to assess the heritage values of a place shall be made as a nomination for the heritage survey and must provide sufficient information to determine the place and to indicate the values attributed to it by the nominee.

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If the place is adopted in the heritage survey by a resolution of Council and its assigned level of cultural significance meets the threshold for inclusion in the heritage list, the City will begin the consultation process to consider inclusion of the place in the heritage list.

Consultation for including a place in the heritage list will be initiated by the City within three (3) months of a resolution adopting the place in the heritage survey.

In addition to inviting submissions from owners and occupants of each nominated place, consultation on heritage assessments may be carried out by inviting comment:

- from the general community through the City's website;
- from the local historical society;
- as part of a community forum or workshop held for that purpose; or
- in any other manner that may reasonably result in providing relevant information on the cultural heritage values of the place.

Submissions on the proposed inclusion of a place in the heritage list will be accepted for a minimum period of 21 days.

The City will consider objections to the inclusion in the heritage list only in relation to the level of cultural heritage significance assigned to the place.

6.2 Modifying an entry in the heritage list

Changes to an entry in the heritage list may be initiated by the City as part of the administration of the list, or by nomination using the prescribed form. The City will consider requests for change but is not obliged to make such a change.

A decision on progressing the change will take into account the relevance, necessary and benefits of updated information and the administrative requirements of the consultation process. In general, minor and inconsequential changes to the heritage list will not be progressed, but may be deferred for later consideration.

6.3 Removing an entry from the heritage list

Removal of a place from the heritage list may be appropriate where the local government considers that the heritage significance of a place has substantially changed, to the extent that it no longer displays the values for which it was included in the heritage list. This may be the result of substantial demolition of, or damage to a place, or presentation of new evidence about the place.

A proposal to remove a place may be made by the local government or its officers, or by the owner of a place. If proposed by an owner, the onus will be on them to demonstrate that the cultural heritage significance of the place is below the threshold for inclusion on the heritage list.

In addition to consultation with owners and occupants for each place for which removal is requested, consultation on such an action may be carried out by inviting comment:

- from the general community through the City's website;
- from the local historical society;
- as part of a community forum or workshop held for that purpose; or

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- in any other manner that may reasonably result in providing relevant information on the cultural heritage values of the place.

The Council's opinion as to the cultural heritage significance of a place is determined solely by a resolution of Council at a properly convened meeting.

Substantial development, demolition or loss of fabric will not automatically result in removal from the heritage list, as the place may still retain sufficient cultural heritage significance to support inclusion in the heritage list, particularly if the heritage values relate to social or historical significance.

The City will retain a record of all places removed from the heritage list.

7.0 DESIGNATION OF SIGNIFICANT INTERIORS

Works to the interior of a building require development approval only where a place has been designated in the heritage list as having an interior with cultural heritage significance, or the place is included in the Register of Heritage Places.

The designation of an interior with cultural heritage significance will be based on the assessment of significance associated with the place, and will be noted as part of the entry of the place in the heritage list. Where, in the opinion of Council, there is reasonable evidence to support the designation of a significant interior, the designation may be made even where the assessment process has not included an interior survey.

8.0 REVIEW POSITION AND DATE

This procedure is to be reviewed by the document owner at least every two years.

REPORT ITEM DIS031 REFERS

Document Approval			
Document Development Officer:		Document Owners:	
Senior Planning Officer – Statutory Planning & Compliance (SSPC)		Executive Director Development Services	
Document Control			
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Version	Author	Version Description	Date Completed
0.1	SSPC	Draft for review.	25/05/2017

Schedule 1. The Heritage List

Place Number	Place Name	Address	Location	Assessment Number	Significant Interior	Statement of Significance	Physical Description
0000	Text			A*****	Y / N	See individual place record	See individual place record

Definitions:

- Place Number: Unique reference number assigned by the State Heritage Office.
- Place Name: Identifier based on primary use or other designation.
- Address: Registered property address or other land information determined by Landgate.
- Location: Additional information or historic address.
- Assessment Number: Unique property reference number in City or Albany property database.
- Interior significance: Indicates whether place has been assessed as having an interior of cultural heritage significance.
- Statement of Significance: Summary of heritage values as identified in the Heritage Survey.
- Physical description: Information identifying which elements or buildings are included in the listing.

City of Albany - Local Planning Scheme 1

Part 7 – Heritage Protection

7.1 Heritage List

7.1.7 All places contained in Appendix VIII – Schedule of Places of Heritage Value within Town Planning Scheme No. 1A are deemed to be included in the new Heritage List...

APPENDIX VIII - SCHEDULE OF PLACES OF HERITAGE VALUE

CODE NO.	NAME OF PLACE	ADDRESS
1.	DOG ROCK	North-west corner of Middleton Road and St Wurburg's Land.
2.	"PYRMONT" HOUSE	Pt. Lot 2, Sub. 41 Serpentine Road (north side, opposite Collie Street).
3.	FORMER ST JOSEPH'S CONVENT	Lot 28, Sub. 24, Aberdeen Street (east side, one lot north of Serpentine Road).
4.	ST JOSEPH'S CHURCH, BELL AND BELL TOWER	Lot 29, Sub. 24 (north-east corner Aberdeen Street and Serpentine Road).
5.	EDUCATIONAL RESOURCES CENTRE - FORMER PRIMARY SCHOOL	Reserve 4145 Sub. 125 Serpentine Road (south side, one lot west of York Street).
6.	FORMER HEADMASTER'S HOUSE	Sub 109 York Street - frontage also to Collie Street (west side, two lots south of Serpentine Road).
7.	HOUSE, 92-98 ABERDEEN STREET	Lot 2 Sub. 132 Aberdeen Street (east side, fifth lot south of Serpentine Road).
8.	TOWN HALL	Sub. 112 York Street (north west corner of Grey Street West).
9.	HOUSE, 60 GREY STREET EAST	Lot 1 Sub. 134 Grey Street East, (north side, second lot east of Aberdeen Street).
10.	SCOTS CHURCH	Pt. Sub. 101 York Street, (east side, four lots north of Peels Place).
11.	ALBANY CLUB	Pt. Sub. 100 Aberdeen Street (west side, third lot north of Peels Place).
12.	ST JOHN'S CHURCH, RECTORY AND CHURCH HALL GROUP AND GROUNDS	Sub. 117, York Street and Sub. 121, 122, 123 Duke Street, (north west corner of York and Duke Streets).
13.	"WOLLASTON HOUSE"	Lot 6 Sub 61 Duke Street, (north east corner of Parade Street).
14.	WESLEY CHURCH	Pt. Sub. 53 Duke Street, (north side of Duke Street, east corner of Cuthbert Street).
15.	WESLEY MANSE	Pt. Sub. 53 Duke Street (north side of Duke Street, east corner of Cuthbert Street).
16.	"PATRICK TAYLOR COTTAGE"	Sub. 44 and 45 Duke Street, (south side, sixth lot east of Parade Street).
17.	COURT HOUSE	Pt. Sub. 39 and 40 Stirling Street, (north west corner of Collie Street or Council Street).
18.	OFFICES (FACADE), 137 YORK STREET	Pt. Sub. 34 York Street (west side, three lots south of Peels Place).

APPENDIX VIII - SCHEDULE OF PLACES OF HERITAGE VALUE (CONTINUED)

CODE NO.	NAME OF PLACE	ADDRESS
19.	OFFICE (FACADES) 133-135 YORK STREET	Pt. Sub. 34 York Street, (west side, three lots south of Peels Place).
20.	"ALBANY HOUSE"	Pt. Sub. 33 York Street, (north west corner of Stirling Terrace).
21.	LONDON HOTEL (FACADE)	Sub. 35 Stirling Terrace, (north side, second lot west of York Street).
22.	TAXI RANK AND REST ROOM	Reserve 19464 Sub. 826 Stirling Terrace (south-west corner of York Street).
23.	GROUP OF FACADES: PTN. A.T.L. S31 (Empire Building); Pt. S30 (Bank of NSW); A.T.L. S27-29 (Boans); Lots 1 & 8 of S26; Pt. of A.T.L. S25; Lot 17 of A.T.L. S23 (Vancouver House); Lot S22 (Old Light Opera Co. Bld) Pt. of A.T.L. S21 (White Star Hotel); Lot 25 (Royal George Hotel, Glasgow House, Edinburgh House); Pt. of A.T.L. S18 (Argyle House); Pt. of A.T.L. S17.	Stirling Terrace facades, (north side, moving from York Street to Spencer Street including corner building's facades).
24.	ROTUNDA	Reserve 19465 Sub. 827 Stirling Terrace (opposite Railway Crescent).
25.	WAREHOUSE	Sub. 19 Frederick Street, (south side, third lot west of Spencer Street).
26.	OLD POST OFFICE	Reserve 2683 Stirling Terrace (opposite Spencer Street).
27.	OLD GAOL	Reserve 22375 Sub. 874 Stirling Terrace (south east corner of Parade Street).
28.	POLICE QUARTERS AND STABLES	Reserve 4156 Pt. Sub. 41 Parade Street, (east side, south of Railway line).
29.	RESIDENCY MUSEUM	Reserve 4156 Pt. Sub. 41 Parade Street (east side, south of Railway line and at rear of lot).
30.	"CAMFIELD HOUSE"	Sub. 46 Cnr. Serpentine Road and Crossman Street (north east cnr. of intersection).
31.	HOUSE, 142 SERPENTINE ROAD	Lots 13 and 14 Serpentine Road (north side, 5 lots east of Elizabeth Street).
32.	"HILLSIDE HOUSE"	Lot 15 Cliff Way (north side, third lot west of Parade Street).
33.	"MELVILLE HOUSE"	Lot 33 Hotchin Avenue (south side, 3 lots west of Collie Street).

APPENDIX VIII - SCHEDULE OF PLACES OF HERITAGE VALUE (CONTINUED)

CODE NO.	NAME OF PLACE	ADDRESS
34.	HOUSE, 41 MELVILLE STREET	Sub. 490 Cnr. Melville Street and View Street (north-west cnr of intersection).
35.	"THE ROCKS HOUSE", 182-188 GREY STREET	Reserve 27280 Grey Street west (north side, 4 lots east of Melville Street - rear of lot).
36.	HOUSE, 170 GREY STREET WEST	Lot 270 Cnr. Grey Street West and Parade Street (north-west cnr. of intersection).
37.	HOUSE, 148 GREY STREET WEST	Lot 1 of Sub. 190 Grey Street West (north side, 2 lots west of Collie Street).
38.	HOUSE, 153 GREY STREET WEST	Lot 11 Grey Street West (south side, 3 lots west of Collie Street).
39.	HOUSE, 28 VANCOUVER STREET	Lot 182 Vancouver Street (north side, 3 lots east of Parade Street).
40.	"BANGOR HOUSE"	Sub. 197 cnr. Vancouver Street and Parade Street (north west cnr. of intersection).
41.	HOUSE, 82 VANCOUVER STREET	Sub. 245 Vancouver Street (north side, 7 lots east of Bay Street).
42.	OLD HOSPITAL	Reserve 3693 Sub. 228 Vancouver Street (south side, 5 lots west of Melville Street).
43.	FORMER MATTHEW CULL'S HOUSE	Lot 13 of Sub. 303 Middleton Road (north side, 5 lots west of Campbell Street).
44.	HOUSE, 33 ROWLEY STREET	Lot 4 Rowley Street (west side, 5 lots north of Grey Street East).
45.	HOUSE, 35 ROWLEY STREET	Lot 2 Rowley Street (west side, 2 lots north of Grey Street East).
46.	TERRACE HOUSES, 63-69 SPENCER STREET	Pt. Sub. 144 cnr. Spencer Street and Grey Street East (south-west cnr. of intersection).
47.	HOUSE AND FORMER SHOP - FORMER INN	Pt. Sub. 144 cnr. Spencer Street and Earl Street (north west cnr. of intersection).
48.	HOUSE, 62 SPENCER STREET	Lot 5 of Sub. 342 Spencer Street (east side, 7 lots south of Grey Street East).
49.	HOUSE, 64 SPENCER STREET	Lot 6 of Sub. 342 Spencer Street (east side, 6 lots south of Grey Street East).
50.	MASONIC HALL	Lot 21 of Sub. 332 cnr. Spencer Street and Earl Street (south east cnr. of intersection).
51.	HOUSE, 120 BURGOYNE ROAD	Lot 463 Burgoyne Road (north side, 2 lots west of Mount Street).
52.	SIR RICHARD SPENCER'S GRAVE	Reserve 23769 Sub. 998 Seymour Street (west side, 4 lots south of Nelson Street).

APPENDIX VIII - SCHEDULE OF PLACES OF HERITAGE VALUE (CONTINUED)

CODE NO.	NAME OF PLACE	ADDRESS
53.	"THE OLD FARM STRAWBERRY HILL" INCLUDING MINER'S COTTAGE	Reserve 24864 Sub. 1105 and Pt. Lot 19 and Old Farm Road Reserve - situated off Middleton Road (north side, mid-way between Bluff Street and Seymour Street).
54.	"HAWTHORNDENE HOUSE"	Lot 25 Seymour Street (east side, 3rd lot south of Hanson Street).
55.	DESERT MOUNTED CORPS MEMORIAL	Reserve 27116 - summit of Mt. Clarence, end of Apex Drive (western end of reserve).
56.	HOUSE, 68 BRUNSWICK ROAD "BRACKENHURST"	Lot 13 cnr. Brunswick Road and Cuddihy Avenue (north west cnr. of intersection).
57.	APEX PARK	Lot Nos. 1289 and 6700 Reserve No. 25382 bounded by Hanrahan Road, Parker, Lambert and Menzies Streets.
58.	HOLMES PARK	Lot 7265, Reserve No. 32935 Ulster Road, south-west cnr. of Martin Road
59.	SPENCER PARK WILDFLOWER RESERVE	Reserve No. 28725, bounded by Burville Street and Mokare Road.
60.	LION STREET RESERVE AND MOUNT MELVILLE	Land generally bounded by Lion Street, Serpentine Road, Johnston, Robinson and Bay Street, Grey Street West, Carlisle Street and Spearwood Road. It includes Reserve Nos. 21300 and 2681.
61.	MT ELPHINSTONE	Land located west of Elphinstone Road, north of Robinson Road, east of Frenchman's Bay Road and Ware Road and south of Elleker Road.
62.	MOKARE PARK	Lot No. 1202, Reserve No. 23397 bounded by Serpentine Road, Crossman and Robinson Streets and Melville Drive.
63.	BOB THOMSON GARDENS	Lot 1155, Reserve No. 24429 bounded by Middleton Road and Boronia and Burt Streets.
64.	WAGGON ROCK	Lot 1153, Reserve No. 27460 and Lot 12 Serpentine Road.
65.	LAWLEY PARK	Sub. E2, Reserve No. 6596, Lots 165 and 166 Brunswick Road, Lot 828, Reserve No. A19466, Lot 845, Reserve No. 8765, situated south side of Stirling Terrace and Brunswick Road.
66.	MT CLARENCE, MT ADELAIDE AND BALSTON GARDENS	Land generally bounded by Palmer, Mill, Innes and Clarence Streets, Burgoyne Road, Marine Drive, King George Sound from Semaphore Point to Ellen Cove, Adelaide Crescent, Hare, King and Burt Streets.
67.	BLUFF ROCK	Land generally bounded by Tassell and Collingwood Streets and Bathurst Place. It includes Reserve No. 24409 and 5155.

APPENDIX VIII - SCHEDULE OF PLACES OF HERITAGE VALUE (CONTINUED)

CODE NO.	NAME OF PLACE	ADDRESS
68.	LAKE SEPPINGS	Land bounded by Lake Seppings Drive, Loftie, Collingwood, Griffiths, Bird and Troode Streets, Golf Links Road and Beach Road, including Reserve Nos. 22058, 1299, 29187 and 23775.
69.	MIDDLETON BAY RESERVE	Middleton and Emu Beaches and Foreshores. It includes Reserve Nos. 14789 and 15879 and 36320.
70.	GREEN ISLAND	Green Island, Reserve No. A24808.
71.	SWARBRICK PARK	Land situated east of Emu Point between Oyster Harbour and Middleton Bay, comprising Reserve Nos. A21729 and 33309.
72.	OYSTER HARBOUR	Land bounded by Collingwood and Butcher Streets, Mermaid Avenue, Clarke and Swarbrick Streets and Oyster Harbour, including Reserve Nos. A6862, Part 15879 and Part 22698.
73.	HOUSE, 75 ALBANY HIGHWAY	Lot 3 of A.S.L. 37 (south-west cnr. of Elizabeth Street and Albany Highway).
74.	HOUSE, 77 ALBANY HIGHWAY	Lot 4 of A.S.L. 37 (south-east cnr. of Alicia Street and Albany Highway).
75.	HOUSE, 81 ALBANY HIGHWAY	Lot 4 of A.S.L. 37 (south-east cnr. of Alicia Street and Albany Highway).
76.	HOUSE, 176 SERPENTINE ROAD	Lot 1 of A.S.L. 47 (north-west cnr of Serpentine Road and Crossman Streets).
77.	HOUSE, 197 SERPENTINE ROAD	Lot 4 of A.T.L. 125 (south side of Serpentine Road, 3 lots west of Serpentine Crescent).
78.	HOUSE, 172 GREY STREET	Lot 2 of A.T.L. 269 Grey Street West (north side, second lot west of Parade Street).
79.	HOUSE, 176 GREY STREET WEST	A.T.L. 268 Grey Street West (north side, fourth lot west of Parade Street).
80.	HOUSE, 198 GREY STREET	Lot 8 of A.T.L. Pt. 260 Grey Street (north side, second lot west of Melville Street).
81.	HOUSE, 10 VANCOUVER STREET	Lot 13 of A.T.L. 184 Vancouver Street (north side, fifth lot west of Collie Street).
82.	HOUSE, 42 VANCOUVER STREET	Lot 5 of A.T.L. 200/199 Vancouver Street (north side, third lot west of Parade Street).
83.	HOUSE, 39 ROWLEY STREET	Lot 2 Rowley Street (west side, eighth lot north of Grey Street East).
84.	HOUSE, 140 BURGOYNE ROAD	Pt. of A.T.L. 458 Burgoyne Road (north side, third lot east of Bridges Street).

**APPENDIX VIII - SCHEDULE OF PLACES OF HERITAGE VALUE
(CONTINUED)**

CODE NO.	NAME OF PLACE	ADDRESS
85.	HOUSE, 78 BRUNSWICK ROAD	A.T.L. 376 Brunswick Road (fourth lot west of Cuddihy Avenue).
86.	HOUSE, 14 MOUNT STREET	Lot 14 of A.T.L. 330 (east side of Mount Street, second lot north of Brunswick Road).
87.	HOUSE, 22 STIRLING TERRACE	Lot 18 of A.T.L. 10 Stirling Terrace (fifth lot east of Spencer Street).
88.	HOUSE, 24 STIRLING TERRACE	Lot 2 of A.T.L. S11 Stirling Terrace (fourth lot east of Spencer Street).
89.	HOUSE, 26 STIRLING TERRACE	Lot 1 of A.T.L. S12 Stirling Terrace (third lot east of Spencer Street).
90.	STABLES AND GROUNDS, STIRLING TERRACE	Pt. A.T.L. S13/14 Stirling Terrace (second lot east of Spencer Street at the rear of "Norman House").
91.	HOUSE, FREDERICK STREET	Lot 7 of A.T.L. 333 Frederick Street (second lot east of Spencer Street).
92.	MOIR'S COTTAGE, STIRLING TERRACE	Lot S18 Stirling Terrace at the rear of Edinburgh House.
93.	OAK TREES	Lots 107 and 108, Sub Lot 394 Drew Street.

PARTNERSHIP AGREEMENT

New Regional and Statewide Initiatives

ROYALTIES FOR REGIONS PROJECT

REGIONAL ESTUARIES INITIATIVE

DEPARTMENT OF WATER

AND

CITY OF ALBANY

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THIS Agreement is made on the day of 2016

BETWEEN:

The Department of Water acting through the Director General of the Department of Water of 168 St George's Terrace PERTH WA 6000 (Department)

AND

City of Albany of 102 North Road, Yakamia PO Box 484, Albany WA 6331 (Recipient)

RECITALS

- (a) The Department of Water is the state government agency responsible for the management of the State's water resources. The Department is also the lead agency responsible for delivering the Regional Estuaries Initiative (REI) funded through the State Government Royalties for Regions program.
- (b) The REI is a \$20 million dollar investment over four years to halt the decline of water quality of key estuarine ecosystems in the South West of Western Australia. The Department of Water has a Memorandum of Understanding (MOU) with the Department of Regional Development to deliver the REI through partnerships with government agencies, Catchment Management and industry groups.
- (c) The Recipient the City of Albany is the Local Government Authority. The City is responsible for the management of built and natural drainage infrastructure where it passes through City controlled lands. The City seeks to apply best management practice in respect to State objectives for water quality and develop stormwater management infrastructure consistent with meeting State objectives
- (d) The Recipient has agreed to assist the Department undertake Projects under this Agreement to achieve deliverables and outcomes of the REI as required under the MoU with the Department of Regional Development.
- (e) The Department has agreed to provide the technical support and Funding to the Recipient to contribute to the delivery of Projects outlined in Schedule 2 of this Agreement.

OPERATIVE PART

THE PARTIES AGREE as follows:

1. PROJECT BACKGROUND

The Regional Estuaries Initiative is a four year \$20 million Royalties for Regions investment to halt the decline and build resilience in estuarine ecosystems to underpin the long-term economic wellbeing of Western Australia. The Regional Estuaries Initiative encompasses five key strategies to improve estuarine health across six estuaries (Table 1).

Table 1 Five key strategies of the Regional Estuaries Initiative

Strategy	Strategy Outcome
<p>1. Regional capacity and project delivery</p>	<p>1A: Capacity built through on the ground actions and sustained by long term investment and funding strategies to enable participation in regional catchment management.</p> <p>1B: Project delivered by regional partnerships in timely and effective manner.</p> <p>1C: Community informed through effective communication products and engaged through participation.</p>
<p>2. Sustainable agriculture</p>	<p>2A: Reduced nutrient footprint from dairy industry through self-regulation and dairy industry willingness to implement best practice.</p> <p>2B: Fertilising the farm and not the estuary through effective fertiliser use as standard practice in agriculture and transitioning from Government to private sector delivery of fertiliser management advice.</p>
<p>3. Moving water in the landscape</p>	<p>3A: Restoring stream function through stock exclusion and re-vegetation to reduce soil erosion and organic loading to streams.</p> <p>3B: Drainage management optimised to achieve water quality outcomes with clear governance framework.</p> <p>3C: Reduced urban nutrient footprint by incorporating water sensitive urban design into urban development planning as routine.</p> <p>3D: Waste water discharges reduced by prioritising waste water treatment plant upgrades, reuse and infill sewerage in areas close to sensitive waterways.</p>
<p>4. New technologies for remediation</p>	<p>4A: New technologies such as soil amendments evaluated and demonstrated to reduce nutrients to waterways.</p>
<p>5. Science for management</p>	<p>5A: Management guided by good science through adequate monitoring and public reporting.</p> <p>5B: Science integrated through world class models to identify the most effective actions.</p>

The Regional Estuaries Initiative will be overseen by the Department of Water in partnership with state and local government, water service providers, catchment groups and other partners. The Department of Water will provide direction and support to the lead agencies and partners delivering projects under the Regional Estuaries Initiative, undertake the science and monitoring underpinning the Initiative and report to the community on outcomes of activities undertaken to improve waterway health.

The Department of Water will also provide overall coordination of the Regional Estuaries Initiative through a MoU with the Department of Regional Development. The Department of Water will partner with other organisations to deliver individual projects under the Regional Estuaries Initiative and will report to the Department of Regional Development on the status and outcomes of the project.

This Partnership Agreement will provide funds to the Recipient to contribute to the delivery of a project under the Strategy area 'Moving water in the landscape'.

The project outlined in this Partnership Agreement has been funded through the State Government Royalties for Regions Program.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

Defined terms for use in this Agreement, in addition to those set out in this clause 2.1, may appear in the Schedules.

In this Agreement, unless the context otherwise requires:

Agreement means this legally binding Partnership Agreement, including its recitals, Schedules and annexures.

Associates means any officer, employee, agent, consultant, contractor, nominee, licensee or adviser of the State, including any governmental, semi-governmental or local government authority, minister, department, statutory corporation, instrumentality or government owned corporation.

Auditor General means the Auditor General for the State of Western Australia.

Authorisation means any consent, authorisation, registration, filing, agreement, notarisation, clearance, certificate, permission, licence, permit, waiver, approval, authority or exemption from, by or within a Government Agency required under any Laws, and includes any renewal of, or variation to, any of them.

Business Day means a day which is not a Saturday, Sunday or public holiday in the State of Western Australia.

Claim means any claim, proceeding, cause of action, action, demand or suit (including by way of a claim for contribution or an indemnity).

Commencement Date means the date of this Agreement – or, if this Agreement is undated, the date on which the last party to execute this Agreement does so.

Date for Project Completion means the date by which the Recipient must complete the Project set out in Schedule 2.

Event of Default has the meaning given in clause 5.1.

Funding means \$520,000 (excluding GST) which will be provided by the Department to the Recipient in the manner and within the timeframes outlined in Schedule 2.

Intellectual Property includes:

- (a) all copyright (including rights in relation to all documents, reports, charts, drawings, data bases, software, source codes, models, systems, slides, tapes and specifications);
- (b) all copyright and all rights in relation to inventions (including registered and registrable patents), registered and unregistered trademarks, registered and unregistered designs, circuit layouts, and know-how; and
- (c) all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

Law means all applicable present and future laws including:

- (a) all acts, ordinances, regulations by-laws, orders, awards and proclamations of the State of Western Australia or the Commonwealth of Australia;
- (b) Authorisations;
- (c) principles of law or equity;
- (d) standards, codes, policies and guidelines; and
- (e) the Australian Securities Exchange listing rules.

Liability means any debt, obligation, cost (including legal costs), expense, Loss, damage, compensation, charge or liability of any kind (whether arising in negligence or otherwise), including those that are prospective or contingent and those the amount of which is not ascertained or ascertainable.

Loss includes any loss, cost, expense, damage or liability whether direct, indirect or consequential (including pure economic loss), present or future, ascertained, unascertained, actual, prospective or contingent or any fine or penalty.

Milestones means the milestones set out in Schedule 2, with each milestone in relation to an Obligation of the Recipient being the date by which that Obligation must be completed, and includes the Date for Project Completion.

Notification means a notice by the Department given in accordance with this Partnership Agreement that in the Department's opinion the Recipient has properly complied with and fulfilled all of its Obligations, including that the Final Report provided by the Recipient in accordance with Schedule 3 is satisfactory.

Obligation means an obligation in this Agreement.

Party means each of the Department or the Recipient as the context requires, and **Parties** means both of them.

Pre-Existing Intellectual Property means the Intellectual Property of a Party which was either created before the Commencement Date, or independently of this Agreement, and all improvements to such Intellectual Property by the Party.

Project means the initiative or activities described in Schedule 2.

Project Intellectual Property means all Intellectual Property (excluding Pre-Existing Intellectual Property) developed, created, discovered, brought into existence or otherwise acquired (other than from the Department) by or for or on behalf of the Recipient in the course of undertaking the Project or otherwise under or in connection with this Agreement. For the avoidance of doubt, Project Intellectual Property includes Intellectual Property developed, created, discovered, brought into existence or otherwise acquired by any person under or pursuant to a Third Party Agreement.

Provision means any term, condition, undertaking, promise, obligation or warranty of, made or given by the Recipient, or otherwise applicable to the Recipient, under this Agreement.

Related Body Corporate has the meaning given to it in the *Corporations Act 2001* (Cth).

Schedule means any schedule to, and forming part of, this Agreement.

Third Party Agreement has the meaning given to it in Clause 6.

2.2 Interpretation

In this Agreement unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to a person include an individual, the estate of an individual and any type of entity or body of persons, including a corporation, an incorporated or unincorporated association or parties in a joint venture, a partnership or a trust and the legal personal representatives, successors and assigns of that person;
- (d) a reference to a statute, ordinance, code, or other law includes regulations, by-laws, rules and other statutory instruments under it for the time being in force and consolidations, amendments, re-enactments, or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- (e) references to this Agreement or any other instrument include this Agreement or other instrument as varied or replaced, and notwithstanding any change in the identity of the Parties;
- (f) references to writing include any mode of representing or reproducing words in tangible and permanently visible form, and include e-mail and facsimile transmission;
- (g) an Obligation incurred in favour of two or more persons is enforceable by them jointly and severally;

- (h) if a word or a phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (i) references to this Agreement include its recitals, Schedules and annexures;
- (j) headings are inserted for ease of reference only and are to be ignored in construing this Agreement;
- (k) references to time are local time in Perth, Western Australia;
- (l) where time is to be reckoned from a day or event, that day or the day of that event is to be included;
- (m) references to currency are to Australian currency unless otherwise stated;
- (n) no rule of construction applies to the disadvantage of a Party on the basis that the Party put forward this Agreement or any part thereof;
- (o) a reference to any thing is a reference to the whole and each part of it, and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (p) when the day or last day for doing an act is not a Business Day, then the day or last day for doing the act will be the directly preceding Business Day;
- (q) if the word "including" or "includes" is used, the words "without limitation" are taken to immediately follow;
- (r) the phrases "described in", "set out" and "specified in" shall all read as if the words "expressly or impliedly" appeared immediately before them; and
- (s) reference to a contractor or sub-contractor means a contractor or sub-contractor at any tier.

3. OBLIGATIONS OF RECIPIENT

3.1 Use of Funding

- (a) The Recipient must use the Funding for the carrying out of the Project in accordance with this Agreement. All of this expenditure must be effected in a commercially prudent, sensible and reasonable manner.
- (b) In carrying out the Project, the Recipient must comply with and meet all Milestones including completing the Project by the Date for Project Completion.

3.2 General Undertakings of the Recipient

The Recipient must:

- (a) at all times duly perform and observe its Obligations and must promptly inform the Department of any occurrence that might adversely affect its ability to do so in a material way;
- (b) without limiting clause 3.2(a), at all times (including if any part of its Obligations are sub-contracted) ensure that its Obligations are carried out by people with appropriate skills and expertise;
- (c) undertake its Obligations with integrity, good faith and probity in accordance with good corporate governance practices;
- (d) not, nor attempt to, sell, transfer, assign, mortgage, charge or otherwise dispose of or deal with any of its rights, entitlements and powers or Obligations under this Agreement;
- (e) comply with all Laws; and
- (f) cooperate fully with the Department in the administration of this Agreement.

3.3 Obligations under the MoU

The Recipient acknowledges that the Department has obligations under the MoU with DRD that the Recipient must assist the Department with meeting. In particular:

- (a) The Recipient agrees to ensure it provides all relevant information to the Department that may be required under the Communications Protocol between the Department and DRD;
- (b) In the event that the DRD arranges for an Evaluation or Audit to be carried out in relation to the Project, the Recipient agrees to allow the DRD, an Auditor or any other person that DRD wishes to carry out the Evaluation or Audit to:
 - (i) have full access to all documents, records and premises in the control or possession of the Recipient for the purposes of carrying out the Evaluation or Audit; and
 - (ii) take copies of any and all documents and records in the control or possession of the Recipient relating in any way to either or both of the Project and this Agreement.

3.4 Warranties and Representations

The Recipient represents and warrants, for the benefit of the Department that:

- (a) it is authorised to enter into this Agreement;
- (b) all conditions and things required by applicable Law to be fulfilled or done (including the obtaining of any necessary authorisations) in

order to enable it lawfully to enter into, exercise its rights and perform its obligations under this Agreement have been fulfilled or done; and

- (c) it knows of no impediment to it performing its obligations under this Agreement.

4. LIMITATION OF LIABILITY

- (a) The Department is not responsible or liable in any way for the success or otherwise of the Project or for any losses suffered by the Recipient in undertaking the Project. The Recipient releases the Department from all Liability in relation to the Project, this Agreement and any related matter and agrees that neither it nor any Related Body Corporate will make a Claim against the State or any of the State's Associates arising directly or indirectly in relation to one or more of the Project, this Agreement and any related matter. This clause 4 may be pleaded by the State or its Associates as a bar to any proceedings commenced by the Recipient against the State or its Associates in relation to one or more of the Project, this Agreement and any related matter.
- (b) The Recipient must indemnify the State and must keep it indemnified and hold it and its officers, employees and agents harmless from and against all Claims or Liability, suffered or incurred by or brought against the State or any of its respective officers, employees and agents whether before or after the date of this Agreement caused by, arising out of or relating directly or indirectly to any:
 - (i) breach of any Provision by the Recipient;
 - (ii) act or omission of the Recipient or its employees, contractors, officers or agents; or
 - (iii) breach of a Law by the Recipient or any of its employees, contractors, officers or agents.
- (c) This clause survives the termination of this Agreement.

5. DEFAULT AND TERMINATION

5.1 Event of Default by the Recipient

An Event of Default occurs if:

- (a) the Recipient breaches any Provision, which breach (if remediable) continues without remedy for five (5) Business Days after notice in writing has been served on the Recipient by the Department. This subclause does not limit any other part of this clause 5.1 in any way; or

- (b) the Recipient breaches any Provision and such breach cannot be remedied. This subclause does not limit any other part of this clause 5.1 in any way; or
- (c) the Recipient fails to comply with or meet a Milestone set by the Department in accordance with this Agreement; or
- (d) the Department believes, in its absolute discretion, that the Recipient is unwilling or unable to comply with any one or more of the Provisions; or
- (e) the Recipient repudiates the Agreement; or
- (f) a material warranty given by or representation made by the Recipient is or becomes untrue; or
- (g) where this Agreement provides for or contemplates the Parties reaching further agreement in relation to anything the subject of, or related to, either or both of this Agreement and the Project, this further agreement is not reached and recorded in writing within a reasonable time.

5.2 Termination

- (a) The Department may terminate the Agreement by providing notice in writing to the Recipient and the Agreement is then terminated from the date specified in that notice if an Event of Default occurs.
- (b) The Parties can agree in writing to terminate the Agreement from the date agreed by both Parties.

6. AGREEMENT BETWEEN THE RECIPIENT AND A THIRD PARTY

If the Recipient enters into an agreement with any other party relating in any way to this Agreement (**Third Party Agreement**), the Recipient must ensure that the other party has obligations in the Third Party Agreement which will ensure that the Recipient properly fulfils its corresponding Obligations and to the extent necessary to ensure that the other party has these obligations, the Recipient must ensure that the Third Party Agreement mirrors the terms of this Agreement.

7. INSURANCES

Under this Agreement the Recipient is required to effect, maintain and keep in force for the appropriate periods, adequate and appropriate insurance, including works insurance if applicable.

8. WAIVER

- (a) No right under this Agreement shall be deemed to be waived except by notice in writing signed by the Party to be bound by or subject to the waiver.

- (b) A waiver by either Party will not prejudice that Party's rights in relation to any further breach of this Agreement by the other Party.

9. ENTIRE AGREEMENT

This Agreement constitutes the entire, full and complete understanding and agreement between the Parties in relation to its subject matter and supersedes all prior communications, negotiations, arrangements and agreements between the Parties with respect to the subject matter of this Agreement.

10. ASSIGNMENT

This Agreement is personal to the Recipient and may not be assigned by the Recipient without the Department's consent, which will not be unreasonably withheld. The Department may at any time, in its absolute discretion, assign or transfer its rights and Obligations under this Agreement as it sees fit.

11. CONFIDENTIALITY

- (a) The Parties acknowledge that this Agreement and information held or compiled by the Department in relation to this Agreement are subject to the *Freedom of Information Act 1992* and nothing in this Agreement in any way alters, limits or affects the operation of *Auditor General Act 2006*, the *Financial Management Act 2006* or the Recipient's obligations (if any) in relation to these Acts.
- (b) Each Party must keep the other Party's confidential information confidential. A Party (Recipient) that receives confidential information of the other Party (Disclosing Party) must not use or disclose to any person the Disclosing Party's confidential information except:
 - (i) where necessary for the purpose of contributing to, implementing or delivering the Project;
 - (ii) as authorised in writing in advance by the Disclosing Party;
 - (iii) to the extent that the confidential information is public knowledge (other than because of a breach of this clause by the Recipient);
 - (iv) as required by any law, stock exchange, judicial or parliamentary body or governmental agency including in response to parliamentary questions and ministerial inquiries; or
 - (v) when required (and only to the extent required) to the Recipient's professional advisers, and the Recipient must ensure that such professional advisers are bound by the confidentiality obligations imposed on the Recipient under this clause.

If the Disclosing Party uses or discloses the confidential information pursuant to sub-clause (iv) or (v), they must give written notification to the other Party as soon as possible.

12. INTELLECTUAL PROPERTY

- (a) The Pre-Existing Intellectual Property of each Party remains the property of that Party.
- (b) All Project Intellectual Property shall be jointly owned by the Parties.

13. VARIATION

Any modification, amendment or other variation to this Agreement must be made in writing, and must, unless the Department in its absolute discretion directs in writing otherwise, be duly executed by both Parties.

14. RIGHTS, POWERS AND REMEDIES

The rights, powers and remedies in this Agreement are in addition to, and not exclusive of, the rights, powers and remedies existing at law or in equity.

15. GOVERNING LAW

This Agreement is governed by the laws in force in the State of Western Australia. Each Party irrevocably submits unconditionally to the non-exclusive jurisdiction of the Courts of Western Australia and of all Courts competent to hear appeals therefrom in relation to any legal action, suit or proceeding arising out of or with respect to the Agreement.

16. SCHEDULES

- (a) Any express or implied provision of any Schedule to this Agreement is hereby deemed to be a provision of this Agreement and therefore must be complied with (by the relevant Party) in accordance with its terms.
- (b) In clause 16(a), "provision" includes term, condition, warranty, stipulation, right, Obligation, representation and the like.

17. DISPUTE RESOLUTION

- (a) If any dispute arises between the Parties in relation to this Agreement, or any matter referred to in this Agreement:
 - (i) The parties will meet within 10 business days at the request of either party to discuss the issue and use their best endeavours to negotiate a mutually acceptable resolution.
 - (ii) That dispute is to be managed in accordance with the following sequence acting reasonably and in good faith: by a meeting between the Department's Project Manager and the Recipient's equivalent; and if not resolved by a meeting between the Department's Project Executive Director and the Recipient's equivalent; and if not resolved by a joint decision of the Director General of the Department and the Chair of the Recipient both acting reasonably and in good faith.

- (iii) Both parties commit to resolving conflicts that arise from this Agreement in an open, transparent and respectful manner.

18. COMMUNICATION PROTOCOL

The Recipient is required to adhere to the requirements set out in the Regional Estuaries Initiative Communication and Engagement Protocol and Royalties for Regions Marketing, Communication and Acknowledgements Policy March 2016.

SCHEDULE 1 – CONTACT OFFICERS**1. Notice Addresses****1.1 Department**

Registered Mail:	PO Box K822 Perth WA 6000
Facsimile:	(08) 63646515

1.2 Recipient

Registered Mail:	PO Box 484, Albany WA 6331
Facsimile:	(08)98414099

2. Contact Officers**2.1 Department**

Name:	Malcolm Robb
Job Title:	Manager Water Science Branch
Phone:	(08) 6364 7852
Facsimile:	(08) 6364 6515
Email:	malcolm.robbs@water.wa.gov.au
Postal Address:	PO Box K822 Perth, WA 6000
Street Address:	168 St Georges Terrace PERTH WA 6000
Supervisor:	Greg Claydon, Executive Director, Science and Planning

2.2 Recipient

Contact	Contractual Funding Matters
Name:	Alana Lacy
Job Title:	Revenue Development Officer
Phone:	(08) 6820 3081
Facsimile:	08 9841 4099
Email:	alanal@albanys.wa.gov.au
Postal Address:	PO Box 484, Albany WA 6331
Street Address:	102 North Rd, Yakamia, WA 6330
Supervisor:	Michael Cole, Executive Director, Corporate Services
Contact	Technical and Project Management Matters
Name:	Austin Rogerson
Job Title:	Senior Civil Engineering Officer - Drainage
Phone:	(08) 6820 3966
Facsimile:	08 9841 4099
Email:	austinr@albanys.wa.gov.au
Postal Address:	PO Box 484, Albany WA 6331
Street Address:	102 North Rd, Yakamia, WA 6330
Supervisor:	Matthew Thomson, Executive Director, Works and Services

SCHEDULE 2 – PROJECT DETAILS

2.1 Project descriptions and milestones

2A Moving water in the landscape

Strategy Outcome 3C: Reduced urban nutrient footprint by incorporating Water Sensitive Urban Design into urban development planning as routine

Subproject 3C.2: Yakamia Creek rehabilitation

Project description

Yakamia Creek drains a mixed agricultural/urban catchment through the City of Albany and enters Oyster Harbour. The creek is partly channelised to prevent flooding in the floodplain portion of the lower catchment. Confusion over drainage ownership is frequently vexatious and the catchment is a major contribution of nutrients and other pollutants to Oyster Harbour. The City of Albany, the Department of Water, South Coast Natural Resource Management and Oyster Harbour Catchment Group have been engaged in recent years in integrating planning and actions for the creek.

This project is for rehabilitation works consistent with the recent Yakamia Creek Living Stream Management Plan (Janicke, 2015) and informed by the Yakamia Creek Arterial Drainage Plan (Essential Environmental, 2014).

This project will modify and enlarge an existing poorly performing detention basin into a nutrient stripping basin. The project will convert 210 linear metres of trapezoidal drain (Yakamia Creek) into approximately 11,000m² of wetland biofiltration basin. The basin will contain a meandering low flow channel that will be vegetated with native sedges, low shrubs and tall trees. The project also includes bioremediation of runoff from adjacent access road and car parking area. These areas are contiguous with the basin and extend the treatment area to include modification of trapezoidal drains into wider stream treatment areas.

The aim of the project is to improve water quality in Yakamia Creek by reducing levels of nutrients and contaminants. The project will also seek to achieve multiple benefits, including enhancing wetland habitat and passive recreation values associated with nature based areas. The basin will also provide some attenuation during larger rainfall events.

The access road and channel treatment areas will be located on City of Albany vested recreation and road reserves and the basin will be located on freehold City of Albany land within the Centennial Park sporting precinct, near Wellington Street. The site is downstream of both residential urban and light industrial commercial zones, and provides an opportunity to improve water quality midway through the Yakamia catchment, before flowing to the (privately owned) floodplain and ultimately discharging to Oyster Harbour.

The project consists of the following stages:

- **Preliminary** – Initial design, survey, acid sulphate soil management plan, community and Indigenous consultation, and approvals

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- **Stage 1** – Detailed design, scope of works and specification development, tender, award of contracts and Superintendence.
- **Stage 2** – Construction, excavation, acid sulphate soil treatment, waterway realignment, civil headworks, soil shaping and topsoil
- **Stage 3** – Planting and vegetation establishment
- **Stage 4** – Paths, bird hide/footbridge and interpretation signage
- **Post development** – Management, maintenance and establishment of wetland species.

The project will be delivered in partnership, with the Department of Water as the project lead. The City of Albany will be responsible for project implementation for all four stages, including Project Management and Superintendence, Scope of Work and Specification Development, and administration of any third party tender, contract or award. The Department of Water will provide technical and managerial input and advice, including the water quality monitoring component of the project.

Roles and responsibilities will be refined through the development of the project plan. To commence the project, initial key responsibilities are detailed in Schedule 4.

Project milestones are detailed in the table below; additional project milestones may be negotiated when the project schedule is reviewed.

Project Milestones	Due Date
Signed Partnership Agreement	June 2017
Establish Project Advisory Team	August 2017
Commence Preliminary planning, investigations, consultation and works	August 2017
Develop a Draft Project Plan	October 2017
Final revised and detailed Project Plan	April 2018
Detailed design	In accordance with Project Plan
Commencement of site works	In accordance with Project Plan
Completion of all project stages	December 2019

2.2 Project funding

Payment of Funding

The timing for payment of funding to the City of Albany and project deliverables for funding is outlined in the table below.

Project Deliverable	Payment details and timing	Amount \$
Upon signing this Agreement	(within 20 business days of signing Agreement)	55,000
After approval of detailed Project Plan	1 July 2018	435,000
Implementation of project activities in accordance with Project Plan	1 July 2019	30,000
Total payment		520,000

* All the amounts set out in the table are exclusive of GST

Budget table for the Regional Estuaries Initiative project with the City of Albany

Budget item	2016/17 \$	2017/18 \$	2018/19 \$	2019/20 \$	Total \$
Preliminary – Design, survey, acid sulphate soil management plan, community and Indigenous consultation, and approvals	5000				5,000
Stage 1 – Scope of works and specification development; tender, contract and award administration; project management and superintendence		50,000			50,000
Stage 2 – Construction, excavation, acid sulphate soil treatment, waterway realignment, civil headworks, soil shaping and topsoil			210,000		210,000
Stage 3 – Planting and vegetation establishment			105,000		105,000
Stage 4 – Paths, bird hide/footbridge and interpretation signage			120,000	10,000	130,000
Post Development management and maintenance				20,000	20,000
Total budget	5,000	50,000	435,000	30,000	520,000

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Project In-kind Funding

The Regional Estuaries Initiative has been funded through the State Government Royalties for Regions Program. A requirement of this funding is contributions from recipients and others involved in the program. Cash and in-kind funding from the City of Albany is identified in the table below.

Budget item	2016/17 \$	2017/18 \$	2018/19 \$	2019/20 \$	2020-22 \$	Total \$
Preliminary – Design, survey, acid sulphate soil management plan, community and Indigenous consultation, and approvals In –kind value	5000					5,000
City cash contribution	0					
Stage 1 – Scope of works and specification development; tender, contract and award administration; project management and superintendence In –kind value		30,000				30,000
City cash contribution		20,000				20,000
Stage 2 – Construction, excavation, acid sulphate soil treatment, waterway realignment, civil headworks, soil shaping and topsoil In –kind value			30,000			30,000
City cash contribution			160,000			160,000
Stage 3 – Planting and vegetation establishment In – kind value			20,000			20,000
City cash contribution			85,000			85,000
Stage 4 – Paths, bird hide/footbridge and interpretation signage In –kind value			20,000			20,000
City cash contribution			120,000			120,000
Post development management and maintenance In –kind value				10,000	10,000	20,000
City cash contribution				5,000	5,000	10,000
Total budget*	5,000	50,000	435,000	15,000	15,000	520,000

SCHEDULE 3 ACCOUNTS AND REPORTING**3.1 Progress reports****Item 1 Quarterly Progress Report**

The Recipient is to provide to the Department quarterly progress reports (as at 30 September, 31 December, 31 March and 30 June), or as determined from time to time by the Department, until receipt by the Recipient of the Notification. These progress reports must be certified by the Chief Financial Officer or other accountable officer of the Recipient and include:

- i. a financial report containing information with respect to the Project, which must include the information set out in Schedule 2; and
 - ii. a project report which must include the information set out in Schedule 2, showing how and to what extent the Funding was spent, in-kind and/or cash contributions and the extent to which the Recipient's Obligations were performed and the Milestones met.
- a) Note - the quarterly report on the Project is to be submitted within two (2) weeks after the end of the quarter to which the quarterly report relates.

Item 2 Annual Report

The Recipient is to provide to the Department an annual report on the Project based on a financial year ending 30 June until receipt by the Recipient of the Notification. These annual reports must be certified by the Chief Financial Officer or other accountable officer of the Recipient and be audited by an Auditor, and include:

- i. a financial report containing information with respect to the Project which must include the information set out in Schedule 2; and
 - ii. a project report which must include the information set out in Schedule 2 showing how and to what extent the Funding (and any interest accrued on the Funding) was spent, in-kind and/or cash contributions to the project and the extent to which the Recipient's obligations were performed and the Milestones met.
- a) Note - the audited annual report on the Project is to be submitted within two (2) months after the end of the financial year to which the annual report relates.

Item 3 Final report

- i. The Recipient is to provide to the Department a report (Final Report) within two (2) months after receipt by the Recipient of any written request from the Department to do so, which must be certified by the Chief Financial Officer or other accountable officer of the Recipient and be audited by an Auditor, and include:
- ii. a financial report certifying that the Funding (and any interest accrued on the Funding) was used for the Project, confirming the amount of Funding spent and which must include the information set out in Schedule 2; and

- iii. a project report which must include the information set out in Schedule 2, showing how and to what extent the Funding (and any interest accrued on the Funding) was spent and the extent to which the Recipient's obligations were performed and the Milestones met.

3.2 Financial reporting requirements

The Department intends to provide relevant templates to assist the Recipient in completing its reporting Obligations.

The information listed below is indicative of the information requested by the Department and may be varied by the Department from time to time in its absolute discretion.

1. Total approved budget for the current financial year.
2. Balance brought forward from previous reporting period.
3. Funding received from the Department to date.
4. Total monies committed in the current period from Funding and other funds received (if any), including leveraged funds.
5. Actual payments to date.
6. Initial estimate cost of the Project.
7. Amount of interest earned on the Funding and on any income generated by the Project.
8. Amount of Leveraged funding from other sources.
9. Forecast cost to complete the Project.
10. Use of funds: Infrastructure/Services/Administration.

3.3 Project reporting requirements

The Department intends to provide relevant templates to assist the Recipient in completing its reporting Obligations.

The information listed below is indicative of the information requested by the Department and may be varied by the Department from time to time in its absolute discretion.

1. Fulfilment of Recipient's Responsibilities and Obligations.
2. To what degree has the Recipient achieved Regional Estuaries Initiative objectives in fulfilling its Responsibilities and Obligations.
3. Project indicators.
4. Milestones/achievements target for the reporting period.

5. Milestones/actual achievements for the reporting period.
6. Explanation of variances between target and actual achievements, including reasons why milestones were not achieved, impediments encountered, action taken to overcome these and potential future impediments, if any.
7. Risks with respect to the Project, including in relation to completing the Recipient's Obligations and solutions proposed by the Recipient regarding these risks.
8. Funding allocation by project category.
9. What the funding received has been spent on.
10. Provide copies of contracts entered into between the Recipient and any other party in relation to the Project, including Third Party Agreements.

SCHEDULE 4 – ROLES AND RESPONSIBILITIES

Key Responsibilities for the **Department of Water**:

- Establish and sign Partnership Agreement with City of Albany.
- Provide the financial contribution to the City of Albany as set out in Schedule 2 of this Partnership Agreement.
- Coordinate reporting to the Department of Regional Development.
- Provide templates for project and financial reporting and project communication protocols.
- Provide technical and managerial support to the City of Albany as required to deliver the project.
- Provide Regional Estuaries Initiative communication protocol.
- Develop overarching communication products and key messages for Regional Estuaries Initiative.
- Undertake the water quality monitoring required to establish baseline environmental conditions for the site and measure the effectiveness of the treatment system.
- Coordinate the Project Advisory Team

Key Responsibilities for **City of Albany**:

- Undertake the key milestones and deliverables of this project including the development of a project plan.
- Provide quarterly progress reports to the Department of Water which must include as minimum information set out in Schedule 3.

REPORT ITEM DIS033 REFERS

- Provide annual audited financial reports to the Department of Water, which must include as minimum information set out in Schedule 3 including reporting of City of Albany in-kind and cash contributions to the project.
- Support the Department of Water in promoting the Regional Estuaries Initiative program and assist in the organisation and facilitation of local communication events.
- Contribute to the final project evaluation report of the Regional Estuaries Initiative.
- Follow the media protocols established by the Regional Estuaries Initiative Communications Protocol.
- Advise the Department of Water early if project targets or milestones are not likely to be achieved in a particular year and discuss if a project variation is required.
- Attend Project Advisory Team meetings as required
- Develop scope of works and specification in consultation with the Project Advisory Team
- Undertake project implementation and on-site works as per the project plan, including Project Management and Superintendence, including engagement of subcontractors as required
- Undertake the ongoing management, maintenance and operation of the biofiltration basin

In Good Faith:

The Department of Water will:

- Communicate openly and regularly with the City of Albany on the Regional Estuaries Initiative and other relevant issues.
- Provide mediation and support between partnering organisations in the Regional Estuaries Initiative program if required.
- Provide support to the City of Albany through the Department of Water Yakamia Creek project officer.
- Provide flexibility to City of Albany in achieving project targets and milestones across various years through agreed milestone variations if required.

The City of Albany will:

- Communicate openly and regularly with the Department of Water and project delivery partners to sustain strong partnerships and relationships.
- Communicate with the Department of Water Yakamia Creek project officer on any issues of concern or politically sensitive issues.

EXECUTED by the Parties as an Agreement

Signed on behalf of the **Department of**)
Water ABN 28 420 443 065 by a duly)
authorised officer in the presence of:)
)

Signature of witness

Signature – Mike Rowe

Name of witness (print)

Director General

Date

Date

Signed on behalf of the **City of Albany**)
94717875167 by a duly authorised)
officer in the presence)
of:)

THE COMMON SEAL of the **CITY OF**)
ALBANY was hereunto affixed in the)
presence)
of:)

Mayor (signature)

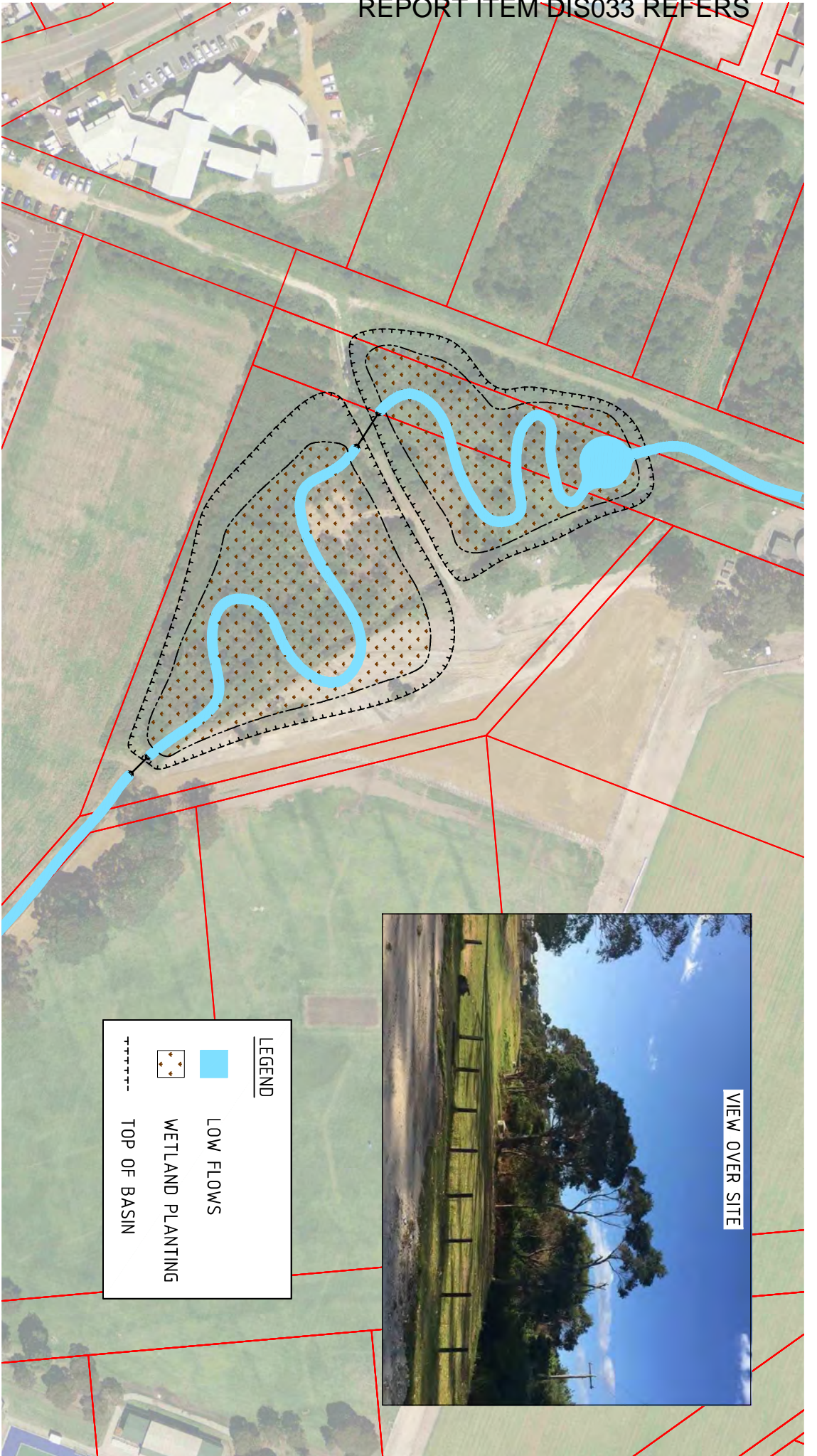
Chief Executive Officer (signature)

Mayor Dennis Wellington_____
Name

Andrew Sharpe_____
Name




Date 14 June 2017

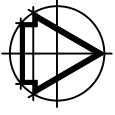
Date 14 June 2017



VIEW OVER SITE

LEGEND

-  LOW FLOWS
-  WETLAND PLANTING
-  TOP OF BASIN



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 Email: cityassets@albany.wa.gov.au
 Website: www.albany.wa.gov.au

PROJECT
 YAKAMIA CREEK, WELLINGTON STREET
 NUTRIENT STRIPPING BASIN

LOCATION
 WESTERN END OF CENTENNIAL PARK RECREATIONAL PRECINCT

DRAWING SCALE
 1:1750 @ A4 G-01