



ATTACHMENTS

Development and Infrastructure Services Committee Meeting

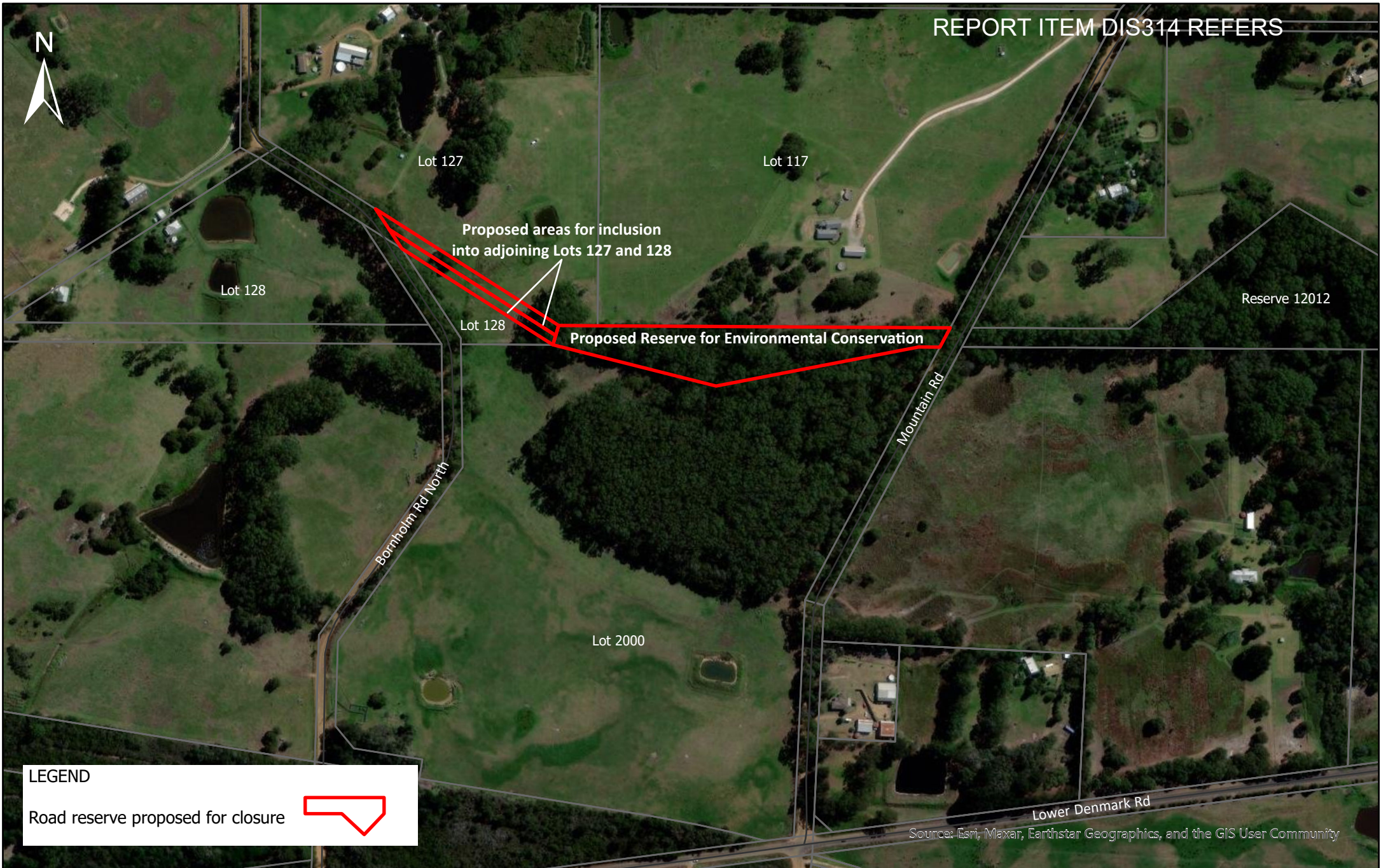
14 September 2022

6.00pm

City of Albany Council Chambers

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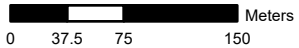
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LEGEND

Road reserve proposed for closure

SCALE @ A4:



Date Printed: 22/06/2022

Proposed closure of unconstructed & unnamed road reserve in Bornholm

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This map has been produced by the City of Albany using data from a range of agencies. The City bears no responsibility for the accuracy of this information and accepts no liability for its use by other parties.

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LOCAL GOVERNMENT ACT 1995

CITY OF ALBANY

ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND
TRADING LOCAL LAW 2011

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LOCAL GOVERNMENT ACT 1995

CITY OF ALBANY

ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND
TRADING LOCAL LAW 2011

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Albany resolved on 16 August 2011 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011*.

1.2 Commencement

This local law will come into operation 14 days after the date of publication in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

(1) The *City of Albany Activities in Thoroughfares and Public Places and Trading Local Law 2001* as published in the *Government Gazette* on 15 January 2002 is repealed.

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.

(3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

1.5 Interpretation

In this local law unless the context otherwise requires—

“**Act**” means the *Local Government Act 1995*;

“**applicant**” means a person who applies for a permit;

“**authorised person**” means a person appointed by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

“**built-up area**” has the meaning given to it in the *Road Traffic Code 2000*;

“**bulk rubbish container**” means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government’s regular domestic rubbish collection service;

“**carriageway**” has the meaning given to it in the *Road Traffic Code 2000* and means the paved or made portion of a thoroughfare, whether sealed or unsealed, used or intended for use by vehicles;

“**CEO**” means the Chief Executive Officer of the local government;

“**commencement day**” means the day on which this local law comes into operation;

“**Council**” means the council of the local government;

“**crossing**” means a crossing giving access from a public thoroughfare to—

(a) private land; or

(b) a private thoroughfare serving private land;

“**crossover**” has the same meaning as “**crossing**”;

“**district**” means the district of the local government;

“**footpath**” has the meaning given to it in the *Road Traffic Code 2000*;

- “**garden**” means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;
- “**intersection**” has the meaning given to it in the *Road Traffic Code 2000*;
- “**kerb**” includes the edge of a carriageway;
- “**lawn**” means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;
- “**liquor**” has the meaning given to it in section 3 of the *Liquor Control Act 1988*;
- “**local government**” means the City of Albany;
- “**local government property**” means anything except a thoroughfare—
- (a) which belongs to the local government;
 - (b) of which the local government is the management body under the *Land Administration Act 1997*; or
 - (c) which is an “otherwise unvested facility” within section 3.53 of the Act;
- “**local planning scheme**” means a local planning scheme of the local government made under the *Planning and Development Act 2005*;
- “**lot**” has the meaning given to it in the *Planning and Development Act 2005*;
- “**owner**” or “**occupier**” in relation to land does not include the local government;
- “**permissible verge treatment**” means any of the treatments described in clause 2.8(2);
- “**permit**” means a permit issued under this local law;
- “**permit holder**” means a person who holds a valid permit;
- “**person**” does not include the local government;
- “**premises**” for the purpose of the definition of “public place” in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;
- “**public place**” includes any thoroughfare or place which the public is allowed to use, whether or not the thoroughfare or place is on private property, but does not include—
- (a) premises on private property from which trading is lawfully conducted under a written law; and
 - (b) local government property;
- “**Regulations**” means the *Local Government (Functions and General) Regulations 1996*;
- “**sign**” includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;
- “**thoroughfare**” has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management control of the local government;
- “**townsite**” means the townsites of Cuthbert, Elleker, Kalgan, Manypeaks, Redmond, South Stirling, Torbay, Youngs Siding and Wellstead which are—
- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
 - (b) referred to in clause 37 of Schedule 9.3 of the Act;
- “**vehicle**” includes—
- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
 - (b) an animal being ridden or driven,
- but excludes—
- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
 - (b) a pram, a stroller or a similar device; and
- “**verge**” means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

- (a) plant any plant on a thoroughfare—
 - (i) except grass or a similar plant within 6 metres of an intersection; and
 - (ii) which exceeds, or may exceed, 0.75 metres in height so that the plant is within 6 metres to 10 metres of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or garden unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;

- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 1 metre of a carriageway;
- (d) remove or kill by felling, poison or any other means a tree on a verge area or thoroughfare or verge unless the person is—
 - (i) acting under authority of a permit issued by the local government; or
 - (ii) a local government employee or contractor engaged by the local government to undertake work in relation to a particular tree or trees on a thoroughfare in the district or on local government property; or
 - (iii) the person is acting under the authority of written law;
- (e) place, or allow to be placed or remain, on a thoroughfare or verge any thing (except water) that—
 - (i) obstructs the thoroughfare or verge; or
 - (ii) results in a hazard for any person using the thoroughfare or verge;
- (f) unless at the direction of the local government, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (g) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (h) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit—general

- (1) A person shall not, without a permit—
- (a) dig or otherwise create a trench through or under a kerb, footpath or carriageway;
 - (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection;
 - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
 - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
 - (f) damage a thoroughfare, kerb or footpath;
 - (g) light any fire or burn anything on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
 - (h) fell any tree onto a thoroughfare;
 - (i) unless installing, or in order to maintain, a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (k) on a public place use anything or do anything so as to create a nuisance;
 - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
 - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

2.3 No possession and consumption of liquor on thoroughfare

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—
- (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
 - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 2—Vehicle crossing

Subdivision 1—Temporary crossings

2.4 Permit required

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where—
- (a) a crossing does not exist; or
 - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.

- (2) The “**person responsible for the works**” in subclause (1) is to be taken to be—
- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
 - (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.
- (3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

Subdivision 2—Redundant vehicle crossings

2.5 Removal of redundant crossing

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) The local government may give written notice to the owner or occupier of a lot requiring her or him to—
- (a) remove any part of or all of a crossing which does not give access to the lot; and
 - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

Division 3—Verge treatments

Subdivision 1—Preliminary

2.6 Interpretation

In this Division, unless the context otherwise requires—

“**acceptable material**” means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

2.7 Application

This Division only applies to townsites and areas zoned commercial, industrial, special residential or residential in a local planning scheme.

Subdivision 2—Permissible verge treatments

2.8 Permissible verge treatments

- (1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.
- (2) The permissible verge treatments are—
- (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2 metres along that part of the verge immediately adjacent to the kerb;
 - (c) the installation of an acceptable material; and
 - (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material, and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

2.9 Only permissible verge treatments to be installed

- (1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.10.

2.10 Obligations of owner or occupier

An owner or occupier who installs or maintains a permissible verge treatment shall—

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

2.11 Notice to owner or occupier

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

*Subdivision 3—Existing verge treatments***2.12 Transitional provision**

(1) In this clause—

“**former provisions**” means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which—

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

*Subdivision 4—Public works***2.13 Power to carry out public works on verge**

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any—
 - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

*Division 4—Property numbers**Subdivision 1—Preliminary***2.14 Interpretation**

In this Division, unless the context requires otherwise—

“**number**” means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

*Subdivision 2—Assignment and marking of numbers***2.15 Assignment of numbers**

The local government may assign a Number to a lot in the district and may assign another Number to the lot instead of that previously assigned.

*Division 5—Fencing***2.16 Land adjoining public place**

(1) For the purposes of clause 4(1) of Division 1 of Schedule 3.1 of the Act, the local government may give notice to the owner of land that adjoins—

- (a) a public place, or
- (b) a thoroughfare;

to ensure that the owner’s land is—

- (a) suitably enclosed and separated from the public place or thoroughfare, or
- (b) enclosed with a closed fence where applicable;

to prevent sand or other matter from the land to fall onto or drift into the public place or thoroughfare.

(2) The enclosure or closed fence must be built, repaired and maintained to the satisfaction of the local government.

*Division 6—Signs erected by the local government***2.17 Signs**

(1) A local government may erect a sign on a public place specifying any conditions of use which apply to that place.

(2) A person shall comply with a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.18 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.17 if—

- (a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

Division 7—Driving on a closed thoroughfare

2.19 No driving on closed thoroughfare

(1) In this clause—

“**closed thoroughfare**” means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

(2) A person shall not drive or take a vehicle on a closed thoroughfare unless—

- (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a permit.

PART 3—ADVERTISING SIGNS ON THOROUGHFARES

Division 1—Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires—

“**advertising sign**” means a sign used for the purpose of advertisement and includes an “election sign”;

“**direction sign**” means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

“**election sign**” means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election; and

“**portable sign**” means a portable free standing advertising sign.

Division 2—Permit

3.2 Advertising signs

(1) A person shall not, without a permit—

- (a) erect or place an advertising sign on a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—

- (a) on a footpath;
- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
- (c) on or within 3 metres of a carriageway;
- (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to—

- (a) any other written law regulating the erection or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;
- (d) whether or not the sign will create a hazard to persons using a thoroughfare; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

Division 3—Conditions on permit

3.4 Conditions on portable sign

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions—

- (a) the portable sign shall—
 - (i) not exceed 1 metre in height;

- (ii) not exceed an area of 1 square metre on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200 millimetres in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

3.5 Conditions on election sign

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—

- (a) being erected at least 30 metres from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100 metres of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and vehicles

4.1 Leaving animal or vehicle in public place or on local government property

- (1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorized to do so under a written law.
- (2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

4.2 Prohibitions relating to animals

- (1) In subclause (2), “owner” in relation to an animal includes—
- (a) an owner of it;
 - (b) a person in possession of it;
 - (c) a person who has control of it; and
 - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal shall not—
- (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
 - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
 - (c) train or race the animal on a thoroughfare.
- (3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

Division 2—Shopping trolleys

4.3 Interpretation

In this Division—

“**retailer**” means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

“**shopping trolley**” means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

4.4 Shopping trolley to be marked

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

4.5 Person not to leave trolley in public place

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

4.6 Retailer to remove abandoned trolley

(1) If a shopping trolley is found in a public place or on local government property, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.

(2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1).

4.7 Retailer taken to own trolley

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

4.8 Impounding of abandoned trolley

An authorised person may impound a shopping trolley that is—

- (a) left on a thoroughfare, verge or local government property that is not marked in accordance with clause 4.4; or
- (b) not removed by a retailer after having been so advised under clause 4.6(2).

PART 5—ROADSIDE CONSERVATION

Division 1—Preliminary

5.1 Interpretation

In this Part—

“**MRWA**” means Main Roads Western Australia;

“**protected flora**” has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

“**rare flora**” has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

“**Roadside Conservation Committee**” means the Roadside Conservation Committee established under the Land Resource Policy Council within the Office of Premier and Cabinet but now located in the Department of Environment and Conservation; and

“**special environmental area**” means an area designated as such under clause 5.7.

5.2 Application

This Part does not apply to the townsites.

Division 2—Flora roads

5.3 Declaration of flora roads

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

5.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the “Handbook of Environmental Practice for Roadside Construction and Road Maintenance Works” (April 2005) prepared by the Roadside Conservation Committee.

5.5 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA “flora road” sign.

5.6 Driving only on carriageway of flora roads

(1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.

(2) Subclause (1) does not apply where—

- (a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
- (b) there is no carriageway; or
- (c) an exemption from the application of subclause (1) has been obtained from the local government.

Division 3—Special environmental areas

5.7 Designation of special environmental areas

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which—

- (a) has protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

5.8 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

Division 4—Planting in thoroughfares

5.9 Permit to plant

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to—

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

Division 5—Clearance of vegetation

5.11 Permit to clear

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare without first obtaining a permit and any other approvals which may be required under any written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

Division 6—Fire management

5.13 Permit to burn thoroughfare

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall—

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 Prohibition on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna.

Division 7—Firebreaks

5.17 Permit for firebreaks on thoroughfares

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 When application for permit cannot be approved

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20 metres wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8—Commercial wildflower harvesting on thoroughfares

5.19 General prohibition on commercial wildflower harvesting

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where—
 - (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—
 - (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
 - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 6—TRADING ON THOROUGHFARES AND PUBLIC PLACES*Division 1—Stallholders and traders*

Subdivision 1—Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires—

“**Competition Principles Agreement**” means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

“**public place**” includes—

- (a) any thoroughfare or place which the public is allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property,

but does not include premises on private property from which trading is lawfully conducted under a written law;

“**stall**” means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

“**stallholder**” means a person in charge of a stall;

“**stallholder’s permit**” means a permit issued to a stallholder;

“**trader**” means a person who carries on trading;

“**trader’s permit**” means a permit issued to a trader; and

“**trading**” includes—

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of—
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and—
 - (i) offering goods or services for sale or hire; or
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services,
 but does not include—
 - (iii) the delivery of pre-ordered goods or services; or
 - (iv) the taking of further orders for goods or services from the purchaser;
- (d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder’s permit;
- (e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (g) the selling or hiring or the offering for sale or hire of—
 - (i) goods by a person who represents a manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services,
 which are sold directly to consumers and not through a shop.

*Subdivision 2—Permits***6.2 Stallholder's permit**

- (1) A person shall not conduct a stall on a public place unless that person is—
 - (a) the holder of a valid stallholder's permit; or
 - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall—
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
 - (c) specify the proposed location of the stall;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
 - (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
 - (f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader's permit

- (1) A person shall not carry on trading unless that person is—
 - (a) the holder of a valid trader's permit; or
 - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall—
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
 - (c) specify the location or locations in which the applicant proposes to trade;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
 - (e) specify the proposed goods or services which will be traded; and
 - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

6.4 No permit required to sell newspaper

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper only is not required to obtain a permit.

6.5 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
 - (b) that the applicant is not a desirable or suitable person to hold a permit;
 - (c) that—
 - (i) the applicant is an undischarged bankrupt or is in liquidation;
 - (ii) the applicant has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
 - (d) such other grounds as the local government may consider to be relevant in the circumstances of the case.

6.6 Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—
 - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
 - (b) the days and hours during which a permit holder may conduct a stall or trade;

- (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
- (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
- (e) the number of persons and the names of persons permitted to conduct a stall or trade;
- (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
- (g) whether and under what terms the permit is transferable;
- (h) any prohibitions or restrictions concerning the—
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;
 - (iii) the use of signs; and
 - (iv) the use of any lighting apparatus or device;
- (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
- (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
- (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
- (l) the acquisition by the stallholder or trader of public risk insurance;
- (m) the period for which the permit is valid; and
- (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.

(2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

6.7 Exemptions from requirement to pay fee or to obtain a permit

(1) In this clause—

“charitable organisation” means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

“commercial participant” means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

(2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on—

- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
- (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

Subdivision 3—Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading shall—

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
- (b) not display a permit unless it is a valid permit; and
- (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Trade Measurement Administration Act 2006*.

(2) A stallholder or trader shall not—

- (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
- (b) act in an offensive manner;
- (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
- (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

Division 2—Street entertainers
Subdivision 1—Preliminary

6.9 Interpretation

In this Division, unless the context otherwise requires—

“**perform**” includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

“**permit**” means a permit issued for the purpose of clause 6.10;

“**permitted area**” means the area or areas, specified in a permit, in which the permit holder may perform; and

“**permitted time**” means the time or times, specified in a permit, during which the permit holder may perform.

Subdivision 2—permits

6.10 Permit required to perform

A person shall not perform in a public place without a permit.

6.11 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a permit holder vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time,

shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

6.12 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

6.13 Cancellation of permit

The CEO may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorised person, the performance otherwise constitutes a nuisance.

6.14 Obligation of permit holder

A permit holder shall not in a public place—

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or device which emits music, including a loud speaker or an amplifier—
 - (i) other than in the permitted area; and
 - (ii) is specified in the permit.

Division 3—Outdoor eating facilities on public places

6.15 Interpretation

In this Division—

“**facility**” means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

“**permit holder**” means the person to whom a permit has been issued for the purpose of clause 6.16; and

“**public place**” has the meaning given to it in clause 6.1.

6.16 Permit required to conduct facility

A person shall not establish or conduct a facility without a permit.

6.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not—

- (a) the facility is conducted in conjunction with and as an extension of food premises which abut on the facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Food Act 2008* and whether the use of the premises is permitted under the local planning scheme;

- (c) users of the facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (d) the facility would—
 - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
 - (ii) impede pedestrian access; and
- (e) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 Obligations of permit holder

- (1) The permit holder for a facility shall—
 - (a) ensure that the facility is conducted at all times in accordance with the provisions of this local law;
 - (b) ensure that the eating area is kept in a clean and tidy condition at all times;
 - (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
 - (d) ensure a minimum width of 1.8 metres is kept clear for pedestrian access between 8.00 am and 6.00 pm each day or 0.8 metres at all other times;
 - (e) define the eating area to the satisfaction of the local government;
 - (f) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the facility; and
 - (g) be solely responsible for all rates and taxes levied upon the land occupied by the facility.
- (2) Whenever, in the opinion of the local government, any work is required to be carried out to a facility, the local government may give a notice to the permit holder for the facility to carry out that work within the time limited by the notice.
- (3) In subclause (2), “**work**” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a facility.

6.19 Removal of facility unlawfully conducted

Where a facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

6.20 Use of facility by public

- (1) A person shall not occupy a chair or otherwise use the equipment in a facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the facility.
- (2) A person shall leave a facility when requested to do so by the permit holder.

6.21 Temporary removal of facility may be requested

- (1) The permit holder for a facility is to temporarily remove the facility when requested to do so on reasonable grounds by an authorised person or a member of the police service or an emergency service.
- (2) The permit holder may replace the facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7—PERMITS

Division 1—Applying for a permit

7.1 Application for permit

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

7.2 Decision on application for permit

- (1) The local government may—

- (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).
- (5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2—Conditions

7.3 Conditions which may be imposed on a permit

The local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

7.4 Imposing conditions under a policy

(1) In this clause—

“**policy**” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

- (2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

7.5 Compliance with and variation of conditions

- (1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 3—General

7.6 Duration of permit

A permit is valid for one year from the date on which it is issued, unless it is—

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

7.7 Renewal of permit

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of—
- (a) this Part; and
 - (b) any other provision of this local law relevant to the permit which is to be renewed,
- apply, with appropriate modifications to an application for the renewal of a permit.

7.8 Transfer of permit

- (1) An application for the transfer of a valid permit is to—
- (a) be made in writing;
 - (b) be signed by the permit holder and the proposed transferee of the permit;
 - (c) provide such information as the local government may require to enable the application to be determined; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
- (a) an endorsement on the permit signed by the CEO; or
 - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

7.9 Production of permit

A permit holder is to produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

7.10 Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a—
- (a) condition of the permit; or
 - (b) provision of any written law which may relate to the activity regulated by the permit; or
- (2) On the cancellation of a permit the permit holder—
- (a) shall return the permit as soon as practicable to the local government; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 8—OBJECTIONS AND REVIEW**8.1 Review of decision**

When the local government makes a decision—

- (a) under clause 7.2(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

PART 9—MISCELLANEOUS NOTICES**9.1 Notice to redirect or repair sprinkler**

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

9.2 Hazardous plants

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

9.3 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

9.4 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 10—ENFORCEMENT

*Division 1—Notices given under this local law***10.1 Offence to fail to comply with notice**

Whenever the local government gives a notice under this local law requiring a person to do any thing, if the person fails to comply with the notice, the person commits an offence.

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

10.3 Offences

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

10.4 Prescribed offences

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

10.5 Forms

Unless otherwise specified, for the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the withdrawal of infringement notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

Schedule 1

PRESCRIBED OFFENCES

[cl.10.4]

Local Government Act 1995*City of Albany*

Activities on Thoroughfares and Public Places and Trading Local Law 2011

OFFENCES AND MODIFIED PENALTIES

Item No.	Clause No.	Description	Modified Penalty \$
1.	2.1(a)	Plant of 0.75 metres in height on thoroughfare within 10 metres of intersection	125
2.	2.1(b)	Damaging lawn or garden	125
3.	2.1(c)	Plant (except grass) on a thoroughfare within 1 metre of carriageway	125
4.	2.1(d)	Removal of tree on thoroughfare or verge	350
5.	2.1(e)	Obstructing or causing a hazard on thoroughfare or verge	125
6.	2.1(f)	Damaging, removing or interfering with a thoroughfare or structure	350
7.	2.1(g)	Playing games so as to impede vehicles or persons on thoroughfare	125
8.	2.1(h)	Riding of bicycle, skateboard, roller-blades or similar device within a mall, arcade or verandah of a shopping centre	125

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GOVERNMENT GAZETTE, WA

9 March 2012

Item No.	Clause No.	Description	Modified Penalty \$
9.	2.2(1)(a)	Dig or otherwise create a trench through or under a kerb, footpath or carriageway without a permit	125
10.	2.2(1)(b)	Throwing or placing anything on a verge without a permit	125
11.	2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	125
12.	2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
13.	2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit.	250
14.	2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
15.	2.2(1)(h)	Felling tree onto a thoroughfare without a permit	125
16.	2.2(1)(i)	Installing pipes or stones on thoroughfare without a permit	125
17.	2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
18.	2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	125
19.	2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	125
20.	2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	125
21.	2.3(1)	Consumption or possession of liquor on thoroughfare	125
22.	2.4(1)	Failure to obtain permit for temporary crossing	250
23.	2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
24.	2.9(1)	Installation of verge treatment other than permissible verge treatment	250
25.	2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	125
26.	2.11	Failure to comply with notice to rectify default	125
27.	2.17(2)	Failure to comply with sign on public place	125
28.	2.19(2)	Driving or taking a vehicle on a closed thoroughfare	350
29.	3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	125
30.	4.1(1)	Animal or vehicle obstructing a public place or local government property	125
31.	4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
32.	4.2(2)(b)	Animal on public place with infectious disease	125
33.	4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
34.	4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
35.	4.5	Person leaving shopping trolley in public place other than trolley bay	125
36.	4.6(2)	Failure to remove shopping trolley upon being advised of location	125
37.	5.6(1)	Driving a vehicle on other than the carriageway of a flora road	250
38.	5.9	Planting in thoroughfare without a permit	200
39.	5.11	Failure to obtain permit to clear a thoroughfare	500
40.	5.13	Burning of thoroughfare without a permit	500
41.	5.17	Construction of firebreak on thoroughfare without a permit	500
42.	5.19	Commercial harvesting of native flora on thoroughfare	500
43.	5.20(1)	Collecting seed from native flora on thoroughfare without a permit	350
44.	6.2(1)	Conducting of stall in public place without a permit	350
45.	6.3(1)	Trading without a permit	350
46.	6.8(1)(a)	Failure of stallholder or trader to display or carry permit	125
47.	6.8(1)(b)	Stallholder or trader not displaying valid permit	125
48.	6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125

REPORT ITEM DIS315 REFERS

9 March 2012

GOVERNMENT GAZETTE, WA

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Item No.	Clause No.	Description	Modified Penalty \$
49.	6.8(2)	Stallholder or trader engaged in prohibited conduct	125
50.	6.10	Performing in a public place without a permit	125
51.	6.11(2)	Failure of performer to move onto another area when directed	125
52.	6.14	Failure of performer to comply with obligations	125
53.	6.16	Establishment or conduct of outdoor eating facility without a permit	350
54.	6.18	Failure of permit holder of outdoor eating facility to comply with obligations	125
55.	6.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	60
56.	6.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	60
57.	7.5	Failure to comply with a condition of a permit	125
58.	7.9	Failure to produce permit on request of authorised person	125
59.	10.1	Failure to comply with notice given under local law	125

Dated: 20 September 2011.

The Common Seal of the City of Albany was affixed by authority of a resolution of the Council in the presence of—

FAILEEN JAMES, Chief Executive Officer.
MILTON EVANS JP, Mayor



Electric Scooter Shared Services **Discussion Paper**

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2.0 Introduction

In past two years electric scooter shared services, also known as e-scooters, have rapidly expanded across the world. These services are built on the success of the existing bicycle shared services which originated in the 1960's. While e-scooter shared services are not suitable for long commutes, they are useful for short trips, provide options for the 'last mile', provide links to public transport, and are appealing for recreational use and tourism.

Throughout the world e-scooter shared services have been operating for less than two years; therefore there is limited published research or data on usage, benefits or risks. Anecdotal evidence and hearsay has been heavily relied upon in the adoption of these services. Nonetheless this has not stopped a growing number of cities across the world from considering these services.

There are a range of issues that need to be addressed for e-scooters to operate in Western Australia. The State Government will lead the review and implementation of all necessary legislative and regulatory changes with Local Government input. An operator will require permission from the relevant Local Government to operate an e-scooter shared service. Operators must apply for a permit to operate pursuant to relevant local laws.

3.0 Purpose

The purpose of this paper is to inform the Local Government sector on the issues involved with the implementation of e-scooter shared services. This discussion paper identifies the issues and learnings of existing e-scooter shared services; and the policy implications pertinent to WA Local Governments. In Western Australia these services are likely to cross Local Government boundaries making a broadly consistent set of policies and regulations important. At the December 2018 meeting the Infrastructure Policy Team requested this paper to be developed to ensure all issues and options are considered.

4.0 What is an electric scooter?

Electric scooters, known as e-scooters, are powered by a rechargeable battery with a range of approximately 20-60 kilometres per charge and a maximum speed of approximately 25km/hour. To operate an e-scooter the user pushes the device along a short distance to kick-start the scooter, and then presses the throttle on the handlebar to trigger the electric motor. See Figure 1 for a depiction of a typical e-scooter.

E-scooters operated by shared services are fitted with GPS systems to ensure users can easily locate them. Users register, pay, unlock and lock e-scooters through a mobile phone app. At the end of the journey users do not need to physically lock the device with a conventional chain or return it to a designated station or rack. E-scooters from shared services are designed to be dockless meaning the user can choose where to end their journey. Generally some operators of e-scooter shared services remotely monitor the battery life of the devices and employ people to collect the devices for recharging and redistributing

as required.¹ Other operators have the ability to remove and collect the batteries from the devices for recharging, while leaving the device on the street.

E-scooters are also available to purchase for private use across Australia. Suppliers sell e-scooters with a disclaimer for users to consult the relevant legislation regarding operation.



Figure 1: Illustration of a typical e-scooter

5.0 The rise of e-scooter shared services

E-scooter shared services originated in the United States in 2017, with two major companies quickly expanding. The company Bird initially launched e-scooters in Santa Monica, California and expanded to other cities throughout 2018. The company Lime started with bicycle shared services and expanded to e-scooters in early 2018. Other e-scooter companies that have launched services, include Scoot, Skip and Spin.² E-scooter shared services are now reportedly available in approximately 100 cities in the US.

The average adoption rate of e-scooters across major cities in the US was 3.6% in the first twelve months based on using an e-scooter at least once. In comparison the adoption of traditional car-share services took twelve years before the average adoption rate was between 2% and 3%. This is likely due to there being less barriers for e-scooter operations than car-share service operations (e.g. legislative, licensing, costs).

A study completed in 11 major US cities found that 70% of people surveyed viewed e-scooters as a viable transport mode instead of using a private car either to replace short driving trips or in conjunction with public transport.³

In Portland, Oregon more detailed findings were produced after a four month trial from July to November 2018. The trial involved three e-scooter companies and there was a total of

¹ Engadget. (2018). Silicon Valley's scooter scourge is coming to an end.

<https://www.engadget.com/2018/04/19/san-francisco-scooter-invasion/>

² Architecture and Design (2018). Can e-scooters solve the 'last mile' problem? They'll need to avoid the fate of dockless bikes. <https://www.architectureanddesign.com.au/features/comment/e-scooters-last-mile-problem-dockless-bikes>

³ Populus. (2018). The micro-mobility revolution: The introduction and adoption of electric scooters in the United States.

2,043 e-scooters permitted. Over four months there was a total of 700,369 trips averaging 5,885 trips per day covering over 801,887 miles (1,290,512 kilometres).

In New Zealand, the company Lime launched 600 e-scooters in Auckland and 400 e-scooters in Christchurch in October 2018. In the first two weeks of operation in Christchurch there was approximately 107,000 kilometres travelled by e-scooters⁴ and in two months there were over 100,000 trips. In Auckland more than 500,000 trips were recorded in the first six weeks⁵. E-scooters have since been launched in Dunedin and Hutt Valley and the total rides in all four locations has now surpassed one million.⁶

The operator Lime was given permission by the Queensland State Government to operate on a trial basis in Brisbane, the first e-scooter shared service in Australia. The service was launched in November 2018 and within the first two weeks of operation there was more than 50,000 trips by users. The operators Lime and Bird have been in discussions with the New South Wales Government to begin a trial in Manly.⁷

The Department of Transport has been approached by several operators seeking to launch services in Perth. The operator Lime held a demonstration of its e-scooters in December 2018 to showcase the capabilities to local media and provided the opportunity for selected State Government and Local Government representatives to test the e-scooters. The Department of Transport is liaising with relevant State Government agencies and stakeholders to identify and work through the issues associated with a trial.

The growing popularity of alternative modes of transport has prompted the Transport and Infrastructure Council to direct the National Transport Commission “to review the Australian Road Rules and highlight any regulatory barriers to the safe use of innovative vehicles and motorised mobility devices across Australia”. Innovative vehicles includes e-scooters. In January 2019 the National Transport Commission released an issues paper, the purpose of which is to understand the regulatory barriers to the safe use of innovative vehicles and motorised devices.⁸ The intent of the National Transport Commission is, after analysis of feedback from the issues paper, to release a discussion paper to canvass options to resolve problems by June 2019; draft amendments to the Australian Road Rules by mid-2020; and put the draft amendments to the Transport and Infrastructure Council for decision by November 2020.

6.0 Benefits of e-scooters

E-scooters offer a convenient mode of transport and provide an alternative mobility choice to users. They are readily accepted, easy to use and are valued for being able to transport

⁴ TVNZ (2018). E-scooters a hit in Christchurch, clocking up 107,000 kilometres within first two weeks.

https://www.tvnz.co.nz/one-news/new-zealand/e-scooters-hit-in-christchurch-clocking-up-107-000-kilometres-within-first-two-weeks?variant=tb_v_1

⁵ NZ Herald. (2018). Lime notches 500,000 scooter rides in NZ.

https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=12169063

⁶ NZ Herald. (2019). Lime hits million-ride milestone in NZ, boss open to e-scooter tax

https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=12191975

⁷ The Sydney Morning Herald. (2018). Sydney's share bikes take 22,000 city trips a week.

<https://www.smh.com.au/national/nsw/sydney-s-share-bikes-take-22-000-city-trips-a-week-20181130-p50jbk.html>

⁸ National Transport Commission. (2019). Barriers to the safe use of innovative vehicles and motorised mobility devices. [https://www.ntc.gov.au/Media/Reports/\(67C382BE-5673-11A6-8B64-86816071EC58\).pdf](https://www.ntc.gov.au/Media/Reports/(67C382BE-5673-11A6-8B64-86816071EC58).pdf)

people to destinations quicker than walking.⁹ It is anticipated that e-scooters could potentially provide last mile options and link to public transport, however as yet there is limited data to support this.

The use of e-scooters has potential environmental benefits which may contribute to less pollution and greenhouse gas emissions. According to the e-scooter operator Lime, for every 1.6km (1 mile) travelled on an e-scooter mitigates 350 grams of carbon.¹⁰ Furthermore other research suggests that one kilowatt hour of energy allows a typical motor vehicle to complete three laps (1.29km) around a typical football field, an electric vehicle (Tesla) to complete 17 laps (6.6km) and an e-scooter to complete 333 laps (133km) as shown in Figure 2. These figures are based on the assumption that e-scooters will replace car trips, with early indicators from the operator Lime suggesting this is occurring. A survey of 11,000 e-scooter and e-bicycle users by Lime indicated 30% users had replaced their car trips (private, rideshare, etc.).¹¹ In addition according to Lime, 22% of e-scooter trips in New Zealand replaced vehicle trips representing 20,000 fewer vehicle trips over two months on city roads.¹² Further research is required to understand if there is a shift away from car trips and any impact on the environment.

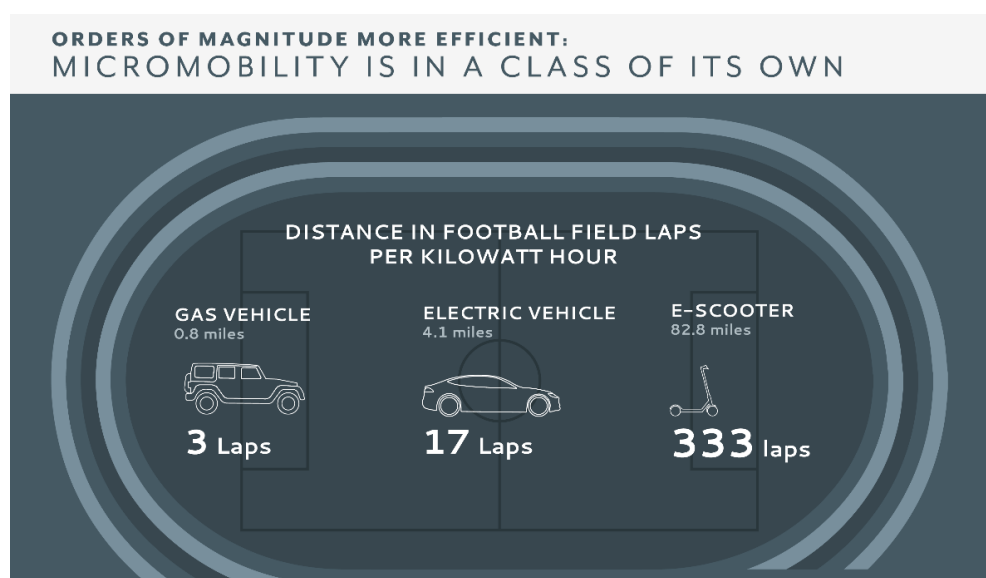


Figure 2: Comparison of different modes of transport distance in football field laps per KW/hour¹³

⁹ Dowling, R., Irwin, J., Faulkes, I. & Howitt, R. (2015). Use of personal mobility devices for first-and-last mile travel: The Macquarie-Ryde trial.

<http://acrs.org.au/files/papers/arsc/2015/DowlingR%20071%20Use%20of%20personal%20mobility%20devices%20for%20first%20and%20last%20mile%20travel.pdf>

¹⁰ Cleantech Rising (Meium). (2018). The Environmental Impact of Electric Scooters.

<https://medium.com/cleantech-rising/the-environmental-impact-of-electric-scooters-8da806939a32>

¹¹ Lime. (2019). Latest Data Show Lime Attracts New Riders To Active Transportation, Reduces Car Use And More. <https://www.li.me/blog/latest-data-lime-attracts-new-riders-reduces-car-use-more>

¹² NZ Herald. (2018). Man caught dangerously riding e-scooter through Auckland peak hour traffic. https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12180217

¹³ Wired. (2018). Let's Count the Ways E-Scooters Could Save the City. <https://www.wired.com/story/e-scooter-micromobility-infographics-cost-emissions/>

E-scooters appeal to the local tourist market, providing a quick and convenient option for tourists to explore a particular area. A 2018 survey undertaken by the Portland Bureau of Transportation showed 24% (1,088) of e-scooter users surveyed did not live or work in Portland indicating they were visiting from a different state or country. Of the 1,088 e-scooter users who did not live or work in Portland, the majority of users would have either taken a taxi/ride share (34.25%), walked (35.48%) or driven a personal vehicle (14.33%) if an e-scooter was not available.¹⁴

On a personal level e-scooters are very convenient modes of transport, more so than shared bicycles. They particularly appeal to office workers because they do not require movement of the body and the user stands upright preventing perspiration and wrinkling of clothing. They are also useful for women wearing skirts and dresses, which can be an issue on bicycles.¹⁵

¹⁶

7.0 Legislation

7.1 Definition of 'motorised scooter', 'scooter' and 'moped'

Part 1 regulation 3 of *Road Traffic Code 2000* defines a 'motorised scooter' as:

...a scooter that is propelled by one or more electric motors (whether the motors are a part of the scooter or attached to the scooter) and complies with the requirements of paragraph (e) in the definition of scooter

The *Road Traffic Code 2000* defines 'scooter' as:

scooter means a device that —

- (a) has 2 or more wheels and a footboard supported by those wheels; and*
- (b) is steered by handlebars; and*
- (c) is designed to be used by a single person; and*
- (d) is propelled by any one or more of the following —*
 - (i) gravity;*
 - (ii) the user pushing a foot against the ground;*
 - (iii) an electric motor or motors; and*
- (e) if it is fitted with an electric motor or motors, satisfies the following criteria —*
 - (i) its maker certifies (either by means of a plate attached to the motor or on each motor, or by means of engraving on the motor or each motor) the ungoverned power output of the motor, or each motor;*
 - (ii) the maximum power output of the motor, or the combined maximum power output of the motors, is not more than 200 watts;*
 - (iii) when propelled only by the motor, or motors, the scooter is not capable of going faster than 10 km/h on level ground.*

¹⁴ Portland Bureau of Transportation. (2018). 2018 E-Scooter Pilot User Survey Results.

<https://www.portlandoregon.gov/transportation/article/700916>

¹⁵ Architecture and Design (2018). Can e-scooters solve the 'last mile' problem? They'll need to avoid the fate of dockless bikes. <https://www.architectureanddesign.com.au/features/comment/e-scooters-last-mile-problem-dockless-bikes>

¹⁶ Heinen, E., Maat, K., & Van Wee, B. (2011). Day-to-day choice to commute or not by bicycle. *Transportation Research Record: Journal of the Transportation Research Board*, (2230), 9-18.

Indications are that e-scooters associated with shared services can travel up to speeds of 25km/h, which does not align with the legal definition of 'motorised scooter' in the *Road Traffic Code 2000*.

Advice from the Department of Transport is that because an e-scooter can exceed the speed and power rating limits of a scooter or motorised scooter (as defined under the *Road Traffic Code 2000*) they fit the definition of a 'moped', which incurs compliance with other regulations i.e. having a licence to drive.

Under the provisions of Part 1 regulation 3 of the *Road Traffic (Vehicles) Regulations 2014* a 'moped' is defined as:

...a motor cycle or motor tricycle with an engine cylinder capacity of not over 50 mL and a maximum speed of not over 50 km/h.

Under the provisions Part 1 regulation 3 of the *Road Traffic (Authorisation to Drive) Regulations 2014* a 'moped' is also defined as:

a motor cycle that —

(a) is designed so as not to be capable of a speed exceeding 50 m/h; and

(b) either

(i) has an engine capacity not exceeding 50 cc; or

(ii) is not powered by a piston engine,

whether or not it is also capable of being propelled by pedalling, but does not include a power assisted pedal cycle.

The *Road Traffic (Authorisation to Drive) Regulations 2014* requires the driver of a moped to hold a 'moped licence', which is defined as:

...a driver's licence that authorises the holder to drive only a motor vehicle of class R endorsed with the condition N.

7.2 Protective helmets

Regulation 209A (2) of the *Road Traffic Code 2000* states:

A person shall not travel on a motorised scooter on a road or any path unless that person is wearing a protective helmet securely fastened on his or her head.

Regulation 244 (2) of the *Road Traffic Code 2000* states:

A person shall not drive a motor cycle unless —

(a) that person is wearing securely on his or her head a protective helmet.

8.0 Challenges for e-scooter shared services in WA

8.1 Speed and power rating of e-scooters

Current legislation dictates that an e-scooter (associated with a shared service) is a moped due to its power rating and speed capability of up to 25 km/h, which requires the driver to hold a moped licence and wear an approved protective helmet when operating the device on any road or path.

Therefore any operation of an e-scooter shared service in WA will, in the first instance, require consideration by the State Government to provide exemptions from some relevant legislation and, in the long term, review/amend legislation to accommodate these services.

This raises the question of what is considered to be a safe speed for e-scooters in areas where there is a high mix of users. There is no evidence to show the human tolerance to injury impact from e-scooters and this needs to be considered. A balanced approach is required to determine legislation that provides for both a safe and practical speed.

Question

What is considered to be a safe and practical speed for e-scooters for Western Australia?

8.2 Age limit of e-scooter user

The age of a user operating an e-scooter may also require consideration. The Queensland State Government imposed age restrictions - users of e-scooters must be aged over 16 years, with children between the ages of 12 and 16 requiring adult supervision.¹⁷

Question

Do you support age restrictions for e-scooter riders in Western Australia and if so what age?

8.3 Safety

As the number of e-scooter share services grow, the number of reported users sustaining injuries is increasing. The speed of e-scooters puts users as well as pedestrians and cyclists at risk of significant injuries.

In the United States two deaths attributed to e-scooters have been recorded. There is limited reliable information regarding the number of injuries, however reports from hospitals in the US show that both e-scooter users and other path users have attended emergency rooms for life-threatening and debilitating conditions. The injuries are not only caused by users losing control, but also due to malfunctioning e-scooters including brakes not working and

¹⁷ ABC News. (2018). What's the deal with e-scooters in Australia and where are you allowed to ride them? <https://www.abc.net.au/news/2018-12-23/the-rules-around-scooter-sharing-in-australia/10639170>

throttles sticking.¹⁸ It should be noted however there are various legislative conditions for e-scooters across the US and some States permit users to operate e-scooters on roads where the risk of injuries are increased. The Centres for Diseases Control and Prevention plans to undertake an epidemiological study on e-scooter injuries in Austin, Texas to quantify the risks.¹⁹

In Los Angeles from September 2017 to August 2018 a study in the medical journal JAMA Network Open found there were approximately 249 injuries reported to emergency departments from e-scooters, where 28% suffered contusions, sprains and lacerations, 30% had fractures, and just over 40% had head injuries. It was estimated that only 4.4% of those reportedly injured were documented to be wearing helmets, even though helmet use is required under California legislation. During the same period the injuries reported to the emergency departments for bicyclists was 195 and for pedestrians was 181.²⁰

A class action lawsuit was filed in October 2018 at the Los Angeles County Superior Court against the companies Lime and Bird for gross negligence and aiding and abetting assault. The lawsuit was filed on behalf of eight people who sustained injuries either as an e-scooter user or as a pedestrian.²¹

In Portland, Oregon at the conclusion of the four month trial of 2,043 e-scooters, it was estimated that injuries represented 5% (176) of the total traffic crash injuries presented to emergency departments. Of these 176 injuries, the majority (83%) were caused from a user falling off an e-scooter and 12.5% caused from collision with a vehicle. It should be noted that in Portland, e-scooters are only allowed on roads and bicycle lanes.²²

In New Zealand there were 69 injuries in the first two weeks of operation between 14 and 31 October 2018, which was confirmed by the Accident Compensation Corporation. Injuries included fractures, lacerations and abrasions, broken teeth, head injuries and collapsed lungs.²³ This figure rose to 408 Accident Compensation Corporation claims by 9 December 2018 - 251 claims in Auckland and 141 claims in Christchurch.²⁴ No claims were for life threatening injuries. As at 17 December 2018 there were no injury claims from pedestrians being struck by e-scooters in New Zealand.²⁵

Where e-scooters are allowed to operate is an important consideration i.e. on footpaths, shared paths, on-road cycle lanes, local roads, shared spaces, and malls. As more people

¹⁸ CNN. (2018). That electric scooter might be fun. It also might be deadly.

<https://edition.cnn.com/2018/09/29/health/scooter-injuries/index.html>

¹⁹ CityLab (2019). Anatomy of an Electric Scooter Crash. <https://www.citylab.com/transportation/2019/01/scooter-crash-accidents-safety-liability-bird-lime/577687/>

²⁰ Washington Post (2019). Electric scooters send more people to the hospital than bicycles and walking, new study finds. https://www.washingtonpost.com/technology/2019/01/25/electric-scooters-send-more-people-hospital-than-bicycles-walking-new-study-finds/?hpid=hp_hp-cards_hp-card-technology%3Ahomepage%2Fcard

²¹ The Washington Post. (2018). Class-action lawsuit accuses e-scooter companies of 'gross negligence'. https://www.washingtonpost.com/technology/2018/10/20/class-action-lawsuit-accuses-e-scooter-companies-gross-negligence/?noredirect=on&utm_term=.160bca308443

²² Portland Bureau of Transportation. (2018). 2018 E-Scooter Findings Report.

<https://www.portlandoregon.gov/transportation/article/709719>

²³ NZ Herald. (2018). E-scooter injuries coming in 'fast and furious', say New Zealand emergency doctors.

https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12153209

²⁴ NZ Herald. (2018). Man caught dangerously riding e-scooter through Auckland peak hour traffic.

https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12180217

²⁵ Lovett, N. Email correspondence from Christchurch City Council 17 December 2018.

choose e-scooters as a preferred mode of transport there may be increased risks to pedestrians and other users particularly as e-scooters have the ability to travel at speeds of up to 25km/h - noting in WA there is currently a legislative requirement that an e-scooter is not capable of going faster than 10 km/h on level ground. In the US there has already been cases of e-scooter users colliding with pedestrians resulting in injuries.^{26 27} In Brisbane e-scooters must be used on paths wherever possible and on local streets with speed limits of up to 50km/h where it is safe to do so. Users are not permitted on main roads or streets in the Brisbane CBD.²⁸

Local Government will need to identify any particular conditions for an e-scooter shared service e.g. prohibition of use in particular areas/places i.e. exclusion zones; and/or implement speed limits.

This then raises the question of how these conditions will be monitored and enforced particularly as the WA Police enforce non-use of helmets by cyclists.

In addition, the collection of crash data will also need to be considered. Any e-scooter crashes occurring in WA should be collected by an agency and the method of collection will need to be determined. At the moment it is difficult to obtain accurate figures for crash data from cyclists and this could also be a problem for e-scooters.

Question

In Western Australia do you believe e-scooters should be permitted to operate:

- On roads;
- On dual use paths;
- On footpaths;
- In malls.

8.4 Helmets

Regulation 209A (2) of the *Road Traffic Code 2000* states:

A person shall not travel on a motorised scooter on a road or any path unless that person is wearing a protective helmet securely fastened on his or her head.

Regulation 244 (2) of the *Road Traffic Code 2000* states:

A person shall not drive a motor cycle unless —
(a) that person is wearing securely on his or her head a protective helmet.

There are no indications the State Government will provide exemption from helmet legislation for e-scooter shared services. Therefore, it will be responsibility of e-scooter

²⁶ The Washington Post. (2018). Class-action lawsuit accuses e-scooter companies of 'gross negligence'. https://www.washingtonpost.com/technology/2018/10/20/class-action-lawsuit-accuses-e-scooter-companies-gross-negligence/?noredirect=on&utm_term=.65503d791014

²⁷ The Conversation. (2018). Electric scooters on collision course with pedestrians and lawmakers. <http://theconversation.com/electric-scooters-on-collision-course-with-pedestrians-and-lawmakers-99654>

²⁸ Queensland Government. (2018). Rules for personal mobility devices. <https://www.qld.gov.au/transport/safety/rules/wheeled-devices/personal-mobility-devices>

operators to provide helmets and it is the user's responsibility to wear a helmet while operating an e-scooter.

The challenge will be where the operator stores helmets for easy access by e-scooter users and how the user correctly stores them at the end of their journey. The City of Sydney reported in March 2018 that helmets went missing far more quickly than they could be replenished for shared bicycle services.²⁹ This could potentially be the same for e-scooters. Lime is now operating e-bikes in Sydney and there are plans to set up what will be known as 'Lime Hubs' which will be shown in the mobile phone app, where users will be able to obtain and leave helmets.³⁰ This could also be an option for e-scooter operations which will need to be negotiated.

9.0 Local Government issues

9.1 Assessment of e-scooter shared service

It is important for a Local Government to understand the business model of an e-scooter shared service. A thorough assessment of an e-scooter shared service application to operate will be required to ensure the most appropriate e-scooter shared service(s) is chosen and the business model meets the needs of a Local Government.

Considerations of a business model would include:

- E-scooters are safe and are compliant with relevant standards.
- Compliance with helmet legislation.
- E-scooter fleet size.
- E-scooter densities; re-balancing of devices; and method of re-charging batteries
- Docked or dockless system.
- Parking strategies including geo-fencing.
- Minimum response times to rectify improperly parked or abandoned e-scooters.
- E-scooters are equipped with GPS to enable location tracking.
- Fleet maintenance plan which identifies strategies and response times to repair or remove damaged e-scooters.
- What app will be used for the service and what are the capabilities of the app?
- Helpline to assist user, community and Local Government concerns.
- How the service will be evaluated?
- How relevant data will be collected, analysed, stored and provided to Local Government when required?
- Community consultation plan.
- Advertising the service.
- Timing of the service launch.
- Device longevity, evidence of reliability, and battery life.
- If there is an age limit enforced by the State Government, how will the operator adhere to it?
- Quality of servicing, repairs and technical support.

²⁹ City of Sydney (2018). Inner Sydney Bike Share Guidelines – three month review 22 Dec 2017 – 22 Mar 2018.

³⁰ News. (2018). Everything you need to know about Lime bikes and scooters popping up in our cities.

<https://www.news.com.au/technology/innovation/motoring/on-the-road/everything-you-need-to-know-about-lime-bikes-and-scooters-popping-up-in-our-cities/news-story/d74e7921b19fba4d90335774817b6d68>

- Hours of operation.

9.2 Local Government permission to operate

An operator will require permission from the relevant Local Government to operate an e-scooter shared service. Operators must apply for a permit to operate pursuant to relevant local laws.

In December 2018 the company Lime launched an e-scooter shared service on the Gold Coast reportedly without obtaining permission from the Gold Coast City Council. Lime was in breach of a local law and was given two hours to move the e-scooters off the streets.³¹ Subsequently, the Council took 22 Lime scooters off Gold Coast streets. This highlights the importance of the operator working together with Local Governments to ensure these services are implemented legally and appropriately.

9.3 Permit terms and conditions

A Local Government will need to set out terms and conditions in support of issuing a permit to an operator. The terms and conditions establishes the principles, practices and obligations that an operator of an e-scooter shared service is required to comply with as a condition of a permit to mitigate public amenity and safety risks. Terms and conditions issued with a permit to an operator hold legal standing under local laws. WALGA considers this as good practice, however Local Governments are free to implement formal Agreements or guidelines instead.

9.4 Parking and abandonment

As e-scooter shared services are dockless there have been reports that e-scooters are vulnerable to being left in undesirable locations, and/or being stolen and vandalised similar to dockless bicycles.

In Oakland, California more than 60 e-scooters were retrieved from Lake Meritt in October 2018.³² At Santa Monica Beach in Los Angeles in August 2018, e-scooters were abandoned on the beach (shown Figure 3) and dumped in bins.³³ Typically e-scooters are left parked on paths impeding accessibility for pedestrian and other users.

In San Francisco there was initially significant issues with e-scooters including inappropriate parking,³⁴ as well as operators not holding permits, which led to the San Francisco Municipal Transportation Agency ordering the operators Bird, Spin and Lime to cease operation in mid-2018.³⁵ Between 11 April and 23 May 2018 there were 1,900 complaints received by San

³¹ ABC News. (2018). Lime scooters halts Gold Coast rollout after a day as council confiscates them. <https://www.abc.net.au/news/2018-12-29/lime-scooters-halts-gold-coast-roll-out-council-dispute/10673452>

³² Slate (2018). Bird Bath: Why do people keep throwing electric scooters into rivers and lakes—and what should companies like Bird and Lime do to stop them? <https://slate.com/technology/2018/12/electric-scooter-bird-lime-lakes-rivers-environment-vandalism.html>

³³ News. (2018). This town seriously hates electric scooters. <https://www.news.com.au/technology/innovation/motoring/on-the-road/this-town-seriously-hates-electric-scooters/news-story/ea4d7a514daea00eb58c8d62380bf258>

³⁴ Mashable Australia (2018). E-scooters aren't getting stolen, the real issue is sidewalk litter. <https://mashable.com/2018/04/17/electric-scooters-sidewalk-litter/>

³⁵ CNET. (2018). San Francisco says goodbye to electric scooters, for now <https://www.cnet.com/news/san-francisco-scooter-law-means-goodbye-to-electric-scooters-for-now/>

Francisco's Customer Service Centre regarding e-scooters and the San Francisco Public Works impounded more than 500 inappropriately parked scooters.³⁶ In October 2018 the San Francisco Municipal Transportation Agency approved only two of 12 permit applications from e-scooter operators after a rigorous assessment process to begin a new 24 month trial. Scoot and Skip were granted permission to operate, provided they were able to meet certain conditions.³⁷ This included ensuring the companies fit a lock-to design (which has an integrated cable lock) meaning e-scooters can be safely locked in appropriate parking areas and reduces theft, vandalism and e-scooters being discarded in the river.³⁸

In Western Australia before commencing operation, a Local Government may establish with the operator parking guidelines and steps to take with non-compliance of these parking guidelines as stipulated in the terms of conditions of an issued permit. It is the operator's responsibility to educate users regarding appropriate and inappropriate parking. Local Governments may enforce inappropriate parking through a local law. This includes subsequent financial penalties for not complying with agreed parking areas. Most local laws also authorise a Local Government to notify the operator about inappropriately parked/abandoned objects; and if not removed by the operator, a Local Government may remove the objects and issue financial penalties.

Local Governments can also require that an operator has the capability to implement 'geofencing' before commencing a service. 'Geofencing' refers to the use of GPS to create virtual designated parking areas. These areas are shown on a map in the service's mobile phone app. When a user arrives in a designated parking area, the GPS software triggers a response notifying the user via the app they are at an appropriate parking location. If users fail to park their e-scooter inside the designated parking area, a notification will be received alerting the user to park in the designated zone or be penalised.³⁹

Local Governments may also consider demarcated parking areas for e-scooters. These can be designated by symbols, paint, tape, or thermoplastic. This has been utilized in Santa Monica, California (see Figure 4).⁴⁰ Similarly to the permit requirements by the San Francisco Municipal Transportation Agency, Local Governments in Perth can also request locked-to devices to ensure that e-scooters can be docked to existing infrastructure or designated parking areas.

³⁶ The Verge. (2018). Scooters will return to San Francisco, but Bird and Lime aren't invited <https://www.theverge.com/2018/8/30/17800960/scooters-sf-permits-bird-lime-uber-lyft-scoot-skip>

³⁷ San Francisco Municipal Transportation Agency (SFMTA) (2018). Powered Scooter Share Permit and Pilot Program. <https://www.sfmta.com/projects/powered-scooter-share-permit-and-pilot-program>

³⁸ A. Leung. Email 20 December 2018.

³⁹ Transportation for America. (2019). Shared Micromobility Playbook. <https://playbook.t4america.org/parking-street-design/>

⁴⁰ Santa Monica Next. (2018). Regulating the Scooters <http://www.santamonicanext.org/2018/09/regulating-the-scooters/>



Figure 4. Designated e-scooter parking zone.

9.5 E-scooter shared services and neighbouring Local Governments

A Local Government intending to permit an e-scooter shared service to commence should consider the impact that service may have on neighbouring Local Governments. It is likely that e-scooter users will be unaware when crossing Local Government boundaries which can have implications for a neighbouring Local Government in terms of inappropriate parking, abandonment and safety of others.

Neighbouring Local Governments may also be launching e-scooter shared services resulting in an oversupply of e-scooters in adjacent areas. Therefore, it is important that neighbouring Local Governments are engaged to raise awareness of an impending e-scooter shared service, to understand any unintended consequences and to agree on mitigation strategies e.g. geo-fencing.

Question

What other key issues faced by Local Government have not been identified in this paper?

10.0 Conclusion

The prolific spread of e-scooter shared services throughout the world since launching in 2017 has shown initial positive signs as being a convenient mode of transport. Due to the contemporary and unpredictable nature of these services, there has not been substantial evidence to support modal shift. These services also attract similar problematic parking and abandonment issues as bicycle shared services as well as safety issues associated with speeds of up to 25km/h particularly in high pedestrianised environments.

Amendments to the *Road Traffic Code 2000*, or an exemption, will be required in order for any trial to proceed as this will legally allow e-scooters to operate at speeds of more than 10km/h. Only then can Local Governments assess suitable operators and offer them a permit to operate under terms and conditions. It remains unclear whether or not the

legislative changes will occur in the short to medium time frame. However, Local Governments will need to assess the issues and prepare to respond to operators including considering the terms and conditions associated with any permits that are issued.



MINUTES

ORDINARY COUNCIL MEETING

16th September 2003

PLEASE NOTE THESE MINUTES HAVE YET TO BE ADOPTED BY COUNCIL
AS A TRUE RECORD OF PROCEEDINGS

CITY OF ALBANY

DISCLAIMER

No responsibility whatsoever is implied or accepted by the City of Albany for any act, omission or statement or intimation occurring during Council/Committee meetings or during formal/informal conversations with staff.

The City of Albany disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council/Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation or approval made by a member or officer of the City of Albany during the course of any meeting is not intended to be and is not taken as notice of approval from the City of Albany. The City of Albany warns that anyone who has an application lodged with the City of Albany must obtain and should only rely on **WRITTEN CONFIRMATION** of the outcome of the application, and any conditions attaching to the decision made by the City of Albany in respect of the application.

Signed:

18th September 2003

ANDREW HAMMOND
CHIEF EXECUTIVE OFFICER

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1.0 DECLARATION OF OPENING

Mayor Goode declared the meeting open at 7.30pm and extended a welcome to all present.

2.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Attendance:

Mayor	-	AE Goode, JP
Councillors	-	MJ Evans JP
	-	G Sankey
	-	R Paver
	-	IA West
	-	RH Emery
	-	DW Wellington
	-	J Waterman
	-	EA Barton
	-	P Lionetti
	-	AHM Demarteau
	-	SM Bojcun
Chief Executive Officer	-	AC Hammond
Executive Director – Corporate & Community Services	-	WP Madigan
Executive Director – Development Services	-	RJ Fenn
Executive Director – Works & Services	-	B Joynes
Minute Secretary	-	SM Day
Approximately 30 members of the public		
2 media representatives		

Apologies/Leave of Absence:

Apologies	-	JD Williams
	-	DJ Wolfe

3.0 OPENING PRAYER

Councillor Evans read the opening prayer.

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

4.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

***T Stanton**

“I refer to your questions which were read and taken on notice at the August 2003 Council Meeting.

The adopted 2003/2004 budget for capital improvements for the City of Albany is \$16,545,464.

The Albany Leisure and Aquatic Centre capital budget is \$5,000. This covers replacement of a basketball scoreboard and swimming pool furniture.”

*** Mr Stanton**

“I am writing in response to your question raised at the Ordinary Council meeting of 19th August 2003.

The minutes note you asked for “an overall plan for all sporting facilities to be drawn up for Council examination and public comment”.

As part of the City of Albany’s Recreation Strategy, adopted by Council in February 2001, Recreation precinct plans were scheduled to be developed for areas of Albany.

One of these plans, the Centennial Park and Yakamia Recreation Precinct Plan, encapsulates the major sporting precinct of Albany. This plan involved the gathering of extensive community comment, including an extended public comment period. The plan was then adopted by Council in June 2003.

The Feasibility Study for Indoor Recreation and Aquatic facilities was developed concurrently with the Centennial Park Plan and involved the same extensive public comment period. This study made recommendations regarding upgrading of the Albany Leisure and Aquatic Centre, the City of Albany’s major recreation facility and was then adopted by Council in June 2003.

These plans can be viewed at the Albany Library or downloaded in PDF format from www.albany.wa.gov.au (public notices section)

In August this year Council awarded a tender to Ian Howard and Associates Architects for completion of the preliminary design stage for the Albany Leisure and Aquatic centre upgrade project. This process is currently being undertaken.”

5.0 PUBLIC QUESTION TIME

Council’s Standing Orders Local Laws provide that each Ordinary Meeting of the Council shall make available a total allowance of 30 minutes, which may be extended at the discretion of Council, for residents in attendance in the public gallery to address clear and concise questions to Her Worship the Mayor on matters relating to the operation and concerns of the municipality.

Such questions should be submitted to the Chief Executive Officer, **in writing, no later**

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than 10.00am on the last working day preceding the meeting (the Chief Executive Officer shall make copies of such questions available to Members) but questions may be submitted without notice.

Each person asking questions or making comments at the Open Forum will be **LIMITED** to a time period of **4 MINUTES** to allow all those wishing to comment an opportunity to do so.

***D Phillips – Frenchman Bay Rd, Albany**

Mr Phillips addressed the Council in regard to provision of the life buoys along the Southern Coast to assist in emergency, such as a person being washed off rocks. Mr Phillips and other local businesses would be happy to sponsor a life buoy.

Through Her Worship the Mayor, the Chief Executive Officer advised Mr Phillips that consideration had been investigated along with the implementation of a pontoon. CALM has also advised that they do not wish to take action in this regard.

*** N Ayton – Whyllie Crescent, Albany**

Mr Ayton addressed Council in regard to the proposed development in Nannarup (Item 11.3.5) and encouraged Council to approve this development. He also suggested that the zoning be changed from “Special Residential” to “Special Type Tourism”.

***J McArtney – Swan Point Road, Kalgan**

Mrs McArtney addressed Council in regard to item 11.3.5 and advised that the proponent/owner already had a proposed large subdivision adjacent to the Lower Kalgan Hall which has not even started to be developed.

Mrs McArtney believes it is not wise for the Council to grant approval, and that the subdivision be finished before the proponent/owner requests another scheme amendment.

***J Bocian – Kalgan**

Mr Bocian addressed Council in regard to Item 11.3.5 and conveyed his concern on the first development not going ahead and Council should not support a second development at this time. He does not see how it could benefit tourism.

*** T Harrison – Torbay Hill, Kronkup**

Mr Harrison address Council on two issues, the first being the manner in which the road verge natives to cut back. He suggested that a more appropriate machine be purchased to a more appropriate pruning system.

Executive Director Works & Services advised Mr Harrison that he would investigate his concern about the South Horton Road pruning and would formally respond. He also advised that the City of Albany used several methods of cutting back bush from road verges - pending the type of vegetation.

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Mr Harrison also supported Mr Phillip's concerns and supported the need to life buoys along Albany's coastline.

***R Hensel – Mt Barker**

Mr Hensel addressed Council in regard to item 11.1.2 and clarified the meaning of Schedule 1, Special Rural Area 8 and believed the current proposal does comply with these requirements.

He suggested the following recommendation be considered by Council.

“That Council advises the applicant that the development area (building envelope) proposed for Lot 410 Shoal Bay Retreat, Big Grove be supported subject to any dwelling and out buildings located within the building envelope complying with the requirements of Clause 6.0 of the Special Rural Area No. 8.”

***M McCrae – Nelson Street, Albany**

Mr McCrae addressed Council in regard to the proposed Administration Building (Item 14.1.1) and believed that the Princess Royal Harbour site should be investigated.

6.0 CONFIRMATION OF MINUTES OF PREVIOUS MINUTES

6.1 Ordinary & Special Council Meeting Minutes (as previously distributed).

DRAFT MOTION:

THAT the following minutes:

- Ordinary Council meeting held on 19th August 2003; as previously distributed be confirmed as a true and accurate record of proceedings.

**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR EMERY**

THAT the following minutes:

- **Ordinary Council meeting held on 19th August 2003; as previously distributed be confirmed as a true and accurate record of proceedings, subject to the following amendments being made:-**

Item 12.2.5

The recommendation where it states “*subject to approval from the Minister for Lands*”, delete this clause as the land is not a Reserve but City of Albany freehold land; and

the Lease term states “*for a period of 10 years, from 1 January 2004 to 31 December 2014*” to be changed to “*from 1 January 2004 to 31 December 2013*”.

Item 19.0 – To include the reason for Council sitting behind closed doors as follows:-

“19.1 Grant Concession – Chester Pass Road, Orana

Section 5.23 (2)(e) (iii) Local Government Act – Information about the business, professional, commercial or financial affairs of a person.

19.2 Structural Adequacy – Retaining Wall – 11 Festing Street, Albany

Section 5.23 (2)(e) (iii) Local Government Act – Information about the business, professional, commercial or financial affairs of a person.”

Item 19.2 – To reflect that the actual motion of rescission was lost, and the proposed motion was not considered by Council, as follows:-

**“MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR EVANS**

THAT Council:

- i) accepts the findings of the Wood and Grieve report of the 5th June 2003 relating to the retaining wall at 11 Festing Street, Albany;**
- ii) request Mr and Mrs Roberts, within the next 60 days to implement the additional work noted in the Wood and Grieve report to the satisfaction of the City’s Principal Building Surveyor; and**
- iii) authorise the issuing of a Section 401(1) Notice under the Local Government (Miscellaneous Provisions) Act 1960, if the outstanding work nominated in the Wood and Grieve Report is not completed within 60 days.**

MOTION LOST 5-9

It was requested that names be recorded, Councillors voting for the motion:

Councillor Paver, Councillor West, Councillor Evans, Councillor Evers, Councillor Demarteau.”

MOTION CARRIED 12-0

7.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

8.0 DECLARATIONS OF FINANCIAL INTEREST

[Members of Council are asked to use the forms prepared for the purpose, aiding the proceedings of the meeting by notifying the disclosure by 3.00pm on that day.]

9.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

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10.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

ORDINARY COUNCIL MEETING- 16/09/03

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DEVELOPMENT SERVICES REPORTS

Development Services

REPORTS

- R E P O R T S -

11.1 DEVELOPMENT

11.1.1 Designation of Biosphere over Part of District

File/Ward	: GOV 111 (West Ward)
Proposal/Issue	: UNESCO designation of Biosphere
Subject Land/Locality	: All land within Wilson and Torbay Catchment areas
Proponent	: Green Skills Inc.
Owner	: Various
Reporting Officer(s)	: Executive Director Development Services (R Fenn)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: Provide conditional support to concept
Bulletin Attachment	: UNESCO webpage
Locality Plan	: N/A

BACKGROUND

1. The Department of Conservation and Land Management (CALM) is currently preparing a management plan for a number of State Forest areas to the west of Albany, located within the Shires of Plantagenet, Denmark and Manjimup and the City of Albany. Approximately 350,000 hectares of reserve is being examined and the State Government is exploring the possibility of placing at least one 8,000 hectares area upon the Australian Heritage Council's National Wilderness Inventory. Preparation of the Management Plan is currently in its initial stages and CALM is consulting with agencies on issues affecting the relevant State Forests.
2. Green Skills Inc., has concurrently begun to co-ordinate efforts to gain broad community support for a "Biosphere" reserve to be declared by UNESCO in the Great Southern Region, centred around the potential Walpole Wilderness Area. Green Skills Inc. considers that the biosphere reserve should cover the Irwin, Parry, Wilson and Torbay catchments. They claim that designation as a Biosphere would bring significant economic and employment opportunities to the area. The area to be contained in the Biosphere would be approximately

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DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

509,500 hectares comprising a 176,000 hectare 'core' area which includes the proposed wilderness area and state forests, a 65,900 hectare 'buffer' area made up of isolated Crown reserves and pockets of remnant vegetation and 267,500 hectares of 'transition' area comprising mostly private farms. A copy of Green Skills proposal has previously been supplied to Elected Members and will be tabled.

3. To understand the implications of designating the area as a Biosphere, the UNESCO website was accessed and a copy of the frequently asked questions on Biospheres was downloaded. A copy of that document is included in the Elected Members Report / Information Bulletin.

STATUTORY REQUIREMENTS

4. Information supplied by Green Skills indicates that it is possible for any agency to apply to UNESCO for the designation of an area as a Biosphere. In so doing, the agency must demonstrate that the area has certain qualities and that there is broad support from within the community for the registration. The applicants have included in their submission to Council, letters of support from the South Coast Regional Initiative Planning Team (SCRIPT), the Chairman of the Fitzgerald Biosphere Group, the Albany Visitor Centre, and local members of Parliament (Monty House, Wilson Tuckey and Peter Watson).

POLICY IMPLICATIONS

5. The draft vision created through the Albany 3D process states;

“Historic Albany - A vibrant, learning, and culturally diverse City, nestled around a spectacular natural harbour in a region of unique beauty, enhanced by a spirit of generosity, enterprise and opportunity.”

6. The draft document then lists three goals, one of which reads;

Albany's community will enjoy healthy, fulfilling lifestyles, and a flourishing natural environment through;

- *Diverse and affordable cultural, recreational and sporting opportunities;*
- *Major regional health services providing a complete range of quality health services, for all ages;*
- *An effective public transport system; and*
- *Re-establishment of healthy freshwater and marine ecosystems.*

7. No specific Council policy direction exists on the reservation of land for future or current conservation purposes.

Item 11.1.1 continued

FINANCIAL IMPLICATIONS

8. The information from Green Skills and UNESCO would indicate that there are no direct financial implications from registration of the Biosphere. The reports are silent on the funding opportunities available once the Biosphere is designated, plus the costs incurred (reporting, research, etc) in maintaining Biosphere recognition.
9. The UNESCO report indicates that a Biosphere to the west of Albany should “form an integral part of national biodiversity plans for the Convention on Biological Diversity”. What reporting and submission requirements are required to meet the convention undertakings also has not been specified.
10. The Green Skills submission indicates that there are branding and marketing advantages that would flow from the designation of the Biosphere and those comments are consistent with promotional material on the web pages for some of the 408 biosphere reserves already established in 94 countries. How individual tourist operators and farmers claim “biosphere accreditation” for their goods and services is not specified, nor is the impacts upon individuals or neighbouring properties who are not deemed to be operating in an environmentally sustainable manner.
11. With the Centre of Excellence in NRM located in Albany and international interest being drawn to the Fitzgerald Biosphere, designation of this area as a Biosphere may also assist agencies such as UWA, SCRIPT and Green Skills to attract research grant funding into Albany and set Albany on the path to becoming a “Learning City”.

STRATEGIC IMPLICATIONS

12. There is no doubt that the South Coast region is an extremely diverse and attractive part of the State of Western Australia, the nation and the planet. The State Government has already set aside 350,000 hectares of land to the west of Albany as State Forest and it is now pursuing, through CALM, the potential for portion(s) of the State Forest to be included on the National Wilderness Inventory through the Australian Heritage Council.
13. The private land within the City of Albany, located in the Torbay and Wilson Inlet catchments, is currently being examined by the Western Australian Planning Commission and Agriculture Western Australia to determine if it is of regional significance for agriculture. Already the area supports the State’s seed potato industry and a substantial part of the region’s dairy industry. The Lower Great Southern Region Strategy may indicate that privately owned land in these two catchment districts has significance at a broader scale for the goods it produces.

Item 11.1.1 continued

COMMENT/DISCUSSION

14. It is difficult for any planner or citizen to argue that the community should not be moving towards sustainable land management practices. The work being undertaken, as a pilot project, in the Torbay catchment clearly indicates that where there is a community will, some funding assistance and a co-ordinated action plan, considerable progress can be achieved in putting existing land use practices onto a more sustainable footing.
15. CALM is actively exploring the possibility of designating parts of the existing State Forest as a Wilderness Area and it could be argued that a high level of protection is already afforded to the ecosystem in that area. CALM's plans are reviewed every decade and a process exists for community input to management planning of that reserve network. The regional population can raise concerns over issues such as access to fire wood, fire management regimes, control of feral animals, public access to the reserve network, etc. "What additional advantages or disadvantages does designation as a Biosphere produce?", then becomes the operative question that Council needs to ask and have addressed.
16. Not surprising, the literature produced by UNESCO and Green Skills espouses the benefits of designating a Biosphere over this portion of the South Coast region. Details on many issues still remain sketchy and a cynic would be concerned with comments in the UNESCO fact sheet which state;
 - *Biosphere reserves are areas of terrestrial and coastal ecosystems promoting solutions to reconcile the conservation of biodiversity with its sustainable use.*
 - *Establishing a biosphere reserve obviously poses an enormous challenge, namely to set up an appropriate mechanism, for instance a committee, to plan and co-ordinate all the activities that will take place there.*
 - *Their conservation objective is all the better achieved in that it is supported by research, monitoring and training activities, on the one hand, and is pursued by involving systemically the cooperation and interests of the local populations concerned, on the other hand.*
 - *It is here (the outer transition area) that the local communities, conservation agencies, scientists, civil associations, cultural groups, private enterprises and other stakeholders must agree to work together to manage and sustainably develop the area's resources for the benefit of the people who live there.*
 - *Biosphere reserves provide access to training and demonstration projects on alternate land-uses and management strategies which maintain natural values, such as soil fertility and water quality, which make the best use of the available human and financial resources.*

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- *Biosphere reserves serve as tools to enable countries to meet their obligation under international Conventions, such as those on Biological Diversity and Desertifications, and Agenda 21.*
17. The words used above have differing meanings and expectations to individuals. Sustainability is usually thought of in terms of triple bottom line components of environment, economy and society; how a biosphere addresses the economic and social components of sustainability would only be resolved through detailed management planning, particularly if community aspirations are for certain existing land uses to be phased out of the transitional area.
18. Staff consider there is currently insufficient information available to recommend support for the request. Staff are also concerned that those people most affected by the proposal, the landowners in the transitional area, may not have been adequately briefed and consulted on the concept to date.

RECOMMENDATION

THAT Council defer consideration of the request from Green Skills Inc, for Council's support to designate the Torbay and Wilson Inlet catchments as a UNESCO Biosphere reserve, until Green Skills Inc can provide to Council;

- i) the results of a comprehensive consultation program involving all land owners within the transitional zone of the Biosphere reserve;
- ii) more detailed information on the reporting requirement to maintain UNESCO accreditation as a Biosphere reserve;
- iii) an indicative financial strategy for the Biosphere reserve, indicating expected local government contributions to the management of the reserve; and
- iv) examples of reporting requirements and management programs developed within an existing Biosphere reserve, of similar characteristics to the current proposal, particularly as they relate to the transitional area.

Voting Requirement Simple Majority

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DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

**MOVED COUNCILLOR WATERMAN
SECONDED COUNCILLOR EVANS**

THAT Council defer consideration of the request from Green Skills Inc, for Council's support to designate the Torbay and Wilson Inlet catchments as a UNESCO Biosphere reserve, until Green Skills Inc can provide to Council;

- i) the results of a comprehensive consultation program involving all land owners within the transitional zone of the Biosphere reserve;**
- ii) more detailed information on the reporting requirement to maintain UNESCO accreditation as a Biosphere reserve;**
- iii) an indicative financial strategy for the Biosphere reserve, indicating expected local government contributions to the management of the reserve; and**
- iv) examples of reporting requirements and management programs developed within an existing Biosphere reserve, of similar characteristics to the current proposal, particularly as they relate to the transitional area.**

MOTION CARRIED 12-0

REPORT ITEM DIS316 REFERS

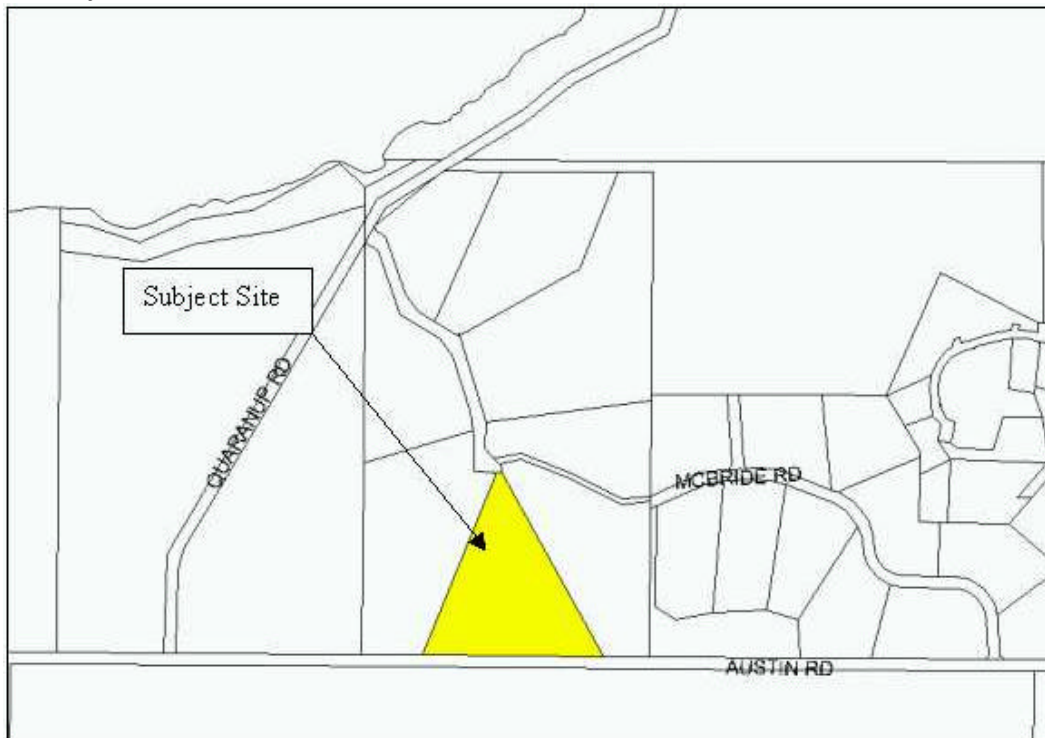
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DEVELOPMENT SERVICES REPORTS

11.1.2 Relaxation of Scheme Provision – Lot 410 Shoal Bay Retreat, Big Grove

File/Ward	: A164434 (Vancouver Ward)
Proposal/Issue	: Proposed Development Area within Special Control Area of Special Rural Area 8
Subject Land/Locality	: Lot 410 Shoal Bay Retreat, Big Grove
Proponent	: R & G Swatek
Owner	: JA & JA Cochrane
Reporting Officer(s)	: Senior Planning Officer (G Bride)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: Advise applicant that the proposed development area does not comply with Scheme 3 provisions.
Bulletin Attachment	: Nil
Locality Plan	:



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ORDINARY COUNCIL MEETING- 16/09/03

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DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

BACKGROUND

1. Application has been received by R & G Swatek to locate a 'building development area' on Lot 410 Shoal Bay Retreat, Big Grove.
2. The property is zoned "Special Rural (Area 8)" within Town Planning Scheme No. 3 and is 5.063 hectares in size.
3. The applicant has expressed a desire to purchase the property subject to the development area, as shown on the attached plans, being acceptable to Council.
4. Staff have visited the site on three separate occasions; the last being accompanied by several Councillors. Staff have previously advised the applicant that the proposed location does not comply with the requirements of the Scheme, and have suggested other locations on the property where a view of Princess Royal Harbour and the City can be enjoyed from a site which is visually less exposed. The applicant has not accepted these suggestions based on financial reasons and a reduction in the quality of the view.
5. In relation to the siting of a development area, Clause 5.4 of Special Rural Area 8 states:

"Buildings shall be grouped within a building envelope not exceeding 3000m². Building envelopes shall be sited by the landowner in conjunction and with the approval of Council with a view to minimising visual impact and minimising the impact on existing tree cover...."
6. In addition to the above, any application for a development area within the defined Special Control Area must address the following (Clause 6.5):
 - *Visual impact and the impact on existing tree cover;*
 - *Provision 6.1 to 6.4 (which relate to building materials, fencing etc);*
 - *Setbacks from property boundaries and creek lines;*
 - *Existing and proposed vegetation/revegetation;*
 - *Low fuel zones;*
 - *The cut and fill of the site shall be kept to a minimum with preference given to split level development and the breaking up of building mass;*
 - *The house sites shall avoid highly exposed ridges and/or knolls;*
 - *That driveways be designed to minimise visual impact and erosion by being aligned with the contours of the site and planted with trees and shrubs. Stormwater run-off shall be attenuated to ensure erosion does not occur; and*
 - *The preparation of a landscape plan that shall indicate the number, type and location of shrubs and trees to be planted and maintained as a condition of building approval to effectively minimise the visual impact of all development on the site.*

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DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

7. Staff have not been in a position to support the proposed development area as it is situated on a knoll and is highly exposed from a section of Quaranup Road, surrounding dwellings and from the City. The knoll is approximately 39m AHD, being only 4 metres lower than the highest point of the block located in the north-west corner of the property.
8. Attached to the rear of this report, the applicant has submitted a letter outlining why the development area should be supported. In summary, these reasons are:
 - The site would not require the removal of large peppermint trees;
 - Building down the slope would be more expensive and more dangerous in relation to bushfire;
 - The proposed site is not highly exposed and appropriate building materials will be used;
 - It will not be highly visible from Shoal Bay Retreat and the adjacent dwelling on Lot 409;
 - A single storey house will be constructed;
 - Areas of cut and fill will be revegetated in line with special conditions.

STATUTORY REQUIREMENTS

9. No formal application is required in relation to a development area, however should a dwelling be proposed, a planning scheme consent application will need to be lodged. In relation to the siting of a development area, the special provisions for Special Rural Area 8 state that the site is required to be approved by Council, with a view to minimising visual impact.
10. A decision of Council either to support or refuse the proposed development area will need to be conveyed to the applicant in writing.

POLICY IMPLICATIONS

11. The subject land is identified within the City of Albany Local Rural Strategy (1996) as being contained within Visual Management Area A (ie. most visually sensitive). The siting of development within Visual Management Area A states that any dwelling shall not detract from significant views, are not be located on ridge tops (preferably not located on slopes greater than 1:10) and be sympathetic to existing landscape elements.

FINANCIAL IMPLICATIONS

12. There are no financial implications relating to this item.

STRATEGIC IMPLICATIONS

13. There are no strategic implications relating to this item.

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Item 11.1.2 continued

COMMENT/DISCUSSION

14. Staff believes that the proposed development area is highly exposed and will detract from significant views from the City across to the Frenchman Bay peninsula, and from local roads within close proximity to the site.
15. Whilst the applicant has proposed to use colours and materials which will help blend the dwelling into the landscape, this is a requirement for all dwellings within Special Rural Area No. 8; the plans for the house are also not available as the applicant has not purchased the land. It is the combination of using these materials, in addition to locating the dwelling outside of a visually sensitive area that provides the best results in relation to screening. It is also advised approximately 4000sqm of land around and including the dwelling site will need to have reduced tree coverage to meet the required 20 metre low fuel zone, which in itself can be highly visible.
16. The neighbouring dwelling (Lot 409) was built at a finished floor level (FFL) of 33.6m AHD, which is approximately 4.4 metres lower than the proposed development area on Lot 410, or 3.4 metres if 1 metre of cut was proposed. This dwelling is single storey and the roof gable is consistent with the height of surrounding vegetation, something which cannot be achieved within the proposed development area on Lot 410.
17. The applicant has stated that building on the slope will require the removal of some peppermint trees and that extensive earthworks will be required. Staff believe that if the development area was moved to the north, to the point where the roof line was at a similar level to the height of the knoll, only a small number of peppermint trees would need be removed to comply with fire guidelines. In relation to earthworks, the special provisions state that split level development is preferred over a flat concrete pad as this would reduce the need for earthworks, maintain the natural topography of the site and blend in with surrounding revegetation.
18. It is also advised that the northern third of the property is relatively flat and is either cleared or infested with taylorina, therefore suiting a conventional dwelling.
19. Similar controls, requiring buildings to be located below the ridgeline on the subject land also exist in the "Rainbows End Estate".

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DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

RECOMMENDATION

THAT Council advises the applicant that the proposed development area upon Lot 410 Shoal Bay Retreat, Big Grove cannot be supported as it is located on a highly exposed knoll, and therefore does not meet the requirements of Clause 6.5 of Special Rural Area No. 8.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR EMERY
SECONDED COUNCILLOR WELLINGTON**

1. **THAT the applicant be advised that Council would be prepared to consider a request to construct a dwelling in the “Special Design Area” declared upon Lot 401 Shoal Bay Retreat, Big Grove provided;**
 - i) **the dwelling is constructed in the position shown as “proposed development area” in the plan supplied by the applicant;**
 - ii) **the dwelling is of single storey construction and it’s floor level is no higher than the existing ground level on the building site; and**
 - iii) **all other provisions of clause 6.5 of Special Rural Area 8 in the City of Albany Town Planning Scheme No 3 are complied with and particularly those relating to minimising visual impact;**

AND

2. **THAT Council receive a briefing from staff on the visual amenity principles of the City’s Local Rural Strategy with the possibility of considering a review of policy direction relating to visual amenity issues in Special Rural and Special Residential zoned areas.**

MOTION CARRIED 8-4

Reason:

- Several residences in the Big Grove Special Rural areas are visually prominent from vantage points outside the subdivisional area. This applicant highlights the need for Council policy directions to be reviewed from time to time and bringing this issue to a briefing session in the near future will allow Councillors an opportunity to understand why the policy was initially created.

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ORDINARY COUNCIL MEETING- 16/09/03

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DEVELOPMENT SERVICES REPORTS

- Item 11.1.2 continued

CITY OF ALBANY - RECORDS	
FILE:	ALB4434
DOC:	1307466
29 JUL 2003	
OFFICER:	PLAN 6
Attach:	PHOTOS / MAPS

21st July 2003

R & G Swatek
61 Pinnaster Road
ALBANY WA 6330

Graeme Bride
Senior Planning Officer
City of Albany
221 York Street
ALBANY WA 6330

Dear Graeme,

Proposed Development Area – Lot 410 Shoal Bay Retreat, Big Grove

I refer to our recent discussion and on site inspection of a suitable area to build a house on the above site.

Enclosed is an aerial map and a subdivision plan map showing contour lines and proposed Building Zone and Building Protection Zone of 20 metres around the building zone.

The low fuel area commences at the edge of the grove of large peppermint trees below the knoll area and extends up the steep incline of the ridge/knoll area for the required 20 metres. The building zone then commences and takes in the knoll area where the ground flattens out. The house pad will require the shaving of the top of the knoll area as per attached diagram marked "A".

Following are reasons and points in support of the above:-

- Does not require the chopping down of any large peppermint trees. There is only a small grove on the whole block which is located at the bottom of the knoll area. Will also enable retention of some good sized Banksia trees.
- Building halfway up the slope will require some cut and fill and a lot of expensive retaining walls and will do more environmental damage than shaving the top off the knoll where there is only very low scrub – see enclosed photos.

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DEVELOPMENT SERVICES REPORTS

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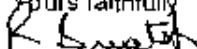
- Building half way down the slope will create a much higher danger from a bushfire leaping across the low fuel area from the tall peppermint trees. Most bushfires are fanned by east to north east winds which is where the grove of large peppermints are.
- We do not consider the proposed building zone to be a "Highly exposed ridge or knoll area" as defined in the special conditions. To minimize the visual impact we will use green colourbond on the roof as against red or a beige colour used by some owners in this and the Rainbow End subdivision. Enclosed photos demonstrate the green blends into the hill side background much better.
- At most, only the green roof will be visible by anyone driving up Shoal Bay Retreat Road as well as from the house on Lot 409 next door. It will not be visible from the other lots in the subdivision. Lot 411 has not been built on yet. The house will only be visible from a short stretch of Quararup Road. Use of green roof etc will minimise visual impact from city.
- We propose to only build a single storey house to reduce visual impact.
- All cut and fill area will be revegetated in line with the special conditions.

We believe that what we propose is within the guide lines of the Special Conditions of the subdivision and will have less environmental impact then building half way down the slope. The visual impact to the other lots in the subdivision is minimal or non existent as previously stated as well as from Quararup Road and the City with the choice of colours we will use.

There is nothing in the Special Conditions to say that you can't build to take advantage of the wonderful views. If this was to be the case it should have been clearly spelled out in the conditions that "If we can see you then you can't build there". We believe that it is only fair and reasonable that we be allowed to take advantage of the view.

Council has approved over recent times other building zones for houses both in this subdivision and Rainbows End that are clearly visible as stated above. Lot 409 Shoal Bay Retreat and Lot 24 Rainbows End are 2 examples. The colours we intend to use will blend into the background better than the abovementioned two. We are not asking for anything more than Council has approved for others in the abovementioned two subdivisions.

We trust that this will meet with favourable consideration.

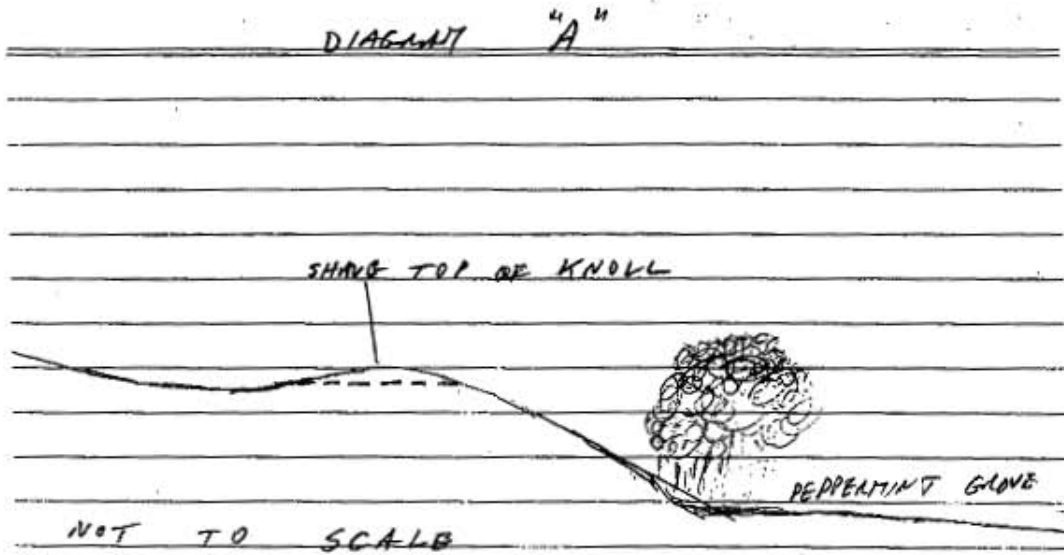
Yours faithfully


R SWATEK

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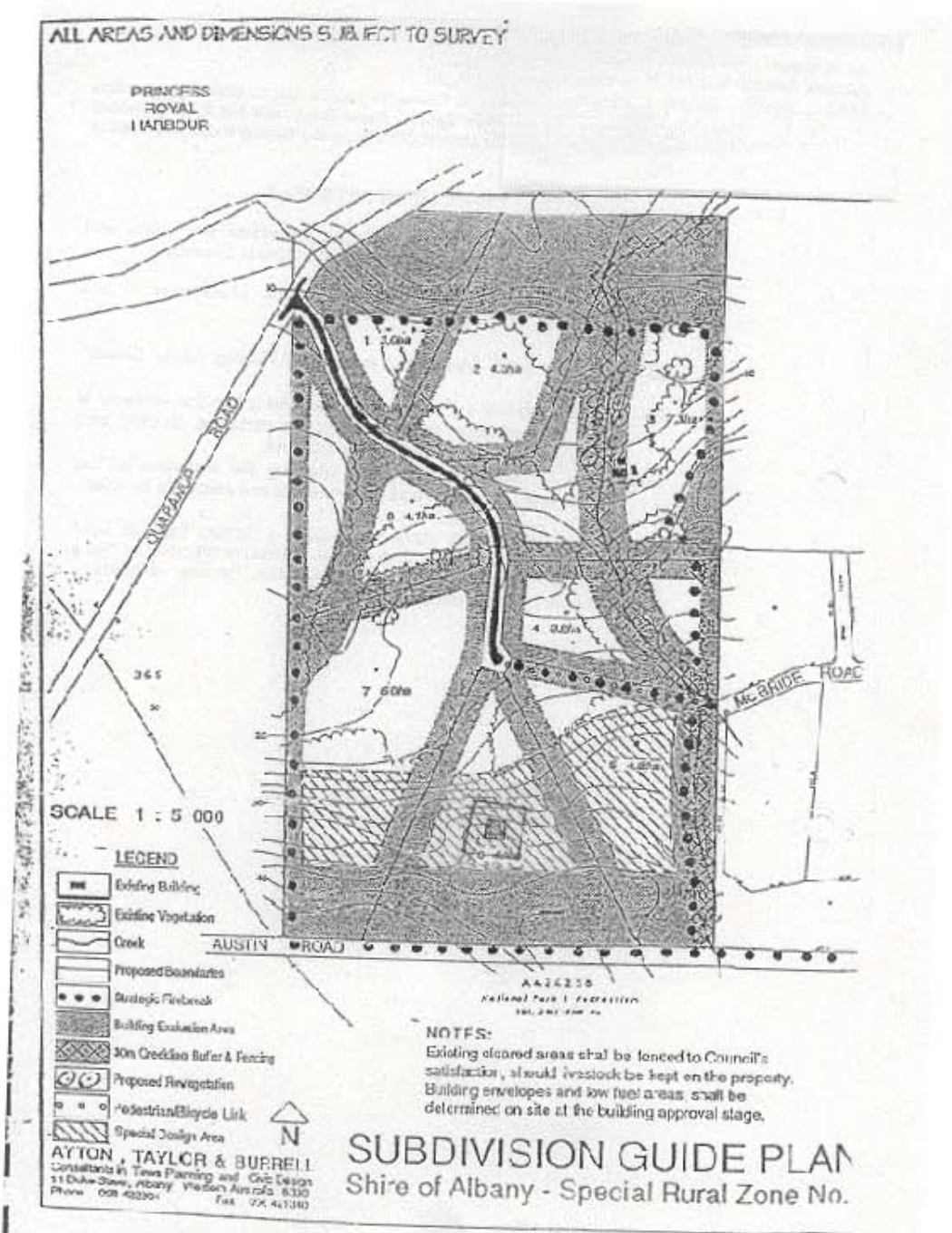
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Item 11.1.2 continued



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Item 11.1.3 continued

BACKGROUND

1. Application has been received to construct 149 aged persons units upon Location Pt 293 and portion of Lots 101 and Pt39, Mercer Road, Lange. This application was previously approved by Council on 26 February 2002 and is due to expire on 26 February 2004.
2. As construction on the aged persons village has not commenced and is unlikely to be substantially commenced prior to 26 February 2004, the applicant has lodged an application for planning scheme consent to comply with the requirements of Council's Town Planning Scheme No. 3.
3. The cost of the development is \$25 million and would attract a planning fee of \$10,800. The applicant has requested that Council review this figure to a nominal sum given the application is the same as that originally proposed and the delay in construction was brought about by a dispute with the Western Australian Planning Commission over an application to amalgamate the above properties.
4. A letter from the applicant is attached to the rear of this report.

STATUTORY REQUIREMENTS

5. A fee is required to be paid to make the application legal in accordance with the Town Planning and Development Act 1928 (as amended).

POLICY IMPLICATIONS

6. Council has no policy on fee requirements where planning consents have expired. Any decision on the reduction of fees has the potential to establish a precedent.

FINANCIAL IMPLICATIONS

7. Cost would be applicable, if Council does not require the full amount to be paid.

STRATEGIC IMPLICATIONS

8. There are no strategic implications relating to this item.

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Item 11.1.3 continued

COMMENT/DISCUSSION

- 9. As the previous Planning Scheme Consent (P215246) is due to expire before work on-site can commence, a new application can be considered in isolation of any previous decisions and can take on board changes in policy. Whilst staff will spend less time on this application, as many of the issues have already been addressed, staff will need to ensure that the plans and accompanying documentation are consistent with the previous approval, that external factors have not changed and the scheme/Council policies have not altered.
- 10. As this is to be treated as a new application staff believe it is not unreasonable to ask for the prescribed planning fees as set by Council in its annual budget.

RECOMMENDATION

THAT Council advises the applicant that a planning fee of \$10,800 needs to be paid prior to staff granting planning scheme consent to the proposed aged persons village at Pt Lot 101, Pt Lot 39 and Pt Location 293 Mercer Road, Lange.

Voting Requirement Simple Majority

AMENDED RECOMMENDATION

THAT Council advises the applicant that no reimbursement of the \$10,800 planning scheme consent fee will be issued.

Voting Requirement Simple Majority

AMENDED RECOMMENDATION

THAT, pursuant to clause 6.10 of the City of Albany Town Planning Scheme No 3, Council delegate to the Manager of Development Services authority to grant conditional planning scheme consent for the Aged Persons Village on Pt Lot 101, Pt Lot 39 and Pt Location 293 Mercer Road, Lange on the understanding that:-

- i) those conditions imposed upon the previous planning scheme consent (P215246) which have been already met will be deleted; and
- ii) condition A1 to read "Provision being made for disabled access and facilities throughout the entire Aged Persons Village and all buildings shall meet Australian Standard AS 4299 (Adaptable Housing), to the Adaptable Housing class B standard."

Voting Requirement Absolute Majority

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DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

Reason:

Staff have recently received correspondence from Jones Coulter Young (architect for the village) requesting that condition A1 of Council's previous planning scheme consent dated 26 February 2002 (P215246) be deleted.

Condition A1 states:

"Provision being made for disabled access and facilities for the Aged Persons Village throughout the entire development, including all buildings being constructed in accordance with the provisions contained in the Building Code of Australia and Australian Standard 1428."

The architect has stated that the village will cater for fit and independent people aged over 55 years and that it is not an aged care facility. Australian Standard 1428 (Design for Access and Mobility) recommends wider doorways and corridors, lower benches and tables, grab rails and accessible light switches, wheelchair access to toilet and bathroom facilities and larger garage. The intent of this standard is to allow wheelchair bound people and those with any form of disability to reside in a dwelling without the need to modify the building.

Since the planning scheme consent was approved by Council in February 2002, the Residential Design Codes were adopted by the State Government (gazetted 4 October 2002). Within this document, which applies to the whole of Western Australia, all aged persons units are required to comply with Australian Standard 4299 – Adaptable Housing.

The intent of Australian Standard 4299 is to design a dwelling in such a way that it can be modified easily in the future to become accessible to both occupants and visitors with disabilities or progressive frailties. Should someone residing in an aged persons unit suddenly become incapacitated due to illness or injury only minor, inexpensive modifications to the building would be required, and the person would not have to move out of their home.

An example of adaptive housing would be the provision of a non-structural wall separating the toilet and bathroom, which could be removed at a later date, at little cost, should the applicant become disabled.

Whilst not as onerous as Australian Standard 1428, Australian Standard 4299 does require lower benches and wider doorways and corridors as part of the standard construction.

As the Residential Design Codes are a state-wide document and the principle of the Australian Standard 4299 is to accommodate people of all abilities, staff believe that Condition A1 of Council's previous planning scheme consent, needs to be modified to: *"reflect the change in construction standard."*

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DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued.

This condition was also applied to the Aged Persons Village (Amity Village) located at the corner of North Road and Ulster Road.

It is also advised that since writing the original report, the applicant has paid the planning fee of \$10,800 and is now seeking reimbursement of all or some of this figure.

**MOVED COUNCILLOR EVANS
SECONDED COUNCILLOR WELLINGTON**

THAT;

- i) Council reimburse Kingopen Pty Ltd the sum of \$5,400.00 being 50% of the scheduled planning fee for the proposed aged persons village at Lot 101, Pt Lot 39 and Pt Location 293 Mercer Road, Lange; and**
- ii) staff submit to Council, at its October meeting, a report on an appropriate fee structure for the renewal of development applications which have expired and minimal additional work is needed to renew the development consent.**

MOTION CARRIED 12-0

**MOVED COUNCILLOR EVANS
SECONDED COUNCILLOR EMERY**

THAT pursuant to clause 6.10 of the City of Albany Town Planning Scheme No 3, Council delegate to the Manager of Development Services authority to grant conditional planning scheme consent for the Aged Persons Village on Pt Lot 101, Pt Lot 39 and Pt Location 293 Mercer Road, Lange on the understanding that;

- i) those conditions imposed upon the previous planning scheme consent (P215246) which have been already met will be deleted; and**
- ii) condition A1 to read “Provision being made for disabled access and facilities throughout the entire Aged Persons Village and all buildings shall meet Australian Standard AS 4299 (Adaptable Housing), to the Adaptable Housing class B standard”.**

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

Reason:

- Council recently provided a 50% reduction in the planning fee for a large project at the Albany Port and, in the absence of a policy void on this issue, a similar reduction in fees appears warranted when the application has previously been considered by Council. A policy does need to be developed to provide certainty for staff when dealing with future planning scheme consent renewals and the officers request to incorporate new design standards ensures consistency amongst development projects.

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DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

Kingopen Pty Ltd

ABN 68 009 225 576

PO Box 524

Cnr Chester Pass Road and Catalina Road

ALBANY WA 6330

Tel: (08)9842 2111

Fax: (08) 9842 2555

Mr Robert Fenn
Executive Director
City of Albany
York Street
ALBANY WA 6330

Dear Robert

re: Extended Development Application – “Brooks Garden Lifestyle Village”

We attach a copy of our Development Application for the Retirement Village seeking an extension of the application for a further two years.

As you are aware, this application has been made necessary as a result of the lengthy delays in obtaining approval for the subdivision from the West Australian Planning Commission, which was approved by the City. These delays have been beyond the control of both the City and Kingopen and the application has been the subject of an Appeal to Western Australian Planning Appeals Tribunal.

Accordingly, we would seek the Agreement of Council for the extension to be approved subject to a 'nominal' administrative fee only.

We look forward to your early response.

Yours sincerely



PHA (Peter) Spanbroek
Chairman
25th August 2003

cc Lex Barnett, Taylor Burrell Barnett

REPORT ITEM DIS316 REFERS

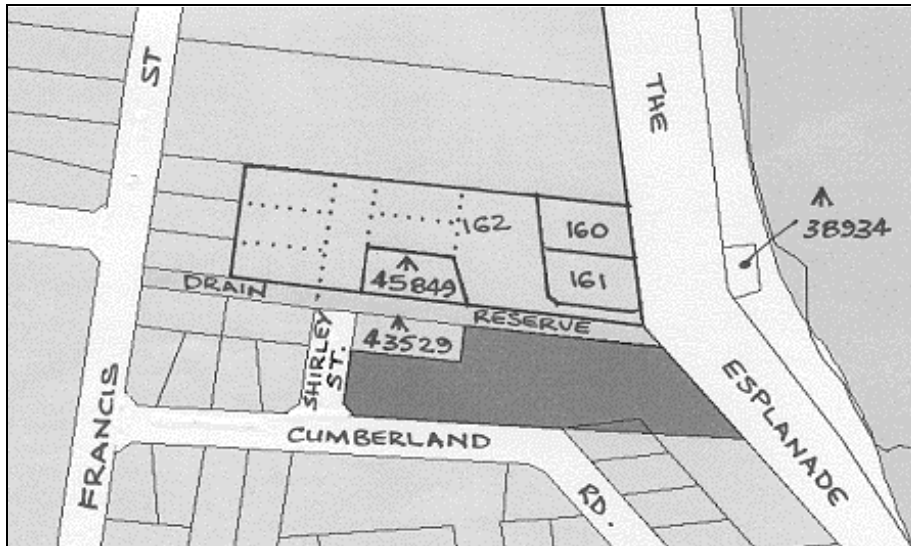
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DEVELOPMENT SERVICES REPORTS

11.1.4 Change of Reserve Purpose – Recreation to Sewer Pump Station – Lower King

File/Ward	:	A72544 & A175483 (Kalgan Ward)
Proposal/Issue	:	Transfer of Lower King sewer pump station site from foreshore to Shirley Street
Subject Land/Locality	:	Reserve 38934 The Esplanade and Reserves 45849 and 43529 Shirley Street, Lower King.
Proponent	:	Water Corporation
Owner	:	Crown
Reporting Officer(s)	:	Executive Director Development Services (R Fenn)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Conditionally support request
Bulletin Attachment	:	Nil
Locality Plan	:	



REPORT ITEM DIS316 REFERS

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DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

BACKGROUND

1. In 1984 the Water Corporation acquired a 388 sq.m. future sewer pump station site (Reserve 38934) on the Oyster Harbour foreshore reserve at Lower King. The Water Corporation has now advised that, with changes to environmental policy, and with a requirement to provide for increased overflow storage in areas that are identified as environmentally sensitive, the existing site is now too small to accommodate a sewer pump station.
2. Water Corporation sewer mains have been laid so that the sewerage flows to a temporary pump station located in a manhole in front of lot 161 The Esplanade (opposite Reserve 38934 The Esplanade). Approximately 100 metres from the temporary manhole are Council managed Public Open Space reserves 45849 and 43529 comprising 1120 and 1012sqm respectively. The Water Corporation is proposing that the purpose of these reserves be changed to Sewer Pump Station sites and that existing reserve 38934 become portion of the existing Oyster Harbour Foreshore.
3. A sign has been erected on the site to advise the community of the proposal, neighbours have received letters asking for their comments, the Lower King and Bayonet Head Progress Assoc. has been notified and newspaper advertisements placed. Two submissions have been received from adjoining landowners.

STATUTORY REQUIREMENTS

4. Land ceded to the Crown under Section 20A of the Town Planning and Development Act as Public Open Space cannot be used for another purpose, converted to freehold title or assigned without the Minister's approval. No formal process exists to gain that approval however the Department of Planning and Infrastructure (formerly DOLA) requires the steps outlined in paragraph 3 above to be followed.

POLICY IMPLICATIONS

5. Council has no policy direction on the use of this reserve or the transfer of POS reserves to government agencies.

FINANCIAL IMPLICATIONS

6. A drainage reserve dissects Reserves 45849 and 43529 and an open drain approximately 1 metre deep has been dug within that reserve. If the sewer pump station infrastructure is to be built across both reserves, the drain will need to be piped through, or diverted around the Water Corporation infrastructure. That cost should be borne by Water Corporation.

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DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

STRATEGIC IMPLICATIONS

7. Council is encouraging household effluent disposal from existing urban lots to be connected into Water Corporation sewer mains for environmental and health reasons. Once into the mains, the sewerage needs to be appropriately managed and that management includes the building of infrastructure to contain, pump and treat the effluent.

COMMENT/DISCUSSION

8. The foreshore between The Esplanade and Oyster Harbour is relatively narrow and is covered with wetland vegetation, including immature paperbark trees. The placement of a pump station on this reserve would dramatically affect the foreshore vegetation and place the infrastructure close to the western shoreline of Oyster Harbour.
9. In discussions with Water Corporation staff, it was indicated that the pump station (similar to one recently constructed near the boarding kennels on Ulster Road) would be built on the cleared land on the southern side of the drain (Reserve 43529) and design work is currently being undertaken to show the area that would be occupied by that infrastructure. As Lower King and Bayonet Head develops, additional storage may need to be added to the pump station (this recently happened with the North Road pump station) and the storage would be constructed on Reserve 45849, located to the north of the drain. The two storage tanks would be interconnected with pipes positioned below the invert level of the drain.
10. During the consultation process Mr Ebert (owner of lot 161 The Esplanade, see locality plan) has highlighted that the temporary pump station exists in front of his residence and he requires the decommissioning of that facility and the removal of the overhead power lines to occur. The Water Corporation officer accepted that work would be undertaken when the permanent pump station was constructed. Mr Ebert also highlighted that he originally subdivided his land to create Reserve 45849 and was seeking an assurance that the removal of the POS reservation would not jeopardise that future subdivision plan (see details on locality plan).
11. Mr and Mrs Normington have purchased the original land owned by Mr. Ebert and enjoy the peaceful location and abundant bird life that use the "very old" paperbarks and the tea trees which remain on Reserve 45849 and their land. They are opposed to the transfer of Reserve 45849 to Water Corporation on environmental grounds and request that the pump station revert to the current foreshore site.

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DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

12. An inspection of the site by the reporting officer indicated that Reserve 43529 is totally cleared and the construction of the pump station on this reserve would have considerably less environmental impact than the development of a pump station development between The Esplanade and the shoreline of Oyster Harbour.
13. Several large paperbarks exist on Reserve 45849 and the concern of the Normington's is understandable. Below the paperbarks on Reserve 45849 is well maintained lawn which to the general public appears to be an extension of the Normington's yard. It would appear from the Water Corporation staff comments that the Normingtons' will continue to enjoy the visual and environmental qualities of the reserve for some considerable time to come and it may even be practical for the underground storage tank to be installed on the reserve in the future with minimal disturbance to the trees on the reserve.
14. The drain reserve supports Taylorina bushes which should be removed for environmental reasons but currently provide a visual screen along the southern boundary of the Worthington's land.

RECOMMENDATION

THAT;

- i) Council request the Minister for Lands to change the purpose of Reserves 43529 and 45849 from "Public Open Space" to "Sewerage Pumping Station" and provide the Management Orders for the reserves to the Water Corporation and that Reserve 38934 be cancelled and the land contained within the reserve be amalgamated into the Oyster Harbour Foreshore Reserve (Location 7529);
- ii) the Water Corporation be requested, upon the transfer of the management order for Reserves 43529 and 45849, to;
 - decommission the temporary pump station adjacent to the frontage of Lot 161 The Esplanade and remove the overhead powerlines connected to that infrastructure;
 - construct stage 1 of the Sewerage Pump Station upon Reserve 43529 to minimise the removal of trees upon Reserve 45849;
 - when required to construct additional sewerage storage infrastructure on Reserve 45849, consult with adjoining landowners and develop a construction solution which minimises disturbance to the existing mature trees on the reserve; and
 - minimise disturbance to the existing drainage located between Reserves 43529 and 45849 and any alteration to the drainage system shall be done in accordance with plans approved by the City of Albany and at the full cost of the Water Corporation;

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DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued.

- iii) the Department of Planning and Infrastructure be made aware of the concerns of Council outlined in point (ii) above and the department be requested to draft their management order accordingly; and
- iv) Council staff draft a suitable response to the submissions lodged by Mr. Ebert and Mr and Mrs. Normington and advise them that, upon the future subdivision of lot 162, Council will not be requesting that additional Public Open Space be provided from a future subdivision of the land.

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR EVANS
SECONDED COUNCILLOR DEMARTEAU**

THAT;

- i) **Council request the Minister for Lands to change the purpose of Reserves 43529 from “Public Open Space” to “Sewerage Pumping Station” and provide the Management Orders for the reserves to the Water Corporation and that Reserve 38934 be cancelled and the land contained within the reserve be amalgamated into the Oyster Harbour Foreshore Reserve (Location 7529);**
- ii) **the Water Corporation be requested, upon the transfer of the management order for Reserves 43529 to:-**
 - **decommission the temporary pump station adjacent to the frontage of Lot 161 The Esplanade and remove the overhead powerlines connected to that infrastructure; and**
 - **minimise disturbance to the existing drainage located between Reserves 43529 and 45849 and any alteration to the drainage system shall be done in accordance with plans approved by the City of Albany and at the full cost of the Water Corporation; and**
- iii) **the Department of Planning and Infrastructure be made aware of the concerns of Council outlined in point (ii) above and the department be requested to draft their management order accordingly.**

MOTION CARRIED 12-0

Reason:

The Water Corporation recently developed a sewerage pumping station on 1392sqm of land adjacent to Ulster Road and Reserve 43529 has 1012sqm. The retention of Reserve 45849 for Public Open Space will protect the trees on the reserve and remove any potential conflict with Council’s drainage network.

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DEVELOPMENT SERVICES REPORTS

11.2 INSPECTION SERVICES

Nil.

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ORDINARY COUNCIL MEETING- 16/09/03

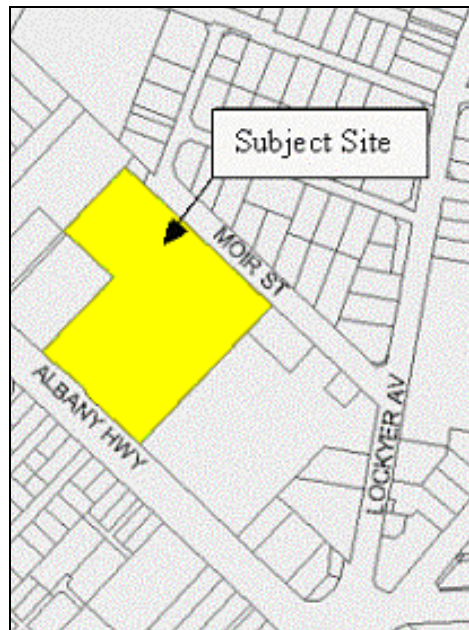
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DEVELOPMENT SERVICES REPORTS

11.3 DEVELOPMENT POLICY

11.3.1 Development Guide Plan - Lot 1274 (70-88) Albany Highway

File/Ward	:	STR 018 (Frederickstown Ward)
Proposal/Issue	:	Development Guide Plan for former Albany Primary School site.
Subject Land/Locality	:	Lot 1274 (70-88) Albany Highway, Centennial Park
Proponent	:	BSD Consultants
Owner	:	Macquarie Asset Services Ltd
Reporting Officer(s)	:	Planning Officer (Policy) (R Hindley)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	The Development Guide Plan be advertised.
Bulletin Attachment	:	Covering letter and Development Guide Plan
Locality Plan	:	



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ORDINARY COUNCIL MEETING- 16/09/03

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DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

BACKGROUND

1. The proponent lodged an application for Planning Scheme Consent for the development of a Bulky Goods Outlet on the subject site on the 29 August 2003.
2. A Development Guide Plan was lodged with Council as part of the Planning Scheme Consent for the proposed development.

STATUTORY REQUIREMENTS

3. Clause 7.21.2 of Town Planning Scheme No. 1A requires the following procedure to be undertaken to make a Town Planning Scheme Policy operative;
 - “(a) *The Council having prepared and having resolved to adopt a draft Town Planning Scheme Policy, shall advertise a summary of the draft policy once a week for two consecutive weeks in a newspaper circulating in the area giving details of where the draft policy may be inspected and where, in what form, and during what period (being not less than 21 days) representations may be made to the Council.*
 - “(b) *The Council shall review its Draft Town Planning Scheme Policy in the light of any representations made and shall then decide to finally adopt the draft policy with or without amendment, or not proceed with the draft policy.*
 - “(c) *Following final adoption of a Town Planning Scheme Policy, details thereof shall be advertised publicly and a copy kept with the scheme documents for inspection during normal office hours.”*
4. Appendix II – Schedule of Special Sites lists the subject site as Special Site Number 36. As a condition of development a Development Guide Plan is to be prepared which addresses:
 - The proposed mix, extent and layout of land uses and the layout of movement systems;
 - Consideration of provision of linkages to the adjoining Albany Plaza;
 - Traffic impact and location of vehicular access points;
 - Preparation of design guidelines by a suitably qualified heritage professional in consultation with the Heritage Council that address the Conservation Plan, building scale, form and materials, and the relationship to the residential area on the northern side of Moir Street;
 - Proposed subdivision (if any) of the site;
 - Incorporation of an impact assessment in accordance with section 11.5 of the Albany Commercial Centres Strategy of January 1994 (these impact will be considered in the assessment of the DGP and modifications to the DGP may be required as a result); and
 - Such other matters as considered appropriate by Council.

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DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued.

5. The Development Guide Plan is to be approved by the Western Australian Planning Commission, in addition to its adoption by the City, before any subdivision or development can occur.

POLICY IMPLICATIONS

6. The Development Guide Plan for Lot 1274 (70-88) Albany Highway, Centennial Park will be a Town Planning Scheme policy adopted by Council under the provisions of Clause 7.21 of Town Planning Scheme 1A

FINANCIAL IMPLICATIONS

7. Council is required to advertise the policy in a local newspaper at it's own cost.

STRATEGIC IMPLICATIONS

8. There are no strategic implications relating to this proposal.

COMMENT/DISCUSSION

9. The Scheme outlines the factors that need to be considered in developing a Development Guide Plan.
10. The plan that has been submitted shows the proposed mix, extent and layout of land uses and the layout of movement systems.
11. The proposed uses are considered 'P' or permitted uses under the provisions of Town Planning Scheme No. 1A.
12. The special conditions for the development of the site make reference to the inclusion of an economic impact assessment prepared in accordance with the requirements of Section 11.5 of the Albany Commercial Centres Strategy 1994. The proponent has committed to supply this assessment prior to Council's September ordinary meeting.
13. The proposed development guide plan shows two new access points to the car park in Albany Plaza with an access point on each level of the car park. A new pedestrian access point is also proposed in the Albany Plaza building towards the north of the site.
14. Concern has been raised over the location of the south most access point in the McDonald's car park. Those concerns may be allayed by relocating this access point some 45m further north and by making the access point an exit only.

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Item 11.3.1 continued

15. Concern has been also raised over the interaction of traffic exiting the service lane, the service area on Moir and Hymus Streets. Treatments need to be identified that will resolve any confusion caused by this intersection.
16. There is no provision for safe pedestrian access from the lower level car park in Albany Plaza to the proposed development. The inclusion of a cross walk that connects with the base of the pedestrian ramp would resolve this situation.
17. A heritage consultant has been engaged by the proponent to prepare a plan addressing the heritage aspects of the site. Given the status of the Primary School building on the State Register the development guide plan will be referred to the Heritage Council during the consultation period.
18. Based on the content of the submission, it is considered that there is sufficient detail in the Development Guide Plan to proceed to advertising.
19. Development of the site cannot proceed, irrespective of Council adoption of the 'Development Guide Plan', until such time as the plan has also been endorsed by the Western Australian Planning Commission.
20. A copy of the draft policy (in the form of the Development Application) is included in the Elected Members Report/Information Bulletin.

RECOMMENDATION

THAT Council adopts the 'Development Guide Plan for Lot 1274 (70-88) Albany Highway, Centennial Park' and agrees to advertise it as a policy for public comment in accordance with Clause 7.21.2 of Town Planning Scheme No. 1A subject to:

- i) an economic impact assessment being prepared in accordance with Section 11.5 of the Albany Commercial Centres Strategy 1994;
- ii) the preparation of design guidelines by a suitably qualified heritage professional, in consultation with the Heritage Council, that addresses the Conservation Plan, building scale, form and materials, and the relationship to the residential area on the northern side of Moir Street;
- iii) the southern entry point from the McDonalds car park being modified by moving it 45m to the north;
- iv) the entrance located adjacent to the western portion of the Heritage Zone being modified to exit only;
- v) treatment of intersection of Hymus Street and Moir Street to prevent potential conflict between the service area, service lane and general traffic;
- vi) a crosswalk being created to facilitate pedestrian access between the lower car park at Albany Plaza and the proposed development;

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DEVELOPMENT SERVICES REPORTS

- vii) the building outline in the Heritage Zone being modified to reflect the exact outline of the building and any potential modifications; and
- viii) identification of access opportunities to the Heritage Zone.

Voting Requirement Simple Majority

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Executive Director Development Services advised the Council that the Applicant has requested that this item be withdrawn from consideration until further information was available.

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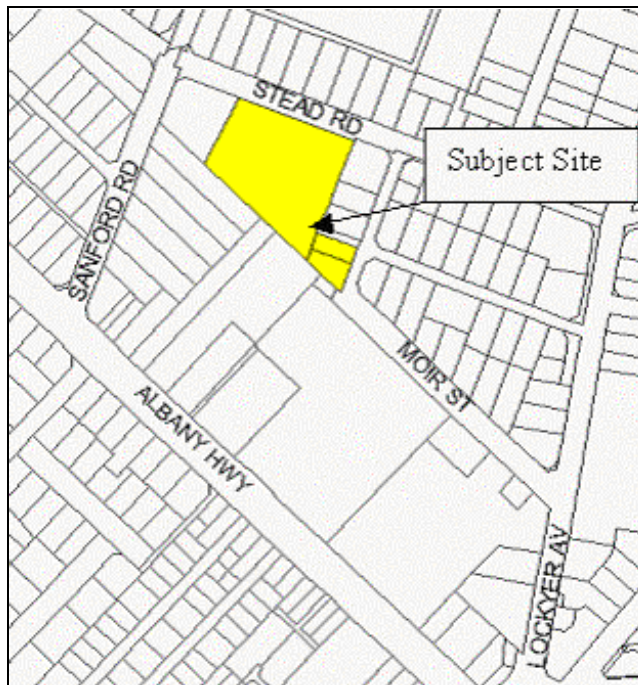
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DEVELOPMENT SERVICES REPORTS

11.3.2 Development Guide Plan - Lot 1342 (69-77) Stead Road

File/Ward	:	STR 018 (Frederickstown Ward)
Proposal/Issue	:	Development Guide Plan for former Albany Primary School Oval site.
Subject Land/Locality	:	Lot 1342 (69-77) Stead Road & Lot 1513 and 1514 Hymus St (1-3), Centennial Park
Proponent	:	Howard and Associates
Owner	:	Goldyield Investments Pty Ltd
Reporting Officer(s)	:	Planning Officer (Policy) (R Hindley)
Disclosure of Interest	:	Nil
Previous Reference	:	N/A
Summary Recommendation	:	The Development Guide Plan be advertised.
Bulletin Attachment	:	Draft Development Guide Plan
Locality Plan	:	



REPORT ITEM DIS316 REFERS

ORDINARY COUNCIL MEETING- 16/09/03

** REFER DISCLAIMER **

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

BACKGROUND

1. Howard and Associates lodged a Development Guide Plan for the development of a residential/office development within Special Site No. 37 on the 28th August 2003.
2. The Development Guide Plan illustrates a mixture of office and residential development occurring on the site.

STATUTORY REQUIREMENTS

3. Clause 7.21.2 of Town Planning Scheme No. 1A requires the following procedure to be undertaken to make a Town Planning Scheme Policy operative.
 - “(a) *The Council having prepared and having resolved to adopt a draft Town Planning Scheme Policy, shall advertise a summary of the draft policy once a week for two consecutive weeks in a newspaper circulating in the area giving details of where the draft policy may be inspected and where, in what form, and during what period (being not less than 21 days) representations may be made to the Council.*
 - “(b) *The Council shall review its Draft Town Planning Scheme Policy in the light of any representations made and shall then decide to finally adopt the draft policy with or without amendment, or not proceed with the draft policy.*
 - “(c) *Following final adoption of a Town Planning Scheme Policy, details thereof shall be advertised publicly and a copy kept with the scheme documents for inspection during normal office hours.*”
4. Appendix II – Schedule of Special sites lists the subject site as Special Site Number 37. As a condition of development a Development Guide Plan is to be prepared which addresses:
 - *“The management of traffic impacts generated by the proposed use of the land on Stead Road;*
 - *Provision for the mixed land uses that are compatible with uses on adjoining land and land on the opposite side of Stead Road;*
 - *Preparation of design guidelines for the frontage to Stead Road to require buildings with a residential scale.*
 - *If more than 200m² Net Leaseable Area of office space is proposed across the whole Special Site, incorporation of an impact assessment in accordance with Section 11.5 of the Albany Commercial Centres Strategy of January 1994 (these impacts will be considered in the assessment of the DGP and modification to the DGP may be required as a result);*
 - *Proposed subdivision (if any) of the site; and*
 - *Such other matters considered appropriate by Council.*”

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DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

5. The Development Guide Plan is to be approved before any subdivision or development can occur.

POLICY IMPLICATIONS

6. The Development Guide Plan for Lot 1274 (70-88) Albany Highway, Centennial Park will be a Town Planning Scheme policy adopted by Council under the provisions of Clause 7.21 of Town Planning Scheme 1A.

FINANCIAL IMPLICATIONS

7. Council is required to advertise the policy in a local newspaper at its own cost.

STRATEGIC IMPLICATIONS

8. There are no strategic implications relating to this proposal.

COMMENT/DISCUSSION

9. The Scheme outlines the factors that need to be considered in developing a Development Guide Plan.
10. The Development Guide Plan identified that a traffic study was prepared by BSD Consultants. This study was applicable specifically to Lot 1274 (70-88) Albany Highway (the former Albany Primary School site). Further study is required to determine the traffic impact of the proposed use and any management outcomes.
11. The Development Guide Plan illustrates a range of uses in particular office and residential development. The residential development is clustered on the southern boundary of the site.
12. The proposed development is complementary to that proposed on the former Albany Primary School site.
13. The proponent has provided a brief statement examining the economic impact of the proposed development. The statement outlines the uniqueness of the proposed development and the minimal impact that it will have on other office development within the Central Area and other zones. A copy has been attached to the draft policy.
14. Provided further details are provided as requested, it is considered that there is sufficient detail in the Development Guide Plan to proceed to advertising.
15. A copy of the draft policy is included in the Elected Members Report/Information Bulletin.

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DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

RECOMMENDATION

THAT Council adopts the 'Development Guide Plan for Lot 1342 (69-77) Stead Road, Centennial Park' and agrees to advertise it as a policy for public comment in accordance with Clause 7.21.2 of Town Planning Scheme No. 1A subject to:

- i) details being given on the management of traffic impacts generated by the proposed use of the land on Stead Road; and
- ii) incorporation of the economic impact statement into the Development Guide Plan.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR WATERMAN**

THAT Council adopts the 'Development Guide Plan for Lot 1342 (69-77) Stead Road, Centennial Park' and agrees to advertise it as a policy for public comment in accordance with Clause 7.21.2 of Town Planning Scheme No. 1A subject to:

- i) details being given on the management of traffic impacts generated by the proposed use of the land on Stead Road; and**
- ii) incorporation of the economic impact statement into the Development Guide.**

MOTION CARRIED 12-0

REPORT ITEM DIS316 REFERS

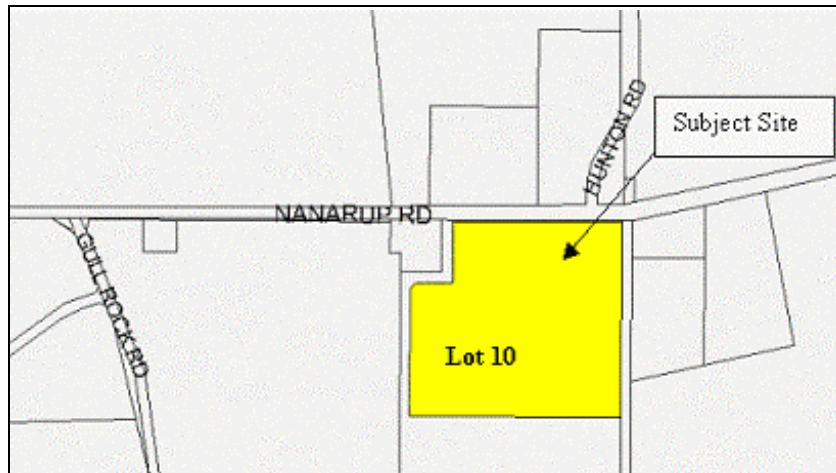
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DEVELOPMENT SERVICES REPORTS

11.3.3 Scheme Amendment Request – Lot 10, Location 21 Nanarup Rd, Lower Kalgan

File/Ward	:	A3092A (Kalgan Ward)
Proposal/Issue	:	Preliminary request to rezone Lot 10, Location 21 Nanarup Rd, Lower Kalgan from 'Rural' and 'Special Site' to 'Rural' and 'Special Site'
Subject Land/Locality	:	Lot 10, Location 21 Nanarup Rd, Lower Kalgan
Proponent	:	Ayton Taylor Burrell
Owner	:	JB & JL Keays
Reporting Officer(s)	:	Planning Officer – Policy (R Hindley)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Support the request.
Bulletin Attachment	:	Rezoning report.
Locality Plan	:	



REPORT ITEM DIS316 REFERS

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DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

BACKGROUND

1. An application was received from Ayton Taylor Burrell seeking Council's preliminary support to rezone Lot 10, Location 21 Nanarup Rd, Lower Kalgan from 'Rural' and 'Special Site' to 'Rural' and 'Special Site'. A copy of the applicant's proposal is contained in the Elected Members Report/Information Bulletin.

(Additional information to Paragraph 1 on Page 42)

The proposal before Council seeks to allow the owners of Lot 10 Nanarup Road to incorporate a caravan park adjacent to their existing four holiday chalets and manager's residence. The boundary of the "Special Site" will be rotated 90 degrees to allow the development to occur on an existing cleared portion of the site.

2. The application was internally referred to the Strategic Planning Officer and Manager Development Services and externally referred to the Department of Planning and Infrastructure.

STATUTORY REQUIREMENTS

3. A Scheme Amendment Request (SAR) is not a statutory process under the Town Planning and Development Act 1928. The purpose of the SAR process is to give an applicant feedback as to whether an amendment is likely to be supported or not, and the issues to be addressed in the Scheme Amendment documents.
4. If an applicant decides to pursue a Scheme Amendment, the Council will be required to formally consider that request.

POLICY IMPLICATIONS

5. There are various policies and strategies that have relevance to this proposal. They include:
 - The State Planning Strategy
 - The Western Australian Planning Commission Statement of Planning Policy No. 8 (SPP 8)
 - The Albany Regional Strategy (1994)
 - The Local Rural Strategy (1996)
 - Draft Local Planning Strategy (2001)
6. The purpose of SPP 8 is to bring together existing State and regional policies that apply to land use and development in Western Australia. Local government is to have regard for Statements of Planning Policy when preparing a Town Planning Scheme or Town Planning Scheme Amendment.

REPORT ITEM DIS316 REFERS

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** REFER DISCLAIMER **

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

7. The subject site is located within Precinct 15 of the City's Local Rural Strategy. The policy statement for this precinct states that land use proposal are to be determined in accordance with the general policies.
8. The Local Rural Strategy seeks to encourage and facilitate development which is sympathetic to community and environmental considerations, but also does not impact upon surrounding rural pursuits.

FINANCIAL IMPLICATIONS

9. There are no financial implications relating to this item.

STRATEGIC IMPLICATIONS

10. There are no strategic implications relating to this item.

COMMENT/DISCUSSION

11. A copy of the proposal was referred to the Western Australian Planning Commission for preliminary comment (A copy of this submission is in the Elected Members Report/Information Bulletin). The major issues identified by the Commission and Council staff include:
 - The proposed use would be an extension of an existing tourist use.
 - There needs to be adequate provision of suitable infrastructure including potable reticulated water, on-site effluent disposal, on-site storm water management, safe vehicle access and egress from the site and refuse management.
 - The potential impact of the use on the amenity of the area.
 - The development is to comply with all relevant standards.
 - There needs to be justification for the increase in site area proposed.
12. A development guide plan is required to be prepared to show the distribution of uses on the site as well as the boundary of the proposed zone. The remainder of the site will retain its current zoning and form a separate agricultural lot.
13. Given the vegetated nature of the site there is a potential fire hazard for development. A Fire Management Plan should be prepared as part of the amendment documents demonstrating how this risk is to be addressed.
14. The proposed use is an extension to an existing use and it is not considered that a precedent would be formed in this instance.
15. Subject to the applicant addressing the issues mentioned above, to the satisfaction of Council, the preliminary request to rezone the land is supported.

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DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

RECOMMENDATION

THAT Council advise the applicant that it is prepared to support the request for an Amendment to Town Planning Scheme No. 3 to rezone Lot 10, Location 21 Nanarup Rd, Lower Kalgan from 'Rural' and 'Special Site' to 'Rural' and 'Special Site' subject to the Scheme Amendment addressing the following to the satisfaction of Council:

- i) detailed Land Capability Assessment;
- ii) preparation of a Development Guide Plan;
- iii) preparation of a Fire Management Plan;
- iv) visual amenity (including built form and signage controls); and
- v) impact on surrounding sites and uses.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR DEMARTEAU**

THAT Council advise the applicant that it is prepared to support the request for an Amendment to Town Planning Scheme No. 3 to rezone Lot 10, Location 21 Nanarup Rd, Lower Kalgan from 'Rural' and 'Special Site' to 'Rural' and 'Special Site' subject to the Scheme Amendment addressing the following to the satisfaction of Council:

- i) detailed Land Capability Assessment;**
- ii) preparation of a Development Guide Plan;**
- iii) preparation of a Fire Management Plan;**
- iv) visual amenity (including built form and signage controls); and**
- v) impact on surrounding sites and uses.**

MOTION CARRIED 12-0

REPORT ITEM DIS316 REFERS

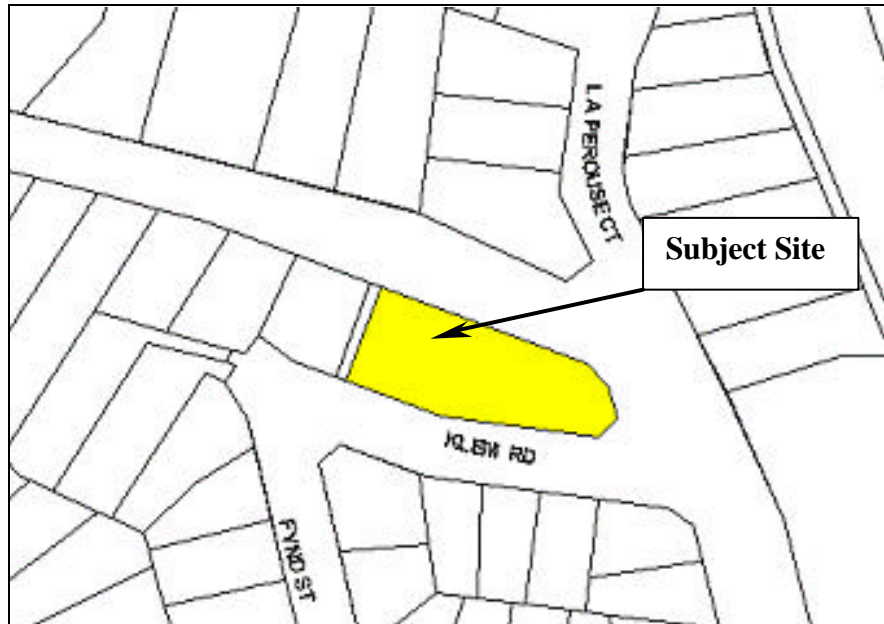
ORDINARY COUNCIL MEETING- 16/09/03

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DEVELOPMENT SERVICES REPORTS

11.3.4 Initiate Scheme Amendment – Pt Lot 376 La Perouse Road, Goode Beach

File/Ward	:	A168757A (Vancouver Ward)
Proposal/Issue	:	Initiate on Amendment to Rezone the subject land from 'Local Shopping' to 'Residential' with an 'Additional Use'
Subject Land/Locality	:	Pt Lot 376 (37) La Perouse Road, Goode Beach
Proponent	:	City of Albany
Owner(s)	:	EA Harley & MA & CA Stephenson
Reporting Officer(s)	:	Planning Officer – Policy (R Hindley)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 19/08/03 - Item 11.1.2
Summary Recommendation	:	Initiate Amendment
Bulletin Attachment	:	Nil
Locality Plan	:	



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DEVELOPMENT SERVICES REPORTS

Item 11.3.4 continued

BACKGROUND

1. Council is requested to amend Town Planning Scheme No. 3 by rezoning Pt Lot 376 (37) La Perouse Road, Goode Beach, which has an area of 2608m², from 'Local Shopping' to 'Residential' with an 'Additional Use'.
2. The adjoining lot is subject to Amendment No 227 which rezones the site from 'Local Shopping' to 'Residential'. Amendment No. 227 is currently waiting the approval of the Minister.
3. A copy of the amending documents has previously been provided to elected members. This application was laid on the table at the August meeting of Council.

STATUTORY REQUIREMENTS

4. Council's resolution under the Town Planning & Development Act 1928 and the Town Planning Regulations 1967 is required to amend the scheme.
5. An amendment to a Town Planning Scheme adopted by resolution of a local government, is to be referred to the Environmental Protection Authority (EPA) for assessment. Advertising of the amendment cannot occur until EPA has assessed and determined the levels of assessment.
6. Advertising of the amendment for public inspection is proposed to be for a period of 42 days.
7. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

POLICY IMPLICATIONS

8. There are various policies and strategies that have relevance to this proposal. They include:
 - Western Australian Planning Commission Statement of Planning Policy No. 8 (SPP 8);
 - The Commercial Strategy Review (2000); and
 - The Draft Albany Local Planning Strategy.

Local Government is to have regard for Statements of Planning Policy when preparing a Town Planning Scheme or Town Planning Scheme Amendment.

9. The purpose of SPP 8 is to bring together existing State and Regional policies that apply to land use and development in Western Australia.

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Item 11.3.4 continued

10. The Commercial Strategy Review 2000 does not recognise a commercial development within Goode Beach. The removal of the 'Local Shopping' Zone and its replacement with 'Residential' and limited retail space (as an additional use) will adequately serve the localities needs.
11. The proposed lot sizes reflect those in the surrounding residential area however since the gazettal of Amendment No. 221 an R5 coding applies to all 'Residential' zoned land in the area, providing for a minimum lot size of 2000m². Whilst the R5 coding will have no impact on existing residential lots, it will prevent the subdivision of the subject lot.

FINANCIAL IMPLICATIONS

12. Council will be required to advertise the amendment using a portion of the applicant's fees for the amendment process.

STRATEGIC IMPLICATIONS

13. There are no strategic implications relating to this item.

COMMENT/DISCUSSION

14. It is proposed to incorporate an R12.5 density code with the Additional Use to facilitate the development of the site in accordance with the Development Guide Plan.
15. The Amendment Document, based on a basic soil and land capability assessment, indicates that the site is suitable for the proposed development.
16. Based on the above, and the details contained within the Amendment Document, it is recommended that Council resolve to initiate this amendment.

RECOMMENDATION

THAT Council in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended) resolves to amend the City of Albany's Town Planning Scheme 3 by:

- i) rezoning Pt Lot 376 La Perouse Road, Goode Beach from 'Local Shopping' to 'Residential';
- ii) adding an "Additional Use" in Schedule II; and
- iii) amending the Scheme Maps accordingly.

Voting Requirement Simple Majority

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Item 11.3.4 continued.

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR SANKEY**

THAT;

- i) Council resolve to request the proponent to modify the documentation for Amendment 228 to the City of Albany Town Planning Scheme No 3 as follows:
 - a) appropriate references in the amendment document to the subdivision of Part Lot 376 La Perouse Road (area of 2598 sqm) into three lots at a density of R12.5 be altered to read two lots at a residential density of R10; and**
 - b) the subdivision guide plan is to show two lots and to provide for a built form reflecting primary shop exposure to La Perouse Road and the transfer of on-site car parking to a position less visually prominent (eg south west corner of site); and****
- ii) subject to the above modifications being made, Council in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended) resolves to amend the City of Albany's Town Planning Scheme 3 by:
 - a) rezoning Pt Lot 376 La Perouse Road, Goode Beach from 'Local Shopping' to 'Residential';**
 - b) adding an "Additional Use" in Schedule II; and**
 - c) amending the Scheme Maps accordingly.****

MOTION CARRIED 10-2

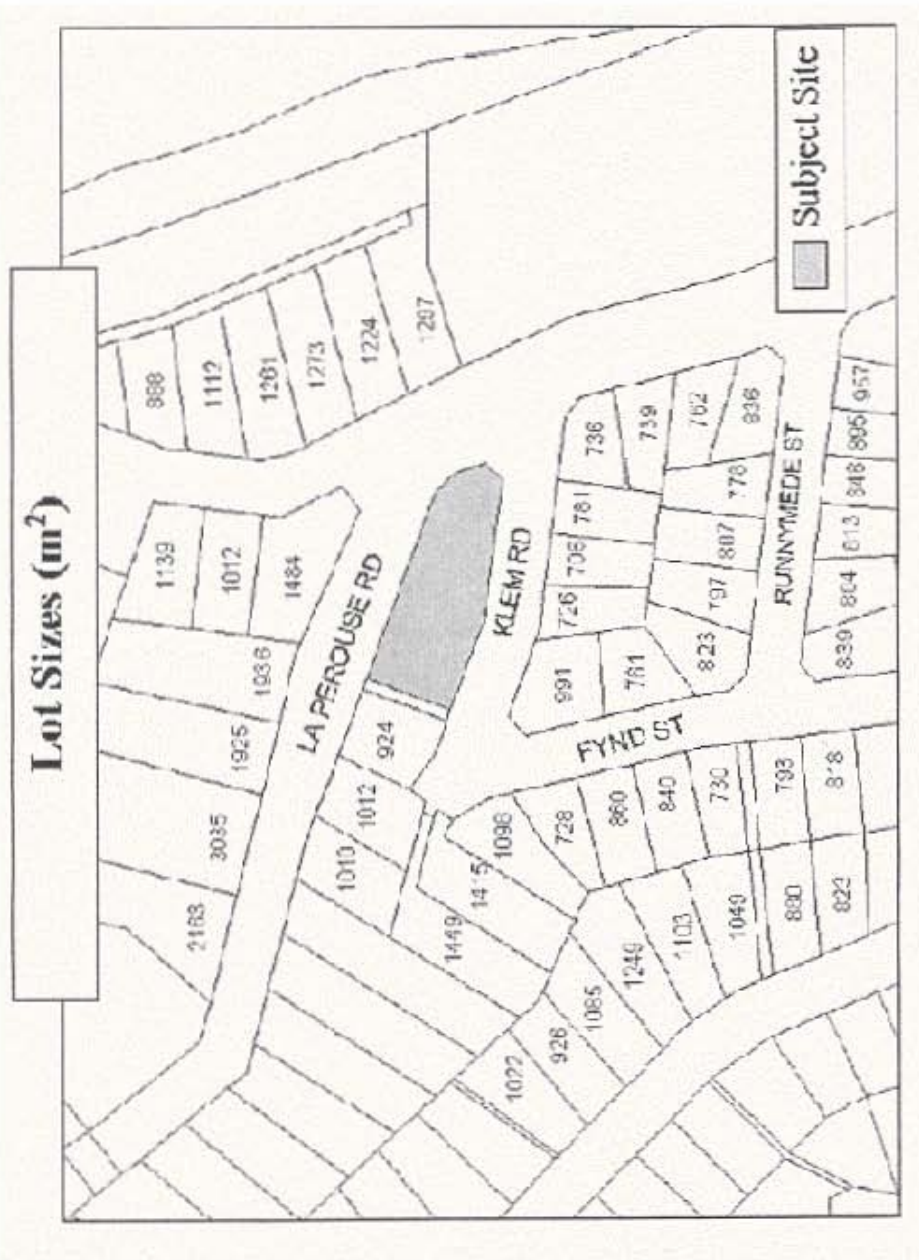
Reason:

- The prevailing lot size in the locality is more consistent with an R10 density coding and the proposed shop car parking area should not be the prominent design feature of this site when travelling down La Perouse Road.

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REPORT ITEM DIS316 REFERS

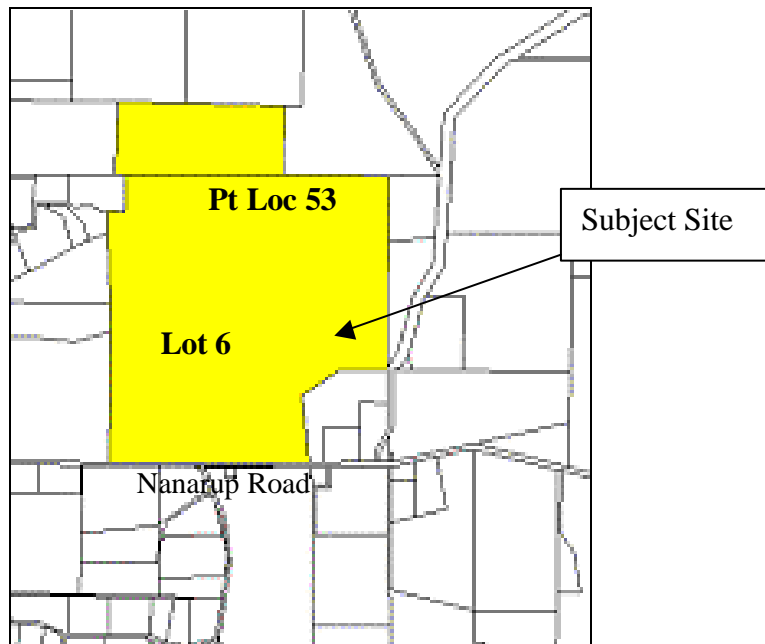
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DEVELOPMENT SERVICES REPORTS

11.3.5 Scheme Amendment Request – Lot 6 & Pt Loc 53 Nanarup Road, Kalgan

File/Ward	:	A66969A (Kalgan Ward)
Proposal/Issue	:	Preliminary request to rezone Lot 6 & Pt Loc 53 Nanarup Road, Kalgan from 'Rural' to 'Special Rural'.
Subject Land/Locality	:	Lot 6 & Pt Loc 53 Nanarup Road, Kalgan
Proponent	:	Ayton Taylor Burrell
Owner	:	Erujin Pty Ltd
Reporting Officer(s)	:	Planning Officer – Policy (R Hindley) and Executive Director Development Services (R Fenn)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 19/08/03 - Item 11.3.1
Summary Recommendation	:	That Council decline the request.
Bulletin Attachment	:	Nil.
Locality Plan	:	



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DEVELOPMENT SERVICES REPORTS

Item 11.3.5 continued

BACKGROUND

1. An application was received from Ayton Taylor Burrell seeking Council's preliminary support to rezone Lot 6 & Pt Loc 53 Nanarup Road, Kalgan from 'Rural' to 'Special Rural'.
2. The proposal was referred internally as well as to the Department of Planning and Infrastructure and the Department of Environment (formerly the Water and Rivers Commission) to gauge the level of support from those agencies to the proposal.
3. A copy of the applicant's proposal was provided to Council at its August Ordinary Meeting of Council.
4. At the August meeting of Council it was resolved that the application lay on the table for a period of one month and that Councillors inspect the site during that period. An inspection took place on the 1st September 2003 and there were six Councillors, three staff, Mr O'Dea and Mr Ayton in attendance.

STATUTORY REQUIREMENTS

5. A Scheme Amendment Request (SAR) is not a statutory process under the Town Planning and Development Act 1928. The purpose of the SAR process is to give an applicant feedback as to whether an amendment is likely to be supported or not, and the issues to be addressed in the Scheme Amendment documents.
6. If an applicant decides to pursue a Scheme Amendment, the Council will be required to formally consider that request.

POLICY IMPLICATIONS

7. There are various policies and strategies that have relevance to this proposal. They include:
 - (a) The State Planning Strategy
 - (b) The Western Australian Planning Commission Statement of Planning Policy No. 8 (SPP 8)
 - (c) The Albany Regional Strategy (1994)
 - (d) The Local Rural Strategy (1996)
 - (e) Draft Local Planning Strategy (2001)
 - (f) Draft Town Planning Scheme No. A (being prepared)
8. The purpose of SPP 8 is to bring together existing State and regional policies that apply to land use and development in Western Australia. Local government is to have regard for Statements of Planning Policy when preparing a Town Planning Scheme or Town Planning Scheme Amendment.

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DEVELOPMENT SERVICES REPORTS

Item 11.3.5 continued

9. The subject site is partially located within Oyster Harbour Precinct 14 of the City's Local Rural Strategy. The policy statement for this precinct states;

“Council may support proposals for rural residential/tourist development subject to compliance with relevant general policies, the land being revegetated to the satisfaction of Council and the proponents being able to demonstrate that the constraints and land management needs identified [within the precinct] would be overcome / met. In particular, it will be necessary for proponents to carefully consider the effect any proposals will have on the visual amenity of the area.”

10. The Local Rural Strategy is a two volume document and its primary aim is to encourage and facilitate development which is sympathetic to community and environmental considerations, but also does not impact upon surrounding rural pursuits. The Strategy identified in 1996 that “there is a demand for the further subdivision of rural land to create various forms of rural residential development. There may also be many cleared and vacant blocks that may not have been sold and are causing both financial and environmental difficulties. The costs of providing services to rural residential development is also much higher than in urban areas.”

11. Many of the areas identified in the strategy (a 10 to 15 year plan) that have since been rezoned and have subdivisions at various stages of completion. General Policy 34 in the Local Rural Strategy places an obligation on Council to examine certain matters before progressing an amendment to the scheme;

“Council will only consider rezoning proposals for rural residential development if the subject land is situated within a policy area designated as being potentially suitable for rural residential development and it can be demonstrated that the constraints and land management needs identified in that policy can be overcome / met.”

FINANCIAL IMPLICATIONS

12. There are no financial implications relating to the amendment request. Once a subdivision pattern is developed over the land some financial implications may develop (eg. protection of steep slopes, additional drainage and road infrastructure).

Item 11.3.5 continued

STRATEGIC IMPLICATIONS

13. The subject land is identified in the Local Rural Strategy as an area that “may” be considered for rural residential / tourist development. The rezoning of this site would open up a new development front for Special Rural development to the north of Nanarup Road and east of the Kalgan River. Currently, the available zoned land to the south of Nanarup Road and east of Oyster Harbour has not been fully developed, nor has the Special Rural development front between Willyung Road and the King River.

COMMENT/DISCUSSION

14. In addition to rezoning the site, the Scheme Amendment Request (SAR) outlines potential modifications to the Local Rural Strategy. The Local Rural Strategy is to be reviewed as part of the development of the Albany Local Planning Strategy and on-going interim modifications of this policy document are pre-empting the outcomes of the Albany Local Planning Strategy. Already Council has supported a SAR to rezone land between Little Grove and Big Grove for Special Rural purposes which had not been identified in the Local Rural Strategy for that purpose.
15. A copy of the proposal was referred to the Western Australian Planning Commission and Department of Environment for preliminary comment. The major issues identified by those agencies and Council staff include:
- (a) *There is no demonstrated need for this land to be rezoned. There is sufficient zoned Special Rural land available within existing areas to cater for this kind of subdivision.*
 - (b) *There is some concerns with opening a new Special Rural development front and fragmenting Council’s infrastructure when existing areas remain underdeveloped.*
 - (c) *The subject land included in the Local Rural Strategy as an area which “may” be considered for development “subject” to some pre-conditions being met.*
 - (d) *Nanarup Road and the Kalgan River form the ‘hard edges’ or boundaries to existing subdivisions and the small lots fronting the eastern side of the Kalgan River are from historic subdivisions.*
 - (e) *The subdivision is being promoted on the basis that the development will create lots on cleared land with un-paralleled views over the surrounding countryside which is inconsistent with the visual sensitivity concerns expressed in the Local Rural Strategy.*
 - (f) *The proposal should demonstrate how lot size, density and alignment have regard to fragmentation of remnant vegetation.*

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Item 11.3.5 continued

16. Based on advice received from the Department for Planning and Infrastructure and the Department of Environment, as well as an assessment made by Council officers, it is considered that the site specific concerns can be documented as part of the amendment process but that a more fundamental question of whether the land needs to be rezoned at this time remains. The Local Rural Strategy is a 10 to 15 year plan and after 6 years most of the identified area in the strategy have, or are in the process of being rezoned and subdivided. The only “strategic argument” provided by the developer for the land to be rezoned at this time centre upon providing him with certainty in his development program and to assist him to defray the high costs that he is incurring with the provision of water supply infrastructure to a development he has on an adjoining site.

17. Most Councillors have now visited the site and are aware that the SAR is requesting that Council look at rezoning land beyond the area identified in the Local Rural Strategy. The characteristics of the site also require a detailed analysis of the planning issues through the rezoning process and staff suggest that, if Council considers supporting the proposal, the following matters be listed as requiring detailed attention in the amending documents;
 - (a) *Demonstrate the need to rezone the land at this time*
 - (b) *Detailed contours of the site and vegetation coverage is to be provided*
 - (c) *Soil sampling across the site to determine soil profiles and drainage capacity*
 - (d) *Fire management arrangements to be resolved in accordance with the “Planning for Fire” guidelines provided by FESA*
 - (e) *At least two access roads are to be developed into the site for emergency evacuation*
 - (f) *View shed mapping to be undertaken and the subdivision guide plan is to respond to visual constraints map developed, with suburbanisation of the escarpment to be avoided*
 - (g) *Lot sizes should vary across the site in response to opportunities and constraints mapping and site analysis*
 - (h) *Remnant vegetation is to be protected using mechanism(s) which do not involve its transfer to Council or a requirement for Council to be continually policing the outcome*
 - (i) *Clear commitments and design outcomes to justify that this is a self contained project and it will not encourage the transfer of this type of development across the rural landscape*
 - (j) *How tourism projects potentially could be integrated into the development site; and*
 - (k) *How servicing of the site is to be achieved and integrated into the landscape.*

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Item 11.3.5 continued

RECOMMENDATION

THAT Council advise the applicant that it is not prepared to support the request for an Amendment to Town Planning Scheme No. 3 to rezone Lot 6 & Pt Loc 53 Nanarup Road, Lower Kalgan from 'Rural' to 'Special Rural'.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR EMERY
SECONDED COUNCILLOR WELLINGTON**

THAT Council advise the applicant that it is prepared to support the request for an amendment to Town Planning Scheme No 3 to rezone portion of Lot 6 and Pt Lot 53 Nanarup Road, Lower Kalgan from "Rural" to "Special Residential" and "Special Site (Tourism)" zone subject to the scheme amendment addressing the following to the satisfaction of Council:

- i) demonstrate the need to rezone the land at this time;**
- ii) detailed contours of the site and vegetation coverage is to be provided;**
- iii) soil sampling across the site to determine soil profiles and drainage capacity;**
- iv) fire management arrangements to be resolved in accordance with the "Planning for Fire" guidelines provided by FESA;**
- v) at least two access roads are to be developed into the site for emergency evacuation;**
- vi) view shed mapping to be undertaken and the subdivision guide plan is to respond to visual constraints map developed, with development of the escarpment to be designed to blend in with the landscape;**
- vii) lot sizes should vary across the site in response to opportunities and constraints mapping and site analysis;**
- viii) remnant vegetation is to be protected using mechanism(s) which do not involve its transfer to Council or a requirement for Council to be continually policing the outcome;**
- ix) the subdivision guide plan is to guarantee a minimum 5 ha site for future tourism development;**
- x) how servicing of the site is to be achieved and integrated into the landscape;**
- xi) a minimum lot size of 3000sqm and an overall average lot size of 1 ha to apply;**
- xii) rezoning to apply to the whole of Pt Location 53 and all of Lot eastern portion of Lot 6;**
- xiii) the subdivision pattern is to reflect a detailed site analysis, with the appropriate planning response detailed to address site constraints; and**

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xiv) the land use planning constraints identified by the Department of Planning and Infrastructure and the Department of Environment, Water and Catchment Protection are to be addressed and a suitable planning response provided.

MOTION CARRIED 7-5

Reason:

- The land is identified in the City's Local Rural Strategy as a potential development site and the developer should be provided the opportunity to progress the development. The above recommendation addresses the issues that need further documentation as part of the formal scheme amendment process.

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11.4 DEVELOPMENT SERVICES COMMITTEES

11.4.1 Bushfire Management Committee Minutes – 27th August 2003

File/Ward	: MAN 089 (All Wards)
Proposal/Issue	: Committee items for Council consideration
Reporting Officer(s)	: Executive Director Development Services (R Fenn)
Summary Recommendation	: That the minutes of the Bushfire Management Committee held on 27th August 2003 be adopted.

Confirmation of the minutes of the Bushfire Management Committee of 27th August 2003.

RECOMMENDATION

THAT the minutes of the Bushfire Management Committee held on 27th August 2003 be received (copy of minutes in the Elected Members' Report/Information Bulletin) and the following items be moved.

Item 7.2.2

THAT Council;

- i) endorse the appointment of City of Albany Bushfire Control Officers and Deputy Bushfire Control Officers for the 2003/04 fire season, as per the appended list;
- ii) endorse the appointment of the following brigade officers from adjoining local governments as bushfire control officers within the City of Albany:
 - Shire of Plantagenet
 - Ross Backhouse (Narrakup VBFB)
 - Warren Forbes (Narrakup VBFB)
 - John Russel (Porongurup VBFB)
 - Shire of Gnowangerup
 - Colin King (Borden VBFB)
 - Graham Moir (Borden VBFB)
 - Shire of Jerramungup
 - Anthony Thomas (Boxwood VBFB); and
- iii) note the submission of the following City of Albany Brigade Officer, as Bushfire Control Officers in adjoining local governments:
 - Shire of Plantagenet
 - John Hood (Kojaneerup VBFB)
 - Tony Slattery (Kojaneerup VBFB)
 - Tom Collins (Napier VBFB)
 - Lance Flett (Redmond VBFB)
 - Shire of Gnowangerup
 - Peter Moir (Gnowellen VBFB)

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Item 11.4.1 continued.

Shire of Jerramungup

Peter Moir (Gnowellen VBFB)

Chris Gilmour (Wellstead VBFB)

Item 7.2.8

THAT;

- i) Council be requested to support in principle the relocation of the Goode Beach fire appliance from Whaleworld to a more central site in Goode Beach, to be identified by the SCVBFB in consultation with Council staff, to improve the response capability of that unit.
- ii) following an appropriate consultation process with Council on a suitable site, a request be forwarded to the Department of Planning and Infrastructure (Land Asset Management Services Branch) to excise an appropriate fire station site from an existing reserve in Goode Beach;
- iii) Council's Strategic Plan be altered to acknowledge the need for potential fire stations at Goode Beach, Cheynes Beach and Torbay (Torbay Hill) as identified in the Fire Prevention Plan report;
- iv) forward financial planning be undertaken, through the ESL, to identify future fire stations requirements and funding be sought from those stations in a strategic manner.

Item 7.2.10

THAT Council

- i) adopt the revised standard of meals to be provided at major wildfires;
- ii) provide sustenance, in accordance with the revised standard of meals, during mop-up operations following a major wildfire if requested by the Incident Controller; and
- iii) amend Section 3.5 of the Strategic Bushfire Plan 2000-2005 by:
 - a) inserting the phrase, "or involved in mop-up operations", after the words "the scene of a wildfire" in the third sentence of the first paragraph;
 - b) deleting the words 'normal meals are missed, the safety of fire fighters is at risk and other criteria dictate that a meal should be provided' in the third sentence of the first paragraph and inserting the words 'the Incident Controller deems otherwise'; and
 - c) deleting the word 'Rangers' in the last sentence of the first paragraph and inserting the words 'an authorised City officer'.

Voting Requirement Simple Majority

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Item 11.4.1 continued.

**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR BARTON**

THAT the minutes of the Bushfire Management Committee held on 27th August 2003 be received (copy of minutes in the Elected Members' Report/Information Bulletin) and the following items be moved.

Item 7.2.2

THAT Council;

- i) endorse the appointment of City of Albany Bushfire Control Officers and Deputy Bushfire Control Officers for the 2003/04 fire season, as per the appended list;**
- ii) endorse the appointment of the following brigade officers from adjoining local governments as bushfire control officers within the City of Albany:**
 - Shire of Plantagenet**
 - Ross Backhouse (Narrikup VBFB)**
 - Warren Forbes (Narrikup VBFB)**
 - John Russel (Porongurup VBFB)**
 - Shire of Gnowangerup**
 - Colin King (Borden VBFB)**
 - Graham Moir (Borden VBFB)**
 - Shire of Jerramungup**
 - Anthony Thomas (Boxwood VBFB); and**
- iii) note the submission of the following City of Albany Brigade Officer, as Bushfire Control Officers in adjoining local governments:**
 - Shire of Plantagenet**
 - John Hood (Kojaneerup VBFB)**
 - Tony Slattery (Kojaneerup VBFB)**
 - Tom Collins (Napier VBFB)**
 - Lance Flett (Redmond VBFB)**
 - Shire of Gnowangerup**
 - Peter Moir (Gnowellen VBFB)**
 - Shire of Jerramungup**
 - Peter Moir (Gnowellen VBFB)**
 - Chris Gilmour (Wellstead VBFB)**

Item 7.2.8

THAT;

- i) Council be requested to support in principle the relocation of the Goode Beach fire appliance from Whaleworld to a more central site in Goode Beach, to be identified by the SCVBFB in consultation with Council staff, to improve the response capability of that unit.**
- ii) following an appropriate consultation process with Council on a suitable site, a request be forwarded to the Department of Planning and Infrastructure (Land Asset Management Services Branch) to excise an appropriate fire station site from an existing reserve in Goode Beach;**

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- iii) Council's Strategic Plan be altered to acknowledge the need for potential fire stations at Goode Beach, Cheynes Beach and Torbay (Torbay Hill) as identified in the Fire Prevention Plan report;
- iv) forward financial planning be undertaken, through the ESL, to identify future fire stations requirements and funding be sought from those stations in a strategic manner.

Item 7.2.10

THAT Council

- i) adopt the revised standard of meals to be provided at major wildfires;
- ii) provide sustenance, in accordance with the revised standard of meals, during mop-up operations following a major wildfire if requested by the Incident Controller; and
- iii) amend Section 3.5 of the Strategic Bushfire Plan 2000-2005 by:
 - a) inserting the phrase, "or involved in mop-up operations", after the words "the scene of a wildfire" in the third sentence of the first paragraph;
 - b) deleting the words 'normal meals are missed, the safety of fire fighters is at risk and other criteria dictate that a meal should be provided' in the third sentence of the first paragraph and inserting the words 'the Incident Controller deems otherwise'; and
 - c) deleting the word 'Rangers' in the last sentence of the first paragraph and inserting the words 'an authorised City officer'.

MOTION CARRIED 12-0

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- R E P O R T S -

12.1 FINANCE

12.1.1 List of Accounts for Payment – City of Albany

File/Ward	:	FIN 022 (All Wards)
Proposal/Issue	:	N/A
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Manager of Finance (S Goodman)
Disclosure of Interest	:	Nil.
Previous Reference	:	N/A
Summary Recommendation	:	Approve accounts for payment
Bulletin Attachment	:	Summary of Accounts
Locality Plan	:	N/A

COMMENT/DISCUSSION

1. The list of accounts for payment for the City of Albany is included in the Councillor Report/Information Bulletin and contains the following:-

Municipal Fund		
Cheques	totalling	124,231.05
Electronic Fund Transfer	totalling	698,095.08
Payroll	totalling	664,307.53
TOTAL		<u><u>\$1,486,633.66</u></u>

2. As at 2nd September 2003, the total outstanding creditors, stands at \$1,750,072.04

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ORDINARY COUNCIL MEETING – 16/09/03

** REFER DISCLAIMER **

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.1 continued.

RECOMMENDATION

THAT the following City of Albany accounts be passed for payment: -

Municipal Fund	totalling	\$1,486,633.66
Total		<u>\$1,486,633.66</u>

Voting Requirement Simple Majority

**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR EVANS**

THAT the following City of Albany accounts be passed for payment: -

Municipal Fund	totalling	\$1,486,633.66
	Total	<u>\$1,486,633.66</u>

MOTION CARRIED 12-0

REPORT ITEM DIS316 REFERS

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12.1.2 Community Financial Assistance Program

File/Ward	:	FIN 022 (All Wards)
Proposal/Issue	:	Policy Review – Major Grants
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Community Development Officer (R Shanhun)
Disclosure of Interest	:	N/A
Previous Reference	:	OCM 17/06/03 – Item 14.2.1
Summary Recommendation	:	That Council amend the Community Financial Assistance Policy.
Bulletin Attachment	:	N/A
Locality Plan	:	N/A

BACKGROUND

1. The City of Albany adopted a new Community Financial Assistance Policy on 17th June 2003.
2. Provision is made under the Community Financial Assistance Policy for community based organisations to make application for grants in excess of \$10,000 – Major Grants.
3. Major Grants are dealt with under round 1 of the program with applications being invited in March/April and closing on 31st May.
4. The Community Financial Assistance Committee considers major grant applications and makes recommendations of priority ranking for full Council's consideration as part of the budget adoption process.
5. Timing of the round one (1) Community Financial Assistance Program, which closes on 31st May for consideration during June, has resulted in the applications for Major Grants being referred to Council too late for meaningful consideration within the budget process.

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Item 12.1.2 continued.

STATUTORY REQUIREMENTS

6. Section 5.16(1) of the Local Government Act 1995 provides Local Governments with the power to delegate certain powers to a committee, to administer on its behalf.

POLICY IMPLICATIONS

7. Adoption of the officer's recommendation will result in amendments being made to Council's Community Financial Assistance Policy.

FINANCIAL IMPLICATIONS

8. There are no financial implications in relation to the review and amendment of the Community Financial Assistance Policy.

STRATEGIC IMPLICATIONS

9. Alignment with Council's Strategic Plan – Albany 2020 Charting our Course is provided within the Community Financial Assistance Policy.

COMMENT/DISCUSSION

10. To ensure the Community Financial Assistance Policy and in particular those sections relating to the administration of grants exceeding \$10,000 ie. Major Grants, the following amendments are suggested:-
 - The deadline for receipt of Major Grant applications be brought forward to 30th November in the proceeding year and they be advertised and conducted in conjunction with round 2 of the proceeding minor grants program;
 - The Community Financial Assistance Committee's role in relation to Major Grants be amended to include the consideration of applications and the making of recommendations for consideration by Council of applications that warrant funding, the recommended level of funding and the amount that should be included within the first draft budget;
 - Major Grants recommended by the Committee will be subject to consideration by full Council prior to inclusion in the draft budget and will still be required to compete against all other budgeted items; and
 - The term "Major Grant" should be amended to read 'Major Forward Planning Grant' to reflect and emphasise the necessity for applicants to plan in advance and to make application in the year preceeding the provision of funding.

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Item 12.1.2 continued.

RECOMMENDATION

THAT Council amend the Community Financial Assistance Policy to reflect the following changes:-

- the deadline for the receipt of Major Grants to be 30th November in the year preceding the financial year in which the funds may be budgeted;
- Major Grants be advertised and considered by the Community Financial Assistance Committee in conjunction with round 2 of the preceding Community Financial Assistance Program;
- the Community Financial Assistance Committee consider Major Grant applications and make recommendations to Council as to which applications warrant funding and the amount of grant funding to be budgeted;
- the Committee recommendations to be referred to Council, for a decision on what, if any, provision should be made within the first draft budget, and thereafter by subject to budget deliberations; and
- the term Major Grant be amended to read ‘Major Forward Planning Grant’.

Voting Requirement Absolute Majority

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**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR EVANS**

THAT Council amend the Community Financial Assistance Policy to reflect the following changes:-

- **the deadline for the receipt of Major Grants to be 30th November in the year preceding the financial year in which the funds may be budgeted;**
- **Major Grants be advertised and considered by the Community Financial Assistance Committee in conjunction with round 2 of the preceding Community Financial Assistance Program;**
- **the Community Financial Assistance Committee consider Major Grant applications and make recommendations to Council as to which applications warrant funding and the amount of grant funding to be budgeted;**
- **the Committee recommendations to be referred to Council, for a decision on what, if any, provision should be made within the first draft budget, and thereafter by subject to budget deliberations; and**
- **the term Major Grant be amended to read ‘Major Forward Planning Grant’.**

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

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12.2 ADMINISTRATION

12.2.1 Albany Italian Club Inc.

File/Ward	: PRO 138 (Yakamia Ward)
Proposal/Issue	: Proposed Lease, Albany Italian Club Inc.
Subject Land/Locality	: Part Lot 5 Mercer Road, Albany
Proponent	: City of Albany
Owner	: City of Albany
Reporting Officer(s)	: Executive Director Corporate & Community Services (P Madigan)
Disclosure of Interest	: N/A
Previous Reference	: OCM 18/03/03 – Item 12.2.2 OCM 20/05/03 – Item 12.2.4
Summary Recommendation	: That Council decline the request.
Bulletin Attachment	: Item 12.2.4 of OCM 20/05/03
Locality Plan	: N/A

BACKGROUND

1. At the May Ordinary Meeting of Council it was resolved:-

“THAT
 - i) *final settlement of this matter be deferred until such time as the Centennial Park and Yakamia Recreation Precinct Plan is finalised;*
and
 - ii) *in the meantime, the administration seek clarification as to which legal entity the Council will be dealing with in regard to finding a suitable site.”*
2. The first part of the resolution has been achieved, and it has been established that the legal entity Council will be dealing with is the Albany Italian Club Inc.
3. Although the resolution did not specifically require the identification of sites, in line with the basic concept, proposed by the Club, two sites have been suggested, but do require further negotiation by the Club with third parties.

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Item 12.2.1 continued.

4. The first such site was the area on the corner of Campbell and North Roads, which is currently leased to the Albany Soccer Federation Inc, and the Club would need to negotiate with that body. This site would compliment the recommendations of the Centennial Park Recreation Precinct Plan concepts.
5. The second site identified is Reserve 36236 (opposite the intersection of Collingwood Road and Parkes Street). This Reserve is currently unallocated Crown Land under the control of the Department of Planning and Infrastructure (previously known as the Department of Land Administration) which authority may be amenable to issuing a Management Order for the whole area (or section of it) to the Albany Italian Club Inc.
6. The Club has indicated it does not wish to negotiate with third parties, and has indicated its preference is the Mercer Road site.

STATUTORY REQUIREMENTS

7. Section 3.58 of the Local Government Act 1995 ‘Disposing of Property’ requires that Council may issue a lease over a property, however if must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
8. Clause 30 of the Local Government (Function and General) Regulations 1996 provides an exemption to Council from the application of the Section 3.58 of the Act if the land is being disposed of to a body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreation or sporting or other like nature.

POLICY IMPLICATIONS

9. The final report on the Centennial Park and Yakamia Recreation Plan has addressed soccer into the future and recommended that Council:-

*“- retain the present general layout of soccer pitches;
- improve and make drainage safer;
- develop a new western pitch for spectator viewing adjacent to a new multi-sport club; and
- soccer facilities to be consolidated as part of the new multi-sports club, this area will be the major area for soccer for the scope of this plan (15 years).”*

FINANCIAL IMPLICATIONS

10. There are no financial implications relating to this item.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.2.1 continued.

STRATEGIC IMPLICATIONS

11. This request could comply with Council's Albany 2020 – Charting our Course, which in part states as follows:-

“Parks, Gardens and Playgrounds

A diverse range of passive and active recreational areas that are creative, attractive, safe and enjoyable to use.”

COMMENT/DISCUSSION

12. The Albany Italian Club has provided the following basic concepts and funding options:-

Stage 1.

- A main soccer pitch;
- A training soccer pitch;
- Changerooms; and
- Fencing.

Stage 2.

- Clubrooms (300 seat capacity); and
- Car parking, in accordance with the Council's Town Planning Scheme.

Funding: Sponsorship and voluntary labour.

13. The area of land requested to lease forms part of Council's Mercer Road complex, and would require access across the site.
14. Historically, by letter dated 4th October 1979, Ten Year Developments Pty Ltd donated this area of land to the Shire of Albany, with the wish it to be used as a soccer field and that 'it should be leased to the Albany Tricolore Soccer Club for a period of 30 years.'
15. While the lease document itself has not been located, it is very clear that a lease did exist with the Albany Italian Club (Tricolore Soccer Club) and also that the Club did not follow up the necessary administrative functions to secure a renewal of the lease. In the circumstances it is believed the lease has expired and no option or right to tenure of the subject land exists. A copy of the previous item is included in the Elected Members Report and Information Bulletin.
16. Not having considered the final use of its Mercer Road site following the construction of the new administrative complex, it would not be in Council's best strategic interest to encumber this land with a long term lease.

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Item 12.2.1 continued.

RECOMMENDATION

THAT Council;

- i) given the strategic importance of the Mercer Road site, decline the request by the Albany Italian Club Inc to lease portion of the site; and
- ii) urge the Albany Italian Club Inc to enter negotiations with the relevant body, with the aim of consolidating and rationalising soccer in line with the recommendations of the Centennial Park Recreation Precinct Plan.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR EVANS**

THAT Council;

- i) given the strategic importance of the Mercer Road site, decline the request by the Albany Italian Club Inc to lease portion of the site; and**
- ii) urge the Albany Italian Club Inc to enter negotiations with the relevant body, with the aim of consolidating and rationalising soccer in line with the recommendations of the Centennial Park Recreation Precinct Plan.**

MOTION CARRIED 11-1

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12.2.2 Council Agendas availability to Elected Members

File/Ward	: MAN 006 (All Wards)
Proposal/Issue	: To modify the Council Agenda preparation schedule so that Elected Members receive Council Meeting Agendas no later than Monday afternoon prior to the following week's monthly Council Meeting.
Subject Land/Locality	: N/A
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Manager Customer Services (S Langford)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: That Council retain the current Council Meeting Agenda schedule.
	OR
	That Council modify the current Council Meeting Agenda schedule so that Elected Members receive Council Agendas on the Monday in the week preceding monthly Council Meetings.
Bulletin Attachment	: N/A
Locality Plan	: N/A

BACKGROUND

1. Councillor Demarteau has requested that Council consider the proposal to amend the distribution timetable for Council Agendas to allow Elected Members 8 day's access to the documentation prior to Council Meetings.
2. The schedules for monthly Ordinary Council Meetings have been designed to allow maximum time for both Officers to prepare recommendations, as well as Elected Members to consider Agenda Items prior to Council Meetings.

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Item 12.2.2 continued.

3. The current monthly cycle using August-September as an example is as follows:

Ordinary Council Meeting –	Third Tuesday of each month (e.g. 19 th August 2003)
Minutes Prepared -	Wednesday following the Council meeting (e.g. 20 th August 2003)
Minutes Checked –	Thursday following the Council meeting (e.g. 21 st August 2003)
Unconfirmed Minutes Available –	Friday following the Council meeting (e.g. 22 nd August 2003)
Agenda Item Preparation –	Period between minutes being made available and deadline date (e.g. 23 rd August – 4 th September 2003 - 9 days)
Agenda Item Deadline –	Deadline for Council Agenda Item preparation (e.g. 4 th September 2003)
Agenda Collation –	Deadline for collation of Agenda (e.g. 5 th September 2003)
Agenda Checking –	Deadline for checking of Agenda (e.g. 6 th September 2003)
Agenda Printing –	Printing of Agenda (e.g. 9 th September 2003)
Agenda Distribution –	Agendas distributed on the Wednesday/Thursday of the week preceding the Council meeting. (e.g. 10 th - 11 th September 2003).
Council Meeting-	Third Tuesday of the Month (e.g. 16 th September 2003)

4. A modified cycle with Councillors receiving agendas 8 days prior to meetings:

Ordinary Council Meeting –	Third Tuesday of each month (e.g. 19 th August 2003)
Minutes Prepared -	Wednesday following meeting (e.g. 20 th August 2003)
Minutes Checked –	Thursday following meeting (e.g. 21 st August 2003)
Unconfirmed Minutes Available –	Friday following the Council meeting (e.g. 22 nd August 2003)
Agenda Item Preparation –	Period between minutes being made available and deadline date (e.g. 23 rd August – 2 nd September 2003 (6 days))
Agenda Item Deadline –	Deadline for Council Agenda Item preparation (e.g. 2 nd September)
Agenda Collation –	Deadline for collation of Agenda (e.g. 3 ^d September)
Agenda Checking –	Deadline for checking of Agenda (e.g. 4 th September)

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Item 12.2.2 continued.

Agenda Printing –	Printing of Agenda (e.g. 5 th September)
Agenda Distribution –	Agendas distributed on the Monday/Tuesday of the week preceding the Council meeting. (e.g. September 8 – 9 th 2003)
Council Meeting-	Third Tuesday of the Month (e.g. 16 th September 2003)

5. In this instance the modified cycle allows 6-business days from the distribution of the previous months' unconfirmed minutes for Council Officers to prepare Agenda Items (that require action from the previous month's resolutions) for the forthcoming September meeting. The current cycle allows for a 9-business days of preparation time.
6. The modified cycle reduces Council Agenda Item preparation time and the public consultation period with an applicant who is awaiting a Council resolution. This may also have flow-on effects for the public, as there would be a reduced timeframe between Council Meetings for the public to make contact with Councillors/Council Officers to have their issues addressed.
7. The combined effect of the modified preparation period may increase the likelihood of Late Council Item submissions; and not allow Elected Members sufficient time to consider these submissions.
8. The modified cycle would mean that Council would have an extended period to review Council Agenda Items prior to the Ordinary Council Meetings.

STATUTORY REQUIREMENTS

9. The Local Government Act provides a requirement for the distribution of unconfirmed minutes only. In accordance with the Local Government (Administration) Regulations 1996, Clause 13; Local Government is to ensure that the unconfirmed minutes of each Council Meeting are to be available for inspection by members of the public within 10 business days after the meeting.

POLICY IMPLICATIONS

10. There are no policy implications relating to this item.

FINANCIAL IMPLICATIONS

11. There are no financial implications relating to this item

REPORT ITEM DIS316 REFERS

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Item 12.2.2 continued.

STRATEGIC IMPLICATIONS

12. Albany 2020 Charting Our Course

Port of Call – A reputation for Professional Excellence

“Organisational Development

To create a quality environment in which to work and develop/deliver services to the community, and to develop programs for the continual development of Councillors and Council’s most important assets, our staff members.

Communications

To increase community awareness of Council facilities, services and community issues.”

COMMENT/DISCUSSION

13. Modification of the monthly Ordinary Council Meeting schedule would impact on the time available for Council Officers to thoroughly research and prepare Council Agenda Items as per statutory requirements. The impact of modifying the schedule as suggested would mean that in some instances (depending on the month of the year) Council Officers would have as little as one week to prepare Council Items following completion of the previous Council Meeting’s unconfirmed Minutes. This may adversely impact on resource allocation and customer service due to the high volume of work being required in a shorter timeframe.

14. Alternatively, modification of the schedule would also allow Council an extended period by which to consider Council Agenda Items prior to the Ordinary Meetings of Council.

RECOMMENDATION

THAT Council;

i) retain the current Council Meeting Agenda schedule;

OR

ii) modify the current Council Meeting Agenda schedule so that Council receives Council Agendas on the Monday in the week prior to Ordinary Council Meetings.

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR DEMARTEAU
SECONDED COUNCILLOR EVANS**

THAT Council modify the current Council Meeting Agenda schedule so that Council receives Council Agendas on the Monday in the week prior to Ordinary Council Meetings.

MOTION CARRIED 12-0

REPORT ITEM DIS316 REFERS

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12.2.3 Amending voting arrangements for Council Meetings

File/Ward	: MAN 006 (All Wards)
Proposal/Issue	: Councillor names to be recorded for those voting against recommendations in the Council Meeting Minutes
Subject Land/Locality	: N/A
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Manager Customer Services (S Langford)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: THAT Council; continue with the current process of recording the voting details of Council Meetings; or agree to amend the Standing Orders Local Law to reflect a requirement to detail all Elected Members voting decisions.
Bulletin Attachment	: N/A
Locality Plan	: N/A

BACKGROUND

1. Councillor Demarteau has requested that Council consider the proposal to record in the minutes of all Council Meetings, those Councillors who have voted against any Council resolution.

STATUTORY REQUIREMENTS

2. In accordance with Section 5.21 (4) of the Local Government Act, a member of the Council or a Committee may specifically request that either his or her vote be recorded or the vote of all members present be recorded, and the person presiding the meeting is to ensure that this is recorded in the minutes.
3. Council's Standing Orders Local Law does not address the voting options of Elected Members as it was felt the Local Government Act adequately covered this need.

REPORT ITEM DIS316 REFERS

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Item 12.2.3 continued.

POLICY IMPLICATIONS

4. There are no policy implications relating to this item.

FINANCIAL IMPLICATIONS

5. Should Council elect to amend its Standing Orders Local Law, there will be advertising costs incurred.

STRATEGIC IMPLICATIONS

6. There are no strategic implications relating to this item.

COMMENT/DISCUSSION

7. The Local Government Act already provides Elected Members with the opportunity to request voting details to be recorded against any item they so choose. It is suggested that should Council elect to require the full voting details of all items be recorded, this could unduly lengthen the administrative process and duration of Council Meetings.
8. Should Council consider the need to record all voting details, the Standing Orders Local Law would need to be amended to accommodate this direction. The process involves an administrative requirement to seek public comment, consider submissions, resolve to amend the Local Law and then seek Ministerial approval, for the amendment.

RECOMMENDATION

THAT Council;

- i) continue with the current process of recording the voting details of Council Meetings;

OR

- ii) agree to amend the Standing Orders Local Law to reflect a requirement to detail all Elected Members voting decisions.

Voting Requirement Simple Majority

**MOVED COUNCILLOR DEMARTEAU
SECONDED COUNCILLOR PAVER**

THAT Council continue with the current process of recording the voting details of Council Meetings.

MOTION LOST 5-7

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12.3 LIBRARY SERVICES

Nil.

12.4 DAY CARE CENTRE

Nil.

12.5 TOWN HALL

Nil.

12.6 ALBANY LEISURE AND AQUATIC CENTRE

Nil.

12.7 GREAT SOUTHERN REGIONAL CATTLE SALEYARDS

Nil.

REPORT ITEM DIS316 REFERS

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12.8 CORPORATE & COMMUNITY SERVICES COMMITTEES

12.8.1 Albany Arts Advisory Committee meeting minutes – 19th August 2003

- File/Ward** : MAN 116 (Vancouver Ward)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (P Madigan)
- Summary Recommendation** : That the Minutes of Albany Arts Advisory Committee held on 19th August 2003 be adopted.

Confirmation of the minutes of the Albany Arts Advisory Committee of 19th August 2003.

RECOMMENDATION

THAT the minutes of Albany Arts Advisory Committee held on 19th August 2003 be received (copy of minutes are in the Elected Members Report/Information Bulletin)

Voting Requirement Simple Majority

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**MOVED COUNCILLOR WATERMAN
SECONDED COUNCILLOR WEST**

THAT this item be deferred to the next Ordinary Meeting of Council.

MOTION CARRIED 12-0

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WORKS & SERVICES REPORTS

Works & Services

REPORTS

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WORKS & SERVICES REPORTS

- R E P O R T S -

13.1 WASTE MANAGEMENT

13.1.1 Contract C03012 – Hire of Two Side Loading Waste Trucks

File/Ward	:	C03012 (All Wards)
Proposal/Issue	:	Hire of Two (2) Side-Loading Waste Trucks
Subject Land/Locality	:	All Areas
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Contracts Officer (H Harvey)
Disclosure of Interest	:	Nil
Previous Reference	:	N/A
Summary Recommendation	:	That Council accepts the Tender from South West Waste for the hire of one (1) International 2350G 2 axle Garbage Wagon with McDonald Johnstone SL9318 body, and endorses the continued use of a waste truck currently on hire from Avon Waste.
Bulletin Attachment	:	Nil
Locality Plan	:	N/A

BACKGROUND

1. In order for the City of Albany to continue to supply an effective waste pick up service to the residents of Albany, Council is currently hiring four Side Loading Waste trucks, three from Avon Waste and one from South West Waste.
2. Due to the necessity to ensure waste collection services are not compromised, this hiring process took place to enable the service to continue during the tendering process.

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Item 13.1.1 continued

3. Because of the forthcoming Waste Minimisation Contract, it is not desirable for Council to purchase trucks in order to continue the waste service, but rather to hire or lease vehicles until such time as the Waste Minimisation Contract is awarded, or otherwise. The City therefore needs to hire waste collection vehicles for approximately the next 4-6 months.
4. As the total hiring costs for this period may exceed the \$50,000 required for tendering processes under the Local Government Act, and to ensure Council gets the best possible value for money, tender advertisements were placed in the Albany Advertiser and the West Australian newspapers on 19th August 2003 and 16th August 2003 respectively.

STATUTORY REQUIREMENTS

5. Regulation 11 (1) of the Local Government (Functions & General) Regulations 1996 states:

“Tenders are to be publicly invited according to the requirements of this Part before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$50,000 unless subregulation (2) states otherwise.”
6. Regulation 18 outlines a number of requirements relating to the choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
7. Regulation 19 requires Council to advise each tender in writing the result of Council's decision.

POLICY IMPLICATIONS

8. The City of Albany's Regional Price Preference Policy is applicable to this item.

FINANCIAL IMPLICATIONS

9. Costs involved in the hire of waste trucks are included in the Works & Services Waste/Recycling budget under Chart of Account 120520 Job No. 3001 (Rubbish-Refuse Collection) - \$221,650.

STRATEGIC IMPLICATIONS

10. In the City of Albany's Strategic Plan, Albany 2020 Charting Our Course, the following Port of Call is identified:

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WORKS & SERVICES REPORTS

Item 13.1.1 continued

Port of Call

The continual development of Council services & facilities to meet the needs of all stakeholders

- Objective :
To provide a clean, efficient & effective waste collection service.

COMMENT/DISCUSSION

11. Tender specifications were issued to six possible tenders, with one submission received by close of tender at 2.00pm, Friday 29th August 2003 and one non conforming tender in the form of a letter from W&P Truck & Machinery Sales in Victoria.
12. The tender received from South West Waste was for the hire of a truck currently being used by the City of Albany on an hourly hire basis. The tendered hire rate is \$71.50 per hour (including GST).
13. Of the waste trucks currently on hire from Avon Waste, one which is surplus to Council's requirements, will be returned at the completion of the tender process. A second truck is to be kept on site, with Avon Waste's agreement, as a back up truck to cater for downtime on the normal trucks used daily. This backup truck will be at no cost to Council, apart from the actual hours of use. Actual hours of use will occur only during periods when normally used waste trucks are under repair, at a rate of \$55.00 (including GST) per hour. The third will be kept and used for the daily waste collection service at a cost of \$55.00 (including GST) per hour for each hour of operation only.
14. The decision to recommend the acceptance of the South West Waste truck is based on the known reliability of the vehicle. The truck is a later model and has minimal downtime in comparison with the other truck currently in use by the City of Albany.
15. During the course of the tendering process, one potential tenderer, Cleanaway, advised Council officers of the difficulty in obtaining trucks of this nature in Western Australia, and withdrew their interest.
16. The letter received from W&P Truck & Machinery Sales advised of two trucks available for purchase. Their company advised that they would be prepared to negotiate a hire rate, however, they would not be in a position to fulfil the terms of the contract with regard to the servicing of the vehicles or two day turnaround time for the replacement of the vehicle should major breakdowns occur. They did not indicate an hourly rate for hire.
17. Avon Waste, whose trucks are currently in use by the City of Albany, did not place a tender.

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Item 13.1.1 continued

RECOMMENDATION

THAT Council;

- i) accepts the tender from South West Waste for the tendered price of \$71.50 (including GST) per hour; and
- ii) endorses the continuation of the hiring of one waste truck from Avon Waste at the rate of \$55.00 (including GST) per hour, and to accept Avon Waste's offer to locate a second truck in Albany as a replacement waste truck at a rate of \$55.00 per hour (including GST), to be used only in case of downtime of vehicles used in the normal daily waste collection.

Voting Requirement Simple Majority

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<p>MOVED COUNCILLOR WELLINGTON SECONDED COUNCILLOR LIONETTI</p> <p>THAT Council;</p> <ul style="list-style-type: none">i) accepts the tender from South West Waste for the tendered price of \$71.50 (including GST) per hour; andii) endorses the continuation of the hiring of one waste truck from Avon Waste at the rate of \$55.00 (including GST) per hour, and to accept Avon Waste's offer to locate a second truck in Albany as a replacement waste truck at a rate of \$55.00 per hour (including GST), to be used only in case of downtime of vehicles used in the normal daily waste collection. <p style="text-align: right;">MOTION CARRIED 12-0</p>
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13.2 ASSET MANAGEMENT

13.2.1 Contract C03001 – Cleaning Services Biennial (2003/2005)

File/Ward	: C03001 (All Wards)
Proposal/Issue	: Awarding of Cleaning Contract
Subject Land/Locality	: City of Albany Buildings: - Albany Airport - Library - Town Hall & Intimate Theatre - Depot – Mercer Road - Albany Day Care Centre - York Street Administration Office - Mercer Road Administration Office
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Contracts Officer (H Harvey)
Disclosure of Interest	: Nil
Previous Reference	: N/A
Summary Recommendation	: That Council accepts the tender from Prestige Property Services for cleaning services for buildings listed above at a rate of \$100,863.60 for 2003/04 and \$103,518.48 for 2004/05.
Bulletin Attachment	: Nil
Locality Plan	: N/A

BACKGROUND

1. As part of the ongoing maintenance and management of Council's buildings, tenders are called for on a biennial basis for the supply of cleaning services. The successful tender is required to ensure the buildings listed above are kept in a clean and hygienic manner throughout the term of the contract.

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STATUTORY REQUIREMENTS

2. Regulation 18 of the Local Government (Functions and General) Regulations 1996 outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
3. Regulation 19 requires Council to advise each tender in writing the result of Council's decision.
4. Clause 6.8 of the Local Government Act, states an Absolute Majority is required when expenditure from the Municipal Fund, which is not included in the annual budget, is obtained

POLICY IMPLICATIONS

5. The City of Albany Regional Price Preference Policy is applicable to this item.

FINANCIAL IMPLICATIONS

6. The total cost to Council of accepting Prestige Property Services tender for the 2003/04 financial year (including pre cleaning of buildings on commencement of the Contract) is \$100,863.60. The total cost for the financial year 2004/05 is \$103,518.48.
7. These costs do not include any additional cleaning for the Town Hall/Theatre or the Airport Conference Room, which has been quoted at \$21.16 per hour for 2003/04 and \$21.79 per hour for 2004/05. In the event of additional cleaning required by the Library, York Street Administration Office or Mercer Road Administration Office, Prestige Property Services has quoted an hourly rate of \$21.16 for 2003/04 and \$21.79 for 2004/05 with an emergency call out response time of 30 minutes.
8. Budget allocations for buildings listed against costs of service by Prestige Property Services (not including additional or emergency cleaning hourly rates) are as follows.

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Location	Budget Allocation 2003/04	Tendered Price 2003/04	Tendered Price 2004/05
Harry Riggs Airport	16,518.42	16,518.42	16,944.36
Library	29,360.00	22,824.72	23,416.68
Town Hall/Theatre	12,000.00	13,142.16	13,490.04
Depot – Mercer Road	8,300.00	9,184.59	9,425.40
Day Care Centre	11,000.00	5,286.99	5,410.80
York Street Admin Office	15,000.00	18,410.28	18,916.20
Mercer Road Admin Office	12,000.00	15,496.44	15,915.00
Total	104,178.42	100,863.60	103,518.48

9. Of the seven locations, four will require a minor budget adjustment, generally within maintenance, to be adjusted at the next quarterly review.

STRATEGIC IMPLICATIONS

10. In the City of Albany's 2020 Plan Charting Our Course, the following Port of Call is identified:

Port of Call

The continual development of Council services & facilities to meet the needs of all stakeholders

- Objective:
To provide communities with quality buildings that are functional, well maintained and meet social and cultural needs.

COMMENT/DISCUSSION

11. On Thursday, 10th July 2003 and Saturday, 12th July 2003 Council placed advertisements in the Albany Advertiser and the West Australian respectively, calling for tenders for the supply of cleaning services to the buildings listed above. Tender documents contained detailed lists of the work required in each location, which varies depending on the nature of work carried out in each building.
12. Specifications were issued to thirteen possible tenderers, with seven submissions received by close of tender at 2.00pm on Wednesday, 30th July 2003.
13. A panel, comprising Managers from the relevant buildings involved and the Contracts Officer, evaluated the submissions received from the tenderers.
14. Managers indicated they had concerns with the standard of the current Contractors. Managers found there had been little quality control carried out by the Contractors and considerable City of Albany staff time has been taken up with follow up calls to Contractors in order to lift the level of service to an acceptable standard.

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15. Of the tenders received, the overall scoring indicates Westralian Pty Ltd as being the most successful tender, however Westralian Pty Ltd do not have an office, or staff employed in Albany. The company was not highly recommended by their referees with the main problems being identified as similar to those currently causing concern to City of Albany Managers.
16. The next highest ranked tenderer, Prestige Property Services, were recommended highly by their referee in the Education Department, who maintains contracts with Prestige Property Services in several locations in regional WA. Local staff are currently engaged on contracts with the Education Department and the ANZ Banking Corporation. The company has a Regional Manager-South West who although is Perth based, is in continual contact with local staff and is believed to make regular visits to the area.
17. Of the other five tenders, two were from the existing contractors, Delron Cleaning and Narrikup Cleaning Services, the third, Rainbow Coast Property Services, was not economically viable, and the final two, being One Complete Solution and Airlite Cleaning, are not locally based businesses, and were scored third and fifth in the overall scoring.
18. Tenders were received from the companies listed and evaluated as per the table attached.

RECOMMENDATION

THAT Council;

- i) accepts the tender from Prestige Property Services to supply cleaning services to the Albany Airport, Library, Town Hall and Intimate Theatre, Depot – Mercer Road, Day Care Centre, York Street Administration Offices and Mercer Road Administration Offices, for a quoted price of \$100,863.60 (including pre clean) for 2003/04 and \$103,518.48 for 2004/05;
- ii) accepts the price quoted of \$21.16 per hour for 2003/04 and \$21.79 per hour for 2004/05 for any additional cleaning required for the Town Hall/ Intimate Theatre and Airport Conference Room, and additional call outs to the Library, York Street Administration Centre and Mercer Road Administration Centre, with a call out response time of 30 minutes; and
- iii) reallocates additional funds totalling \$8,933.47 to fund the shortfall as follows:
 - a) Mercer Road Depot - \$884.59 from COA 168220 Job No 5722 (Operations) to COA 168220 Job No 5863 (Cleaning);
 - b) York Street Administration - \$3,410.28 from COA 104120 Job No 9002 (Building Maintenance) to COA 103820 Job No 1140 (Cleaning);

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- c) Mercer Road Administration - \$3,496.44 from COA 104020 Job No 0001 (Building Maintenance) to COA 103920 Job No 1020 (Cleaning); and
- d) Town Hall - \$1,142.16 from COA 127330 (Ticketing – Revenue) to COA 130920 Job No 7425 (Cleaning).

Voting Requirement Absolute Majority

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Executive Director Works and Services advised the Council that this item be deferred until the next Ordinary Meeting of Council to allow further investigation.

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Item 13.2.1 continued

ASSESSMENT ON MERIT AGAINST EVALUATION CRITERIA

CONTRACT C03001 – CLEANING SERVICES – BIENNIAL (2003/05)

		CONTRACTOR		CONTRACTOR		CONTRACTOR		CONTRACTOR		CONTRACTOR		CONTRACTOR		CONTRACTOR	
		Westralian Pty Ltd		Prestige Property Services		OCS (One Complete Solution)		Delron Cleaning		Airlite Cleaning		NKP Narrikup Cleaning Services		Rainbow Coast Property Services	
CRITERIA	Weight %	Score 1-10	Weighted Score	Score 1-10	Weighted Score	Score 1-10	Weighted Score	Score 1-10	Weighted Score	Score 1-10	Weighted Score	Score 1-10	Weighted Score	Score 1-10	Weighted Score
Quality Accred.	5	6	30	6	30	10	50	10	50	10	50	0	0	3	15
Safety Mngmnt	5	8	40	8	40	8	40	9	45	9	45	0	0	4	20
Relevant Skills & Experience	20	7	140	7	140	8	160	8	160	8	160	0	0	4	80
Reliability of Tenderer	30	6	180	9	270	7	210	3	90	8	240	2	60	4	120
Cost	40	7.47	298.8	9	200	3.48	139.2	5.5	220.0	-.39	-15.6	6.02	240.8	-1.67	-66.8
TOTAL			688.8		680		599.2		565		479.4		300.8		168.2

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CONTRACT ASSESSMENT

Buy Local Policy and Weighted Cost Evaluation

Contract C03001 – Cleaning Services – Biennial (2003/05)

Tenderer	Tendered Price	Price Component if Buy Local Policy Claimed	Adjusted Price used for Evaluation Purposes	Rank	Score (out of 10)	Weighted Score (x 40)
Westralian Property Management & Cleaning Services	\$154,498.32	\$92,684.64	\$145,229.86	1	7.47	298.8
Prestige Property Services	\$204,382.08	\$114,547.08	\$192,927.34	4	5	200
OCS (One Complete Solution)	\$230,510.13	\$82,312.88	\$222,278.84	5	3.48	139.2
Delron Cleaning	\$203,570.00	\$20,357.00	\$183,213.00	3	5.5	220
Airlite Cleaning	\$304,610.00	\$76,049.13	\$297,005.09	6	-.39	-15.79
NKP Narrikup Cleaning Services	\$173,245.00	Not claimed	\$173,245.00	2	6.02	240.8
Rainbow Coast Property Services	\$357,375.75	\$35,737.57	\$321,638.18	7	-1.67	-66.8

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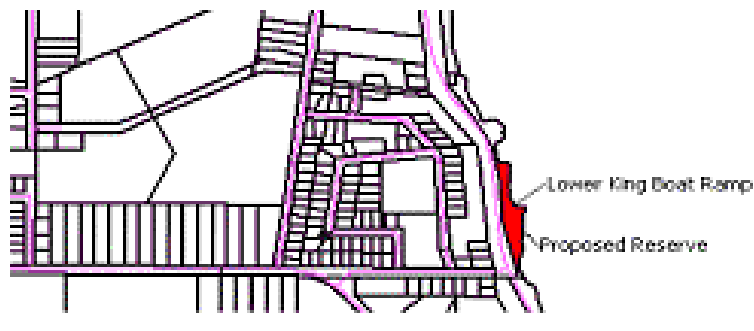
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13.2.2 Creation of Recreation Reserve – Lower King Boat Ramp

File/Ward	: MAN 153 (Kalgan Ward)
Proposal/Issue	: Creation of Recreation Reserve – Lower King Boat Ramp
Subject Land/Locality	: Unallocated Crown Land Reserve
Proponent	: City of Albany
Owner	: Crown
Reporting Officer(s)	: Asset Coordinator (S Broad)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: Request Department of Land Information to create a reserve for recreational purposes over the area where the Lower King Boat Ramp exists.
Bulletin Attachment	: Nil
Locality Plan	:



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BACKGROUND

1. In 2001-2002, Council constructed a boat ramp adjacent to The Esplanade, Lower King, with funding from a grant that was received through the Recreational Boating Facilities Scheme.
2. In January 2002, Council was advised that as part of the grant funding conditions a jetty licence would be required through the Department for Planning and Infrastructure Coastal Facilities section. Subsequently, the jetty licence was approved in July 2002, however the Department for Planning and Infrastructure have now advised that the land where the boat ramp exists is not vested in Council as it is an unallocated crown reserve.

STATUTORY REQUIREMENTS

3. In accordance with Section 41 of the Land Administration Act 1997, the Minister may by order reserve Crown Land to the Crown for one or more purposes in the public interest.

POLICY IMPLICATIONS

4. There are no policy implications relating to this item.

FINANCIAL IMPLICATIONS

5. Council will be required to pay any survey costs that may apply for the creation of the reserve. Maintenance of this area is within the Parks and Reserves maintenance budget.

STRATEGIC IMPLICATIONS

6. In the City of Albany's 2020 Charting Our Course, the following Port of Calls are identified:

Port of Call

Managed healthy land/harbour environment

- Objective:
Reserve Management
 - To manage reserves for environmentally sustainable use, community enjoyment and benefit.
- Objective:
Protection of the City's Harbours
 - To maximise partnerships with other stakeholders to ensure the sustainable use and care of our harbours.

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Port of Call

Attraction and development of a broad range of social, cultural and economic entities.

- Objective:

Recreational Planning

- To encourage a healthy and active community through the development of a range of recreational and cultural pursuits.

COMMENT/DISCUSSION

7. Since 1996, Council has maintained and improved this reserve with the installation of a boat ramp, gardens, car and trailer parking and grassed areas. A dimensional plan showing the proposed reserve follows this report.

RECOMMENDATION

THAT Council request Department of Land Information to create a reserve for recreational purposes over the area where the Lower King Boat Ramp exists, pursuant to Section 41 of the Land Administration Act 1997.

Voting Requirement Simple Majority

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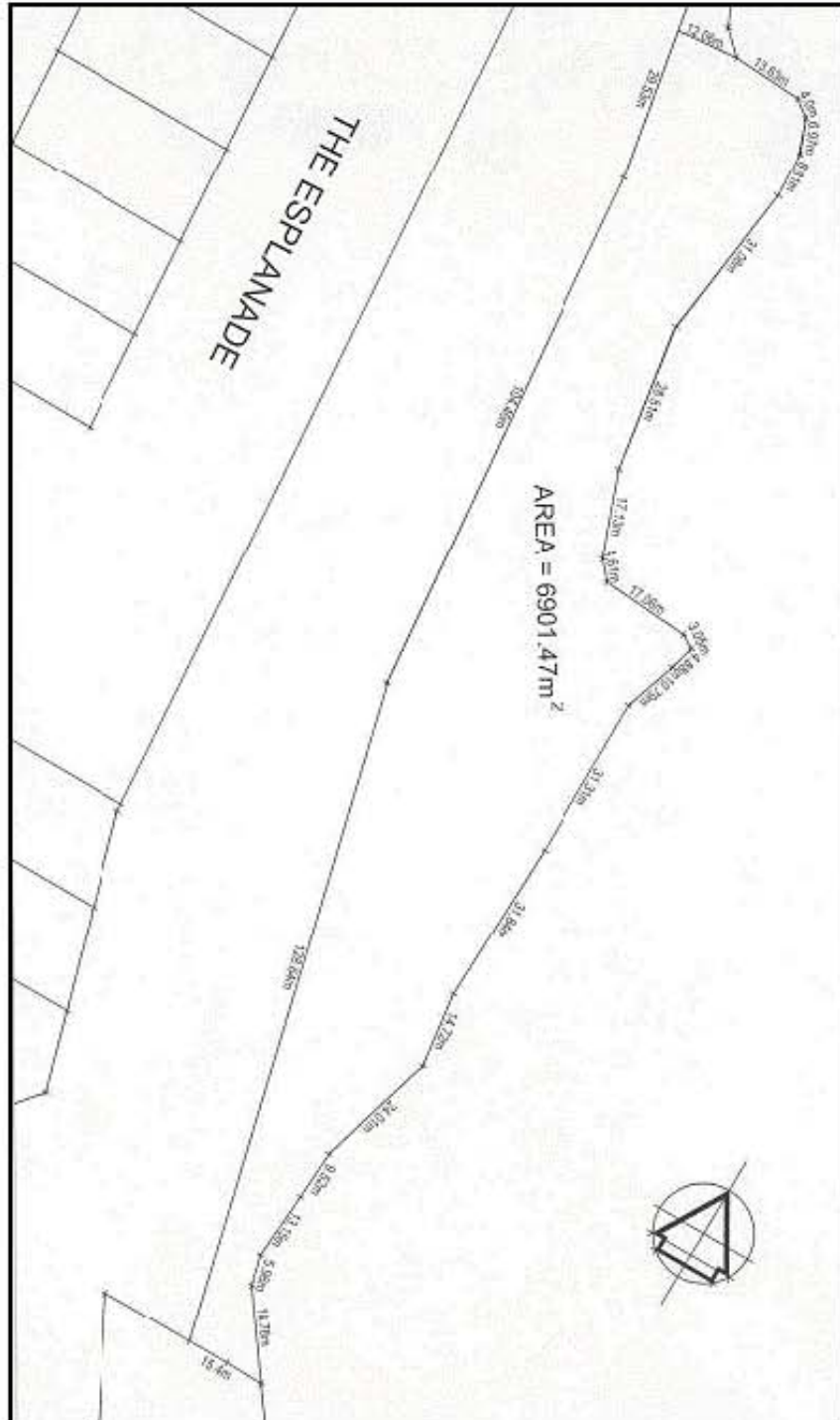
<p>MOVED COUNCILLOR BOJCUN SECONDED COUNCILLOR EMERY</p> <p>THAT Council request Department of Land Information to create a reserve for recreational purposes over the area where the Lower King Boat Ramp exists, pursuant to Section 41 of the Land Administration Act 1997.</p> <p style="text-align: right;">MOTION CARRIED 12-0</p>

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13.3 WORKS

Nil

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13.4 AIRPORT MANAGEMENT

13.4.1 Financial Strategy – Albany Airport

File/Ward	: MAN 007 (All Wards)
Proposal/Issue	: Financial Strategy - Airport
Subject Land/Locality	: City of Albany
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Manager City Services (S Massimini) Manager of Finance (S Goodman)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: That Council receive and adopt the Financial Strategy as outlined in this report.
Bulletin Attachment	: Report
Locality Plan	: N/A

BACKGROUND

1. In June 2001, Connell Wagner Pty Ltd was appointed to prepare an Airport Master Plan. The key issues to be addressed included:
 - i) The strategic need for the airport’s operations to fulfill a role regionally and locally.
 - ii) The targeted role for the airport’s operations based on future usage projections, and the development strategy.
 - iii) The financial impact and funding basis for future development.
 - iv) The infrastructure required to enable the airport to develop.
 - v) That a life cycle asset management approach be used to ensure appropriate funding is set aside for future capital and unforeseen operational expenditure.

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2. The preparation of the Master Plan has included consultation with key stakeholders including Skywest Airlines, the City of Albany Airport Advisory Committee, Airport Users Group, Great Southern Development Commission and Department of Planning and Infrastructure.
3. At the Airport Advisory Committee meeting held on 4th June 2002, the Airport Master Plan was recommended for ‘adoption in principle’ pending further discussion on landing fees. The current basis for charging Regular Passenger Transport (RPT) operators is deemed to be deficient because it focuses only on passenger numbers, and offers little inducement for the carriers to fill their aircraft.
4. The main costs associated with the running of the Airport are the maintenance and supervision of the runway surface, the provision of infrastructure for handling passengers and luggage, and having systems and processes to deal with emergencies. These costs are both fixed and variable in nature. Consideration is given in this report of the introduction of a dual system of charging to accommodate these fixed and variable costs.
5. This report provides an assessment of the recommendations provided by the Consultant, and final recommendations for Council’s approval in relation to fees and charges associated with use of the Airport, and financial “rules” for the business unit.

STATUTORY REQUIREMENTS

6. Under section 3.18 of the Local Government Act 1995, the City of Albany is to satisfy itself that the services and facilities it provides are managed effectively and efficiently.

POLICY IMPLICATIONS

7. The adoption of the Financial Plan will provide strategic guidelines for the development and implementation of sustainable expenditure and revenue programs.

FINANCIAL IMPLICATIONS

8. The financial strategy establishes a 15 year development plan for the Airport Business Unit. It identifies projected revenues and expenditure, and funding sources for:
 - Capital expenditure – Costs associated with preservation of asset life and asset improvement.
 - Operating costs – Day to day costs of running the airport operation.
 - Management services – Services provided by the City of Albany to manage and support the business unit.

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- Tax equivalent payment – Under the National Competition Policy a charge based on a percentage of profit is levied by the City.
 - Return on invested capital by Council – Payment to Council recognising its previous cash contributions and providing a return to cover ongoing commercial risk.
9. The primary objectives are to establish a financially viable business unit, and comply with the Australian National Competition Policy which ensures that government enterprises compete fairly with private enterprise. Local government cannot subsidise such business, and tax free enterprises shall not have an advantage over enterprises that pay tax. The facility must be capable of meeting current obligations, and setting funds aside to ensure future preservation of the infrastructure/business.
10. The Asset Masterplan Summary (Appendix A) provides projected operating figures and cash flows. The base case indicates positive net cash flow for all years. The plan assumes capital expenditure of \$3 million through the 15 year period, with \$2.4 million funded from current operations. It is anticipated that at the end of the 15 year period, the loan principal liability will be \$300,000 and cash backed reserves will be \$1.5m.
11. Net present values of future cash flows have been calculated based on the Council contribution to capital for the facility, as the original capital expenditure (\$5.08 million) was largely funded by a series of Commonwealth grants and loans. Based on the net Council investment of approximately \$916,000, the net present value of cash flows for the next 15 years is 17.5%. This is considered to be a satisfactory rate of return and commensurate with the commercial risks associated with running the venture

STRATEGIC IMPLICATIONS

12. Albany 2020 – Charting Our Course includes the following Ports of Call:

Transport systems and services designed to meet current future needs

The quality and range of our transport systems are important factors in the present and future well being of our community. Roads, paths, maritime and aviation facilities improve our working, social and recreational lives, and a sensible, well-planned transport system is also a key ingredient in the development of our economic future. The City has established the following major objectives to ensure this Port of Call is realised.

- Objective:
Transport infrastructure planning.
 - To plan Albany's transport infrastructure to meet future needs complementary to the City's form and sense of place.

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- Objective:
Management of transport infrastructure and services.
 - To effectively and efficiently manage the City's transport infrastructure:
 - to provide a high quality service;
 - to meet community expectations;
 - to minimise whole life costs; and
 - in alignment with transport plans.

13. The Airport Master Plan establishes a 15-year program for 2004 to 2018 that links the objectives of Albany 2020 to its prioritised expenditure program.

COMMENT/DISCUSSION

14. The outcome of the Albany Airport Financial Strategy will be to provide strategic direction and the necessary financial resources to fund capital infrastructure requirements to accommodate the predicted growth in passenger and aircraft volumes to 2018. This strategy addresses the issues of:
- Structure of the RPT service charge
 - Introduction of an RPT landing fee
 - Determination of RPT landing fee and passenger levy based on a price sensitivity review of charge set by Airports within the southern part of the state.
 - Impact of proposed changes to the fee
 - Introduction of a landing fee for all general aviation movements
 - Retention of the Instrument Landing System (ILS)
 - Business rules for the Albany Airport Business Unit
 - Creation of an Airport Users' Group
 - Long term economic viability of the facility
15. The imposition of a landing fee on Regular Passenger Transport (RPT) aircraft, without a reduction in the current rate of Passenger levy, could significantly increase current revenue levels. These costs would directly impact on RPT operating costs and it is assumed that costs would be passed on to passengers. By changing to a system that is being proposed which reduces the Passenger levy but applies a fixed landing fee cost it will provide a more consistent income stream while rewarding the RPT operator if they have more passengers on the service, as this will reduce the impact of the fixed landing cost. The attached financial summaries indicate that the facility is viable with minor increases in current levels of revenue and growth estimates for the future. A decision to impose landing fees for Regular Passenger Transport (RPT) aircraft could have a detrimental effect on the viability of the existing operator and result in a lower level of service to the region. Therefore, by reducing the passenger levy, it is considered prudent to ensure a sustainable revenue stream is procured that allows operators the flexibility to increase operations bringing follow on benefits to the region.

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16. In order to review the fee structure, it is assumed that;
- i) The current schedule of RPT and GA operations will be maintained and increase proportionately with population increases.
 - ii) RPT operations, on F50 aircraft, currently have 25 to 26 passengers per flight and this can increase in the future to at least 34 passengers.
 - iii) Currently the majority of RPT passengers are business people.
 - iv) 5% of passengers will be children (ie half fare). This is a conservative estimate given that an analysis of existing usage shows that children constitute 2%. The proportion of children is expected to increase as tourist traffic is encouraged.
17. The proposed landing fees have been based on a price sensitivity review of charges set by airports within our area.

	Greenough	Esperance	Kalgoorlie - Boulder
Passenger levy	\$13.00	\$13.00	\$15.72
RPT Landing fee (per 1000kg)	\$9.00	\$20.00	\$7.00
GA Landing Fee	\$9.00	\$5.00	\$7.00

NB : All prices exclude GST

18. Landing fees and passenger charges for Albany are recommended as follows:
- **Landing Fees RPT** (currently nil)
Proposed (ex GST): 0 – 1 5000kg \$ 5.00 per 1000kg
 over 15 000kg \$ 20.00per 1000kg
 - **Passenger Levy (RPT Aircraft) (ex GST) to be:**
Adults \$10.00 (currently \$17.00)
Children \$ 5.00 (currently \$8.50)
19. Under the proposal in this study, the comparative fee charged to the RPT operator for a return flight on an F50 aircraft with 28 passengers each way would be:

Greenough	\$ 872
Esperance	\$1,092
Kalgoorlie	<u>\$ 977</u>
Average	\$ 980
Albany	
Current rate	\$ 904
Proposed rate	\$ 932

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20. The current landing fees for general aviation (GA) at the Albany Airport are:
- Aircraft weighing less than 1950 kg No charge
 - Aircraft from 1950kg to 20000kg \$5.15 per tonne plus GST
 - Aircraft weighing more than 20000kg \$15.45 plus GST
21. It is proposed that the structure be changed to the following
- Aircraft weighing:
- less than 15,000kg \$5 per tonne plus GST (\$5.50)
 - more than 20000kg \$20 per tonne plus GST (\$22.00)
22. The major change would be to users of the facility flying aircraft weighing less than 1950kg who would absorb a charge for the first time. The additional revenue could be between \$12,000 and \$24,000 per annum (net of collection costs). There is deemed to be little or no financial risk associated with this charge as it is common practice at other facilities and users should accept the requirement for all users to contribute to the finances of the facility. The proposed amendments to the landing charges for General Aviation (GA) and Regular Passenger Transport (RPT) aircraft would bring Albany Airport in line with similar facilities within our part of Western Australia.
23. The financial risks / opportunities associated with these changes have been studied and can be summarised as follows:
- RPT Landing Fee and Passenger Head Charge - The proposed total charge represents an increase to the service provider of 3% based on average loadings. There is deemed to be minimal downside risk to the additional revenues as the increase is minor, and the total cost to the supplier has been maintained in the mid range of comparable services (Greenhough, Esperance, Kalgoorlie). There is a risk of reduced revenue should the major supplier, or a competitor decide to use smaller aircraft on the run and take advantage of the lower fee for lighter aircraft. The use of a lower landing fee is justified by the much lower relative impact of landing a lighter aircraft. It is considered unlikely that the current supplier would make a fleet decision based on the difference in landing fee rates. The reduction in the passenger head charge is considered to be an opportunity to promote the increased use of the airport by other market segments - eg - the tourist industry.
24. Previous studies have assumed significant grant funding to offset capital expenditure. With the current state and federal government sources under cost pressure, it is considered unlikely that such funds will be available in the future. This study assumes no grant funding, but every effort will be made to access such funding where appropriate.

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25. The Instrument Landing System (ILS) currently in place is rarely required but costs the Business Unit \$110,000 per year in maintenance costs (29% of fixed cash operating costs). The impact of not shutting the system down is reduced cash flow of roughly \$800,000 and a reduction in net present value of two percentage points. Between 2004 and 2007, possible new business opportunities will be explored, some of which may require the ILS system. If no significant new business is sourced, it is assumed that the ILS system will be shut down in 2007 unless the RPT operator is willing to fund a major portion of the cost.
26. It is proposed that the following business rules be adopted for the Albany Airport Business Unit:
- That the Albany Airport Business Unit will:
- Comply with National Competition Policy Principles including a tax equivalent payment to Council of 30% of annual operating surplus.
 - Depreciate capital assets annually based on the anticipated life of the asset.
 - Reimburse the Council for any services provided and ensure that all dealings with Council departments are on an arms length basis.
 - Ensure that any net cash flow be transferred annually to a cash backed reserve for future business unit use.
 - Test any future capital and operating project funding requests against a required rate of return of no less than 12%. Fund any future capital requirements out of accumulated reserves or loan funds.
 - Provide an annual return to Council based on Council's previous net capital expenditure on behalf of the business unit. The rate to be charged shall be Council's cost of capital plus a 5% allowance for infrastructure risk. The current rate is 10.5% per annum. Council's cost of capital for infrastructure assets is calculated on its investment in the project. Over the past eight years, Council has provided capital funds of \$916,000 (net of loans and government grants). For comparative purposes, a major West Australian Utility uses a 12% rate and major public companies have costs of capital between 12% and 20%.
27. The role of the Airport Advisory Committee is another area which will need to be addressed. The Committee was established in the former Shire of Albany days, prior to amalgamation. Council last assessed the Advisory Committee on 19 March 2002, and the Terms of Reference was advising Council on the strategic development of the Airport to meet the future needs of the Region.

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28. A meeting of the advisory committee has been convened to discuss this report and feedback from that meeting will be tabled.
29. The business unit would be far better served by an Airport Users Group who would focus upon feedback between airport customers (aircraft owners, RPT operators, hangar lessees, terminal concession holders) and operations staff to ensure that high levels of customer service and client communication are maintained. Strategic review of the airport business unit will be undertaken every three years by Council and appropriate staff in line with our normal strategic plan functions. An example of this was the strategic review of library services undertaken in 2000.
30. The attached summary indicates that in the short and long term, the Albany Airport Business Unit is currently a viable operation, and in the future, with good management, will be able to maintain its viability, adequately preserve its major assets, and continue to provide excellent service to all Airport users as well as providing a financial return to its owners which may then be applied to areas such as tourism marketing, district and area promotion and attraction of more economic activity to the region.

RECOMMENDATION

THAT Council;

- i) acknowledge the report from Connell Wagner;
- ii) endorse the change of fees (effective 1st January 2004) and advertise the changes in a local newspaper.
 - a) Landing Fees (all aircraft including GST):
 - 0 – 15000kg \$ 5.50 per 1000kg
 - over 15 000kg \$ 22.00 per 1000kg
 - b) Passenger Levy (RPT Aircraft) to be:
 - Adults \$11.00 (including GST)
 - Children \$ 5.50 (including GST);
- iii) endorses the Business principles for the operation of the Albany Airport as follows:

That the Albany Airport Business Unit will:

 - Comply with the principles of the National Competition Policy including a tax equivalent payment to Council of 30% of net annual operating surplus;
 - Depreciate capital assets annually based on the anticipated life of the asset;

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Item 13.4.1 continued.

- Reimburse the Council for any services provided and ensure that all dealings with Council departments are on a fee for service basis;
 - Transfer all net cash flows and cash backed reserve for future business unit use;
 - Test any future capital and operating project funding requests against a required rate of return of no less than 12%;
 - Fund any future capital requirements out of accumulated reserves or loan funds; and
 - Provide an annual return to Council based on Council's previous net capital expenditure on behalf of the business unit. The rate to be charged shall be Council's cost of capital plus a 5% allowance for infrastructure risk. The current rate is 10.5% per annum. Council's cost of capital for infrastructure assets is calculated on its investment in the project; and
- iv) accepts, in principle, a change in the Terms of Reference for the Airport Advisory Committee into an Airport Users Group providing communication and consultation between airport users and the City on all operational issues, with the User Group to meet quarterly and be chaired by a Councillor delegate.

Voting Requirement Absolute Majority

.....

AMENDED RECOMMENDATION

THAT Council:

- i) acknowledge the report from Connell Wagner as tabled;
- ii) endorse the change of fees (effective 1st January 2004) and advertise the changes in a local newspaper.
- a) Landing Fees (all aircraft including GST):
- 0 – 1500kg \$ 5.50 per 1000kg
 - 1500-3000kg \$ 8.80 per 1000kg
 - 3000-5000kg \$ 13.20 per 1000kg
 - 5000-15000kg \$ 18.00 per 1000kg
 - over 15 000kg \$ 22.00 per 1000kg
 - Local non commercial – choice of \$100/annum or pay per landing
- b) Passenger Levy (RPT Aircraft) to be:
- Adults \$11.00 (including GST)
 - Children \$ 5.50 (including GST)

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iii) endorses the Business principles for the operation of the Albany Airport as follows:

That the Albany Airport Business Unit will:

- Comply with the principles of the National Competition Policy including a tax equivalent payment to Council of 30% of net annual operating surplus.
- Depreciate capital assets annually based on the anticipated life of the asset.
- Reimburse the Council for any services provided and ensure that all dealings with Council departments are on a fee for service basis
- Transfer all net cash flows and cash backed reserve for future business unit use.
- Test any future capital and operating project funding requests against a required rate of return of no less than 12%.
- Fund any future capital requirements out of accumulated reserves or loan funds.
- Provide an annual return to Council based on Council's previous net capital expenditure on behalf of the business unit. The rate to be charged shall be Council's cost of capital plus a 5% allowance for infrastructure risk. The current rate is 10.5% per annum. Council's cost of capital for infrastructure assets is calculated on its investment in the project.

iv) accepts, in principle, a change in the Terms of Reference for the Airport Advisory Committee into an Airport Users Group providing communication and consultation between airport users and the City on all operational issues, with the User Group to meet quarterly and be chaired by Councillor delegate.

Voting Requirement Absolute Majority

.....

Reasons

The Airport Advisory Committee has recommended that the draft 2 tier landing fee structure be replaced with a 5 tier structure which is more closely related to the categories of commercial aircraft using the facility. The net impact would be a small increase in the projected general aviation revenue. The fees paid by light aircraft (under 1500 kg) would not be impacted.

It is further proposed that local non-commercial operators be offered the opportunity to pay either an annual charge of \$100, or pay per landing. This would provide administration benefits to the aviation community and the Airport as it would remove the need to invoice local recreational pilots \$5.50 each time they take off or land at the facility.

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Item 13.4.1 continued.

**MOVED COUNCILLOR WEST
SECONDED COUNCILLOR LIONETTI**

THAT this item lay on the table for 1 month to allow for further investigation and consideration.

MOTION LOST 5-7

**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR DEMARTEAU**

THAT Council:

- i) acknowledge the report from Connell Wagner as tabled;**
- ii) endorse the change of fees (effective 1st January 2004) and advertise the changes in a local newspaper.**
 - a) Landing Fees (all aircraft including GST):**
 - *0 – 1500kg* \$ 5.50 *per 1000kg*
 - *1500-3000kg* \$ 8.80 *per 1000kg*
 - *3000-5000kg* \$ 13.20 *per 1000kg*
 - *5000-15000kg* \$ 18.00 *per 1000kg*
 - *over 15 000kg* \$ 22.00 *per 1000kg*
 - *Local non commercial – choice of \$100/annum or pay per landing*
 - b) Passenger Levy (RPT Aircraft) to be;**
 - **Adults** \$11.00 (including GST)
 - **Children** \$ 5.50 (including GST)
- iii) endorses the Business principles for the operation of the Albany Airport as follows:**

That the Albany Airport Business Unit will:

 - **Comply with the principles of the National Competition Policy including a tax equivalent payment to Council of 30% of net annual operating surplus.**
 - **Depreciate capital assets annually based on the anticipated life of the asset.**
 - **Reimburse the Council for any services provided and ensure that all dealings with Council departments are on a fee for service basis**
 - **Transfer all net cash flows and cash backed reserve for future business unit use.**
 - **Test any future capital and operating project funding requests against a required rate of return of no less than 12%.**
 - **Fund any future capital requirements out of accumulated reserves or loan funds.**

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- **Provide an annual return to Council based on Council's previous net capital expenditure on behalf of the business unit. The rate to be charged shall be Council's cost of capital plus a 5% allowance for infrastructure risk. The current rate is 10.5% per annum. Council's cost of capital for infrastructure assets is calculated on its investment in the project.**

iv) accepts, in principle, a change in the Terms of Reference for the Airport Advisory Committee into an Airport Users Group providing communication and consultation between airport users and the City on all operational issues, with the User Group to meet quarterly and be chaired by Councillor delegate.

**MOTION LOST 7-5
ABSOLUTE MAJORITY REQUIRED**

Councillors Demarteau, Bojcun, Evans, Lionetti and Mayor Goode moved to have the previous motion rescinded.

**MOVED MAYOR GOODE
SECONDED COUNCILLOR BOJCUN**

THAT the previous item be rescinded.

**MOTION LOST 7-5
ABSOLUTE MAJORITY REQUIRED**

Item 13.4.1 continued

WORKS & SERVICES REPORTS

AIRPORT MASTERPLAN - FINANCIAL SUMMARY

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Assumptions															
Movements - RPT	1,352	1,352	1,352	1,352	1,352	1,456	1,456	1,456	1,456	1,456	1,560	1,560	1,560	1,560	1,560
Passengers per movement	26	27	29	30	31	32	33	34	34	34	34	34	34	34	34
Total Passengers (RPT)	35,693	37,045	39,749	41,101	42,453	47,174	48,630	50,086	50,086	50,086	53,664	53,664	53,664	53,664	53,664
Landing fee (excl GST)- based on F50	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300
Passenger Levy - adult (excl GST)	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Movements - GA - light aircraft	3,000	3,150	3,308	3,473	3,647	3,829	4,020	4,221	4,432	4,654	4,887	5,131	5,388	5,657	5,940
General Aviation Annual Growth	0%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%
General Aviation light plane fee	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00
Operating Revenue															
RPT Landing Fees	348,005	361,187	387,551	400,733	413,915	459,950	474,146	488,342	488,342	488,342	523,224	523,224	523,224	523,224	523,224
RPT Passenger Levy	202,800	202,800	202,800	202,800	202,800	218,400	218,400	218,400	218,400	218,400	234,000	234,000	234,000	234,000	234,000
General Aviation	22,000	23,100	24,255	25,468	26,741	28,078	29,482	30,956	32,504	34,129	35,836	37,627	39,509	41,484	43,558
Other	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000
	602,805	617,087	644,606	659,001	673,456	736,429	752,029	767,699	769,246	770,872	823,060	824,851	826,733	828,708	830,782
Operating Expenditure															
Maintenance - ILS	110,000	110,000	110,000	110,000	0	0	0	0	0	0	0	0	0	0	0
Maintenance - Other	141,500	141,500	141,500	141,500	141,500	141,500	141,500	141,500	141,500	141,500	141,500	141,500	141,500	141,500	141,500
Airport Contractor	62,000	62,000	62,000	62,000	62,000	62,000	62,000	62,000	62,000	62,000	62,000	62,000	62,000	62,000	62,000
Marketing / Promotion	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Interest on Loans	6,650	6,073	5,455	4,795	4,088	3,333	2,524	39,046	36,403	33,840	31,892	29,818	27,608	25,255	22,748
Other Operating	39,422	38,845	38,227	37,567	36,861	36,105	35,296	34,431	33,506	32,772	32,772	32,772	32,772	32,772	32,772
ILS Grant Refund				200,000											
City Management / Service Charges	22,990	22,990	22,990	22,990	22,990	22,990	22,990	22,990	22,990	22,990	22,990	22,990	22,990	22,990	22,990
Depreciation	190,201	198,776	204,726	207,175	207,875	204,254	335,726	151,540	151,577	152,277	152,357	194,182	194,882	195,582	196,282
	582,763	590,184	594,899	796,027	485,314	480,181	610,036	461,508	457,977	455,380	453,512	493,262	491,753	490,099	488,293
Net Income - Operating	20,042	26,903	49,707	(137,026)	188,142	256,248	141,992	306,191	311,269	315,492	369,548	331,589	334,980	338,609	342,489
Tax Equivalent Payment	(6,013)	(8,071)	(14,912)	41,108	(56,443)	(76,874)	(42,598)	(91,857)	(93,381)	(94,647)	(110,864)	(99,477)	(100,494)	(101,583)	(102,747)
City of Albany - Return on invest.	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)	(96,223)
Loan Principal	(8,270)	(8,847)	(9,464)	(10,125)	(10,831)	(11,587)	(12,395)	(39,685)	(42,328)	(29,971)	(31,919)	(33,994)	(36,204)	(38,557)	(41,063)
Capital Expenditure	(20,000)	(245,000)	(170,000)	(87,000)	(20,000)	(20,000)	(1,195,000)	(20,000)	(20,000)	(20,000)	(20,000)	(1,195,000)	(20,000)	(20,000)	(20,000)
Funded ex Reserve	20,000	245,000	170,000	87,000	20,000	20,000	595,000	20,000	20,000	20,000	20,000	1,195,000	20,000	20,000	20,000
Funded ex Loans							600,000								
Funded ex grants															
Add back Depreciation	190,201	198,776	204,726	207,175	207,875	204,254	335,726	151,540	151,577	152,277	152,357	194,182	194,882	195,582	196,282
Net Cash Flow - Airport	99,737	112,538	133,833	4,908	232,520	275,817	326,501	229,965	230,915	246,927	282,898	296,077	296,941	297,828	298,738
Reserve Balance	364,392	250,757	228,439	158,841	380,577	653,949	413,375	641,037	878,107	1,140,158	1,448,663	607,687	908,935	1,223,121	1,550,784

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13.5 RESERVES PLANNING & MANAGEMENT

Nil

13.6 WORKS & SERVICES COMMITTEES

Nil

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GENERAL MANAGEMENT SERVICES REPORTS

General Management Services

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14.1 STRATEGIC DEVELOPMENT

14.1.1 Request for Council to Rescind Previous Motion and Suspend Contract C02048 (North Road Administration Centre)

File/Ward	:	PRO 284 (Yakamia Ward)
Proposal/Issue	:	City of Albany Administration Building
Subject Land/Locality	:	Lot 4743 North Road Yakamia
Proponent	:	City of Albany
Owner	:	City of Albany
Reporting Officer(s)	:	Project/Administration Officer (B Parker)
Disclosure of Interest	:	N/A
Previous Reference	:	OCM 18/02/03 – Item 14.1.2 OCM 19/11/02 – Item 12.2.2 OCM 19/02/02 – Item 11.1.10 OCM 17/07/01 – Item 11.1.4 OCM 15/15/01 – Item 18.1 OCM 20/02/01 – Item 14.1.1 OCM 23/01/01 – Item 14.1.1 OCM 07/11/00 – Item 12.2.4
Summary Recommendation	:	Council rescind previous motion and suspend Contract C02048
Bulletin Attachment	:	N/A
Locality Plan	:	N/A

BACKGROUND

1. On the 19th November 2002, it was resolved that:
 - “i) Council proceed to plan for the construction of a new Administration Building/Civic Centre and the site of the proposed development be location 4743 North Road Yakamia; and.....
 - iv) The Chief Executive Officer and Executive Directors progress the Administration Building / Civic Centre project and that regular progress reports be supplied to Council during monthly or extraordinary briefing sessions, as appropriate.”

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Item 14.1.1 continued.

2. As a result of this decision, on the 18th February 2003, Council voted by simple majority to:

“Support the Executive Committee’s recommendation to appoint James Christou & Partners Architects, for the provision of Architectural Services for the new City of Albany Administration Building to be situated at Location 4743 North Road Yakamia”.

3. A request has been submitted to rescind these motions.

STATUTORY REQUIREMENTS

4. Regulation 10(1) of the Local Government (Administration) Regulations 1996 states:

“If a decision has been made at a Council or a committee meeting then the motion to revoke or change the decision must be supported –

a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority;

or

b) in any other case, by at least 1/3 of the number of officers (whether vacant or not) of the Council or committee,

inclusive of the mover”

POLICY IMPLICATIONS

5. There are no policy implications relating to this item.

FINANCIAL IMPLICATIONS

6. Contract C02048 between the City of Albany and James Christou & Partners Architects states under Section 2.0 – Special Conditions of Contract (SC3 Termination of Services), that;

“The City of Albany has the discretion to terminate the services of a consultant if that consultant does not achieve the City’s expectations, by payment of reasonable costs and fees due for the work completed to that time and stage, without any further cost penalty”

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Item 14.1.1 continued.

7. The Architect has progressed to a point where Project Scope & Brief, Conceptual Design, Design Development and 30% of Contract Documentation is complete. The following costs have been incurred as of 15th September 2003.

Project Scope & Brief	\$ 31,032
Conceptual Design	\$ 55,843
Design Development	\$ 74,377
30% Contract Documentation	\$ 55,982
TOTAL COSTS INCURRED	\$217,234

STRATEGIC IMPLICATIONS

8. There are no strategic implications relating to this item.

COMMENT/DISCUSSION

9. Council is required to move a motion, by absolute majority, to rescind the previous motion before it can debate the motion put by Councillor Lionetti and reproduced below. If the rescission motion is lost, the original decision of Council remains operative and the merits of Councillor Lionetti's motion would not be debated.
10. A notice of motion to rescind Item 12.2.2 parts i) and iv) at the November Ordinary Council Meeting 2002 and Item 14.1.2 at the February Ordinary Council Meeting 2003 has been received and is supported by Councillor Lionetti, Waterman, West, Emery and Wellington.

RECISSION MOTION

THAT Council resolves, in accordance with Regulation 10(1) of the Local Government (Administration) Regulations 1996, to rescind the motion at Item 12.2.2 parts i) and iv) of the Ordinary Council Meeting of the 19th November 2002 and Item 14.1.2 of the 18th February 2003 Ordinary Meeting of Council, which reads:

Item 12.2.2

“THAT;

- “i) Council proceed to plan for the construction of a new Administration Building/Civic Centre and the site of the proposed development be location 4743 North Road Yakamia;*
- iv) the Chief Executive Officer and Executive Directors progress the Administration Building / Civic Centre project and that regular progress reports be supplied to Council during monthly or extraordinary briefing sessions, as appropriate”*

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Item 14.1.1 continued.

Item 14.1.2:

“THAT Council support the Executive Committee’s recommendation to appoint James Christou & Partners Architects, for the provision of Architectural Services for the new City of Albany Administration Building to be situated at Location 4743 North Road Yakamia”.

Voting Requirement Absolute Majority

.....

RECOMMENDED MOTION BY COUNCILLOR LIONETTI

THAT Council;

- i) suspends the current Contract C02048 for a period of three months between the City of Albany and James Christou & Partners Architects for Architectural Services for the new Administration Building/Civic Centre to be built at Location 4743 North Road Yakamia; and
- ii) forms a working party consisting of Councillors and Executive Staff to investigate the suitability of the Old Gas Works Site, in preference to the North Road Site for the new Administration Building/Civic Centre.

Voting Requirement Simple Majority

.....

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Item 14.1.1 continued.

**MOVED COUNCILLOR LIONETTI
SECONDED COUNCILLOR WELLINGTON**

THAT Council resolves, in accordance with Regulation 10(1) of the Local Government (Administration) Regulations 1996, to rescind the motion at Item 12.2.2 parts i) and iv) of the Ordinary Council Meeting of the 19th November 2002 and Item 14.1.2 of the 18th February 2003 Ordinary Meeting of Council, which reads:

Item 12.2.2

“THAT;

- “i) *Council proceed to plan for the construction of a new Administration Building/Civic Centre and the site of the proposed development be location 4743 North Road Yakamia;***
- iv) *the Chief Executive Officer and Executive Directors progress the Administration Building / Civic Centre project and that regular progress reports be supplied to Council during monthly or extraordinary briefing sessions, as appropriate”***

Item 14.1.2:

“THAT Council support the Executive Committee’s recommendation to appoint James Christou & Partners Architects, for the provision of Architectural Services for the new City of Albany Administration Building to be situated at Location 4743 North Road Yakamia”.

MOTION LOST 4-7

Councillor Lionetti left the Council Chambers at 9.20pm.

**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR WELLINGTON**

THAT the Standing Orders 6.5 and 5.5 apply to allow an open discussion prior to voting on the rescinding motion

6-6 - Mayor Goode, cast the deciding vote

MOTION LOST 7-6

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14.1.2 Railway Turntable

File/Ward	: REL 102 (All Wards)
Proposal/Issue	: Railway Turntable
Subject Land/Locality	: N/A
Proponent	: City of Albany
Owner	: City of Albany
Reporting Officer(s)	: Project Administration Officer (B Parker)
Disclosure of Interest	: Nil
Previous Reference	: OCM 15/07/2003 - Item 14.1
Summary Recommendation	: That Council Retain the Railway Turntable
Bulletin Attachment	: Registration of interest submissions
Locality Plan	: N/A

BACKGROUND

1. On the 15th July 2003, it was resolved:

“That Council advertise the proposal to transfer ownership of the Railway Turn Table to the Kojonup Railway Association for a 28 day period, prior to consideration of the item”
2. The proposal was advertised and submissions were received from Albany Model Railway Association, Australian Historical Railway Association, David Thackrah, Highway Wreckers and the Peel Development Commission.
3. The feedback received from the submissions alludes to the tourism potential of the Railway Turntable.
4. The Albany Model Railway Association believes that the installation of the Turntable in Albany would allow diesel hauled passenger trains to be turned in Albany and allow a full line speed return to Katanning. At present any steam locomotive arriving in Albany has to run in reverse at reduced speeds all the way to Katanning, where a turning facility exists.
5. The Albany Model Railway Association has included in their submission an e-mail from the Hotham Valley Railway Association that suggests if a turntable was operational in Albany, train services such as the Great Southern Wizards Express would run to, and terminate in Albany. As there is no operational turning facility in Albany, the Great Southern Wizards Express is terminated in Katanning, at the last turning facility on route to Albany.

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Item 14.1.2 continued.

STATUTORY REQUIREMENTS

6. There are no statutory requirements relating to this item.

POLICY IMPLICATIONS

7. There are no policy implications relating to this item.

FINANCIAL IMPLICATIONS

8. There are no financial implications relating to this item.

STRATEGIC IMPLICATIONS

8. City of Albany's Strategic Plan states under the Port of Call: The attraction and development of a broad range of social, cultural and economic entities.

“To lead key tourism industry groups in establishing an integrated approach to visitor servicing, district and area promotion and product development”.

COMMENT/DISCUSSION

9. The previous recommendation from the Ordinary Council Meeting - 15th July 2003 was to transfer ownership of the Railway Turntable to the Kojonup Tourist Railway Association so that the facility is retained in the Great Southern.
10. It has now become apparent that the Kojonup Tourist Railway is no longer connected to the Great Southern Railway Line; the spur line that connected Kojonup to Katanning was removed a number of years ago.

RECOMMENDATION

THAT;

- i) Council retains ownership of the Railway Turntable located at the Albany Port Depot given it's economic, historical and tourism potential and to allow flexibility for future planning;
- ii) professional advice be sought as to the correct storage and short-term maintenance of the Railway Turntable, in order to create maximum longevity of the facility, until a strategic decision is made as to the future use of the turntable; and
- iii) the Hotham Valley Railway Association and other related Associations be requested to evaluate the feasibility of extending rail services such as the Great Southern Wizards Express to Albany.

Voting Requirement Simple Majority

.....

REPORT ITEM DIS316 REFERS

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Item 14.1.2 continued.

**MOVED COUNCILLOR WATERMAN
SECONDED COUNCILLOR BARTON**

THAT;

- i) Council retains ownership of the Railway Turntable located at the Albany Port Depot given it's economic, historical and tourism potential and to allow flexibility for future planning;**
- ii) professional advice be sought as to the correct storage and short-term maintenance of the Railway Turntable, in order to create maximum longevity of the facility, until a strategic decision is made as to the future use of the turntable; and**
- iii) the Hotham Valley Railway Association and other related Associations be requested to evaluate the feasibility of extending rail services such as the Great Southern Wizards Express to Albany.**

MOTION CARRIED 11-0

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14.2 ORGANISATIONAL DEVELOPMENT

14.2.1 Appointment of Chief Executive Officer as City of Albany Public Interest Disclosure Officer

File/Ward	: MAN 118 (All Wards)
Proposal/Issue	: Procedures relating to the City of Albany's obligations under the Public Interest Disclosure Act.
Subject Land/Locality	: N/A
Proponent	: City of Albany
Owner	: N/A
Reporting Officer(s)	: Project Administration Officer (B Parker)
Disclosure of Interest	: N/A
Previous Reference	: N/A
Summary Recommendation	: i) That Council adopts the internal procedures relating to the City of Albany's obligations under the Public Interest Disclosure Act. ii) That the Chief Executive Officer be appointed as the City of Albany's Public Interest Disclosure Officer.
Bulletin Attachment	: Internal Procedures Document
Locality Plan	: N/A

BACKGROUND

1. The Public Interest Disclosure Act became effective as of 1st July 2003. The Act aims to facilitate and encourage the disclosure of public interest information and to provide protection for those who make disclosures and for those about whom disclosures are made.
2. The Public Interest Disclosure Act 2003 is a significant step toward reducing and eliminating corrupt conduct and maladministration. The Act provides a system for the matters disclosed to be investigated and for appropriate action to be taken.

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Item 14.2.1 continued.

3. Section 23(1) (e) requires that the principal executive officer of each public authority must prepare and publish internal procedures relating to those authorities obligations under the Act. These internal procedures must be consistent with the guidelines prepared by the Commissioner for Public Sector Standards.
4. In addition to these internal procedures, the Act requires that every public authority designate a person as the Public Interest Disclosure Officer. This person is responsible for receiving disclosures under the Act.

STATUTORY REQUIREMENTS

5. The draft internal procedures relating to the obligations of public authorities is enforced under The Public Interest Disclosure Act 2003.

POLICY IMPLICATIONS

6. There are no policy implications relating to this item

FINANCIAL IMPLICATIONS

7. There are no financial implications relating to this item

STRATEGIC IMPLICATIONS

8. Within the City of Albany's Strategic Plan Albany 2020 it states under the Port of Call – A reputation for professional excellence, that:

“The City of Albany has undertaken to generate and maintain a reputation for professional excellence in the way it approaches all its responsibilities, transactions and communication”

COMMENT/DISCUSSION

9. The City of Albany has based the internal procedures relating to the obligations of public authorities on the guidelines prepared by the Commissioner for Public Sector Standards.

RECOMMENDATION

THAT Council;

- i) adopt the internal procedures relating to the City of Albany's obligations under the Public Interest Disclosure Act 2003 in an effort towards reducing and eliminating corrupt conduct and maladministration; and

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- ii) appoint the Chief Executive Officer as the Public Interest Disclosure Officer pursuant to the Public Interest Disclosure Act 2003.

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR EMERY**

THAT Council;

- i) adopt the internal procedures relating to the City of Albany's obligations under the Public Interest Disclosure Act 2003 in an effort towards reducing and eliminating corrupt conduct and maladministration; and**
- ii) appoint the Chief Executive Officer as the Public Interest Disclosure Officer pursuant to the Public Interest Disclosure Act 2003.**

MOTION CARRIED 11-0

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14.2.2 City of Albany Vancouver Lecture

File/Ward	:	REL 039 (All Wards)
Proposal/Issue	:	Decision on discontinuing with the City of Albany Vancouver Lecture and providing one off sponsorship to the Friends of UWA – Albany Centre to assist in providing a community lecture.
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Mayoral Liaison Officer (G Clarke)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 04/08/99 – Item 13.2.16
Summary Recommendation	:	That Council remove the City of Albany Vancouver Lecture from the range of events hosted by Council and provide a one off sponsorship of \$2,000 to Friends of UWA Albany Centre to stage a community lecture in the 2003/04 financial year and reallocate the balance of the City of Albany Vancouver Lecture budget to the Other Special Events project budget.
Attachment	:	Nil.
Locality Plan	:	N/A

BACKGROUND

1. Since early 2000 attempts have been made to secure a prominent speaker to deliver the City of Albany Vancouver Lecture in accord with the resolution of Council at the 4th August, 1999 ordinary council meeting.
2. A number of issues have prevented all speakers approached to date from being available to deliver the lecture. A summary of the major issues is as follows:

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- Budgetary constraints: Many quality speakers are now requesting a speaking fee or at least a donation to their preferred charity. These fees average from \$2,000 to \$15,000 depending on the speaker's profile. Another prohibitive cost is for transport because many of the "better" speakers are based in the Eastern States. They often request a minimum "Business Class" level of air travel, plus accommodation in both Perth (in transit) and Albany. The budget has been increased from \$2,000 in 2001/02 to \$5,000 2003/04 – although it is unlikely that this budget would be sufficient to cover all expenses including hire of the Town Hall and promotion of the event.
 - Timing of the lecture: Historically the lectures have always been held to coincide with Capt Vancouver's first visit to Albany between 27th September and the 18th of October. It is very difficult to offer a guest speaker such a tight time frame. Many speakers have expressed an interest in presenting the lecture, however, it is difficult to fit a date into their schedules when there is only a three week window.
3. City of Albany Vancouver Lecture does not fit into the overall City of Albany community events portfolio which are generally activities of broad based appeal such as the Christmas Pageant, New Year Fire Works and Australia Day Family Fun Day.
 4. Friends of UWA – Albany Centre have expressed an interest in hosting a lecture of a similar nature to the City of Albany Vancouver Lecture. They have access to the University of Western Australia's speakers schedule which will allow them to secure a prominent speaker with potential financial and/or resource support from the University of Western Australia.

STATUTORY REQUIREMENTS

5. There are no statutory requirements relating to this item.

POLICY IMPLICATIONS

6. There are no policy implications relating to this item.

FINANCIAL IMPLICATIONS

7. It is proposed to relocate \$5,000 as follows:

\$2,000 to the Friends of the University of Western Australia; and
\$3,000 to the Other Special Events Budget.

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Item 14.2.2 continued.

STRATEGIC IMPLICATIONS

8. In the City of Albany’s 2020 – Charting our Course, the following Ports of Call are identified:

“A reputation for professional excellence

Community Events – to promote Albany and facilitate the celebration of events and achievements of significance to the Albany Community.”

COMMENT/DISCUSSION

9. Council is now requested to consider removing the City of Albany Vancouver Lecture from the range of events hosted by Council.
10. Council is requested to consider a one off sponsorship of \$2,000 to the Friends of UWA – Albany Centre to assist them with staging a community lecture this financial year with future sponsorship being considered under the Community Events Financial Assistance Program.
11. Council is requested to consider reallocation the balance of the current \$5,000 budget to the Other Special Events project budget.

RECOMMENDATION

THAT Council remove the City of Albany Vancouver Lecture from the range of events hosted by Council and provide a one off sponsorship of \$2,000 to Friends of UWA Albany Centre to stage a community lecture in the 2003/04 financial year and reallocate the balance of the City of Albany Vancouver Lecture budget to the Other Special Events project budget.

Voting Requirement Absolute Majority

**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR BOJCUN**

THAT Council remove the City of Albany Vancouver Lecture from the range of events hosted by Council and provide a one off sponsorship of \$2,000 to Friends of UWA Albany Centre to stage a community lecture in the 2003/04 financial year and reallocate the balance of the City of Albany Vancouver Lecture budget to the Other Special Events project budget.

**MOTION CARRIED 10-1
ABSOLUTE MAJORITY**

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14.2.3 Resignation and Renomination for Councillor Representation on Albany Chamber of Commerce and Timber 2020 Committees

File/Ward	: MAN 102 (All Wards)
Proposal/Issue	: Committee Appointments
Subject Land/Locality	: N/A
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Project Administration Officer (B Parker)
Disclosure of Interest	: Nil
Previous Reference	: SCM 05/05/03 – Item 6.2.1 and Item 6.2.29
Summary Recommendation	: That Council appoint representatives for Albany Chamber of Commerce and Timber 2020 Committees
Bulletin Attachment	: N/A
Locality Plan	: N/A

BACKGROUND

1. On Monday 5th May 2003 at a Special Meeting of Council, it was resolved that:

“Councillor Emery be nominated to the Albany Chamber of Commerce & Industry”

and

“Councillor Emery be nominated to the Timber 2020”

2. Councillor Bob Emery has withdrawn his representation from these Committees. Council is invited to re-elect one representative for each Committee to replace Councillor Emery.

STATUTORY REQUIREMENTS

3. There are no statutory requirements relating to this item.

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POLICY IMPLICATIONS

4. There are no policy implications relating to this item.

FINANCIAL IMPLICATIONS

5. There are no financial implications relating to this item.

STRATEGIC IMPLICATIONS

6. Within the City of Albany's Strategic Plan it states within the Vision, Mission and Values section that Council will:

“Advocate strongly to maximize opportunities offered by external influences and to minimise any adverse impacts”

COMMENT/DISCUSSION

7. Councillor Emery has become a member of the Albany Plantation Export Company (APEC), and has committed to representing APEC on the Albany 202 and Chamber of Commerce & Industry Committee. The City of Albany has therefore been invited to nominate another Councillor to represent the City of Albany.
8. The Timber 2020 Committee meets every 6 weeks and the Albany Chamber of Commerce meets on a monthly basis.

RECOMMENDATION

THAT;

- i) Councillor _____ be nominated to the Albany Chamber of Commerce and Industry Committee; and
- ii) Councillor _____ be nominated to the Timber 2020 Committee.

Voting Requirement Simple Majority

**MOVED COUNCILLOR EMERY
SECONDED COUNCILLOR WATERMAN**

- i) Councillor Lionetti be nominated to the Albany Chamber of Commerce and Industry Committee; and**
- ii) Councillor Lionetti be nominated to the Timber 2020 Committee.**

MOTION CARRIED 11-0

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14.3 ECONOMIC DEVELOPMENT

14.3.1 Friendship Agreement between the City of Albany and the City of Gallipoli

File/Ward	: REL 035 (All Wards)
Proposal/Issue	: Continuation and reinforcement of Friendship Agreement between the City of Gallipoli and the City of Albany
Subject Land/Locality	: N/A
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Manager, Economic Development (J Berry)
Disclosure of Interest	: N/A
Previous Reference	: OCM 17/09/02 Item 14.3.1
Summary Recommendation	: THAT a Council delegation visit Gallipoli to commemorate Anzac Day 2004 and to reciprocate an official signing ceremony reinforcing the Friendship Agreement Declaration between the City of Albany and the City of Gallipoli.
Bulletin Attachment	: N/A
Locality Plan	: N/A

BACKGROUND

1. Albany has a significant association with the ANZAC legend, which is building into a unique regional value in terms of promoting tourism development and serves as a time of remembrance for the many lives lost in World War I.
2. Albany was the location of the first ANZAC Dawn Service and it was the point of assemblage and departure for a fleet of 40 transport ships and five naval escort vessels along with some 30,000 men departing for foreign shores (including Gallipoli) on 1 November 1914. Thousands of those men touched Australian soil in Albany for the last time.

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3. In recent times, the City of Albany has been proactive in recognising the ANZAC association through a number of initiatives including:-
 - the establishment of an ANZAC Park;
 - the national focus of ANZAC celebrations being centred on Albany in 2001, continuing with a Celebrate Albany and Anzac Day festival;
 - the construction of a statue of the former President of Turkey (Mustafa Kemal Ataturk) overlooking the Ataturk Channel entering Princess Royal Harbour;
 - continued well attended Dawn and mid morning services on ANZAC day;
4. On ANZAC Day 2003, the Mayor of Gallipoli Mr Cihat Bingol visited Albany to participate in ANZAC Day services and to sign a Friendship Agreement Declaration between the two cities. The Friendship Agreement reads:-

“We, the undersigned representatives of the City of Gallipoli in Turkey and the City of Albany in Western Australia, declare our mutual will to establish a Friendship Agreement between our two municipalities, with the aim of creating bonds and gaining wider understanding of our respective municipalities, citizens, community life and traditions.

In support of these ideals, the City of Gallipoli and the City of Albany agree to promote their similar aims and objectives, with the primary relationship to be based on people to people contact, and therefore the respective elected authorities are charged with the responsibility of encouraging the development of greater understanding and exchange of knowledge and experience in many fields by individuals and groups throughout their municipalities.

By emphasising mutual interests and fostering individual consciousness, the City of Gallipoli and the City of Albany will strive to promote close and friendly relations between the citizens of their two communities.

Let our two communities who were divided by adversity be united in friendship to remember our ancestors with honour and move on to a prosperous future together.”

STATUTORY REQUIREMENTS

5. There are no statutory requirements relating to this item.

POLICY IMPLICATIONS

6. The City of Albany Economic Development Policy encourages international affiliations that promote real cultural, economic and educational opportunities for Albany. The City of Albany currently has two other active affiliations being the Japanese cities of Nichinan (based on the woodchip trade) and Tomioka (based on a strong school educational exchange program). The Albany/Gallipoli agreement is based on two communities once divided by adversity being united to create a prosperous economic future, particularly tourism that both cities can benefit from.

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FINANCIAL IMPLICATIONS

7. The estimated cost of sending a delegation to Turkey is \$3,500 per person, which includes air and land travel, accommodation and insurance. The Aviation Development Program of the Westralia Airports Corporation has approved \$4,000 to support the Gallipoli affiliation based on likely tourism benefits to Western Australia. A reallocation in the first quarterly review is recommended to fund the outstanding balance of \$10,000.

STRATEGIC IMPLICATIONS

8. This proposal aligns with Albany 2020 Charting in our Course in two strategic areas:-

“Economic Development

To identify & facilitate outstanding economic development opportunities for the City of Albany; and

Tourism Development

To lead key tourism industry groups in establishing an integrated approach to visitor servicing, district & area promotion and product development.”

COMMENT/DISCUSSION

9. The Mayor of the City of Gallipoli has previously written to Her Worship the Mayor of Albany inviting a delegation from Albany to visit Gallipoli as guests of the Gallipoli Council. It was agreed between the two Cities that Albany would host the inaugural visit of the Mayor of Gallipoli in 2003 to sign a Friendship Agreement Declaration. This visit successfully transpired in April 2003.
10. The visit of the Mayor of Gallipoli to Albany drew the attention of national and state print media highlighting the significant role of Albany in the ANZAC legend. The visit also received national broadcasting on Turkey’s television networks.
11. The expected benefits of the continuation of the friendship agreement are the strengthening of cultural relationships between Albany residents (including schools) and increased tourism development (particularly around ANZAC day). The relationship and visit will also enhance the city’s prospects of achieving a wider objective to recognise Albany as Australia’s ‘ANZAC Capital’. This objective includes a range of strategies including:-

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- National focus of ANZAC Day on Albany in November 2014, which will be the Centenary of the departure of Australian and New Zealanders from Albany to the Great War
- Development of a proposed column of full-sized bronze soldiers
- Development of an interpretive centre to recognise Albany's role in the ANZAC legend.

12. Under the banner '*Anzacs to Albany*', financial assistance is being sought from State and Commonwealth agencies to progress preliminary planning for these projects. The visit to Gallipoli will provide a significant face-to-face opportunity to lobby senior State and Commonwealth Government ministers regarding funding the above projects.

RECOMMENDATION

THAT;

- i) Council support a delegation to visit Gallipoli to commemorate Anzac Day 2004 and to reciprocate an official signing ceremony reinforcing the Friendship Agreement Declaration between the City of Albany and the City of Gallipoli and expenditure be reallocated at the first quarterly review. The delegation to consist of:-
- Her Worship the Mayor;
 - Chief Executive Office;
 - Manager, Economic Development;
 - President RSL Branch (Albany); and
- ii) further that Council invite the Hon. Geoff Gallop MLA (Premier of Western Australia) and Mr Peter Watson MLA (Member for Albany) to join the Albany delegation.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR EMERY
SECONDED COUNCILLOR WELLINGTON**

THAT

- i) Council support a delegation to visit Gallipoli to commemorate Anzac Day 2004 and to reciprocate an official signing ceremony reinforcing the Friendship Agreement Declaration between the City of Albany and the City of Gallipoli and expenditure be reallocated at the first quarterly review. The delegation to consist of:-
- Her Worship the Mayor;
 - Chief Executive Officer;
 - Elected Member of Council; and
- ii) Council extend an invitation to the Premier of Western Australia – Hon. Geoff Gallop, the Member for Albany - Mr Peter Watson and a representative from the Albany RSL, at their own expense.

MOTION LOST 5-6

**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR PAVER**

THAT

- i) Council support a delegation to visit Gallipoli to commemorate Anzac Day 2004 and to reciprocate an official signing ceremony reinforcing the Friendship Agreement Declaration between the City of Albany and the City of Gallipoli and expenditure be reallocated at the first quarterly review. The delegation to consist of:-
- Her Worship the Mayor;
 - Chief Executive Officer; and
- ii) Council extend an invitation to the Premier of Western Australia – Hon. Geoff Gallop, the Member for Albany - Mr Peter Watson and the President of the Albany RSL at their own expense.

MOTION CARRIED 7-4

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14.4 GENERAL MANAGEMENT SERVICES COMMITTEE

Nil.

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15.0 ELECTED MEMBERS' MONTHLY REPORT/INFORMATION BULLETIN

15.1 Elected Members' Report/Information Bulletin

DRAFT MOTION

THAT the Elected Member's Report/Information Bulletin, as circulated, be received and the contents noted.

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR BOJCUN**

**THAT the Elected Member's Report/Information Bulletin, as circulated,
be received and the contents noted.**

MOTION CARRIED 11-0

16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

17.0 MAYORS REPORT

"Fellow Councillors:

The month since last Council meeting has been extremely varied providing me with a broad range of issued to address and interesting activities. The following are just a few of the highlights of this diverse month.

On the 25th August it was a sincere please to meet Kelvin Crombie during his brief visit to Albany on Monday 25th August 2003. Kelvin lives in Jerusalem and conducts tours throughout Israel and Turkey and has a particular significance is the unique place that Albany holds in those legends. Kelvin presented a photograph to Council which shows the 10th Light horsemen in Jerusalem in 1917 and is another poignant reminder of our heroic service men and women whose last contact with Australian soil was on Albany shores.

As you will know doubt all be aware, the State Parliament will be holding their March sitting Albany next year. This was an exciting announcement being the first parliamentary sitting outside of Perth and one that will bring reciprocal benefits to the whole community. A couple of weeks ago, clerks and managers of parliamentary services visited Albany to start the enormous job of planning and preparation for this full week of major events. The City of Albany has offered every assistance and will be working closely with them to ensure that everything runs as smoothly as possible and Albany is portrayed in the very best way because the eyes of Western Australia will be focussed on us during that time.

On Saturday the 6th September, I was honoured to officially open the new premises of Western QBE in York Street. At a time when many national organisations are reassessing and relocating out of country areas, it was refreshing to witness the enthusiasm that Western QBE put into their relocation proving their ongoing support for the local community in Albany.

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On Monday the 8th, I was pleased to be on the receiving end of the handover of a grant cheque by Peter Watson MLA on behalf of the Lotteries Commission. This \$22,000 cheque is to provide essential funding to assist with the employment of a Safer Albany Co-ordinator. The need for a co-ordinator was identified after a Community Security Audit in May 2000 and their role will be to liaise with government agencies, organisations and the general public regarding crime reduction strategies, anti social behaviour and early intervention programs. They will also co-ordinate the Neighbourhood Watch Program and Operation ID property marking project. This is an important initiative and one which I am sure will result in some very positive results for making Albany a safer place to live and work.

Friday last week, I was thrilled to welcome the Telethon Trekkers to Albany and to wish them well on their 8 day epic journey through the heartland of the southern parts of Western Australia as they raise much needed funds for the children's ward at the Albany Hospital. Despite the obvious hardships that they will endure, their enthusiasm and motivation was inspiring and I know that they have the Albany kids interests close to their hearts."

**MOVED COUNCILLOR BARTON
SECONDED COUNCILLOR SANKEY**

THAT the Mayor's Report be received.

MOTION CARRIED 11-0

18.0 URGENT BUSINESS APPROVED BY MAYOR OR BY DECISION OF THE MEETING

18.1 2003 Extra-ordinary Election – Choice of Methods of Conducting the Election

File/Ward	:	MAN 019 (All Wards)
Proposal / Issue	:	2003 Extra-ordinary Election
Subject land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer	:	Senior Records Officer (S Pepper)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Agree to allow the Electoral Commissioner to be responsible for the conduct the 2003 Extra-ordinary election as a postal election.
Bulletin Attachment	:	N/A
Locality Plan	:	N/A

BACKGROUND

1. With the employment of Councillor Evers as a Council staff member, in accordance with the Local Government Act, section 2.32(e), the office of elected member becomes vacant and an extra-ordinary election is required to be held.
2. As Council has previously employed the Western Australian Electoral Commission to co-ordinate its bi-annual elections, with success, it is recommended the Commission continue to handle this process. Currently, each time Council elects to use the Western Australian Electoral Commission, it is required to formally resolve to request such action.
3. The Department of Local Government and Regional Development has been asked by the Western Australian Electoral Commission, to consider a proposal to allow a local government's decision to hold postal elections to continue until rescinded. Unfortunately, until the Local Government Act 1995 is amended, local governments must vote on the matter prior to each election.

Item 18.1 continued.

STATUTORY REQUIREMENTS

4. Section 4.61 of the Local Government Act 1995, states in part as follows:

“4.61 (1) The election can be conducted as a –

“postal election” which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or

“voting in person election” which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

*(2) The local government may decide * to conduct the election as a postal election.*

** Special majority required “*

(4) A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20 (4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.”

5. Section 4.20 (4) of the Act states as follows:

*“(4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare * the Electoral Commissioner to be responsible for the conduct of an election and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election.*

** Special majority required”*

POLICY IMPLICATIONS

6. There are no policy implications relating to this item.

FINANCIAL IMPLICATIONS

7. The cost of the Extra-ordinary election will be covered in the next quarterly re-allocation of the budget.

STRATEGIC IMPLICATIONS

8. Council’s Albany 2020 – Charting our Course Objectives include governance to comply with statutory requirements of the organisation. The Local Government Act details the statutory requirements for running Local Government elections.

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Item 18.1 continued.

COMMENT/DISCUSSION

9. The vacancy caused by Councillor Evers' employment is in the West Ward and the term for the position expires in May 2005.
10. Postal elections attract significantly higher voter turnouts than in person elections, and thereby ensure as many electors as possible exercise their democratic right to vote.
11. Should Council decide to proceed with a postal election using the Electoral Commission, it is required, having first obtained the written agreement of the Electoral Commissioner, to declare by special majority (75%) resolution, the Electoral Commissioner to be responsible for the conduct of the election. To facilitate this process, the Electoral Commissioner has advised, that should Council agree to the proposal, his correspondence dated 15th September 2003 will suffice as proof of his agreement (section 4.20(4) of the Local Government Act).
12. Preliminary discussions with the WA Electoral Commission, about the earliest time the election could be held, indicate the polling day could be Thursday, 11 December 2003 (electoral timetable attached to the item).

RECOMMENDATION

THAT Council;

- i) declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2003 Extra-ordinary election; and
- ii) decide, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the election will be as a postal election.

Voting Requirement Special Majority

MOVED COUNCILLOR EVANS

SECONDED COUNCILLOR DEMARTEAU

THAT Council;

- i) declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2003 Extra-ordinary election; and**
- ii) decide, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the election will be as a postal election.**

**MOTION CARRIED 11-0
SPECIAL MAJORITY**

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18.2 Regional Road Group Funding 2003/04

File/Ward	:	REL 088 (All Wards)
Proposal/Issue	:	Regional Road Group Funding 2003/04
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Executive Director Works & Services (B Joynes)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 19/11/02 Item 13.2.1
Summary Recommendation	:	That Council oppose the State Advisory Committee's decision regarding 20% capping of Regional Road Group Funding and send a delegation to the Minister for Planning and Infrastructure on the issue.
Bulletin Attachment	:	Nil
Locality Plan	:	N/A

BACKGROUND

1. The Regional Road Group meeting on the 15th July 2002 had adopted its first Policy and Procedures Manual, where it had decided to introduce \$500,000 per project capping. According to the adopted Policy and Procedures Manual, the City would have received funding for:

Lower Denmark Road	\$470,800	this was declared <u>urgent</u> preservation
Ulster Road	\$262,160	this was an ongoing project (final year)
Nanarup Road (part funding)	<u>\$361,706</u>	this was a continuing project
	\$1,094,666	
2. However, at the very next Regional Road Group meeting on the 21st October 2002, it was passed 10/3, to cap the maximum allowable funding per Council to 20% of the available funds. The debate was centered on the following facts by the smaller Councils:
 - Funding should not be population based
 - No residential roads should be funded
 - The City's roads were all residential
 - Public utilities should not be funded
 - Lower Denmark was a parallel road anyway

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- The money should be spread
- Smaller Council's may not be able to operate
- The Country is missing funding

3. The City of Albany, and Shires of Plantagenet and Denmark opposed the motion. The result was that the Regional Road Group has recommended that the City is to receive only:

Lower Denmark Road	<u>\$278,000</u>
	\$278,000

4. This is a drop of \$816,666. In 2002/03 the City received \$1,053,000. In 2001/02 the City was to receive \$970,000, but only received \$780,000 after the Regional Road Group withdrew prior approval of \$190,000 for Lockyer Avenue.
5. At Council's Ordinary Council Meeting of 19th November 2002, the following motion was carried:

“THAT Council approve the following actions:

- i) *The City of Albany request to make a deputation to the next Advisory Committee meeting on December 12, 2002, to have the relevant decision overturned of the Great Southern Regional Road Group on October 21, 2002, at Ravensthorpe. The requested deputation is to consist of Councillor Des Wolfe (delegate); Chief Executive Officer, Andrew Hammond; and Executive Director Works & Services, Brett Joynes. The issues to be raised are:*
- a) *Capping and the impact of this on the City of Albany and its residents. Whilst capping is recognised in some other Regional Road Groups, the Great Southern demographically and physically is in stark contrast to those Regional Road Groups who do accept capping.*
 - b) *Failure of the Great Southern Regional Road Group to follow its own Policies and Procedures (in light of the Katanning – Dumbleyung Bypass, and the Borden Bremer Bay Road).*
 - c) *The untenable situation that has arisen where the majority of Great Southern Regional Road Group member Councils see the Regional Road Group as a form of direct grant, and a means to keep staff employed, the result of which is a complete bias against the City of Albany in decisions by the Regional Road Group.*
- ii) *If the Advisory Committee is unable to provide a solution to this issue, then the deputation be made directly to the Minister for Planning and Infrastructure, and any other appropriate Ministers.”*

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Item 18.2 continued.

6. Upon deputation to the Commissioner of Main Roads and WA Local Government Association (WALGA) in December 2002, the State Advisory Committee sent a letter to the Regional Road Group instructing it to reconsider capping, amongst other issues, and in particular quotes:

“The Advisory Committee stresses that Road Project Grant funding is allocated to reach the areas of highest identified need for the Region, and not for individual shires. By imposing a capping of 20% of the pool funds, this priority is not achieved. The Advisory Committee recommends that the GSRRG reviews its policy to reflect an allocation method for prioritizing projects which best suits the principle of funding the highest ranking projects in the Great Southern Region.”

7. Attempts were made at the Regional Road Group level to comply with the State Advisory Committee’s request at the Great Southern Regional Road Group Meetings held on 16th June 2003 at Tambellup, and 25th August 2003 at Gnowangerup, where the following motion was presented and subsequently defeated:

“That the Great Southern Regional Road Group, in accordance with direction received from the State Funds to Local Government Advisory Committee received 10 March 2003:

1. *Comply with adopted guidelines and remove capping of individual projects at 20% of the pool funds, and reinstate the original decision to cap per project to \$500,000.*
2. *Comply with the adopted policy principle that projects are to be prioritised in line with the principle of funding the highest ranking projects in the Great Southern, and as such:*
 - i) *remove funding for GN1 Borden Bremer Bay Road (\$200k Shire of Gnowangerup), and place it back in its order of rating and coding; and*
 - ii) *remove funding for KA1 – Katanning Dumbleyung Road, and it be recoded back to a new improvement project and ranked accordingly.”*
8. As a result of the defeat of this motion, and a number of other decisions made at the meeting that contradicted the Regional Road Group’s Adopted Policy and Procedures Manual, the State Advisory Committee met with a deputation of the Great Southern Regional Road Group on 11th September 2003 (this did not include the City of Albany).
9. At this meeting, it was resolved to not alter the 20% capping this year, but to review it the following year.

Item 18.2 continued.

STATUTORY REQUIREMENTS

10. There are no statutory requirements relating to this item.

POLICY IMPLICATIONS

11. There are no policy implications relating to this item.

FINANCIAL IMPLICATIONS

12. Should the capping and amendments to the Regional Road Group Policy and Procedures Manual take place, the City of Albany will lose an estimated \$700,000 in funding.

STRATEGIC IMPLICATIONS

13. Albany 2020 – Charting Our Course includes the following Ports of Call:

Port of Call

Transport systems and services designed to meet current future needs.

Objective:

Transport infrastructure planning

- To plan Albany’s transport infrastructure to meet future needs complementary to the City’s form and sense of place.

Port of Call

Transport systems and services designed to meet current future needs.

Objective:

Management of transport infrastructure and services

- To effectively and efficiently manage the City’s transport infrastructure
- To provide a high quality service;
- To meet community expectations;
- To minimise whole life costs; and
- In alignment with transport plans.

COMMENT/DISCUSSION

14. The recommendations made by the Great Southern Regional Road Group to cap per Council, that has now been endorsed by the State Advisory Committee for this year, do not comply with the State Funding Agreement.
15. The State Road Funds to Local Government Agreement 2000/01 to 2004/05 stipulates that RRG funds are to be distributed to projects on a priority basis using a multi criteria analysis (MCA). This is clearly stated in the agreement, and was further reinforced by the State Advisory Committee in its own letter of March 2003 (attached).

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Item 18.2 continued.

16. The move to endorse the 20% CAP by the State Advisory Committee was reportedly explained (through the Coastal Subgroup delegate at that meeting) to be due to a lack of time, and was further justified through a statement that the issue of capping would be dealt with for the following year's funding (2004/05).
17. The State Road Funds to Local Government Advisory Committee plays a role in providing recommendations to the Minister for Planning and Infrastructure on approval of the following year's funding program, for the Minister's ultimate approval. This is the last step in the approval process, prior to funding becoming available for works to commence. The Minister is yet to be presented with this latest recommendation from the State Advisory Committee, and this represents the City of Albany's next step, should it wish to further seek intervention into this situation.
18. This also means that through the recent amalgamation process of the Town and Shire, the City's residents have had funding availability halved, and this is not fair or reasonable.
19. The often used justification, that other Regional Road Groups in the state have capped per Council, does not adequately explain a 20% cap, or capping at all, but demonstrates a lack of awareness of the demographic differences between regions. The two Wheatbelt Regional Road Groups are often used as comparisons, however none of these have a City (biggest Towns in each has less than 15% and 23% of our population with both Towns having less than 6% of our road length), or preservation and upgrade requirements.

RECOMMENDATION

THAT Council:

- i) oppose the decision of the State Road Funds to Local Government Advisory Committee to endorse the 20% capping of funding for the Great Southern Regional Road Group, for this financial year;
- ii) present the City's position to the Minister for Planning and Infrastructure, requesting non-approval of the 20% capping placed upon the City of Albany, and reinstatement of funding based upon the State Road Funds to Local Government Agreement that stipulates that RRG funds are to be distributed to projects on a priority basis using a multi criteria analysis (MCA); and
- iii) the delegation consist of the Mayor, the Regional Road Group delegate (Cr Wolfe), the Chief Executive Officer and the Executive Director Works and Services.

Voting Requirement Simple Majority

.....

Item 18.2 continued.

**MOVED COUNCILLOR EMERY
SECONDED COUNCILLOR WELLINGTON**

THAT Council:

- i) oppose the decision of the State Road Funds to Local Government Advisory Committee to endorse the 20% capping of funding for the Great Southern Regional Road Group, for this financial year;**
- ii) present the City's position to the Minister for Planning and Infrastructure, requesting non-approval of the 20% capping placed upon the City of Albany, and reinstatement of funding based upon the State Road Funds to Local Government Agreement that stipulates that RRG funds are to be distributed to projects on a priority basis using a multi criteria analysis (MCA); and**
- iii) the delegation consist of the Mayor, the Regional Road Group delegate (Cr Wolfe), the Chief Executive Officer and the Executive Director Works and Services.**

MOTION CARRIED 11-0

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Item 18.2 continued

<i>Great Southern</i>	<i>Area</i>	<i>Population</i>	<i>Sealed Roads</i>	<i>Unsealed Roads</i>	<i>Total Road Length</i>
Albany	4,315	30,279	647	996	1,643
Katanning	1,523	4,506	255	529	784
Plantagenet	4,792	4,434	326	908	1,234
Denmark	1,842	4,358	260	467	727
Kojonup	2,937	2,320	342	909	1,251
Gnowangerup	5,000	1,724	313	883	1,196
Ravensthorpe	12,872	1,482	242	1,221	1,463
Jerramungup	6,540	1,460	43	1,101	1,144
Cranbrook	3,390	1,170	314	794	1,108
Kent	6,552	830	121	1,186	1,306
Tambellup	1,437	725	124	397	521
Broomehill	1,376	550	148	357	506
Woodanilling	1,126	409	76	445	522

<i>Mid West</i>	<i>Area</i>	<i>Population</i>	<i>Sealed Roads</i>	<i>Unsealed Roads</i>	<i>Total Road Length</i>
Geraldton	28	21,451	184	2	186
Gereenough	1,748	12,244	295	384	679
Northampton	13,513	3,022	358	935	1,293
Irwin	2,223	3,500	175	335	510
Meekatharra	99,973	2,100	607	2,375	2,982
Coorow	4,137	1,600	295	663	958
Mullewa	10,707	1,090	330	1,157	1,487
Morawa	3,528	1,058	195	850	1,045
Carnamah	2,835	1,015	284	475	759
Chapman Valley	4,007	975	140	830	970
Three Springs	2,629	844	159	612	771
Mt Magnet	13,877	727	202	827	1,030
Perenjori	8,214	685	237	1,453	1,690
Mingenew	1,927	611	191	327	518
Yalgoo	33,258	415	258	1,216	1,474
Cue	13,716	372	111	762	873
Murchison	43,800	150	3	1,719	1,722
Sandstone	28,218	166	3	1,049	1,052

<i>Goldfields Esperance</i>	<i>Area</i>	<i>Population</i>	<i>Sealed Roads</i>	<i>Unsealed Roads</i>	<i>Total Road Length</i>
Kalgoorlie/Boulder	95,229	28,573	358	995	1,353
Esperance	42,450	13,500	710	3,241	3,951
Coolgardie	30,400	4,241	428	800	1,228
Leonora	31,743	4,190	330	1,246	1,576
Wiluna	184,000	1,189	20	1,833	1,853
Dundas	92,725	1,800	842	500	1,342
Ngaayajarraku	159,948	1,643	12	1,444	1,456
Menzies	128,353	230	5	1,463	1,468

<i>Kimberley</i>	<i>Area</i>	<i>Population</i>	<i>Sealed Roads</i>	<i>Unsealed Roads</i>	<i>Total Road Length</i>
Broome	56,000	18,507	126	760	886
Wyndham-East Kimberley	121,189	6,556	405	1,135	1,540
Derby-West Kimberley	102,706	7,981	371	1,408	1,779
Halls Creek	142,908	4,118	360	1,433	1,793

<i>Pilbara</i>	<i>Area</i>	<i>Population</i>	<i>Sealed Roads</i>	<i>Unsealed Roads</i>	<i>Total Road Length</i>
Port Hedland	11,844	15,000	168	482	650
Roebourne	15,196	14,534	525	375	900
East Pilbara	378,533	7,100	815	2,225	3,039
Ashburton	105,647	6,515	1,140	2,275	3,415

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<i>Gascoyne</i>	<i>Area</i>	<i>Population</i>	<i>Sealed Roads</i>	<i>Unsealed Roads</i>	<i>Total Road Length</i>
Carnarvon	53,000	8,616	674	1,283	1,957
Exmouth	6,261	2,500	140	300	440
Meekathara	99,973	2,100	607	2,375	2,982
Shark Bay	25,000	950	306	602	908
Upper Gascoyne	46,602	262	2	1,855	1,857

<i>Wheatbelt South</i>	<i>Area</i>	<i>Population</i>	<i>Sealed Roads</i>	<i>Unsealed Roads</i>	<i>Total Road Length</i>
Narrogin Town	13	4,696	62	13	75
Wagin	1,950	1,979	259	627	886
Beverley	2,310	1,616	239	517	755
Lake Grace	9,245	1,539	406	2,086	2,492
Corrigin	3,095	1,276	405	768	1,173
Bruce Rock	2,772	1,250	496	763	1,259
Quairading	2,000	1,224	288	654	942
Kondinin	7,340	1,186	254	1,202	1,456
Pingelly	1,223	1,135	202	385	587
Williams	2,295	1,040	78	428	506
Narembeen	3,821	1,020	281	1,159	1,440
Brookton	1,626	1,016	203	440	643
Kulin	4,790	1,000	279	1,315	1,594
West Arthur	2,850	952	190	664	854
Narrogin Shire	1,618	897	229	567	796
Wickepin	1,989	879	157	717	874
Cuballing	1,250	840	172	468	640
Dumbelyung	2,553	701	209	822	1,031
Wandering	1,955	365	82	321	403

<i>Wheatbelt North</i>	<i>Area</i>	<i>Population</i>	<i>Sealed Roads</i>	<i>Unsealed Roads</i>	<i>Total Road Length</i>
Northam Town	24	7,000	99	8	107
Toodyay	1,683	4,200	382	194	576
Gingin	3,325	4,000	395	426	821
Merredin	3,372	3,808	540	841	1,381
Northam Shire	1,400	3,580	332	287	619
Dandaragan	6,934	3,072	332	1,018	1,350
Chittering	1,220	3,000	168	187	355
Moora	3,788	2,780	258	683	941
Dalwallinu	7,187	1,767	449	1,490	1,939
Cunderdin	1,872	1,490	376	466	842
Kellerberrin	1,852	1,443	271	686	957
Goomalling	1,845	1,100	207	482	689
Victoria Plain	2,563	1,029	292	625	917
Dowerin	1,867	861	196	773	969
Mukinbudin	3,414	820	189	733	922
Mount Marshall	10,134	762	307	1,440	1,747
Koorda	2,662	596	245	840	1,085
Tammin	1,087	500	266	195	461
Trayning	1,632	485	176	599	775
Nungarin	1,145	300	249	390	639

Percentage of Funding Previously Received

<i>Great Southern</i>	<i>Pool</i>	<i>City of Albany</i>	<i>%</i>
	<i>\$m</i>	<i>\$m</i>	
99-00	2.779	0.582	20.94%
00-01*	2.7	0.306	11.33%
01-02**	2.7	0.78	28.89%
02-03	2.5	1.053	42.12%
03-04	1.33	0.266	20.00%



STATE & LOCAL GOVERNMENTS WORKING TOGETHER FOR BETTER ROADS

**State Road Funds to
Local Government
Advisory Committee**

MRWA 60-2123

Chairman
Cr R L Baxter JP
Great Southern Regional Road Group
PO Box 503
ALBANY

10 MAR 2003

Dear Cr Baxter

In a letter dated 7 November 2002 to the State Road Funds to Local Government Advisory Committee, the Chairman of the Coastal Sub Group of the Great Southern Regional Road Group expressed concerns in relation to a change in policy in the method used to prioritise Road Project Grant Funds provided by the State to the Great Southern Regional Road Group (GSRRG).

Main Roads' Regional Manager Great Southern Region has provided background on the issue of capping and the re-prioritising of projects. It is understood that at the GSRRG meeting on 15 July 2002, endorsement was given for the implementation of a Policy and Procedure Manual. Provision was made under item 2.3 of the manual for a maximum allowable funding allocation of \$500K (total project value of \$750K) in any one financial year for an individual project.

At the GSRRG meeting held in Ravensthorpe on 21 October 2002, it was agreed to:

Amend Item 2.3 of the Policy and Procedure Manual to read "the maximum allowable allocation in any one financial year for an individual Council is to be 20% of pool funds".

Fund Project KA1 – Katanning Dumbleyung Road, even though it fell below the cut off line for funding in 2003/04, on the basis that it was a new improvement project where planning and design works had previously been funded.

Fund Project GN1 Borden Bremer Bay Road (\$200K Shire of Gnowangerup). This project was coded as a continuing improvement project but due to the relative scoring of the project, was not allocated any funding in 2003/04. The GSRRG agreed to fund this as it represented the final year of a six year project.

The Coastal Sub Group contest that the status of projects was being elevated on a basis, which falls outside the adopted guidelines. They also believe that capping individual Local Governments restricts the availability of funds for allocation on a project priority basis.

The State Road Funds to Local Government Agreement 2000/01 to 2004/05 stipulates that RRG funds are to be distributed to projects on a priority basis using a multi criteria analysis (MCA) agreed to by the RRG and endorsed by the Advisory Committee. Therefore, there is a need for a prioritized approach to be undertaken with the distribution of the funds, utilizing an MCA that justifies the allocation and priority of the project.

Address all correspondence to the Chairman, State Road Funds to Local Government Advisory Committee
PO Box 6202, East Perth WA 6892 Attention S. Potter Telephone: (08) 9323 4462 Facsimile: (08) 9221 9306

REPORT ITEM DIS316 REFERS

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Item 18.2 continued

Although capping is not recommended as a method for controlling funding allocations, it is used. The previous position of the GSRRG of a \$500K capping seemed fair and achieved good results leading to a general acceptance of the practice. However, the amendment to item 2.3 of the Policy and Procedure Manual from a capping of \$500K per project in any one year to a maximum allocation for an individual council of 20% of Road Project funds is a radical change. This new rule impacts adversely upon shires that previously had high ranking projects that required funding greater than the maximum 20% quantum and jeopardises the intent of allocating Road Project Grants provided by the State for Local Roads.

The Advisory Committee stresses that Road Project Grant funding is allocated to reach the areas of highest identified need for the Region and not for individual shires. By imposing a capping of 20% of the pool funds this priority is not achieved. The Advisory Committee recommends that the GSRRG reviews its policy to reflect an allocation method for prioritising projects which best suits the principle of funding the highest ranking projects in the Great Southern Region.

Yours sincerely


Mr Menno Henneveld
COMMISSIONER OF MAIN ROADS


Cr Clive Robartson
**PRESIDENT
WESTERN AUSTRALIAN
LOCAL GOVERNMENT
ASSOCIATION**

cc Coastal Sub-Group of the Great Southern Regional Road Group

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19.0 CLOSED DOORS

Nil.

20.0 NEXT ORDINARY MEETING DATE

Tuesday 21st October 2003

21.0 CLOSURE OF MEETING

10.05pm

Confirmed as a true and correct record of proceedings.

A E Goode, JP

Mayor

REPORT ITEM DIS316 REFERS

ORDINARY COUNCIL MEETING MINUTES – 16/09/03

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APPENDIX A

WRITTEN NOTICE OF DISCLOSURE OF INTEREST MINUTES OF THE ORDINARY COUNCIL MEETING 19 August 2003

Name	Item	Nature of Interest

APPENDIX B

INTEREST DISCLOSED DURING THE COURSE OF THE MEETING MINUTES OF THE ORDINARY COUNCIL MEETING 19 August 2003

Name	Item	Nature of Interest
Nil		

APPENDIX C

CODE OF CONDUCT – INTERESTS (OTHER THAN FINANCIAL) DISCLOSED DURING THE COURSE OF THE MEETING MINUTES OF THE ORDINARY COUNCIL MEETING 19 August 2003

Name	Item	Nature of Interest
Nil		



Building Envelope Proposal

This Development Application (City of Albany Ref: EF222555152 – A164434) proposes to:

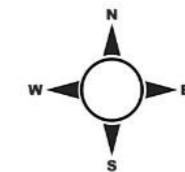
- Reduce the size of the existing ~3,400m² building envelope by more than 470m²; and
- Split the existing envelope into two separate building envelopes of 1,554m² and 1,398m², amounting to a combined building envelope area of only 2,952m².

Envelopes	Status	Area(m ²)
Secondary	Proposed	1398.05
Primary	Proposed	1554.55
Existing	Existing	3426.95

Legend

Envelopes

-  Existing
-  Primary
-  Secondary
-  APZ
-  Lot Boundary



L K A D V I S O R Y

31 August 2022

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

By email: Andrew.sharpe@albany.wa.gov.au

Dear Andrew,

Development Application to Modify Building Envelope – No. 49 (Lot 410) Shoal Bay Retreat, Big Grove

We have been engaged by the owners of the above property, Mr Alex and Mrs Sandy Ogg, to assist with the progress of their development application lodged with the City of Albany more than a year ago – on 20 August 2021, which seeks to modify the existing approved building envelope.

To support the City's approval of this application, we have independently reviewed the information relating to this proposal, including the latest Bushfire Management Plan (BMP) and the referral response from the Department of Fire and Emergency Services (DFES). Our findings and opinions are provided below in numbered paragraphs for your ease of reference.

Background

1. Lot 410 Shoal Bay Retreat, Big Grove is a 5.0563 ha triangular-shaped lot with an 11.44m frontage to Shoal Bay Retreat (see Appendix 1 for context). The property is zoned Rural Residential under the City's Local Planning Scheme No. 1 (LPS 1).
2. The existing building envelope for Lot 410 was approved by the City of Albany Council in 2003 (see Appendix 1).
3. Using Geographical Information Systems (GIS), we have geo-referenced the plan in Appendix 1 using readily identifiable cadastral boundaries to determine the precise location and size of the existing approved building envelope. The geo-referenced plan is shown in Figure 1, over the page.
4. Prior to purchasing the property in February 2021, Mr and Mrs Ogg engaged in extensive due diligence discussions with City of Albany staff to confirm they would be permitted to build their home on the cleared area shown in a broken red line in Figure 2 (over page). We understand City staff advised our clients this could occur, citing the location of the dwelling on the adjacent property as an example of this (indicated with a broken blue line in Figure 2).

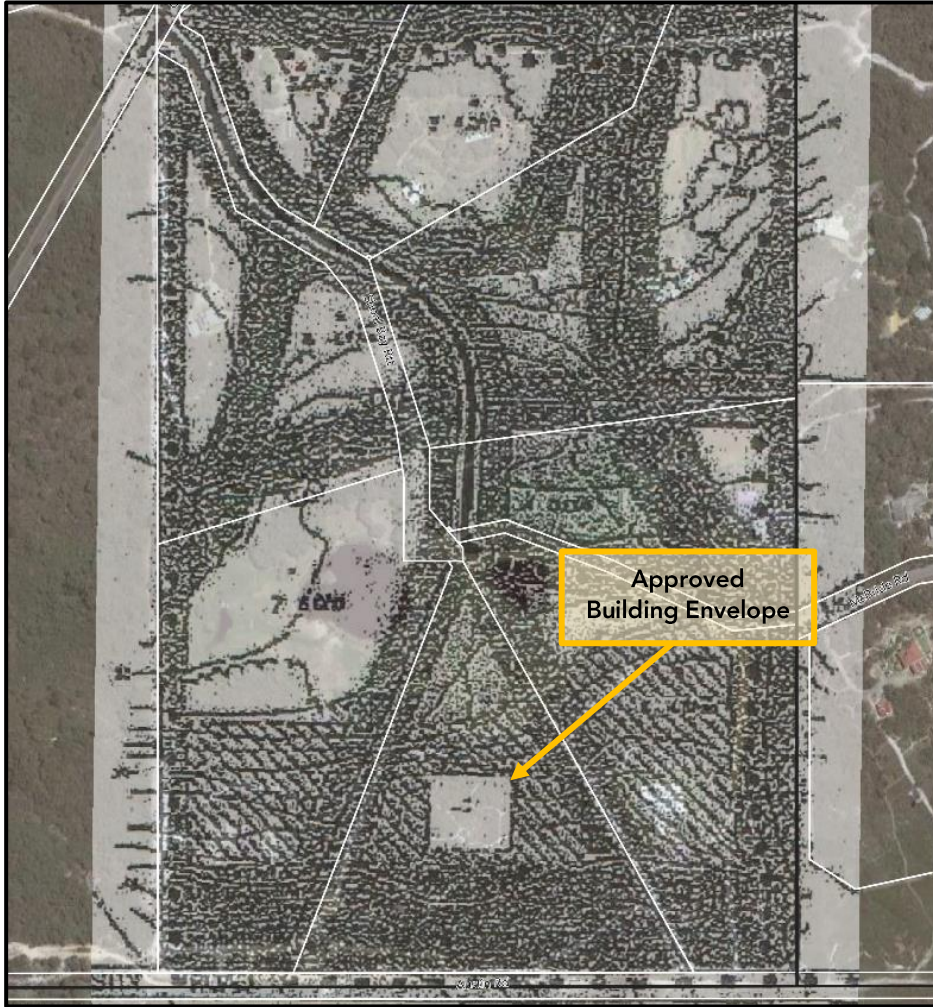


Figure 1 – Existing Approved Building Envelope



Figure 2 – Property Sales Image (Source: Corelogic, RP Data Professional – August 2022)

REPORT ITEM DIS316 REFERS

5. Once Mr and Mrs Ogg had purchased the property, they became understandably concerned about rising construction costs associated with the COVID-19 pandemic and Australia's economic climate. This prompted them to investigate building a smaller, more affordable ancillary dwelling to occupy on the property, until the cost to build their primary residence in their preferred location becomes more viable. In discussions with City staff at the time, it was identified that:
 - a. Substantial vegetation clearing would be needed to accommodate the proposed dwellings and outbuilding(s) within a single building envelope. This additional clearing could create undesirable visual impacts, which would be avoided by applying two separate building envelopes within already cleared areas on the property.
 - b. In accordance with LPS 1, designating two new building envelopes would require lodgement of a development application with the City.
 - c. The development application for two building envelopes would need to address issues relating to bushfire risk and on-site effluent disposal.
6. Mr and Mrs Ogg subsequently engaged expert environmental management and bushfire consultancy Bio Diverse Solutions (BDS) to undertake a Bushfire Attack Level (BAL) assessment and prepare a comprehensive Bushfire Management Plan (BMP) to accompany their development application. They also met with relevant City staff, who confirmed that a single Aerobic Treatment Unit (ATU) could be shared between two building envelopes on the same property.

Proposal

7. On 20 August 2021, Mr and Mrs Ogg lodged their development application with the City of Albany to nominate two building envelopes on the property.
8. Mr and Mrs Ogg's development application seeks approval to:
 - a. Reduce the size of the existing ~3,400m² approved building envelope by more than 470m²; and
 - b. Split the existing approved building envelope into two smaller building envelopes with a combined area of 2,952m² – being less than the 3,000m² building envelope size permitted under LPS 1. For ease of reference, we have described these two building envelopes as follows:
 - a 'primary building envelope', 1,554m² in area, located in an already cleared, elevated (southern) part of the property, generally coinciding with the existing approved building envelope; and
 - a 'secondary building envelope', 1,398m² in area, located in a cleared, lower (northern) part of the property.
9. Included as Appendix 2 is a plan showing the size and location of the existing approved building envelope in relation to the two proposed smaller building envelopes.

Assessment

10. On 15 September 2021, Mr Ogg received correspondence from the City of Albany advising that staff did not support the location of the primary building envelope based on its exposure to bushfire risks. This advice, however, appeared to ignore:

REPORT ITEM DIS316 REFERS

- The existence of the already approved and larger building envelope in the same location; and
 - That a 'Single House' is a 'P' use in the Rural Residential Zone under LPS 1 (clause 3.4.4) and a dwelling could therefore be built 'as of right' within the existing approved building envelope, without development approval.
11. The City advised Mr and Mrs Ogg that it would only support the proposal if all future development were contained within a single building envelope, in the cleared area on the northern part of the property, generally according with the proposed 'secondary building envelope'.
12. The City referred the development application to DFES on two separate occasions. Regrettably, the DFES referral responses appear to disregard the evidence and expert Bushfire Attack Level (BAL) assessment provide by two Level 2 accredited Bushfire Planning and Design (BPAD) practitioners in the Bushfire Management Plan (BMP) produced by BDS.
13. In its letter to Mr Ogg dated 30 August 2022, BDS has comprehensively responded to and refuted DFES's latest referral response to their BMP. A copy of BDS's letter is included as Appendix 3, and concludes that the DFES referral response:
- a. Exhibits a lack of familiarity with the local area and knowledge of specific site conditions;
 - b. Appears to ignore the actual condition and classification of vegetation on the property at the time the BAL assessment occurred;
 - c. Appears to be based on outdated and inaccurate aerial photography;
 - d. Incorrectly interprets and applies Policy Measure 6.5 a)(i) of State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7), the related Guidelines, and Australian Standard AS3959;
 - e. Demonstrates limited understanding and experience in carrying out a BAL assessment;
 - f. Inappropriately references the 'precautionary principle' and 'Element intent' from SPP 3.7 despite the fact that an accredited BPAD practitioner assessment has demonstrated compliance with Acceptable Solutions in the Guidelines;
 - g. Does not accord with the basic principles of assessing a proposal against the established bushfire planning framework, which is expressly set out in clause 4.5.1 of the Guidelines; and
 - h. Has been provided by an officer who does not appear to be an accredited BPAD practitioner.

Advice

14. In accordance with clause 4.5.13.2.3 of LPS 1, the City may approve changes to a designated building envelope, subject to certain considerations. Our assessment and advice regarding these considerations is provided in the table included as Appendix 4. This demonstrates that the two, smaller building envelopes proposed by Mr and Mrs Ogg clearly comply with the relevant Scheme provisions.
15. We see no sound planning basis for the City to *not* support Mr and Mrs Ogg's building envelope proposal, as it:

REPORT ITEM DIS316 REFERS

- a. Complies with relevant Scheme considerations;
- b. Will result in a substantial net reduction to the existing approved building envelope area on the property;
- c. Will produce a combined building envelope area smaller than that permitted by the Scheme;
- d. Will avoid significant vegetation clearing within the existing approved building envelope;
- e. Will result in a superior amenity and environmental outcome than already provided for by the existing approved building envelope;
- f. Takes advantage of existing cleared areas on the property – one of which coincides with the cleared areas in the existing approved building envelope; and
- g. Does not give rise to any bushfire issues that have not already been expertly addressed through BDS's comprehensive Bushfire Management Plan and attached advice in Appendix 3.

We trust the preceding discussion and attached material will provide sufficient comfort for the City to approve Mr and Mrs Ogg's development application, so they may act on their plans to live on their property at Shoal Bay Retreat, Big Grove.

Please do not hesitate to contact me on 0439 044 967 or len@lkadvisory.com.au if you would like to discuss this matter further, or if you have any queries whatsoever.

Thank you.

Yours sincerely,



LEN KOSOVA
Director

Appendix 1 – Existing Building Envelope Approval

23/09 03 THU 17:50 FAX

1001

CITY OF ALBANY

POSTAL ADDRESS: PO Box 484, Albany WA 6330
OFFICES: Merritt Road, Albany
221 York Street Albany
EMAIL: staff@albany.wa.gov.au

Telephone: (08) 9841 8333
Facsimile: (08) 9841 9200
Facsimile: (08) 9841 9222



Our Ref.: A164434/O304986
Cross Ref:
Your Ref:
Enquiries: Robert Fenn

23 September 2003

Mr Richard Fry
Principal
Roy Weston Real Estate
265 York Street
ALBANY WA 6330

Dear Richard

LOT 410 SHOAL BAY RETREAT BIG GROVE

At the September meeting of Council, your request to set up a "development area" within the "Special Design Area" of Lot 410 was considered and received Council approval.

You are now in a position to offer this parcel of land for sale in the knowledge that a prospective purchaser can construct a dwelling in the development area identified on the clear understanding that:

- i) the dwelling is constructed in the position shown as "proposed development area" in the plan supplied.
 - ii) the dwelling is of single storey construction and it's floor level is no higher than the existing ground level on the building site.
- AND
- iii) all other provisions of clause 6.5 of Special Rural Area 8 in the City of Albany Town Planning Scheme No 3 are complied with and particularly those relating to minimising visual impact.

Yours sincerely

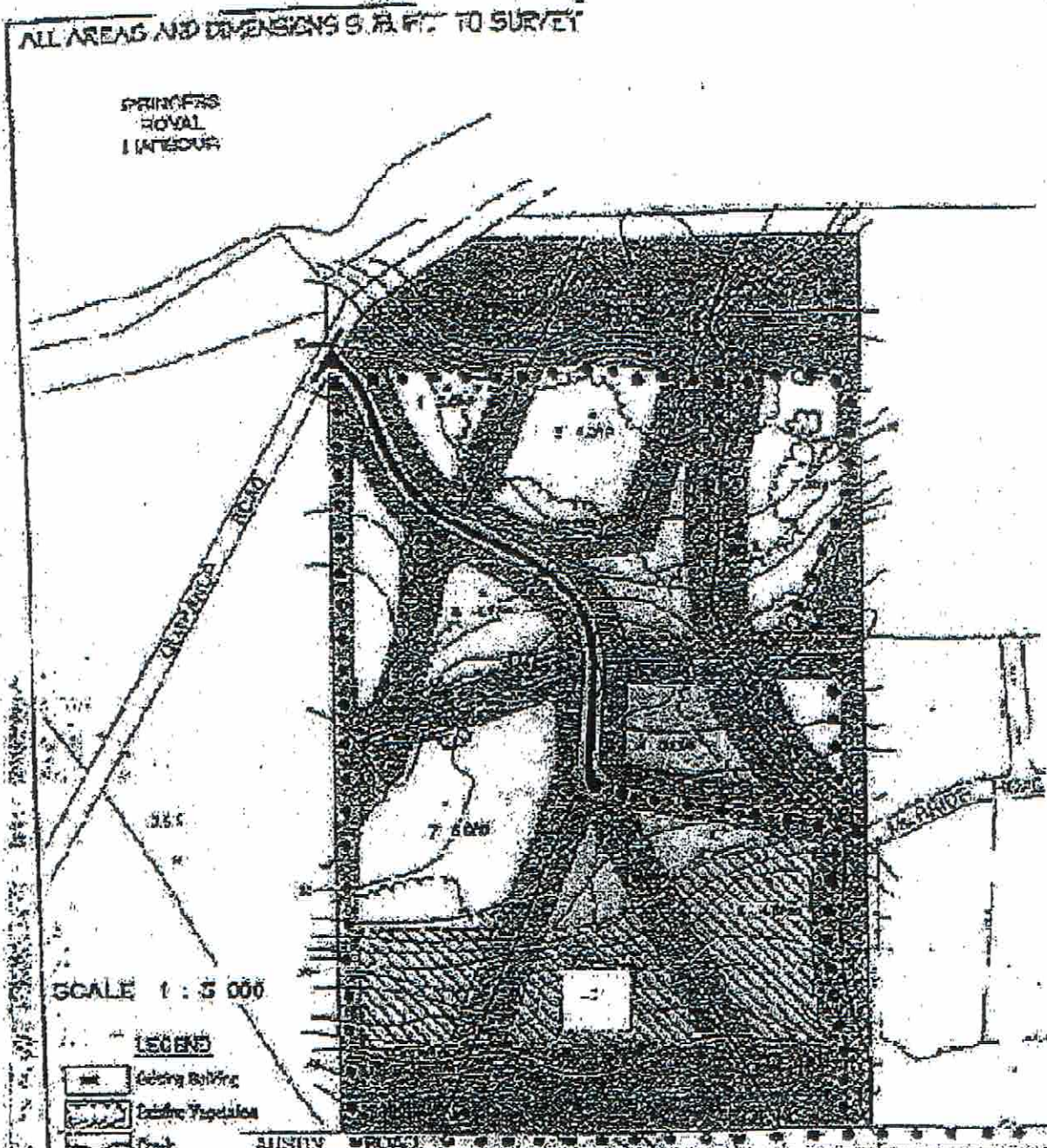
Robert Fenn
Executive Director Development Services

rjf:fm

O304986

ALL AREAS AND DIMENSIONS S. & F.T. TO SURVEY

PRINTERS
ROYAL
LITHOGRAPH



SCALE 1 : 5 000

LEGEND

- Existing Building
- Existing Vegetation
- Creek
- Proposed Boundaries
- Strategic Road Link
- Railway Exclusion Area
- 20% Orchard Buffer & Feeding
- Proposed Revegetation
- No Zone in Bicycle Link
- Special Design Area



RYAN, TAYLOR & BURRELL
CONSULTANTS IN Town Planning and Civil Design
111 COLLIERIE ROAD, NORTH BRIDGE ROAD, 5100
PHONE 088 22001 FAX 088 41000

NOTES:
Existing cleared areas that are located to Council's satisfaction, should not stock be kept on the property.
Building envelopes and low fuel areas shall be determined on site at the building approval stage.

SUBDIVISION GUIDE PLAN

Shire of Albany - Special Rural Zone No.

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11.1.2 Relaxation of Scheme Provision – Lot 410 Shoal Bay Retreat, Big Grove

File/Ward : A164434 (Vancouver Ward)

Proposal/Issue : Proposed Development Area within Special Control Area of Special Rural Area 8

Subject Land/Locality : Lot 410 Shoal Bay Retreat, Big Grove

Proponent : R & G Swatek

Owner : JA & JA Cochrane

Reporting Officer(s) : Senior Planning Officer (G Bride)

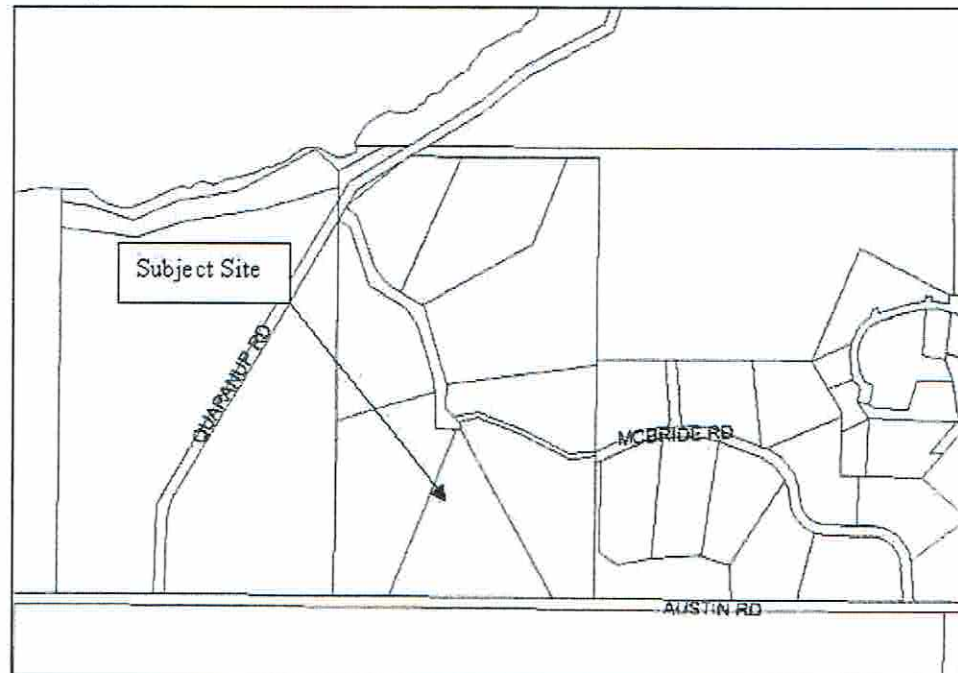
Disclosure of Interest : Nil

Previous Reference : Nil

Summary Recommendation : Advise applicant that the proposed development area does not comply with Scheme 3 provisions.

Bulletin Attachment : Nil

Locality Plan :



REPORT ITEM DIS316 REFERS

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Item 11.1.2 continued

BACKGROUND

1. Application has been received by R & G Swatek to locate a 'building development area' on Lot 410 Shoal Bay Retreat, Big Grove.
2. The property is zoned "Special Rural (Area 8)" within Town Planning Scheme No. 3 and is 5.063 hectares in size.
3. The applicant has expressed a desire to purchase the property subject to the development area, as shown on the attached plans, being acceptable to Council.
4. Staff have visited the site on three separate occasions; the last being accompanied by several Councillors. Staff have previously advised the applicant that the proposed location does not comply with the requirements of the Scheme, and have suggested other locations on the property where a view of Princess Royal Harbour and the City can be enjoyed from a site which is visually less exposed. The applicant has not accepted these suggestions based on financial reasons and a reduction in the quality of the view.

5. In relation to the siting of a development area, Clause 5.4 of Special Rural Area 8 states:

"Buildings shall be grouped within a building envelope not exceeding 3000m². Building envelopes shall be sited by the landowner in conjunction and with the approval of Council with a view to minimising visual impact and minimising the impact on existing tree cover...."

6. In addition to the above, any application for a development area within the defined Special Control Area must address the following (Clause 6.5):

- *Visual impact and the impact on existing tree cover;*
- *Provision 6.1 to 6.4 (which relate to building materials, fencing etc);*
- *Setbacks from property boundaries and creek lines;*
- *Existing and proposed vegetation/revegetation;*
- *Low fuel zones;*
- *The cut and fill of the site shall be kept to a minimum with preference given to split level development and the breaking up of building mass;*
- *The house sites shall avoid highly exposed ridges and/or knolls;*
- *That driveways be designed to minimise visual impact and erosion by being aligned with the contours of the site and planted with trees and shrubs. Stormwater run-off shall be attenuated to ensure erosion does not occur; and*
- *The preparation of a landscape plan that shall indicate the number, type and location of shrubs and trees to be planted and maintained as a condition of building approval to effectively minimise the visual impact of all development on the site.*

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Item 11.1.2 continued

7. Staff have not been in a position to support the proposed development area as it is situated on a knoll and is highly exposed from a section of Quaranup Road, surrounding dwellings and from the City. The knoll is approximately 39m AHD, being only 4 metres lower than the highest point of the block located in the north-west corner of the property.
8. Attached to the rear of this report, the applicant has submitted a letter outlining why the development area should be supported. In summary, these reasons are:
 - The site would not require the removal of large peppermint trees;
 - Building down the slope would be more expensive and more dangerous in relation to bushfire;
 - The proposed site is not highly exposed and appropriate building materials will be used;
 - It will not be highly visible from Shoal Bay Retreat and the adjacent dwelling on Lot 409;
 - A single storey house will be constructed;
 - Areas of cut and fill will be revegetated in line with special conditions.

STATUTORY REQUIREMENTS

9. No formal application is required in relation to a development area, however should a dwelling be proposed, a planning scheme consent application will need to be lodged. In relation to the siting of a development area, the special provisions for Special Rural Area 8 state that the site is required to be approved by Council, with a view to minimising visual impact.
10. A decision of Council either to support or refuse the proposed development area will need to be conveyed to the applicant in writing.

POLICY IMPLICATIONS

11. The subject land is identified within the City of Albany Local Rural Strategy (1996) as being contained within Visual Management Area A (ie. most visually sensitive). The siting of development within Visual Management Area A states that any dwelling shall not detract from significant views, are not be located on ridge tops (preferably not located on slopes greater than 1:10) and be sympathetic to existing landscape elements.

FINANCIAL IMPLICATIONS

12. There are no financial implications relating to this item.

STRATEGIC IMPLICATIONS

13. There are no strategic implications relating to this item.

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Item 11.1.2 continued

COMMENT/DISCUSSION

14. Staff believes that the proposed development area is highly exposed and will detract from significant views from the City across to the Frenchman Bay peninsula, and from local roads within close proximity to the site.
15. Whilst the applicant has proposed to use colours and materials which will help blend the dwelling into the landscape, this is a requirement for all dwellings within Special Rural Area No. 8; the plans for the house are also not available as the applicant has not purchased the land. It is the combination of using these materials, in addition to locating the dwelling outside of a visually sensitive area that provides the best results in relation to screening. It is also advised approximately 4000sqm of land around and including the dwelling site will need to have reduced tree coverage to meet the required 20 metre low fuel zone, which in itself can be highly visible.
16. The neighbouring dwelling (Lot 409) was built at a finished floor level (FFL) of 33.6m AHD, which is approximately 4.4 metres lower than the proposed development area on Lot 410, or 3.4 metres if 1 metre of cut was proposed. This dwelling is single storey and the roof gable is consistent with the height of surrounding vegetation, something which cannot be achieved within the proposed development area on Lot 410.
17. The applicant has stated that building on the slope will require the removal of some peppermint trees and that extensive earthworks will be required. Staff believe that if the development area was moved to the north, to the point where the roof line was at a similar level to the height of the knoll, only a small number of peppermint trees would need be removed to comply with fire guidelines. In relation to earthworks, the special provisions state that split level development is preferred over a flat concrete pad as this would reduce the need for earthworks, maintain the natural topography of the site and blend in with surrounding revegetation.
18. It is also advised that the northern third of the property is relatively flat and is either cleared or infested with taylorina, therefore suiting a conventional dwelling.
19. Similar controls, requiring buildings to be located below the ridgeline on the subject land also exist in the "Rainbows End Estate".

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Item 11.1.2 continued

RECOMMENDATION

THAT Council advises the applicant that the proposed development area upon Lot 410 Shoal Bay Retreat, Big Grove cannot be supported as it is located on a highly exposed knoll, and therefore does not meet the requirements of Clause 6.5 of Special Rural Area No. 8.

Voting Requirement Simple Majority

**MOVED COUNCILLOR EMERY
SECONDED COUNCILLOR WELLINGTON**

1. **THAT the applicant be advised that Council would be prepared to consider a request to construct a dwelling in the “Special Design Area” declared upon Lot 401 Shoal Bay Retreat, Big Grove provided;**

- i) the dwelling is constructed in the position shown as “proposed development area” in the plan supplied by the applicant;**
- ii) the dwelling is of single storey construction and it’s floor level is no higher than the existing ground level on the building site; and**
- iii) all other provisions of clause 6.5 of Special Rural Area 8 in the City of Albany Town Planning Scheme No 3 are complied with and particularly those relating to minimising visual impact;**

AND

2. **THAT Council receive a briefing from staff on the visual amenity principles of the City’s Local Rural Strategy with the possibility of considering a review of policy direction relating to visual amenity issues in Special Rural and Special Residential zoned areas.**

MOTION CARRIED 8-4

Reason:

- Several residences in the Big Grove Special Rural areas are visually prominent from vantage points outside the subdivisional area. This applicant highlights the need for Council policy directions to be reviewed from time to time and bringing this issue to a briefing session in the near future will allow Councillors an opportunity to understand why the policy was initially created.

REPORT ITEM DIS316 REFERS

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DEVELOPMENT SERVICES REPORTS

- Item 11.1.2 continued

CITY OF ALBANY - RECORDS	
FILE:	A164434
DOC:	I307466
29 JUL 2003	
OFFICER:	PLANG
ATTACH:	PHOTOS / MAPS

21st July 2003

R & G Swatek
61 Pinnaster Road
ALBANY WA 6330

Graeme Bride
Senior Planning Officer
City of Albany
221 York Street
ALBANY WA 6330

Dear Graeme,

Proposed Development Area – Lot 410 Shoal Bay Retreat, Big Grove

I refer to our recent discussion and on site inspection of a suitable area to build a house on the above site.

Enclosed is an aerial map and a subdivision plan map showing contour lines and proposed Building Zone and Building Protection Zone of 20 metres around the building zone.

The low fuel area commences at the edge of the grove of large peppermint trees below the knoll area and extends up the steep incline of the ridge/knoll area for the required 20 metres. The building zone then commences and takes in the knoll area where the ground flattens out. The house pad will require the shaving of the top of the knoll area as per attached diagram marked "A".

Following are reasons and points in support of the above:-

- Does not require the chopping down of any large peppermint trees. There is only a small grove on the whole block which is located at the bottom of the knoll area. Will also enable retention of some good sized Banksia trees.
- Building halfway up the slope will require some cut and fill and a lot of expensive retaining walls and will do more environmental damage than shaving the top off the knoll where there is only very low scrub – see enclosed photos.

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Item 11.1.2 continued

- Building half way down the slope will create a much higher danger from a bushfire leaping across the low fuel area from the tall peppermint trees. Most bushfires are fanned by east to north east winds which is where the grove of large peppermints are.
- We do not consider the proposed building zone to be a "Highly exposed ridge or knoll area" as defined in the special conditions. To minimize the visual impact we will use green colourbond on the roof as against red or a beige colour used by some owners in this and the Rainbow End subdivision. Enclosed photos demonstrate the green blends into the hill side background much better.
- At most, only the green roof will be visible by anyone driving up Shoal Bay Retreat Road as well as from the house on Lot 409 next door. It will not be visible from the other lots in the subdivision. Lot 411 has not been built on yet. The house will only be visible from a short stretch of Quaranup Road. Use of green roof etc will minimise visual impact from city.
- We propose to only build a single storey house to reduce visual impact.
- All cut and fill area will be revegetated in line with the special conditions.

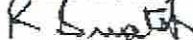
We believe that what we propose is within the guide lines of the Special Conditions of the subdivision and will have less environmental impact then building half way down the slope. The visual impact to the other lots in the subdivision is minimal or non existent as previously stated as well as from Quaranup Road and the City with the choice of colours we will use.

There is nothing in the Special Conditions to say that you can't build to take advantage of the wonderful views. If this was to be the case it should have been clearly spelled out in the conditions that "if we can see you then you can't build there". We believe that it is only fair and reasonable that we be allowed to take advantage of the view.

Council has approved over recent times other building zones for houses both in this subdivision and Rainbows End that are clearly visible as stated above. Lot 409 Shoal Bay Retreat and Lot 24 Rainbows End are 2 examples. The colours we intend to use will blend into the background better than the abovementioned two. We are not asking for anything more than Council has approved for others in the abovementioned two subdivisions.

We trust that this will meet with favourable consideration.

Yours faithfully



R SMART

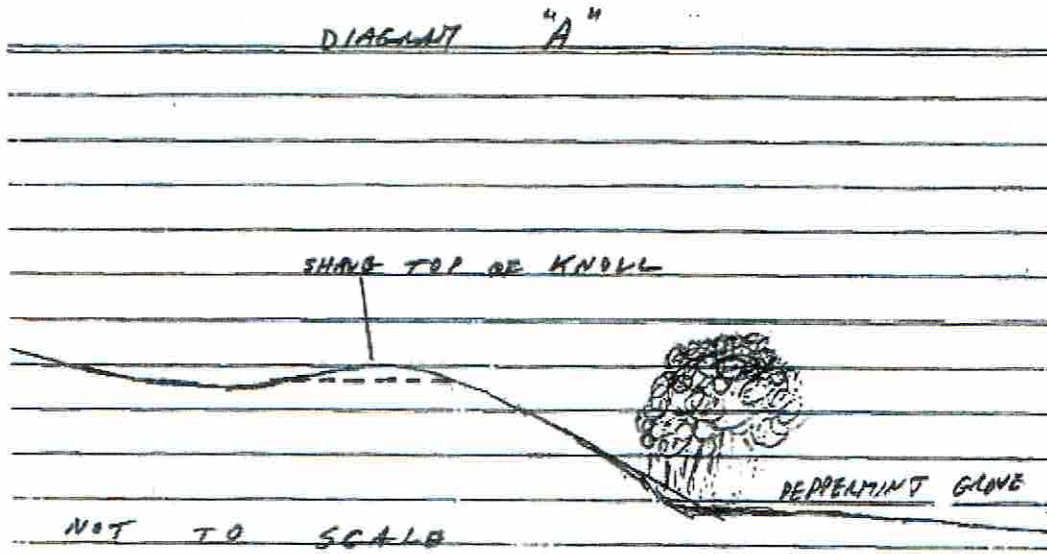
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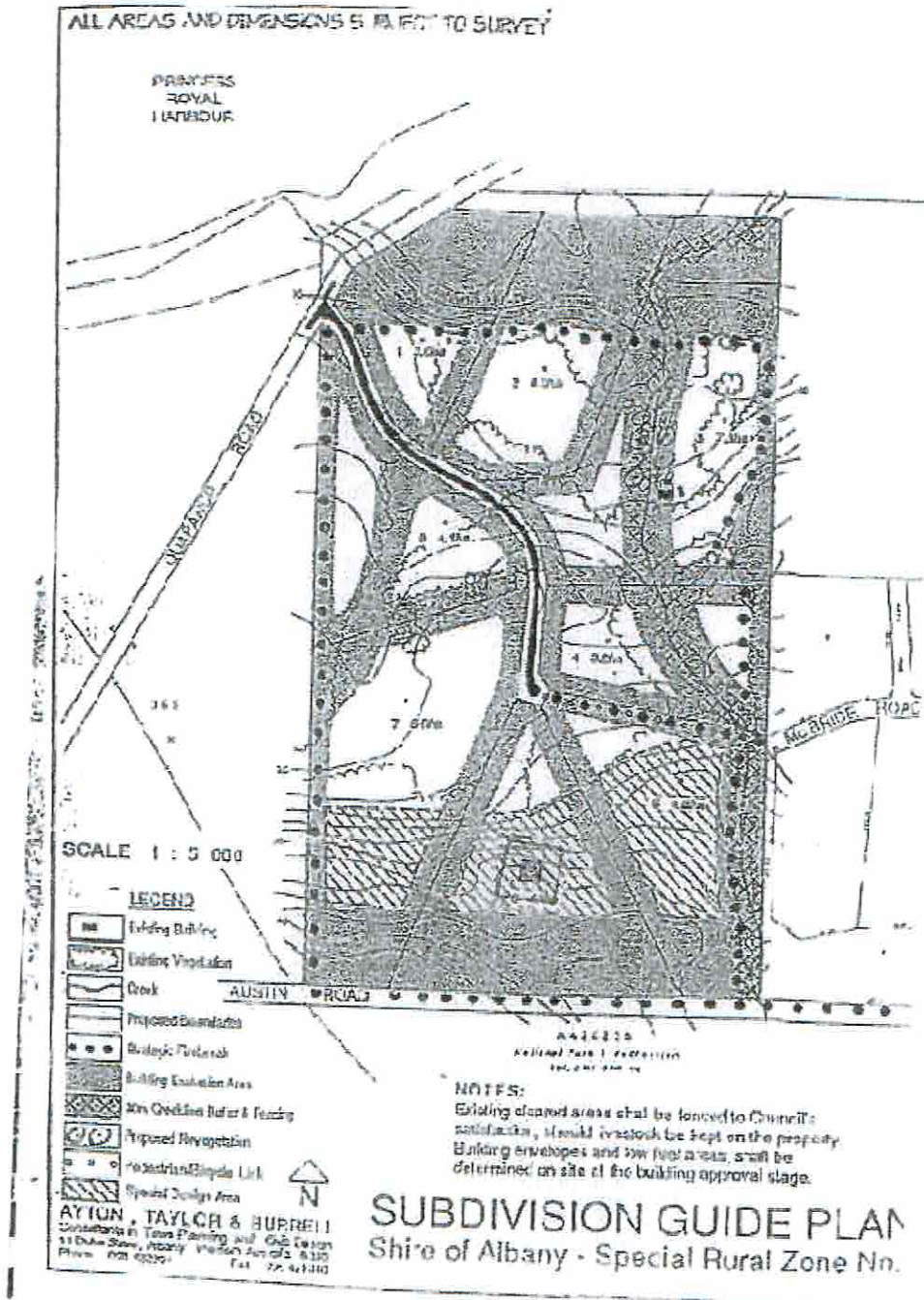
REPORT ITEM DIS316 REFERS

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Item 11.1.2 continued



Appendix 2 – Plan of Existing Approved & Proposed Building Envelopes



Building Envelope Proposal




This Development Application (City of Albany Ref: EF222555152 – A164434) proposes to:

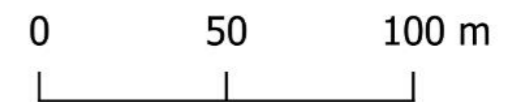
- Reduce the size of the existing ~3,400m² building envelope by more than 470m²; and
- Split the existing envelope into two separate building envelopes of 1,554m² and 1,398m², amounting to a combined building envelope area of only 2,952m².

Envelopes	Status	Area(m ²)
Secondary	Proposed	1398.05
Primary	Proposed	1554.55
Existing	Existing	3426.95

Legend

Envelopes

-  Existing
-  Primary
-  Secondary
-  APZ
-  Lot Boundary



L K A D V I S O R Y

Appendix 3 – Bio Diverse Solutions Response to DFES Correspondence



Albany Office: 29 Hercules Crescent
Albany WA 6330
98421575

Denmark Office: Unit 7, 40 South Coast Highway
Denmark WA 6333
98481309

Esperance Office: Unit 2A, 113 Dempster Street
Esperance WA 6450

enquiry@biodiversesolutions.com.au
ABN 46 643 954 929

BAL0607

30 August 2022

Alex Ogg
49 Shoal Bay Retreat
Big Grove WA 6330

BMP referral to DFES Letter from DFES dated 26/07/2022

Dear Alex,

I refer to the attached Department of Fire and Emergency Services (DFES) letter to the City of Albany, dated 26 July 2022 (Attachment 1) relating to the Bushfire Management Plan (BMP) report (V3, 3/06/2022) prepared by Bio Diverse Solutions (BDS), in support of your Development Application (DA) dated 20 August 2021, which proposes to split and reduce the size of the existing approved building envelope for Lot 410 (No. 49) Shoal Bay Retreat, Big Grove.

The City of Albany (CoA) is the decision maker for your DA and referred our BMP to DFES for comment regarding compliance with the Western Australian Planning Commission's (WAPC's) State Planning Policy 3.7 (SPP 3.7) (WAPC, 2015) and the related Guidelines for Planning in Bushfire Prone Areas v1.4 (Guidelines) (WAPC, 2021).

We assert that DFES's letter to the City is critically flawed, inaccurate, and misaligned with DFES's charter in providing referral advice to decision makers in line with SPP 3.7, the Guidelines and the established bushfire planning framework.

Provided below is our expert response to DFES's letter, addressing the two specific Policy Measures from SPP 3.7 which DFES has referenced, being Policy Measures 6.5 a)(i) and 6.5 c).

1. Policy Measure 6.5 a)(i) – Preparation of a BAL assessment

According to Policy Measure 6.5 a), any development application to which Policy Measure 6.2 applies is to be accompanied by:

- (i) *a BAL assessment. BAL assessments should be prepared by an accredited Level 1 BAL Assessor or a Bushfire Planning Practitioner unless otherwise exempted in the Guidelines.*

1.1 DFES Comment & Bushfire Consultant Response

DFES has raised three key issues regarding Policy Measure 6.5 a)(i), which we have summarised in italic text below, followed by our response:

Issue 1 – Vegetation Classification

DFES claims that further information is needed to support exclusion of Plot 3 on the BAL Assessment and requires an enforceable mechanism to provide certainty on proposed management measures. DFES has also commented that the BAL assessment ratings may be inaccurate if the vegetation classification used in the BMP does not consider vegetation at maturity as per AS3959.

Bushfire Consultant Response –

The BAL Assessment underpinning the BMP was prepared by a Level 2 BPAD practitioner (Jason Benson, BPAD L2 37893) and reviewed by Kathryn Kinnear (BPAD L2 30794), in accordance with SPP 3.7, the associated Guidelines and AS3959.

Kathryn Kinnear has more than 28 years' experience in bushfire management and planning; she sits on the AS3959 Standards Australia committee, Fire Protection Association Australia (FPAA) Bushfire Working Group, and the Department of Planning, Lands and Heritage's technical committee for the WA Guidelines. Kath also supports the delivery of FPAA Australia's Level 1 BAL Assessors course in WA.

In contrast, DFES's letter to the City of Albany was not prepared by an accredited BPAD practitioner and incorrectly references advice note C2.2.3.1 of AS3959, regarding assessment of vegetation at maturity.

The vegetation in question (Plot 3) is in an approved and currently maintained Building Envelope (BE). The BMP is the legal enforcement mechanism for vegetation management in a BAL Assessment or BAL contour Plan. We classified the vegetation according to AS3959 by undertaking a site visit, taking substantial photographs (BMP Appendix B) that show the cleared area of the existing approved BE and providing supporting information to clearly define the condition of the vegetation and structural assessment. The approved BE boundary is shown in the BMP (Appendix A) and accompanied by evidence of the City of Albany Council's approval for development within the BE, which is already cleared and maintained.

We reject DFES's suggestion that the BMP contains insufficient information regarding Vegetation Classification, and we can only assume that in providing its feedback to the City, DFES:

- Did not visit the property and had no familiarity with the local area nor knowledge of specific site conditions;
- Ignored the true vegetation condition and classification on the property at the time the BAL assessment occurred;
- Relied on outdated aerial imagery; and
- Failed to source and review the latest aerial imagery available (via Nearmap, from 19 January 2022), which clearly depicts the two proposed building envelopes are almost entirely cleared of vegetation, whereas the single, larger, approved building envelope would need to be further cleared of vegetation.

Issue 2 – Vegetation Management

DFES states that it does not accept fire break notices on adjoining land as part of the vegetation management required to achieve an Asset Protection Zone (APZ) or low-threat classification. Fire break notices may only apply for part of the year and may be varied from year to year by the responsible local government. The proponent is to provide a performance principle-based solution to achieve the required APZ should the APZ rely on the management of vegetation on adjoining land.

Bushfire Consultant Response –

The BMP does not reference or rely on City of Albany Fire Management Notices as a mechanism to achieve low threat vegetation in the BAL assessment process or for the siting of the buildings. The APZs are also not dependent on the management of vegetation on any adjoining property and, in fact, the APZ boundaries do not even come close to an adjoining property boundary.

We therefore cannot comprehend why DFES has referred to the City's Fire Management Notices or firebreaks on adjoining properties when commenting on the BMP.

Issue 3 – Landscape Management Plan

DFES claims that a significant amount of Class D Scrub will need to be modified to achieve an APZ compliant with Schedule 1: Standards for Asset Protection Zones contained in the Guidelines. DFES also claims that an area around the indicative primary dwelling was previously cleared but has now revegetated; and on that basis a landscape management plan should be prepared to remove ambiguity for the landowner and provide a compliance mechanism for the City if the location is supported.

Bushfire Consultant Response –

The BMP identifies low-threat vegetation within an existing, lawfully approved BE and proposed dwelling/building locations with compliant APZs, consistent with SPP 3.7 and related Guidelines. The APZs for the proposed building envelopes deliberately take advantage of existing cleared areas on site to minimise further vegetation clearing or modification.

DFES has wrongly suggested that the previously cleared area around the indicative primary dwelling “has now revegetated”. This is entirely false and can be easily refuted by site inspection and review of the latest available aerial imagery. Further, there is no reference to revegetation in our AS3959 BAL assessment (Appendix B) nor has any evidence been provided to support DFES's opinionated response that ‘revegetation’ has occurred, which is defined as “*the process and act of replanting and rebuilding the soil of disturbed land*”.

DFES's claim about revegetation on site should be ignored, as it is incorrect, unsubstantiated and infers information which is not presented in the BMP.

A landscape management plan is *not* required by AS3959 or the relevant Acceptable Solutions of the WAPC Guidelines . Further, the BMP already includes a 'Works Program' to achieve APZs of BAL 29 or less, which complies with AS3959 and Schedule 1 (Standards for Asset Protection Zones) in the Guidelines.

A landscape management plan is *only* a requirement in Element 5 of the Guidelines relating to “Vulnerable tourism land uses” (Acceptable Solution A5.7d). This requirement is *not* applicable to this proposal, which is only intended to facilitate construction of a single house, ancillary dwelling and associated outbuilding(s) on the property.

Your proposed single house, ancillary dwelling and outbuilding(s) will require separate development approval from the City of Albany in future, which will then provide an appropriate mechanism for the City to impose conditions that require compliance with the BMP. At that stage, the City may also impose a condition requiring a section 70A notice on the Certificate of Title, in accordance with clause 6.10 of SPP 3.7 stating:

"This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is subject to a Bushfire Management

Plan. Additional planning and building requirements may apply to development on this land".

1.2 Conclusion

DFES's response to the BMP prepared for your property:

- Incorrectly interprets and applies Policy Measure 6.5 a)(i) of SPP 3.7 and the related Guidelines;
- Demonstrates a worrying lack of understanding and experience in carrying out a BAL Assessment;
- Inappropriately references the precautionary principle and Element intent in circumstances where an accredited BPAD practitioner assessment has demonstrated compliance with Acceptable Solutions in the Guidelines; and
- Does not accord with the basic principles of assessing a proposal against the established bushfire planning framework, which is expressly set out in clause 4.5.1 of the Guidelines, as follows (emphasis added):

"acceptable solutions, which provide one way of meeting the Element's intent. Examples are provided as potential solutions of acceptable design outcomes. Acceptable solutions contained within this document are intended to provide a straightforward pathway to assessment and approval. Compliance with the acceptable solutions contained within this document automatically achieves the intent of the relevant bushfire protection element."

Therefore, we would urge the City of Albany to not rely on DFES's response as a justifiable basis for assessing the BMP or determining your development application.

2. Policy Measure 6.5 c) – Compliance with Bushfire Protection Criteria

According to Policy Measure 6.5 c), any development application to which Policy Measure 6.2 applies is to be accompanied by –

"an assessment against the bushfire protection criteria requirements contained within the Guidelines demonstrating compliance within the boundary of the development site. This information can be provided in the form of a Bushfire Management Plan or an amended Bushfire Management Plan where one has been previously endorsed."

2.1 DFES Comment & Bushfire Consultant Response

DFES has raised five key issues regarding Policy Measure 6.5 c), which we have summarised in italic text below, followed by our response:

Issue 1 – Bushfire Protection Criteria

DFES claims the Bushfire Protection Criteria have not been assessed in accordance with SPP 3.7 and the Guidelines.

Bushfire Consultant Response –

DFES's claim is astonishing and baseless. The DFES officer making this allegation is not an accredited bushfire practitioner and appears to have formed their view from assumptions and inaccuracies, rather than the expert, evidence-based advice provided in the BMP by two certified Level 2 bushfire practitioners.

Issue 2 – Acceptable Solution A1.1 (Development location)

DFES claims the BAL ratings stated in the BMP cannot be validated for the reasons discussed earlier, and that compliance with the intent of Element 1 has not been demonstrated through Acceptable Solution A1.1, which states –

“The strategic planning proposal, subdivision and development application is located in an area that is or will, on completion, be subject to either a moderate or low bushfire hazard level, or BAL–29 or below.”

Bushfire Consultant Response –

As discussed earlier in this advice (in respect of Policy Measure 6.5 a)(i)), the BAL rating comments provided by DFES are inaccurate, unsubstantiated, and not based on current or relevant facts and information. The comment provided by DFES does not acknowledge or refer to A1.1 acceptable solutions as per the WAPC guidelines and DPLH bushfire planning framework

In accordance with the WAPC Guidelines (clause 4.5.1) and SPP 3.7, the “intent” of each Element can be met either by complying with relevant Acceptable Solution(s) or the application of Performance Principles. Compliance with Acceptable Solutions provides a guaranteed pathway for satisfying the intent of each Element.

The BMP unequivocally complies with Acceptable Solution A1.1 and therefore satisfies the intent of Element 1 of the Guidelines; DFES has failed to provide any evidence or accredited expert advice to demonstrate otherwise.

Issue 3 – Acceptable Solution A2.1 (APZ)

DFES claims the BAL ratings stated in the BMP cannot be validated for the reasons discussed earlier, and that compliance with the intent of Element 2 has not been demonstrated through Acceptable Solution A2.1, which states –

“Every habitable building is surrounded by, and every proposed lot can achieve, an APZ depicted on submitted plans, which meets the following requirements:

- *Width: Measured from any external wall or supporting post or column of the proposed building, and of sufficient size to ensure the potential radiant heat impact of a bushfire does not exceed 29kW/m² (BAL-29) in all circumstances.*
- *Location: the APZ should be contained solely within the boundaries of the lot on which the building is situated, except in instances where the neighbouring lot or lots will be managed in a low-fuel state on an ongoing basis, in perpetuity (see explanatory notes).*
- *Management: the APZ is managed in accordance with the requirements of ‘Standards for Asset Protection Zones’ (see Schedule 1).”*

Bushfire Consultant Response –

As stated earlier, DFES's comments regarding the BAL ratings included in the BMP are inaccurate, unsubstantiated, and not based on current or relevant facts and information. DFES

has not acknowledged or referenced the Acceptable Solutions as the bushfire protection criteria require in AS 2.1. This section of the DFES letter is misleading and is either inappropriately titled (i.e., should be "Advice notes to 6.5(a)") or should give advice to the decision maker about reference to the bushfire protection criteria and the defined Acceptable Solutions.

DFES claims the proposed primary dwelling does not minimise bushfire impact, despite it being located within the existing, cleared, approved building envelope, and a single house already able to be built in this location 'as of right'.

The BMP unequivocally complies with Acceptable Solution A2.1 and therefore satisfies the intent of Element 1 of the Guidelines; DFES has failed to provide any evidence or accredited expert advice to demonstrate otherwise.

Issue 4 – Acceptable Solution A3.1 (Public roads)

DFES claims the proposal does not meet this Acceptable Solution because access is not available in two different directions to two different destinations, with the nearest such junction being the intersection of Frenchman Bay Road and Robinson Road.

Bushfire Consultant Response –

DFES's comments regarding vehicular access do not clearly articulate an assessment against the Acceptable Solutions, as presented in the BMP. The BMP outlines several strategies to mitigate the bushfire risk in relation to the legacy of vehicular access in the locality, however DFES has failed to acknowledge these important considerations.

By DFES's logic, a dwelling could never be built on virtually any property adjoining a gazetted public road in Big Grove, Goode Beach, or the Vancouver Peninsula. Clearly this is a ridiculous proposition and demonstrates a naive interpretation and application of SPP 3.7 and the Guidelines.

The BMP clearly states that the existing road network, subdivision pattern and lot configuration in the subject area are a legacy of previous planning decisions. These matters are recognised by section 2.7 of the WAPC Guidelines, and the City (and DFES) should therefore acknowledge and accept the prior decisions which your property is a product of.

Furthermore, DFES appears to have ignored the emergency access/egress route identified in the BMP at the northern end of your property, which connects Shoal Bay Retreat with McBride Road and offers an alternate escape route in the event of an emergency.

Issue 5 – Acceptable Solutions A4.1 (Identification of future water supply) and A4.3 (Provision of water for firefighting purposes)

DFES claims the proposal does not demonstrate that the property can connect to a water supply or provide water for firefighting purposes. In doing so, DFES has also wrongly referenced Acceptable Solution A4.2 as being A4.3, whereas the Guidelines do not contain an Acceptable Solution A4.3.

Bushfire Consultant Response –

DFES's comment is astonishing and baseless.

The BMP clearly defines that Lot 410 is located within an area serviced by (and will be connected to) reticulated water; the nearest hydrant is located only 119m to the north of the lot, on Shoal

Bay Retreat; and additional rainwater storage tanks are proposed with a minimum capacity of 10,000L per dwelling, with associated couplings available for firefighting purposes.

It is inconceivable how DFES could justify making the above claim to the City.

2.2 Conclusion

DFES's response to the BMP prepared for your property:

- Incorrectly interprets and applies Policy Measure 6.5 c) of SPP 3.7 and the related Guidelines;
- Falsely asserts that the BMP does not sufficiently address or demonstrate compliance with Acceptable Solutions A1.1, A2.1, A3.1, A4.1 and A4.2, despite our evidence and justification to the contrary, and without DFES providing any qualified or competent explanation to support those claims; and
- Appears to have altogether ignored the facts and evidence contained in the BMP clearly demonstrating the proposal's acceptability.

Therefore, we would urge the City of Albany to not rely on DFES's response as a justifiable basis for assessing the BMP or determining your development application.

In summary, DFES's letter to the City of Albany cannot be viewed as "advice" as the author of that letter is not qualified to provide any expert advice on the matter, and has illustrated a disturbing lack of knowledge, ability and experience to properly assess a BMP in accordance with the established planning framework for planning in bushfire prone areas.

We trust our expert advice herein will provide you and the City with the professional assurances needed to demonstrate that the proposal is acceptable and compliant with SPP 3.7 and related Guidelines, and AS3959.

If you have any queries regarding this information/matter please feel free to contact me via email on kath@biodiversesolutions.com.au or phone 9842 1575.

Kind regards,



Kathryn Kinnear
Director, Bushfire Consultant
Bio Diverse Solutions

CC: Jan van der Mescht (CoA, Manager Planning and Building Services)
Jackie Holm (DPLH, Planning Manager, Strategy and Engagement)

References

AS3959-2018 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) (2021) Guidelines for Planning in Bushfire Prone Areas Version 1.4. Western Australian Planning Commission and Department of Planning WA, Government of Western Australia.

Western Australian Planning Commission (WAPC) (2015) State Planning Policy 3.7 Planning in Bushfire Prone.

Attachment 1

DFES Letter of advice and referral

26/07/2022



Our Ref: D23105
Your Ref: A164434/PA108818/P2210479

Josh Dallimore
City of Albany
planning@albany.wa.gov.au

Dear Mr Dallimore

RE: LOT 410 (49) SHOAL BAY RETREAT, BIG GROVE – PROPOSED BUILDING ENVELOPE NOMINATION – DEVELOPMENT APPLICATION

I refer to your email dated 7 July 2022 regarding the submission of a revised Bushfire Management Plan (BMP) (Version 3), prepared by Bio Diverse Solutions and dated 3 June 2022, for the above development application.

This advice relates only to *State Planning Policy 3.7: Planning in Bushfire Prone Areas* (SPP 3.7) and the *Guidelines for Planning in Bushfire Prone Areas* (Guidelines). It is the responsibility of the proponent to ensure the proposal complies with relevant planning policies and building regulations where necessary. This advice does not exempt the applicant/proponent from obtaining approvals that apply to the proposal including planning, building, health or any other approvals required by a relevant authority under written laws.

Assessment

- DFES acknowledge that the site is currently vacant and this development application seeks to nominate two building envelopes on the lot to accommodate a ‘Single House’ and an ‘Ancillary Accommodation’ and ‘Outbuilding’.
- The decision maker has confirmed there is a conflict of opinion and has referred this to DFES seeking expert technical advice on bushfire risk.
- DFES previously provided advice in a letter dated 24 February 2022 for the same proposal.
- Further clarification is required within the BMP of the requirements of SPP 3.7 and the supporting Guidelines as outlined in our assessment below.

1. Policy Measure 6.5 a) (i) Preparation of a BAL assessment

Issue	Assessment	Action
Vegetation classification	<p>Evidence to support the exclusion of Plot 3 as managed to low threat in accordance with AS3959 is required.</p> <p>An enforceable mechanism is required to provide certainty that the proposed management measures can be achieved in perpetuity and they are enforceable.</p> <p>If unsubstantiated, the vegetation classification should be revised to consider the vegetation at maturity as per AS3959, or the resultant BAL ratings may be inaccurate.</p>	<p>Insufficient information.</p> <p>The decision maker to be satisfied with the vegetation exclusions and vegetation management proposed.</p>

REPORT ITEM DIS316 REFERS

Vegetation Management	DFES does not accept fire break notices on adjoining land as part of the vegetation management required to achieve an APZ or low-threat classification. Fire break notices may only apply for part of the year and may be varied from year to year by the responsible local government. The proponent is to provide a performance principle-based solution to achieve the required APZ should the APZ rely on the management of vegetation on adjoining land.	Modification to the BMP is required.
Landscape Management Plan	<p>The BMP has identified that a significant amount of Class D Scrub will need to be modified to achieve an APZ compliant with Schedule 1: Standards for Asset Protection Zones contained in the Guidelines.</p> <p>The BMP has noted that an area around the indicative primary dwelling was previously cleared but has now revegetated therefore a Landscape Management Plan should be prepared to remove ambiguity for the landowner and to provide a compliance mechanism for the City if the location is supported.</p>	Modification to the BMP is required.

2. Policy Measure 6.5 c) Compliance with the Bushfire Protection Criteria

Element	Assessment	Action
Location, and Siting & Design	<p>A1.1 & A2.1 – not demonstrated</p> <p>The BAL ratings cannot be validated for the reasons outlined in the above table.</p> <p>The development is on a lot that has, and is surrounded by, an extreme hazard that, in the opinion of DFES, cannot be adequately managed. Compliance with the intent of Element 1: Location has not been demonstrated as the proposed primary dwelling is not located in the area with the least possible risk of bushfire to facilitate the protection of people, property and infrastructure.</p> <p>Compliance with the intent of Element 2: Siting and Design has not been demonstrated as the proposed primary dwelling does not minimise the level of bushfire impact. It is recommended that the siting of development be located on flat areas and away from ridge tops, crests or narrow gullies where possible (see Figure 17 of v1.4 of the Guidelines).</p> <p>Although BAL construction standards do not guarantee the survival of the occupants or building, DFES does support the improved bushfire resilience provided by AS 3959-2018 construction standards.</p>	<p>Modification to the BMP is required.</p> <p>Decision maker to be satisfied.</p>
Vehicular Access	<p>A3.2 – does not comply</p> <p>Access in two different directions to two different destinations, in accordance with the acceptable solution, is not available until the intersection of Frenchman Bay Road and Robinson Road approximately 13 kilometres from the development site. This exceeds the acceptable maximum length of 200 metres for a dead end road.</p>	<p>Does not comply.</p> <p>Decision maker to be satisfied.</p>

REPORT ITEM DIS316 REFERS

Recommendation – not supported modifications required

It is critical the bushfire management measures within the BMP are refined to ensure they are accurate and can be implemented to reduce the vulnerability of the development to bushfire. The proposed development is not supported for the following reasons:

1. The development design does not meet the intent of –
Element 1: Location,
Element 2: Siting and Design, and
Element 3: Vehicular Access.
2. The proposed development is not located in the area with the least possible risk of bushfire to facilitate the protection of people, property and infrastructure.

If the decision maker is of a mind to approve the proposal, it is critical that the bushfire management measures within a BMP are fully detailed, to ensure they are accurate and can be implemented to reduce the vulnerability of the development. The above assessment of compliance with SPP 3.7 is provided to aid decision making.

If you require further information, please contact me on telephone number 9395 9709.

Yours sincerely



Richard Trinh
SENIOR LAND USE PLANNING OFFICER

26 July 2022

Cc: josh.dallimore@albany.wa.gov.au

Appendix 4 – Clause 4.5.13.2.3 Assessment

REPORT ITEM DIS316 REFERS

LPS 1 – Cl. 4.5.13.2.3 Requirements	LK Advisory Response
<p>(a) <i>Is consistent with the objectives for the zone;</i></p>	<p>The proposed two smaller building envelopes are consistent with the applicable objectives of the Rural Residential zone because they will contain development within existing cleared areas. In contrast, approximately one-third of the approved building envelope has remnant vegetation that may be cleared pursuant to clause 4.5.18.2.5 (iv) of LPS 1.</p> <p>The proposed split envelopes will allow the ancillary dwelling to be located along with outbuildings in the lower, cleared area of the property, with the architecturally designed main dwelling then being the only building contained in the cleared area within the primary building envelope – thus reducing any visual impact compared to the existing approved building envelope.</p> <p>If the existing approved building envelope is maintained, then additional vegetation will need to be cleared and all buildings will need to be constructed within this more elevated, prominent location.</p> <p>Accordingly, the proposed split building envelope is more consistent with the objectives of zone than the current building envelope approval. Furthermore, the proposed split building envelope also facilitates greater preservation of remnant vegetation, creek lines and other areas of environmental significance.</p>
<p>(b) <i>Preserves areas of remnant vegetation, creek lines and other areas of environmental significance;</i></p>	
<p>(c) <i>Provides sufficient areas for the development of any low fuel zone and/or hazard separation area on the lot;</i></p>	<p>Refer to the BMP and associated BAL Assessment, Asset Protection Zones and Works Program that categorically demonstrate compliance with the relevant acceptable solutions in the bushfire planning criteria of the Guidelines.</p>
<p>(d) <i>Is required due to the topography or shape of the lot; and</i></p>	<p>While the southern half of the existing approved building envelope ranges from 38-36m AHD, the northern (mostly vegetated) half of the existing building envelope falls away to the north, down to a level of approximately 26m AHD at the nearest (southern) edge of the secondary envelope. To account for these contours, any dwelling constructed centrally within the existing approved building envelope will require either significant excavation, high wall heights, stilts or a significantly split-level home. Hence, site conditions will make it difficult to comply with the controls set out in clause 4.5.13.2.1 of LPS 1, which generally require the dwelling design to blend with the landscape using single-storey development and minimising cut, fill and use of retaining walls.</p>
<p>(e) <i>Will have no adverse impact on the amenity of existing residence on adjoining lots.</i></p>	<p>As the building envelopes comply with the setback requirements set out in Schedule 14 of LPS 1, there is no scope for any adverse impact on the amenity of any existing residence on an adjoining lot. Regardless, we understand all adjoining landowners are supportive of this proposal.</p>



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ABN 46 643 954 929

BAL0607

5 January 2022

Alex Ogg
Lot 410 (No. 49) Shoal Bay Retreat,
Big Grove, WA 6330.

**Bushfire Planning
Lot 410 (No. 49) Shoal Bay Retreat, Big Grove**

Alex,

Please see attached the Bushfire Attack Level (BAL) Assessment Report and Bushfire Management Plan (BMP) for Lot 410 (No. 49) Shoal Bay Retreat, Big Grove to support the development application to split the building envelope into two smaller building envelopes. The purpose of having two separate building envelopes is to, in the future, construct a primary dwelling, an ancillary dwelling and a non-habitable shed.

The report indicates the achievable BAL rating for the indicative buildings and a brief assessment against the Bushfire Protection Criteria (BPC).

The overall bushfire risk on the proposed development is considered manageable and no removal of native vegetation will be required in order for the indicative buildings to achieve BAL-29.

If you have any queries regarding this information/matter please feel free to contact me via email on jason@biodiversesolutions.com.au or phone 9842 1575.

Kind regards,



Jason Benson
Bushfire Consultant
Bio Diverse Solutions

BAL Assessment Report

Site Details				
Address:	Lot 410 (No. 49) Shoal Bay Retreat			
Suburb:	Big Grove	State:	W.A.	Postcode 6330
Local Government Area:	City of Albany			
Description of Building Works:	Development Application for a Split Building Envelope			

Report Details			
Report / Job Number:	BAL0607	Report Version:	Final v2
Assessment Date:	18 November 2021	Report Date:	5 January 2022
BPAD Practitioner	Jason Benson (Level 2)	Accreditation No.	BPAD 37893

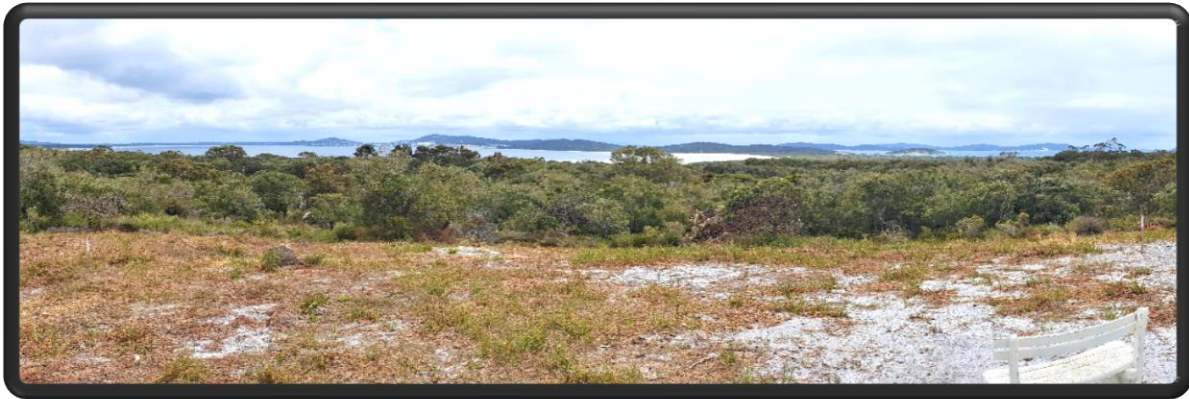


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Figure 2: Site Plan.

Figure 3: Map of Bushfire Prone Areas (OBRM, 2019).

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Appendix A: WAPC Asset Protection Zone (APZ) standards to apply

1. Introduction

Bio Diverse Solutions (Bushfire Consultants) were commissioned to prepare a Bushfire Attack Level (BAL) assessment report and a brief Bushfire Management Plant (BMP) to support a development application to split the building envelope on Lot 410 (No. 49) Shoal Bay Retreat, into two separate building envelopes. The vegetation within 150m of the lot boundary has been classified, to determine the BAL ratings for the indicative buildings.

This report contains a BAL assessment on the indicative buildings and a works program map indicating the vegetation which would require modification for each indicative building to achieve a BAL-29 APZ. A brief assessment to the Bushfire Protection Criteria (BPC) was undertaken to assess the overall risk of bushfire to the site, access requirements, management of onsite vegetation and planning issues pertaining to the proposed development.

The reason for splitting the building envelope is to maximise the two existing cleared areas within the lot. The plan is to initially construct an ancillary dwelling and shed in the available open space in the north of the lot and in the future construct the primary dwelling in the existing cleared area in the south of the lot. It is also noted that the City of Albany (CoA) have previously approved a single building development site in the cleared area where the primary dwelling is to be located.

Lot 410 is approximately 5.05ha in size and zoned Rural Residential under the CoA Local Planning Scheme (LPS) No. 1. The available developable space is restricted by existing building setbacks of 20m on the north-eastern and north-western boundaries and an 80m on the southern boundary. The indicative primary dwelling location is consistent with both of the adjacent lots. It is the landowner's belief that the available space in the north of the lot is not sufficient to allow for the construction of all future buildings and no additional vegetation clearing is required to achieve a BAL-29 APZ in the existing cleared area in the south of the lot. It was also noted that the western third of the paddock area to the north of the property appears to be an active waterway and retained water on the surface over the past winter, making it problematic to develop.

The owners state that a portion of this cleared area is also required for the planting of fruit trees and vegetables, with easy access to the shed.

1.1 Site Plan/Location

The subject site is located to the south of the Albany CBD in the municipality of Big Grove. Refer to Figure 1.

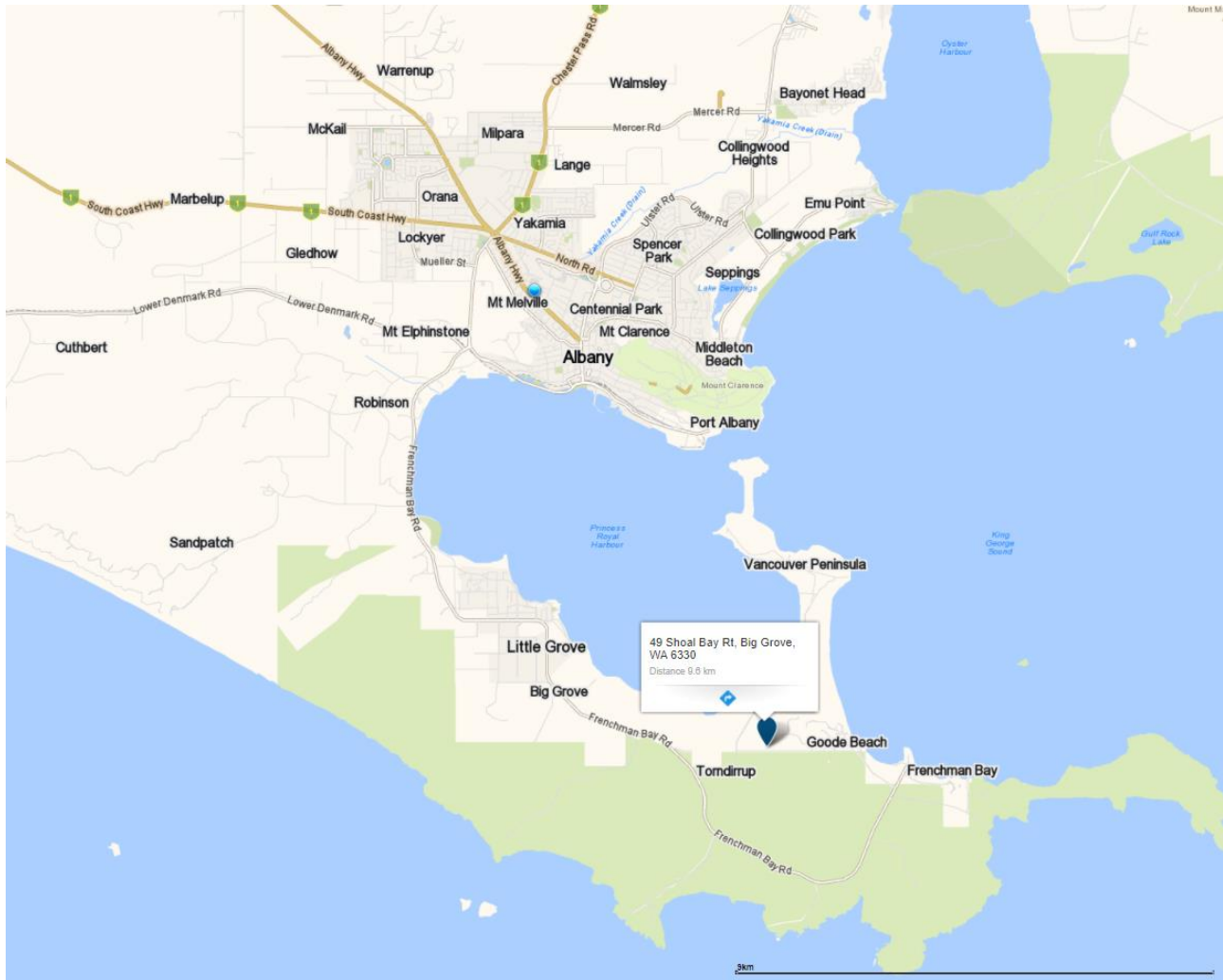


Figure 1: Location Plan.

1.2 Development Proposal

The development proposal includes:

- Stage 1: Split the building envelope into 2, one in the north and one central south in the lot;
- Stage 2: Construct an Ancillary Dwelling and shed in the north of the lot; and
- Stage 3: Construct a Primary Dwelling in the existing cleared and approved development area, central south in the lot;

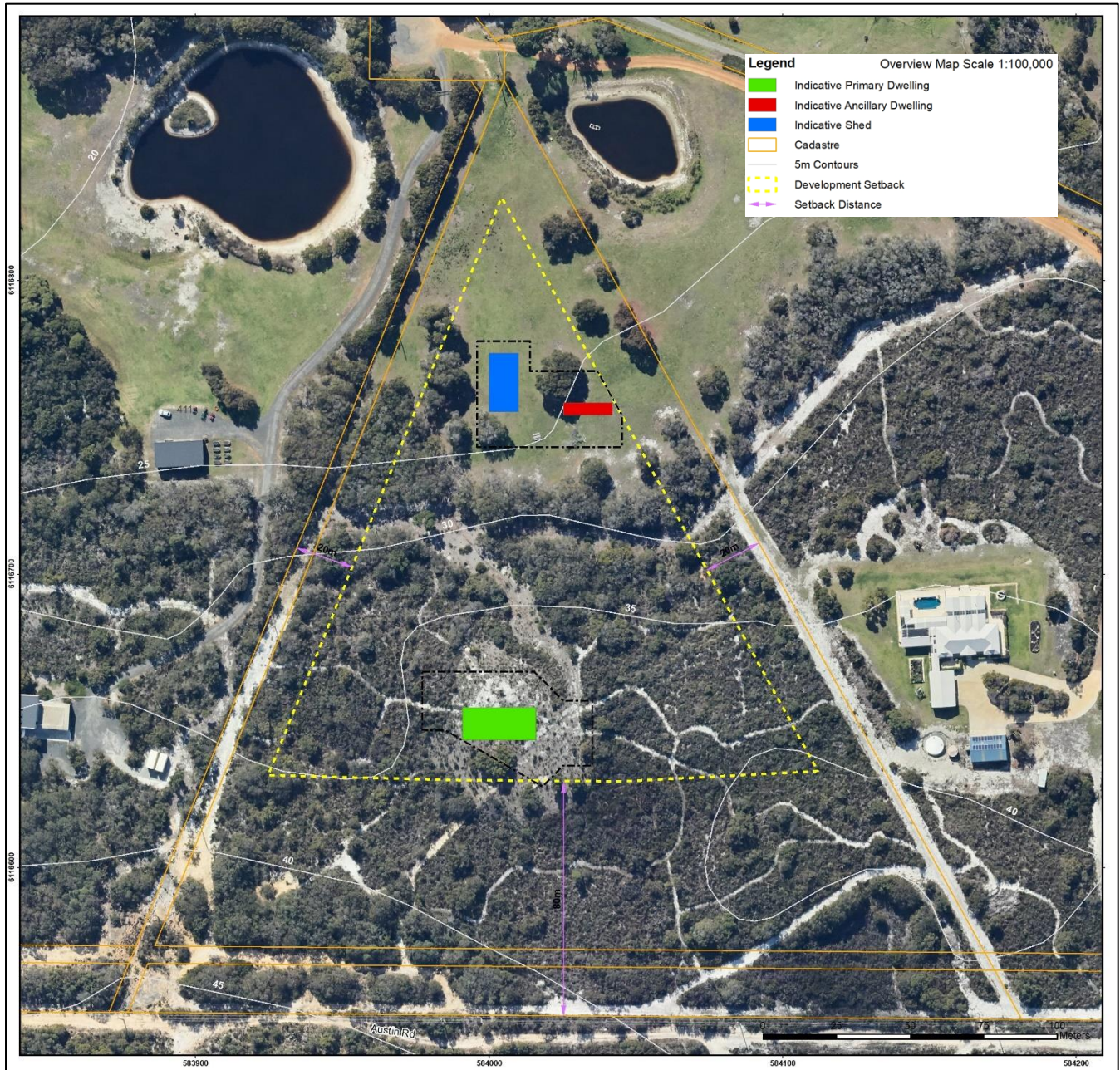


Figure 2: Site Plan.

1.3 Bushfire Prone Area

The subject site is located in located within a Bushfire Prone Area (OBRM 2019), See Figure 3 Map of Bushfire Prone Areas.

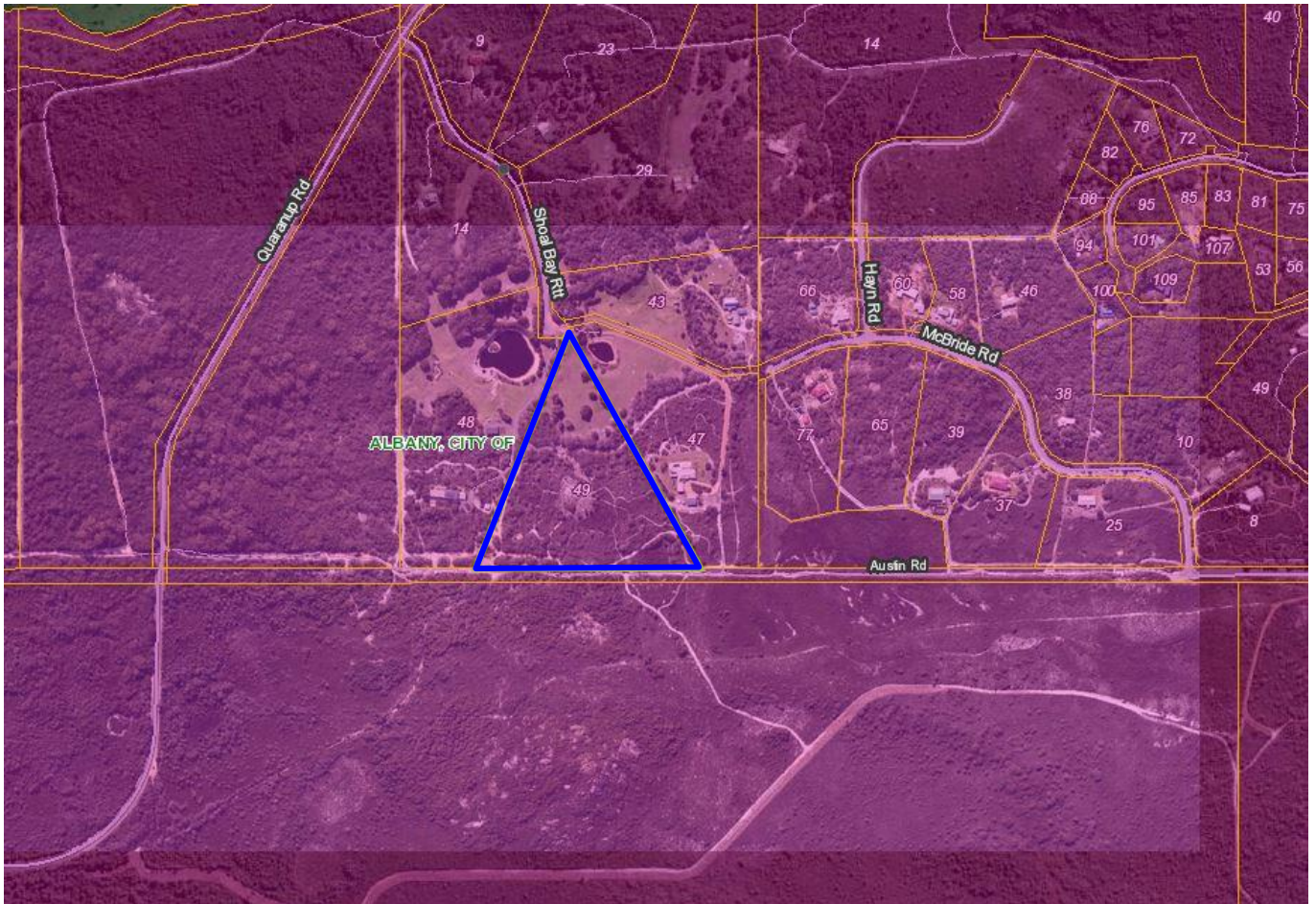


Figure 3: Map of Bushfire Prone Areas (OBRM, 2019).

2 Environmental Considerations

Some bushfire prone areas also have high biodiversity values. State Planning Policy 3.7 (SPP3.7) policy objective 5.4 recognises the need to consider bushfire risk management measures alongside environmental, biodiversity and conservation values.

2.1 Review of the Environmental Data Sets (Landgate SLIP)

A review of the environmental data sets (Landgate SLIP) as identified in the Department of Planning Lands and Heritage BMP Template for a complex development application, does not identify that any regulated (restricted) vegetation will be affected by the proposal, see Table 1 Environment Dataset Review.

Table 1: Environmental Dataset Review.

Dataset	Impact on Proposal	Comment
Conservation category wetlands and buffer	Unaware	
RAMSAR wetlands	No	
Threatened and priority flora	Unaware	
Threatened Ecological Communities	No	
Bush Forever areas 2000	No	
Clearing regulations – Environmentally Sensitive Areas	No	
Swan Bioplan Regionally Significant Natural Areas 2010	No	
Conservation Covenants Western Australia	Unaware	

Note: Relevant checks have been completed, this proposal is in a previously developed area and the vegetation modification will minimal. The management strategies contained in this BMP, assume that environmental approval will be achieved or clearing permit exemptions will apply. It is recommended that the proponent seeks specific advice in relation to the clearing of any native vegetation that is proposed as part of this development. Clearing of native vegetation may require an application for a clearing permit from relevant authorities. It is advised that the proponent seek further advice from an Environmental Consultant or the WA The Department of Biodiversity, Conservation and Attractions (DBCA) for further information on the condition and species contained within the development area and any requirement for referral of the proposal.

2.2 Native Vegetation – Modification and Clearing

The removal of native vegetation is not required to achieve BAL-29 for future buildings, grassland vegetation will be modified for the indicative ancillary dwelling to achieve BAL-29. The vegetation within the BAL-29 APZ surrounding the indicative primary dwelling will be maintained in a low threat state in perpetuity.

2.3 Revegetation or Landscaping

The owners propose to revegetate, landscape and reticulate using fire resistant species under BAL-29 conditions, as to not negatively impact the BAL rating.

3 Bushfire Assessment Results

The bushfire assessment for this site has followed the BAL Assessment process and included:

- Vegetation classification to AS3959-2018;
- Assessment of the subject site to 150m from the lot; and
- Allocation of category of BAL to AS3959-2018.

3.1 Assessment Inputs - Vegetation Classification and Slope Assessment to AS3959-2018

Bushfire Assessment inputs for the site has been calculated using the Method 1 BAL Assessment procedure as outlined in AS3959-2018. This incorporates the following factors:

- WA adopted Fire Danger Index (FDI), being FDI 80;
- Vegetation Classes;
- Slope under classified vegetation; and
- Distance between proposed development site and classified vegetation.

3.1.1 Vegetation Classification

Site assessment occurred on the 18th November 2021 by Jason Benson (BPAD 37893). All vegetation within 150m of the site / proposed development was classified in accordance with Clause 2.2.3 of AS 3959-2018. Each distinguishable vegetation plot with the potential to determine the BAL is identified in the following pages and shown on Figure 4 Site Plan / BAL Assessment Map.

Table 2: AS3959-2018 Vegetation Classification Table.

Plot Number	Vegetation Type (Table 2.3)	Slope (Table 2.4.3)
1	Excluded 2.2.3.2 (a)	N/A
2	Excluded 2.2.3.2 (e)	N/A
3	Excluded 2.2.3.2 (f)	N/A
4	Scrub Type D	Upslope/flat
5	Scrub Type D	Downslope >0-5 degrees
6	Scrub Type D	Downslope >5-10 degrees
7	Forest Type A	Upslope/flat
8	Forest Type A	Downslope >0-5 degrees
9	Forest Type A	Downslope >5-10 degrees
10	Grassland Type G	Downslope >0-5 degrees
11	Forest Type A	Upslope/flat


Plot	1	Classification or Exclusion Clause	Low fuel or non-vegetated areas exclusion 2.2.3.2 (a)
 <p>18 Nov 2021, 12:33:18</p>			<p>Location: Northeast of the indicative buildings.</p> <p>Separation Distance: 156m from the indicative ancillary dwelling and 245m from the indicative primary dwelling.</p> <p>Description: Vegetation >100m from the subject site.</p> <p>Excluded as per AS3959-2018 exclusion clause 2.2.3.2 (a).</p>

Photo Id 1: View to the northeast towards classified vegetation located >100m from the subject site to the northeast.


Plot	2	Classification or Exclusion Clause	Low fuel or non-vegetated areas exclusion 2.2.3.2 (e)
 <p>18 Nov 2021, 12:38:23</p>			<p>Location: North, northeast and northwest of the subject site.</p> <p>Description: Roads, driveways, houses, firebreaks, dams and other non-vegetated areas.</p> <p>Excluded as per AS3959-2018 exclusion clause 2.2.3.2 (e).</p>

Photo Id 2: View facing north along Shoal Bay Retreat, located to the north of the indicative buildings.



Plot	2 cont.	Classification or Exclusion Clause	Low fuel or non-vegetated areas exclusion 2.2.3.2 (e)
			<p>Additional Photo of Plot 2.</p>
			

Photo Id 3: View facing north-northeast towards dam, located to the north-northeast of the indicative buildings.



Plot	2 cont.	Classification or Exclusion Clause	Low fuel or non-vegetated areas exclusion 2.2.3.2 (e)
			<p>Additional Photo of Plot 2.</p>
			

Photo Id 4: View facing west-southwest towards a dam, located to the north-northwest of the indicative buildings.


Plot	3	Classification or Exclusion Clause	Low fuel or non-vegetated areas exclusion 2.2.3.2 (f)
			<p>Location: Internal and external to the subject lot in the east, south and west, including the existing cleared area around the indicative primary dwelling.</p> <p>Description: Managed Asset Protection Zone (APZ) areas including managed lawns, gardens and slashed breaks and vegetation managed in a low threat state.</p> <p>Excluded as per AS3959-2018 exclusion clause 2.2.3.2 (f).</p> <p>Available fuel loading: <2 t/ha.</p>

Photo 1d 5: View facing east-northeast towards managed grass, located to the east of the indicative buildings.


Plot	3 cont.	Classification or Exclusion Clause	Low fuel or non-vegetated areas exclusion 2.2.3.2 (f)
			<p>Additional Photo of Plot 3.</p>

Photo 1d 6: View facing south-southeast along existing firebreak, located to the east of the indicative buildings.


Plot	3 cont.	Classification or Exclusion Clause	Low fuel or non-vegetated areas exclusion 2.2.3.2 (f)
			<p>Additional Photo of Plot 3.</p>

Photo Id 7: View facing west-northwest towards existing cleared area, located immediately to the east of the indicative primary dwelling.


Plot	3 cont.	Classification or Exclusion Clause	Low fuel or non-vegetated areas exclusion 2.2.3.2 (f)
			<p>Additional Photo of Plot 3.</p>

Photo Id 8: View facing east-northeast towards existing cleared area, located adjacent the indicative primary dwelling.

Plot	4	Classification or Exclusion Clause	Scrub Type D
			<p>Location: Internal and external to the subject lot in the south and southeast.</p> <p>Separation Distance: 15m from the indicative primary dwelling.</p> <p>Description: Coastal scrub consisting of low Peppermints, Eucalyptus, Banksia, Acacias, Spyridium, Adenanthos, Hibbertia, grasses, sedges and rushes.</p> <p>Average vegetation height: 1-4m.</p> <p>Vegetation Coverage: >30% foliage cover.</p> <p>Available fuel loading: 25t/ha.</p> <p>Effective slope: Upslope/flat.</p>

Photo Id 9: View to the southwest towards scrub vegetation, located to the southeast of the subject lot. Note: 1.7m tall height staff in photo for reference.

Plot	4 cont.	Classification or Exclusion Clause	Scrub Type D
			<p>Additional Photo of Plot 4.</p>

Photo Id 10: View to the southwest towards scrub vegetation, located to the southeast of the indicative primary dwelling. Note: 1.7m tall height staff in photo for reference.

Plot	4 cont.	Classification or Exclusion Clause	Scrub Type D
<p>300°NW (T) 35°5'21"S, 117°55'22"E ±16ft ▲ 129ft</p>			<p>Additional Photo of Plot 4.</p>

Photo Id 11. View facing northeast towards scrub vegetation, located to the east of the indicative primary dwelling. Note: 1.7m tall height staff in photo for reference.

Plot	5	Classification or Exclusion Clause	Scrub Type D
<p>58°NE (T) 35°5'19"S, 117°55'21"E ±16ft ▲ 105ft</p>			<p>Location: Internal and external to the subject lot in the east, south and west.</p> <p>Separation Distance: 15m from the indicative primary dwelling.</p> <p>Description: Coastal scrub consisting of low Peppermints, Eucalyptus, Banksia, Acacias, Spyridium, Adenanthos, Hibbertia, grasses, sedges and rushes.</p> <p>Average vegetation height: 1-4m.</p> <p>Vegetation Coverage: >30% foliage cover.</p> <p>Available fuel loading: 25t/ha.</p> <p>Effective slope: Downslope >0-5 degrees.</p>

Photo Id 12: View facing west-northwest towards scrub vegetation, located to the northeast of the indicative primary dwelling. Note: 1.7m tall height staff in photo for reference.

Plot	5 cont.	Classification or Exclusion Clause	Scrub Type D
			<p>Additional Photo of Plot 5.</p>

Photo Id 13: View facing east towards scrub vegetation, located to the southeast of the indicative primary dwelling. Note: 1.7m tall height staff in photo for reference.

Plot	5 cont.	Classification or Exclusion Clause	Scrub Type D
			<p>Additional Photo of Plot 5.</p>

Photo Id 14: View facing west towards scrub vegetation, located to the southeast of the indicative primary dwelling. Note: 1.7m tall height staff in photo for reference.



Plot	5 cont.	Classification or Exclusion Clause	Scrub Type D
 <p>305°NW (T) 35°5'21"S, 117°55'16"E ±16ft ▲ 113ft</p>			<p>Additional Photo of Plot 5.</p>
			

Photo Id 15: View facing northwest towards scrub vegetation, located immediately to the west of the indicative primary dwelling. Note: 1.7m tall height staff in photo for reference.



Plot	6	Classification or Exclusion Clause	Scrub Type D
 <p>1°N (T) 35°5'20"S, 117°55'17"E ±16ft ▲ 114ft</p>			<p>Location: Central to the subject lot to the north of the indicative primary dwelling.</p> <p>Separation Distance: 17m from the indicative primary dwelling.</p> <p>Description: Coastal scrub consisting of low Peppermints, Eucalyptus, Banksia, Acacias, Spyridium, Adenanthos, Hibbertia, grasses, sedges and rushes.</p> <p>Average vegetation height: 1-4m.</p> <p>Vegetation Coverage: >30% foliage cover.</p> <p>Available fuel loading: 25t/ha.</p> <p>Effective slope: Downslope >5-10 degrees.</p>
			

Photo Id 16: View facing north towards scrub vegetation, located immediately to the north of the indicative primary dwelling. Note: 1.7m tall height staff in photo for reference.



Plot	6 cont.	Classification or Exclusion Clause	Scrub Type D
 <p>253°W (T) ● 35°5'20"S, 117°55'21"E ±16ft ▲ 107ft</p> 			<p>Additional Photo of Plot 6.</p>

Photo Id 17: View facing west-southwest towards scrub vegetation, located to the northeast of the indicative primary dwelling.



Plot	6 cont.	Classification or Exclusion Clause	Scrub Type D
 <p>53°NE (T) ● 35°5'21"S, 117°55'18"E ±16ft ▲ 117ft</p> 			<p>Additional Photo of Plot 6.</p>

Photo Id 18: View facing northeast towards scrub vegetation, located immediately to the northeast of the indicative primary dwelling.

Plot	7	Classification or Exclusion Clause	Forest Type A
			<p>Location: Internal and external to the subject lot in the south and west.</p> <p>Separation Distance: 59m from the indicative primary dwelling.</p> <p>Description: Open forest vegetation consisting of Mixed Eucalyptus and Peppermint trees. Dense foliage cover with multilayered scrub understorey of Tea Tree, Acacias, Hibbertia, Leucopogon, sword grass, sedges and rushes.</p> <p>Average vegetation height: 4-8m.</p> <p>Vegetation Coverage: 30-70% foliage cover.</p> <p>Available fuel loading: 25-35t/ha.</p> <p>Effective slope: Upslope/flat.</p>
<p>☀️ 192°S (T) 📍 35°5'25"S, 117°55'12"E ±16ft ▲ 142ft</p> <p>18 Nov 2021, 11:42:50</p>			

Photo Id 19: View facing south towards forest vegetation, located to the southwest of the indicative primary dwelling.

Plot	7 cont.	Classification or Exclusion Clause	Forest Type A
			<p>Additional Photo of Plot 7.</p>
<p>☀️ 87°E (T) 📍 35°5'24"S, 117°55'13"E ±16ft ▲ 129ft</p> <p>18 Nov 2021, 11:47:11</p>			

Photo Id 20: View facing east towards forest vegetation, located to the southwest of the indicative primary dwelling.



Plot	7 cont.	Classification or Exclusion Clause	Forest Type A
 <p>☀ 307°NW (T) ● 35°5'23"S, 117°55'13"E ±16ft ▲ 123ft</p>			<p>Additional Photo of Plot 7.</p>
			

Photo Id 21: View facing northwest towards forest vegetation, located to the southwest of the indicative primary dwelling.


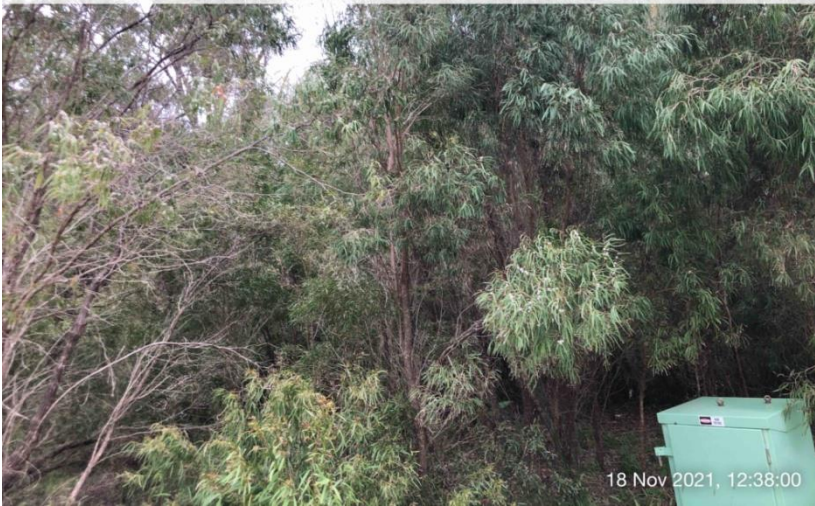
Plot	7 cont.	Classification or Exclusion Clause	Forest Type A
 <p>☀ 359°N (T) ● 35°5'14"S, 117°55'17"E ±16ft ▲ 63ft</p>			<p>Additional Photo of Plot 7.</p>
			

Photo Id 22: View facing north towards forest vegetation, located to the north of the subject lot.

Plot	7 cont.	Classification or Exclusion Clause	Forest Type A
			<p>Additional Photo of Plot 7.</p>

Photo Id 23: View facing northwest towards forest vegetation, located to the north of the subject lot.

Plot	8	Classification or Exclusion Clause	Forest Type A
			<p>Location: External to the subject lot in the east and west.</p> <p>Separation Distance: 73m from the indicative primary dwelling and 42m from the indicative ancillary dwelling.</p> <p>Description: Open forest vegetation consisting of Mixed Eucalyptus and Peppermint trees. Dense foliage cover with multilayered scrub understorey of Tea Tree, Acacias, Hibbertia, Leucopogon, sword grass, sedges and rushes.</p> <p>Average vegetation height: 4-8m.</p> <p>Vegetation Coverage: 30-70% foliage cover.</p> <p>Available fuel loading: 25-35t/ha.</p> <p>Effective slope: Downslope >0-5 degrees.</p>

Photo Id 24: View facing west towards forest vegetation, located to the northwest of the indicative primary dwelling.


Plot	8 cont.	Classification or Exclusion Clause	Forest Type A
			<p>Additional Photo of Plot 8.</p>

Photo Id 25: View facing east towards forest vegetation, located to the east of the indicative ancillary dwelling.


Plot	9	Classification or Exclusion Clause	Forest Type A
			<p>Location: Central to the subject lot to the north of the indicative ancillary dwelling.</p> <p>Separation Distance: 49m from the indicative primary dwelling.</p> <p>Description: Open forest vegetation consisting of Mixed Eucalyptus and Peppermint trees. Dense foliage cover with multilayered scrub understorey of Tea Tree, Acacias, Hibbertia, Leucopogon, sword grass, sedges and rushes.</p> <p>Average vegetation height: 4-8m.</p> <p>Vegetation Coverage: 30-70% foliage cover.</p> <p>Available fuel loading: 25-35t/ha.</p> <p>Effective slope: Downslope >5-10 degrees.</p>

Photo Id 26: View facing east-southeast towards forest vegetation, located to the north of the indicative primary dwelling.

Plot	9 cont.	Classification or Exclusion Clause	Forest Type A
<p>☉ 255°W (T) ● 35°5'19"S, 117°55'16"E ±16ft ▲ 92ft</p>			<p>Additional Photo of Plot 9.</p>

Photo Id 27 View facing west towards forest vegetation, located to the north-northwest of the indicative primary dwelling.

Plot	10	Classification or Exclusion Clause	Grassland Type G
<p>☉ 327°NW (T) ● 35°5'18"S, 117°55'18"E ±16ft ▲ 88ft</p>			<p>Location: Internal and external to the subject lot in the north, east and west.</p> <p>Separation Distance: 0m from the indicative ancillary dwelling.</p> <p>Description: Mixed unmanaged grasses, sedges and weeds in open area.</p> <p>Average vegetation height: 50-300mm.</p> <p>Vegetation Coverage: <10% trees.</p> <p>Available fuel loading: 4.5 t/ha.</p> <p>Effective slope: Downslope >0-5 degrees.</p>

Photo Id 28: View facing northwest towards grassland vegetation, located to the south of the indicative ancillary dwelling.



Plot	10 cont.	Classification or Exclusion Clause	Grassland Type G
			<p>Additional Photo of Plot 10.</p>
			

Photo Id 29: View facing north-northwest towards grassland vegetation, located to the northeast of the subject lot.




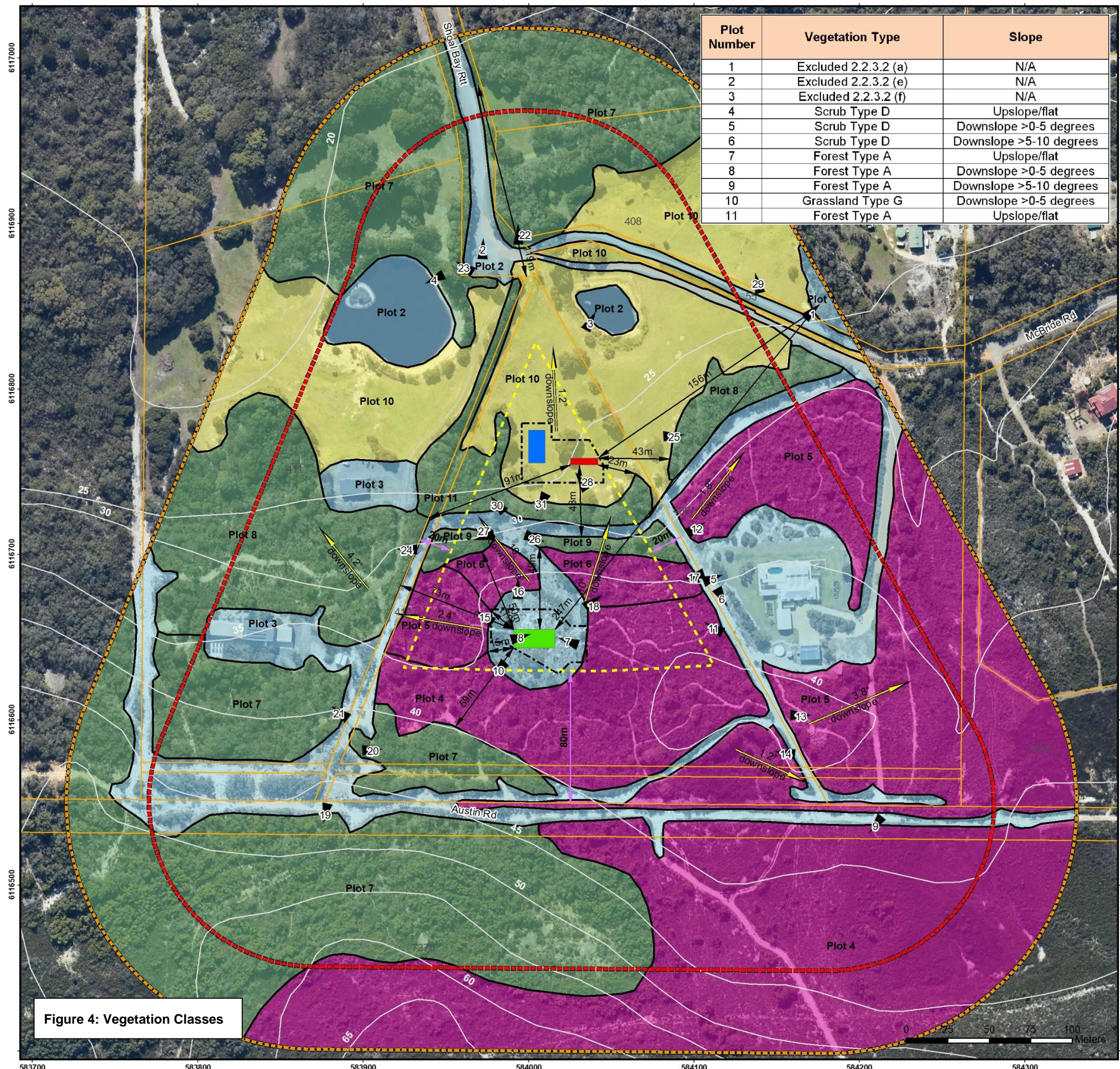
Plot	11	Classification or Exclusion Clause	Forest Type A
			<p>Location: Internal and external to the subject lot to the south and west of the indicative ancillary dwelling.</p> <p>Separation Distance: 23 from the indicative ancillary dwelling.</p> <p>Description: Open forest vegetation consisting of Mixed Eucalyptus and Peppermint trees. Dense foliage cover with multilayered scrub understorey of Tea Tree, Acacias, Hibbertia, Leucopogon, sword grass, sedges and rushes. <i>Note: This plot is upslope and flat in relation to the indicative ancillary dwelling, see Vegetation Classes Map.</i></p> <p>Average vegetation height: 4-8m.</p> <p>Vegetation Coverage: 30-70% foliage cover.</p> <p>Available fuel loading: 25-35t/ha.</p> <p>Effective slope: Upslope/flat</p>
			

Photo Id 30: View facing northwest towards forest vegetation, located to the southwest of the indicative ancillary dwelling.

Plot	11 cont.	Classification or Exclusion Clause	Forest Type A
 <p>SE S SW W 120 150 180 210 240 270 300 207°SW (T) ● 35°5'18\"S, 117°55'18\"E ±16ft ▲ 90ft 18 Nov 2021, 12:29:00</p>			<p>Additional Photo of Plot 11.</p>
<p><i>Photo Id 31: View facing south-southwest towards forest vegetation, located to the southwest of the indicative ancillary dwelling.</i></p>			



Plot Number	Vegetation Type	Slope
1	Excluded 2.2.3.2 (a)	N/A
2	Excluded 2.2.3.2 (e)	N/A
3	Excluded 2.2.3.2 (f)	N/A
4	Scrub Type D	Upslope/flat
5	Scrub Type D	Downslope >0-5 degrees
6	Scrub Type D	Downslope >5-10 degrees
7	Forest Type A	Upslope/flat
8	Forest Type A	Downslope >0-5 degrees
9	Forest Type A	Downslope >5-10 degrees
10	Grassland Type G	Downslope >0-5 degrees
11	Forest Type A	Upslope/flat

Figure 4: Vegetation Classes

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Albany Office: 29 Hercules Crescent Albany, WA 6330 (08) 9842 1575
 Denmark Office: 7/40 South Coast Highway Denmark, WA 6333 (08) 9848 1309
 Esperance Office: 2A/113 Dempster Street Esperance, WA 6450 (08) 9072 1382

BPAD
 Bushfire Planning & Design
 Accredited Practitioner Level 2

BIO DIVERSE SOLUTIONS

Overview Map Scale 1:100,000

Legend

- Indicative Primary Dwelling
- Indicative Ancillary Dwelling
- Indicative Shed
- 100m Assessment Boundary
- 150m Assessment Boundary
- Cadastre
- 5m Contours
- Development Setback
- Setback Distance
- Separation Distance
- Slopes Degrees
- Photo Point
- Vegetation/Plot Boundary

Vegetation

- Forest Type A
- Scrub Type D
- Grassland Type G
- Low fuel or non vegetated 2.2.3.2

Scale
 1:2,250 @ A3
 GDA MGA 94 Zone 50

Data Sources
 Aerial Imagery: WA Now, Landgate Subscription Imagery
 Cadastre, Relief Contours and Roads: Landgate 2017
 IRIS Road Network: Main Roads Western Australia 2017
 Overview Map: World Topographic map service, ESRI 2012

CLIENT
 Alex Ogg
 Lot 410 (No. 49) Shoal Bay Retreat
 Big Grove, WA 6330

Site Plan / BAL Assessment

BAL Assessor JB	QA Check BT	Drawn by GSK
STATUS FINAL	FILE BAL0607	DATE 04/01/2022

3.2 Assessment Outputs

A Method 1 BAL calculation has been completed to support the development application accordance with AS3959-2018 methodology. The BAL rating gives an indication of the level of bushfire attack (i.e. the radiant heat flux) that may be received by proposed buildings and subsequently informs the standard of building construction required to increase building tolerance to potentially withstand such impacts in line with the assessed BAL. The assessed BAL ratings for the indicative buildings are shown below on Table 3 and 4.

Table 3: AS3959-2018 Indicative BAL Rating for the Indicative Primary Dwelling.

Plot	Vegetation Classification	Effective Slope	Separation (m)	BAL
1	Excluded 2.2.3.2 (a)	N/A	247	BAL – LOW
2	Excluded 2.2.3.2 (e)	N/A	-	BAL – LOW
3	Excluded 2.2.3.2 (f)	N/A	-	BAL – LOW
4	Scrub Type D	Upslope/flat	15	BAL – 29
5	Scrub Type D	Downslope >0-5 degrees	15	BAL – 29
6	Scrub Type D	Downslope >5-10 degrees	17	BAL – 29
7	Forest Type A	Upslope/flat	59	BAL – 12.5
8	Forest Type A	Downslope >0-5 degrees	73	BAL – 12.5
9	Forest Type A	Downslope >5-10 degrees	49	BAL – 19
10	Grassland Type G	Downslope >0-5 degrees	N/A	N/A
11	Forest Type A	Upslope/flat	N/A	N/A
Determined BAL Rating			BAL – 29	

Table 4: AS3959-2018 Indicative BAL Rating for the Indicative Ancillary Dwelling.

Plot	Vegetation Classification	Effective Slope	Separation (m)	BAL
1	Excluded 2.2.3.2 (a)	N/A	247	BAL – LOW
2	Excluded 2.2.3.2 (e)	N/A	-	BAL – LOW
3	Excluded 2.2.3.2 (f)	N/A	-	BAL – LOW
4	Scrub Type D	Upslope/flat	N/A	N/A
5	Scrub Type D	Downslope >0-5 degrees	N/A	N/A
6	Scrub Type D	Downslope >5-10 degrees	N/A	N/A
7	Forest Type A	Upslope/flat	N/A	N/A
8	Forest Type A	Downslope >0-5 degrees	N/A	N/A
9	Forest Type A	Downslope >5-10 degrees	N/A	N/A
10	Grassland Type G	Downslope >0-5 degrees	0	BAL – FZ
11	Forest Type A	Upslope/flat	23	BAL – 29
Determined BAL Rating			BAL – FZ	

Note: Plots with associated separation distance and BAL ratings marked as N/A, is done so because this is not the impacting vegetation plot for this indicative building and the slope range is incorrect for this plot.

Notes on BAL Assessment

The purpose of this assessment is to support a development application with the CoA to separate the building envelope. The BAL assessment process is used in the Guidelines for Planning in Bushfire Prone Areas (WAPC, 2017) as a measure of risk of the proposed development. The BAL assessment has determined that the indicative primary dwelling is currently subject to a BAL rating of BAL-29 in its current location. The indicative ancillary dwelling is currently impacted by BAL-FZ due to grassland vegetation. However, with an appropriately sized APZ implemented, BAL-29 or lower is achievable within the lot. This report presents the required separation distances from bushfire prone vegetation to achieve BAL-29, see Table 5. The map on the following page indicates the vegetation that would require modification to a low threat state to achieve BAL-29 (APZ) with the indicative buildings in the current locations.

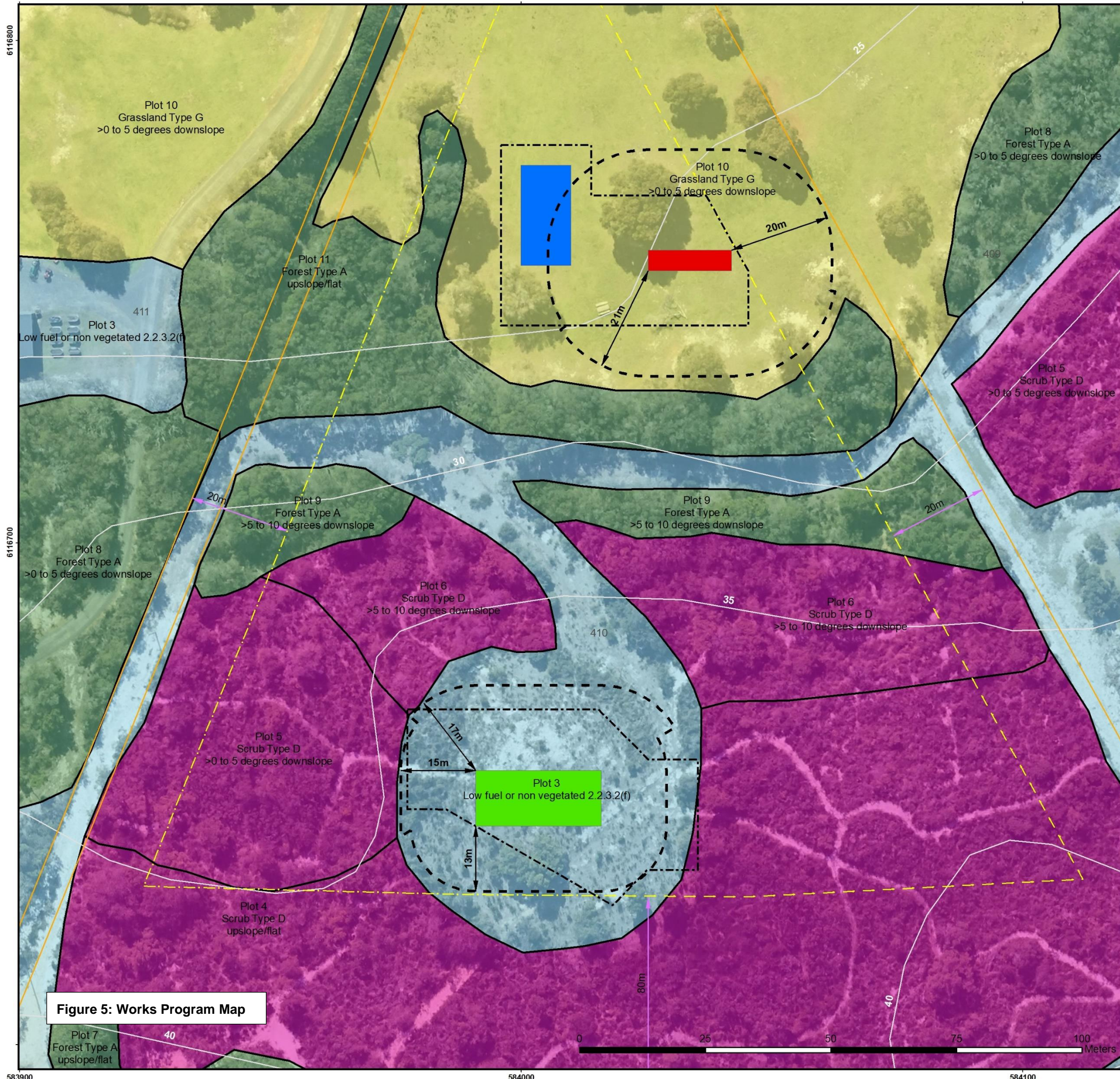


Figure 5: Works Program Map

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 Esperance Office: 2A/113 Dempster Street Esperance, WA 6450 (08) 9072 1382



Overview Map Scale 1:100,000

Legend

- Indicative Primary Dwelling
 - Indicative Ancillary Dwelling
 - Indicative Shed
 - Cadastre
 - 5m Contours
 - Development Setback
 - Setback Distance
 - APZ Separation Distance
 - APZ (BAL-29)
 - Future Fuel Reduction
 - Vegetation/Plot Boundary
- Vegetation**
- Forest Type A
 - Scrub Type D
 - Grassland Type G
 - Low fuel or non vegetated 2.2.3.2



Scale
 1:750 @ A3
 GDA MGA 94 Zone 50

Data Sources
 Aerial Imagery: WA Now, Landgate Subscription Imagery
 Cadastre, Relief Contours and Roads: Landgate 2017
 IRIS Road Network: Main Roads Western Australia 2017
 Overview Map: World Topographic map service, ESRI 2012

CLIENT
 Alex Ogg
 Lot 410 (No. 49) Shoal Bay Retreat
 Big Grove, WA 6330

Works Program

BAL Assessor JB	QA Check BT	Drawn by GSK
STATUS FINAL	FILE BAL0607	DATE 04/01/2022

4 Identification of Bushfire Hazard Issues

4.1 Additional details relevant to this site:

- Lot 410 is approximately 50,563m² in size;
- Lot 410 is zoned Rural Residential under the CoA LPS No. 1;
- The subject lot has bushfire prone vegetation onsite and offsite to the north, east, south and west;
- The indicative primary dwelling is currently impacted by a BAL rating of BAL-29;
- The indicative ancillary dwelling is currently impacted by a BAL rating of BAL-FZ due to onsite grassland vegetation;
- With appropriately sized APS's both indicative building locations can achieve BAL-29 within the lot;
- The indicative primary dwelling is located within an existing cleared area and will not require the modification of native vegetation, in order to achieve BAL-29;
- The indicative ancillary dwelling is located in a grass area and will require the modification of grassland vegetation, in order to achieve BAL-29;
- A certified BAL assessment will be required for building approval. this report is only for planning approval purposes; and
- See below Table 5 for the separation distances required to achieve BAL-29 from each area of vegetation.

4.2 Brief Assessment against the Bushfire Protection Criteria:

Element 1 Location (Likely Compliant): With appropriate building locations all future buildings within the lot can achieve BAL-29 or lower, a detailed BAL Assessment on the final location of buildings will be required prior to building approval. Likely to meet Acceptable Solution (AS) 1.1.

Element 2 Siting and Design (Likely Compliant): All future buildings can have an APZ of the required dimension that will ensure BAL-29 or lower will be achieved, see BAL-29 APZ/s on Figure 5 Works Program Map. For relevant separation distances from each vegetation plot to achieve BAL-29, see Table 5. Ongoing maintenance of APZ/s should be as per Appendix A Asset Protection Standards; likely to meet AS 2.1.

Table 5: Separation Distances Required to Achieve BAL-29 for each Vegetation Area (BAL-29 APZ).

Separation Distances Required to Achieve BAL – 29				
Plot Number	Vegetation Classification	Effective Slope Degrees	Achievable BAL Rating	Minimum Separation Distance Required (metres)
4	Scrub Type D	Upslope/Flat	BAL-29	13
5	Scrub Type D	0-5° D/S		15
6	Scrub Type D	5-10° D/S		17
7	Forest Type A	Upslope/Flat		21
8	Forest Type A	0-5° D/S		27
9	Forest Type A	5-10° D/S		33
10	Grassland Type G	0-5° D/S		9
11	Forest Type A	Upslope/Flat		21

Element 3 Vehicular Access (Non-Compliant): Lot 410 is located on Shoal Bay Retreat, which along with Quararup Road, Frenchman Bay Road and the greater Big Grove area is part of a long dead-end road network, ending in the Goode Beach locality. This exceeds the maximum length of 200m to be considered compliant. However, the existing public road network and lot layout is a legacy issue, being created prior to the enacting of the bushfire provisions, under previous planning approvals. Lot 410 has existing access onto Shoal Bay Retreat which heads north onto Quararup Road and then onto Frenchman Bay Road. Internally, there will be trafficable firebreaks and private driveways constructed and gates installed which will create additional access onto Austin Road, which heads east into the Goode Beach area, see Figure 6 Access and Water Map. Austin Road, is a public road reserve but is not currently constructed to the technical requirements established by the guidelines. However, it is accessible and along with the proposed internal access, this will meet the intent of the guidelines by creating by two-way access and will only improve the access for the lot. Further details on access technical requirements, see Table 6. Unlikely to fully meet AS 3.1.

Table 6: Vehicular Access Technical Requirements (WAPC, 2017).

Technical requirements	Private Driveways	Public Roads
Minimum trafficable surface (m)	4	6*
Horizontal clearance (m)	6	6
Vertical clearance (m)	4.5	4.5
Maximum grades	1 in 10	1 in 10
Minimum weight capacity (t)	15	15
Maximum crossfall	1 in 33	1 in 33
Curves minimum inner radius (m)	8.5	8.5

Element 4 Water (Likely Compliant): Lot 410 is located within a reticulated area. The nearest hydrant is located approximately 119m to the north of the lot, on Shoal Bay Road, see Figure 6 Access and Water Map. Additional rain water storage tanks are also proposed within the lot. Likely to meet AS4.1.

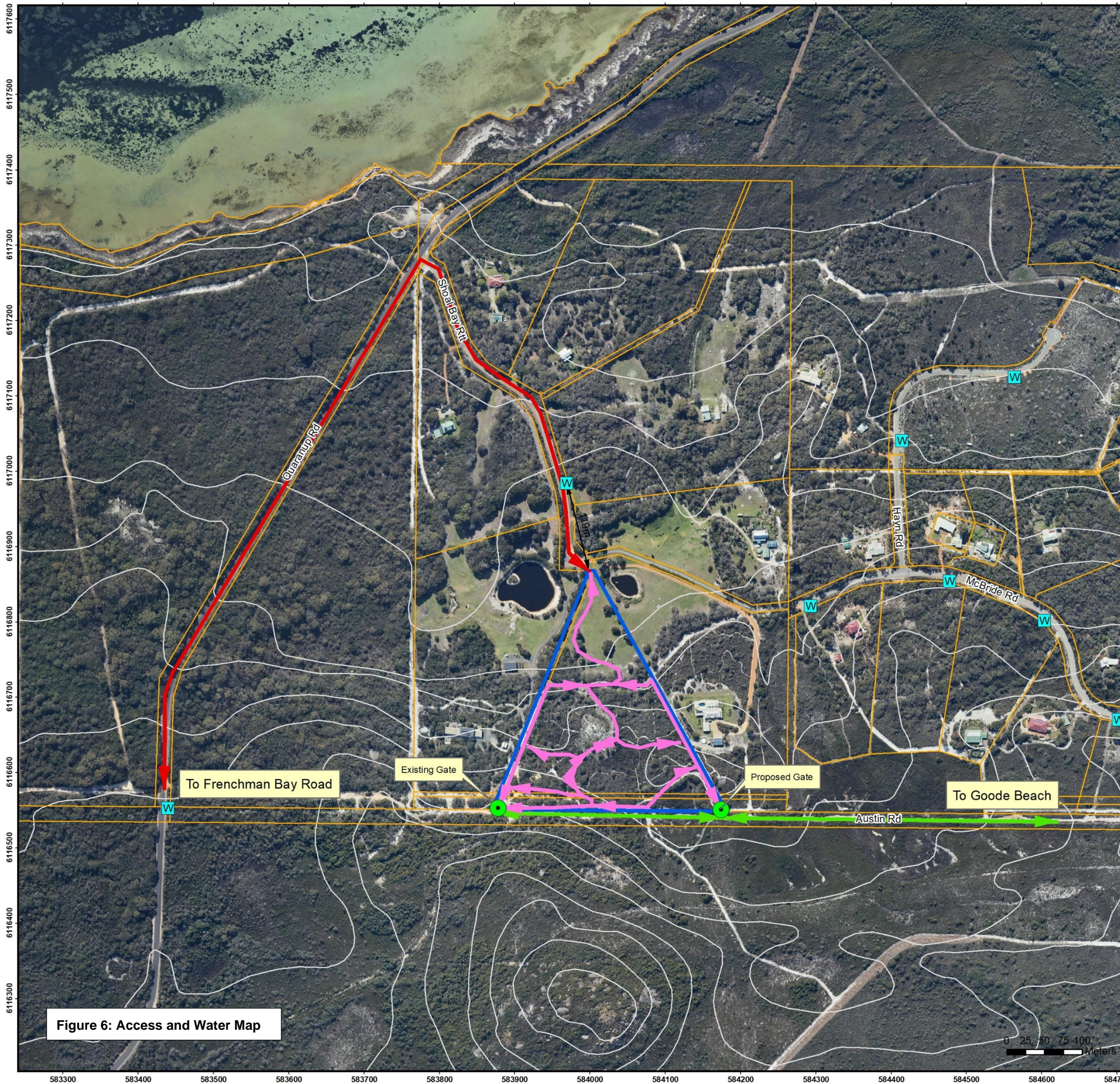


Figure 6: Access and Water Map

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Overview Map Scale 1:100,000

Legend

- Subject Site
- Cadastre
- 5m Contours
- Separation Distance
- Access Route (Internal)
- Access Route (Primary)
- Access Route (Secondary)
- Gate
- Hydrant



Scale
 1:5,000 @ A3
 GDA MGA 94 Zone 50

Data Sources
 Aerial Imagery: WA Now, Landgate Subscription Imagery
 Cadastre, Relief Contours and Roads: Landgate 2017
 IRIS Road Network: Main Roads Western Australia 2017
 Overview Map: World Topographic map service, ESRI 2012

CLIENT
 Alex Ogg
 Lot 410 (No. 49) Shoal Bay Retreat
 Big Grove, WA 6330

Access and Water Map

BAL Assessor JB	QA Check BT	Drawn by GSK
STATUS FINAL	FILE BAL0607	DATE 15/12/2021

4.3 Other Bushfire Mitigation Measures

The bushfire risk assessment (Section 4.0) has outlined the bushfire risks for the site and the future development of new facilities. The following section outlines additional measures to assist in mitigating the bushfire risk for the proposed development.

4.3.1 Minimise Ignition Sources

There is little control of offsite ignition sources, however the following is recommended to be undertaken by the landowner while in ownership of the land.

Prior to the bushfire season (October) the following activities are undertaken:

- Mowing, slashing and brush cutting (noting illegal to do so on Total Fire Ban days);
- Maintenance of road access into and out of the site; and
- Sub-contractors are aware of their obligations through contractual requirements.

During the summer bushfire season (1st December to 30th April inclusive) maintenance activities internal to the site should be planned and risk assessed prior to commencement. This includes but not limited to:

- Mowing, slashing and brush cutting (noting illegal to do so on Total Fire Ban days);
- Welding, grinding and hot works (not undertaken on Total fire ban days);
- Temporary waste disposal areas and green waste dumps – ensure piles are not exceeding 1.5m high and have bare mineral earth surrounding (min of 10m); and
- A water tender (min of 200L) fast attack unit is on site during the fire season.

The landowner is responsible for safety in during the bushfire season and are to ensure safety of the site and adjacent properties at all times from potential ignition sources.

4.3.2 Barrier Fencing

In November 2010 the Australian Bushfire CRC issued a “Fire Note” (Bushfire CRC, 2010) which outlined the potential for residential fencing systems to act as a barrier against radiant heat, burning debris and flame impingement during bushfire. The research aimed to observe, record, measure and compare the performance of commercial fencing of Colourbond steel and timber (treated softwood and hardwood).

The findings of the research found that:

“.. Colourbond steel fencing panels do not ignite and contribute significant heat release during cone calorimeter exposure” (exposure to heat)

..”Colourbond steel (fencing) had the best performance as a non-combustible material. It maintained structural integrity as a heat barrier under all experimental exposure conditions, and it did not spread flame laterally and contribute to fire intensity during exposure”

It is also noted that non-combustible fences are recommended by WAPC (APZ standards: Fences and sheds within the APZ are constructed using non-combustible materials e.g. colourbond iron, brick, limestone, metal post and wire). The landowner will be encouraged to build with Colourbond or non-combustible fences where applicable.

4.3.3 Evaporative Air Conditioners

Evaporative air conditioning units can catch fire as a result of embers from bushfires entering the unit. These embers can then spread quickly through the home causing rapid destruction. It can be difficult for fire-fighters to put out a fire in the roof spaces of homes.

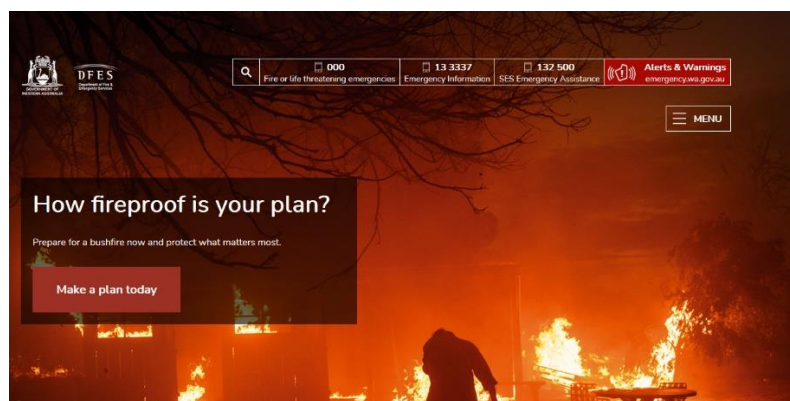
It is also recommended that the Proponent:

- Ensure that suitable external ember screens are placed on roof top mounted evaporative air conditioners compliant with AS3959-2018 (current and endorsed standards) and that the screens are checked annually; and
- Maintain evaporative air conditioners regularly as per DFES recommendations, refer to the DFES website for further details: <http://www.dfes.wa.gov.au>

Further information regarding bushfire safety can be also be gained from the DFES website (s):

www.dfes.wa.gov.au

www.emergency.wa.gov.au



(DFES, 2021)

The DFES FDR ratings and warning systems are shown over the page in Figure 7.

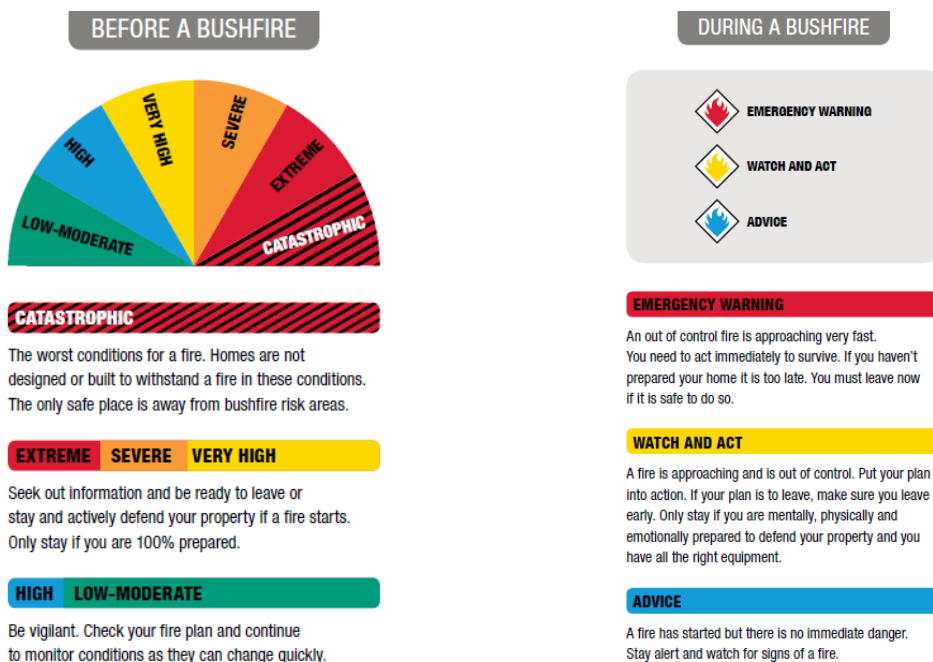


Figure 7: DFES Warning Systems.

5 Certification

I hereby certify that I have undertaken the assessment of the above site and determined the Bushfire Attack Level(s) stated in this document have been prepared in accordance with the requirements of AS 3959-2018 and the Guidelines for Planning in Bushfire Prone Areas Ver 1.3 (WAPC, 2017).



SIGNED, ASSESSOR: DATE: 5/01/2022

Jason Benson, Bio Diverse Solutions

Accredited Level 2 Bushfire Practitioner (Accreditation No: BPAD37893)



SIGNED, ASSESSOR: DATE: 5/01/2022

Kathryn Kinnear, Bio Diverse Solutions

Accredited Level 2 Bushfire Practitioner (Accreditation No: BPAD30794)



REVISION RECORD

Revision	Prepared By	Summary	Reviewed By	Date
Draft Id	Jason Benson	Draft Issued to Client for Review	Alex Ogg	14/12/2021
Draft Id	Jason Benson	Internal Review	Mary Holt	16/12/2021
Final Id	Jason Benson	Final Technical Review	Kathryn Kinnear	17/12/2021
Final Id	Jason Benson	Final Delivery to the Client		17/12/2021
Final Id v2	Jason Benson	Minor mapping and report amendments		5/01/2022

AS3959-2018 disclaimer

The survivability of buildings is also dependant on a combination of measures such as landscaping, water supplies, access, building design and maintenance. Care should also be exercised when siting and designing for these measures when constructing a building under this Standard. (AS3959, 2018)

This Standard is 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. (AS3959-2018)

DISCLAIMER

The recommendations and measures contained in this assessment report are based on the requirements of the Australian Standards 3959-2018 – Building in Bushfire Prone Areas. 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.

6 References

AS3959-2018 Australian Standard, *Construction of buildings in bushfire-prone areas*, Building Code of Australia, Primary Referenced Standard, Australian Building Codes Board and Standards Australia.

City of Albany Fire Management Notice 2021/2022, accessed from: [Fire Management Notice » City of Albany](#)

Office of Bushfire Risk management (OBRM) (2020). Map of Bushfire Prone Areas. Data retrieved from State Land Information Portal (SLIP) <https://maps.slip.wa.gov.au/landgate/bushfireprone/>

Western Australian Planning Commission (WAPC) (2017) Guidelines for Planning in Bushfire Prone Areas Version 1.3. Western Australian Planning Commission and Department of Planning WA, Government of Western Australia.

Western Australian Planning Commission (WAPC) (2015) State Planning Policy 3.7 Planning in Bushfire Prone

7 Appendices

Appendix A

WAPC Asset Protection Zone (APZ) standards to apply

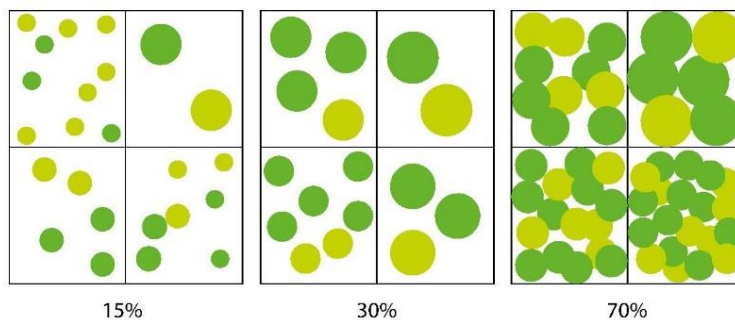


ELEMENT 2: SITING AND DESIGN OF DEVELOPMENT

SCHEDULE 1: STANDARDS FOR ASSET PROTECTION ZONES

- **Fences:** within the APZ are constructed from non-combustible materials (e.g. iron, brick, limestone, metal post and wire). It is recommended that solid or slatted non-combustible perimeter fences are used.
- **Objects:** within 10 metres of a building, combustible objects must not be located close to the vulnerable parts of the building i.e. windows and doors.
- **Fine Fuel load:** combustible dead vegetation matter less than 6 millimetres in thickness reduced to and maintained at an average of two tonnes per hectare.
- **Trees (> 5 metres in height):** trunks at maturity should be a minimum distance of 6 metres from all elevations of the building, branches at maturity should not touch or overhang the building, lower branches should be removed to a height of 2 metres above the ground and or surface vegetation, canopy cover should be less than 15% with tree canopies at maturity well spread to at least 5 metres apart as to not form a continuous canopy.

Figure 16: Tree canopy cover – ranging from 15 to 70 per cent at maturity



- **Shrubs (0.5 metres to 5 metres in height):** should not be located under trees or within 3 metres of buildings, should not be planted in clumps greater than 5m² in area, clumps of shrubs should be separated from each other and any exposed window or door by at least 10 metres. Shrubs greater than 5 metres in height are to be treated as trees.
- **Ground covers (<0.5 metres in height):** can be planted under trees but must be properly maintained to remove dead plant material and any parts within 2 metres of a structure, but 3 metres from windows or doors if greater than 100 millimetres in height. Ground covers greater than 0.5 metres in height are to be treated as shrubs.
- **Grass:** should be managed to maintain a height of 100 millimetres or less.

REPORT ITEM DIS316 REFERS

The block is located within a bush fire prone area, and we acknowledge the requirement to conform to bush fire risk management, APZ and BAL certification, maintaining a 20-meter low fuel zone clearance of vegetation around buildings, appropriate firebreaks and a risk management plan.

The attached plan shows the requested building envelopes with *indicative* building footprints and an indicative 20m APZ from the edge of each asset, which would also confirm to a BAL 29 (or lesser) rating, as per the preliminary BAL assessment.

The chosen development site for the family home has, at some time in recent years, been substantially cleared by the previous owner of the land. As such, there are minimal larger trees to be cleared around the home site, the area being peppered with small scrub and regrowth. While some clearing will be required in both cases, the removal of existing tree cover at these 2 areas will be minimised by the use of two areas already partially cleared.

Our intent for both the residence and ancillary dwelling is to design sustainable solar passive buildings with a low environmental footprint, sympathetic to the natural environment in terms of materials and colour. All buildings will be designed in a simplistic style, so as to blend into-rather than stand out from its natural surrounds- mitigating visual impact.

A single ATU is planned to treat on-site effluent. Waste from the family home can be plumbed downhill to the ATU, in a trench linking the below ground services between the two locations, with the recycled water from the ATU being used for lawn irrigation. This plan has been discussed on site with the Senior Environmental Health Officer.

We realise the request for a split building envelope triggers a Modification of Designated Building Envelope variation as per 4.5. 13.2.3 of the Rural Residential zone guidelines. We propose that the modification:

(a) Is consistent with the objectives of the zone

- Building design, material and colours will conform to the guidelines.
- Buildings will be responsive to existing landforms. By placing part of the infrastructure on the lower, flatter ground, total cut and fill and retaining on the higher contour area will be minimised.
- Visual impact will be reduced as above

(b) Preserves areas of remnant vegetation, creek lines and other areas of environmental significance

- Using two areas which are already partially cleared will reduce total vegetation loss through clearing, compared to clearing required in a single envelope to the southern, elevated site, where extensive vegetation removal would be necessary to locate dwellings and shed infrastructure.

REPORT ITEM DIS316 REFERS

- Provides sufficient area for the development of any low fuel zone and/or hazard separation area on the lot
 - Design and planning of the developments will be mindful of the requirement for low fuel areas within the 20m proximity of all buildings and will be constructed in adherence to the BAL requirements to achieve a BAL 29. This will be done in consultation with a registered BAL assessor, who will certify compliance.
 - A bushfire management plan will be developed to ensure ongoing compliance with low fuel zone maintenance and requirements for hazard separation
-
- Is required due to the topography or shape of the lot
 - While it is conceivable that the developments could all be constructed in a single envelope at the elevated southern site, the amount of native bush clearing to achieve construction and the required APZ would be extensive, expensive and would have a negative impact on visual amenity from surrounding locations.
 - The use of a lower, relatively sheltered area for development of the ancillary dwelling and shed locates these assets strategically for the intended purpose, minimises clearing, cost and visual impact (particularly on the exposed elevated section).
-
- Will have no adverse impact on the amenity of existing residences on adjoining lots
 - Consistent with the points above, visual impact from either of the adjoining lots is minimised by constraining the extent of development on the elevated section- which is visible from both neighbouring properties.
 - The shed and ancillary dwelling will not be directly visible from adjacent residences and will have no adverse impact on their amenity.
 - The adjacent property to the west has a split building envelope- with shed infrastructure on the lower section, similar to what is proposed in this nomination.

It is with great pleasure that we anticipate becoming permanent residents of the City of Albany, and we thank you in advance for working with us in the planning and approvals process of our rural residential development. We look forward to the City's acceptance of the proposed envelope and to moving quickly to the next stages in the planning process.

Please feel free to contact us for discussion on any of these detail as and if required.

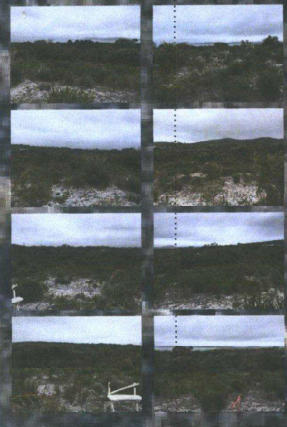
Kind regards



Alex & Sandy Ogg



LOCALITY SKETCH NOT TO SCALE AS SHOWN

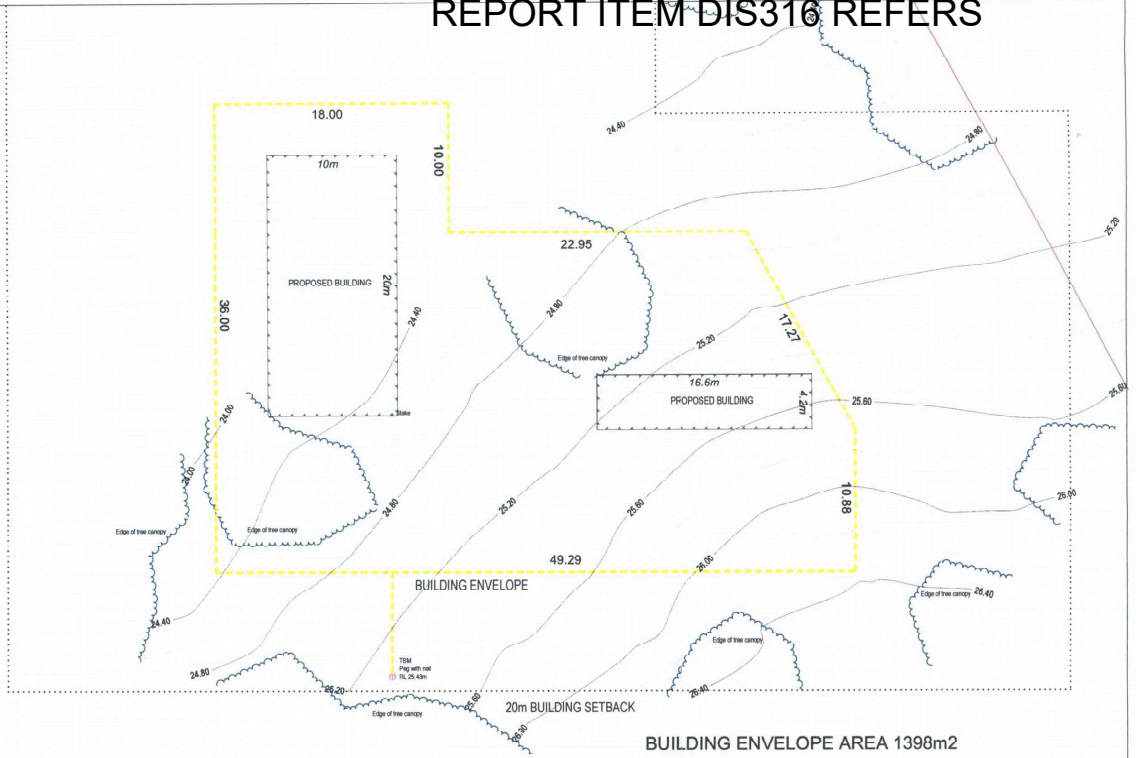


This site plan is based on the information provided by the client and the survey data. The client is responsible for the accuracy of the information provided. The survey data was collected on 04/03/2021. The site plan is for informational purposes only and does not constitute a contract. The client should consult with a professional surveyor for more information.

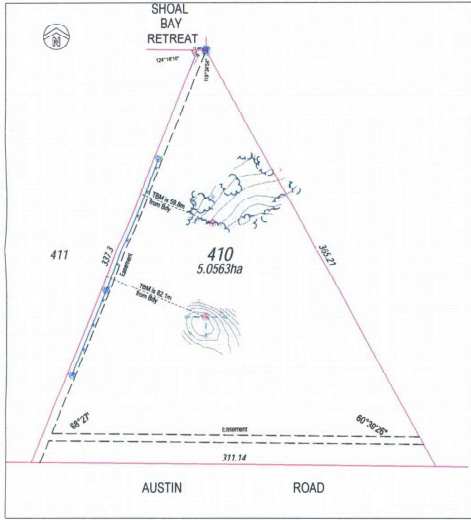
CLIENT: A. OGG
 LOT: 410 (H. 49) SHOAL BAY RETREAT, BIG GROVE

CLIENT: A. OGG	LOT: 410 (H. 49) SHOAL BAY RETREAT, BIG GROVE
LIA: 98091	G/T VOIFDC: 2172731
SCALE: 1:200 (A1)	MAP REF. SEE SMARTPLAN
AUTHORITY: CITY OF ALBANY	JOB NUMBER: 0909
SHEET 1 OF 1	SHEET SIZE: A1
	SURVEY DATE: 04/03/2021

REPORT ITEM DIS316 REFERS

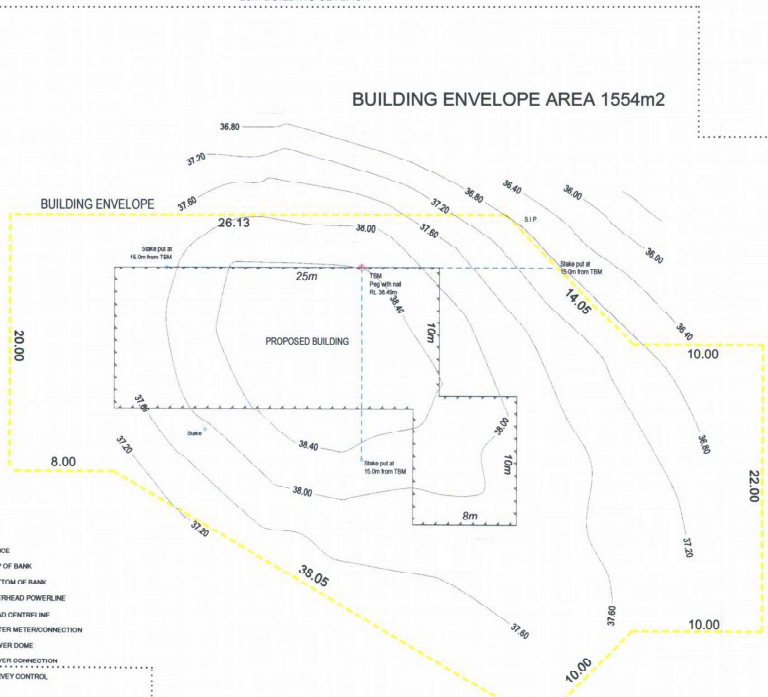
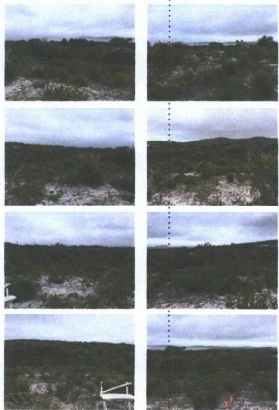


BUILDING ENVELOPE AREA 1398m²



LOCALITY SKETCH NOT TO SCALE AS SHOWN

20m BUILDING SETBACK



BUILDING ENVELOPE AREA 1554m²

NOTE:
This is a site survey only. The boundaries shown should be used as a reference only as they have NOT been re-established as part of this survey.

Areas & dimensions are subject to final survey.

Station heights are AHD, derived from RTK GPS.

Sewer information is as supplied by the Water Corporation of W.A. and has not been confirmed on site.

KERB - No
SEWER - No
WATER - yes
POWER - yes
TELSTRA - Not sighted
GAS - Not sighted

LEGEND

- FENCE
- TOP OF BANK
- BOTTOM OF BANK
- OVERHEAD POWERLINE
- ROAD CENTRELINE
- WATER METER CONNECTION
- POWER DOME
- SEWER CONNECTION
- SURVEY CONTROL

CLIENT: A. OGG	LOT: 410 (H. 40) SHOAL BAY RETREAT, BIG GROVE
DIA: 98091	CJT Vol/Fol: 2172/731
SCALE: 1:200 (A1)	MAP REF: SEE SMARTPLAN
AUTHORITY: CITY OF ALBANY	JOB NUMBER: 0009
SHEET 1 OF 1	SHEET SIZE: A1
	SURVEY DATE: 04/03/2021

Scale 1:200 (A1)

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