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# MINUTES

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## DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING

15 March 2017

6.00pm

City of Albany Council Chambers

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

**VISION**

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

**VALUES**

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

**Focused: on community outcomes**

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

**United: by working and learning together**

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

**Accountable: for our actions**

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

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

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

## TERMS OF REFERENCE

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

Development Services:

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

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

Infrastructure Services:

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

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

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

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

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

(4) **Meeting Schedule:** Monthly

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

(6) **Executive Officers:** Executive Director Works & Services, Executive Director Development Services

(7) **Delegated Authority:** None

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**1. DECLARATION OF OPENING**

The Chair declared the meeting open at [6:00:36 PM](#).

**2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**

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

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

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

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

Mayor D Wellington

**Councillors:**

Member	R Hammond
Member	P Terry
Member	J Price
Member	B Hollingworth
Member	N Mulcahy
Member	J Shanhun (Chair)
Member	S Smith
Member	A Goode JP
Member	A Moir

**Staff:**

Executive Director Works and Services	M Thomson
Executive Director Development Services	P Camins
Manager Planning Services	J Van Der Mescht
Manager City Engineering	D King
Environmental Sustainability Officer	M Holt
Meeting Secretary	A Paulley

**Apologies:**

Chief Executive Officer	A Sharpe
Member	C Dowling
Member	R Sutton
Member	G Stocks

**4. DISCLOSURES OF INTEREST Nil**

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

**6. PUBLIC QUESTION TIME**

**6:01:49 PM Dr Nigel Baker, 34 Churchlane Road, Kalgan**

**Summary of key points:**

- Dr Baker spoke against item DIS012 - INDUSTRY – EXTRACTIVE (GRAVEL), 45720 SOUTH COAST HIGHWAY, KALGAN
- Dr Baker is concerned about the proximity of the gravel mine to his home and other residents on Churchlane Road, and concerned about the effects of dust and noise on his son who has Leukaemia, as the extraction pit is less than 400 metres from his house.
- How will Council respond or look for the health implications to my family and the local inhabitants of Churchlane Road, particularly with the noise and the dust?
- Does Council know what the parameters are of the bundts? If mining approval is given, will Council be able to enforce the parameters of the bundts?

These questions were taken on notice and responses will be provided by the City as soon as possible.

**6:05:18 PM Ashley Varden, 60 & 70 Churchlane Road, Kalgan.**

**Summary of key points:**

- Mrs Varden spoke against item DIS012 - INDUSTRY – EXTRACTIVE (GRAVEL), 45720 SOUTH COAST HIGHWAY, KALGAN
- What are the long term plans of the quarry? Will it move closer to the road in the future?
- What dust controls will be used, with consideration of wind direction?
- What noise control measures are going to be used, with consideration of wind direction and time of day?
- Mrs Varden is concerned about the effects of dust on her son who has ADHD and is home-schooled. He gets very agitated with prolonged noise.
- Is Council going to monitor the dust and noise? Is Council you going to make the monitoring results public?

These questions were taken on notice and responses will be provided by the City as soon as possible.

**6:07:01 PM David Lynch, Manager of group of mining companies regarding DIS011.**

**Summary of key points:**

- Mr Lynch spoke for item DIS011 - INDUSTRY – EXTRACTIVE (SILICA SAND), LOT 102, MINDIJUP ROAD, PALMDALE
- Mr Lynch said the company had no issues with most of the conditions but he raised concerns about the condition relating to upgrading Palmdale Road and Mindijup Road. He sent an email to Council today outlining these concerns. The cost implications of upgrading the roads will make the mining unviable. He stated that plantation companies don't have to pay upfront for upgrading of roads – they only have to repair them.

- The company already has an extractive industry licence and there is already a RAV 7 route.
- Mr Lynch spoke about the upgrading a gravel section of road to sealed status, and upgrading the intersection of Palmdale Road and Mindijup Road.
- He asked Councillors to read his email.

**6:09:39 PM Barry Dowsett, 22 Churchlane Road, Kalgan**

**Summary of key points:**

- Mr Dowsett spoke in relation to item DIS012 - INDUSTRY – EXTRACTIVE (GRAVEL), 45720 SOUTH COAST HIGHWAY, KALGAN
- To what extent has Council considered the buffer zone between the Kalgan Village Precinct and broader land use?
- Mr Dowsett spoke about an old submission/agreement from 1970s or 1980s in relation to another part of the site where he understood that the previous mine had been exhausted.  
Would the restrictions and regulations around that older agreement imply that the contractors could re-open and expand that mine site without any further application to Council?

These questions were taken on notice and responses will be provided by the City as soon as possible.

**6:12:58 PM Paul Salmon, 36 Churchlane Road, Kalgan**

**Summary of key points:**

- Mr Salmon spoke against item DIS012 - INDUSTRY – EXTRACTIVE (GRAVEL), 45720 SOUTH COAST HIGHWAY, KALGAN
- Concerned about noise from the crusher so close to houses from 7.30am to 4.30pm, 5 days a week for the next 5 years.
- Rural village lifestyle will be ruined, and just because there has been mining in the past, does not mean to say there has to be ongoing mining.

These questions were taken on notice and responses will be provided by the City as soon as possible.

**7. PETITIONS AND DEPUTATIONS Nil**

**8. CONFIRMATION OF MINUTES**

**RESOLUTION**

**MOVED: COUNCILLOR HOLLINGWORTH  
SECONDED: COUNCILLOR GOODE**

**THAT the minutes of the Development and Infrastructure Services Committee meeting held on 15 February 2017, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**CARRIED 10-0**

**9. PRESENTATIONS**

- Urban Tree Strategy presentation by Environmental Sustainability Officer Mary Holt
- Centennial Park Sporting Precinct Update by Executive Director Works & Services Matt Thomson

**10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil**



**DIS009: CONSIDERATION OF ADOPTION OF LOCAL PLANNING SCHEME AMENDMENT – LOT 1000 LOCKHEED ROAD, LANGE**

**Land Description** : Lot 1000 Lockheed Road, Lange  
**Proponent** : Harley Dykstra  
**Owners** : R Green  
**Business Entity Name** : Nil  
**Attachments** : Local Planning Scheme Amendment No. 25 document  
**Supplementary Information & Councillor Workstation:** : Nil  
**Report Prepared by** : Planning Officer (A Nicoll)  
**Responsible Officer** : Executive Director Development Services (P Camins)

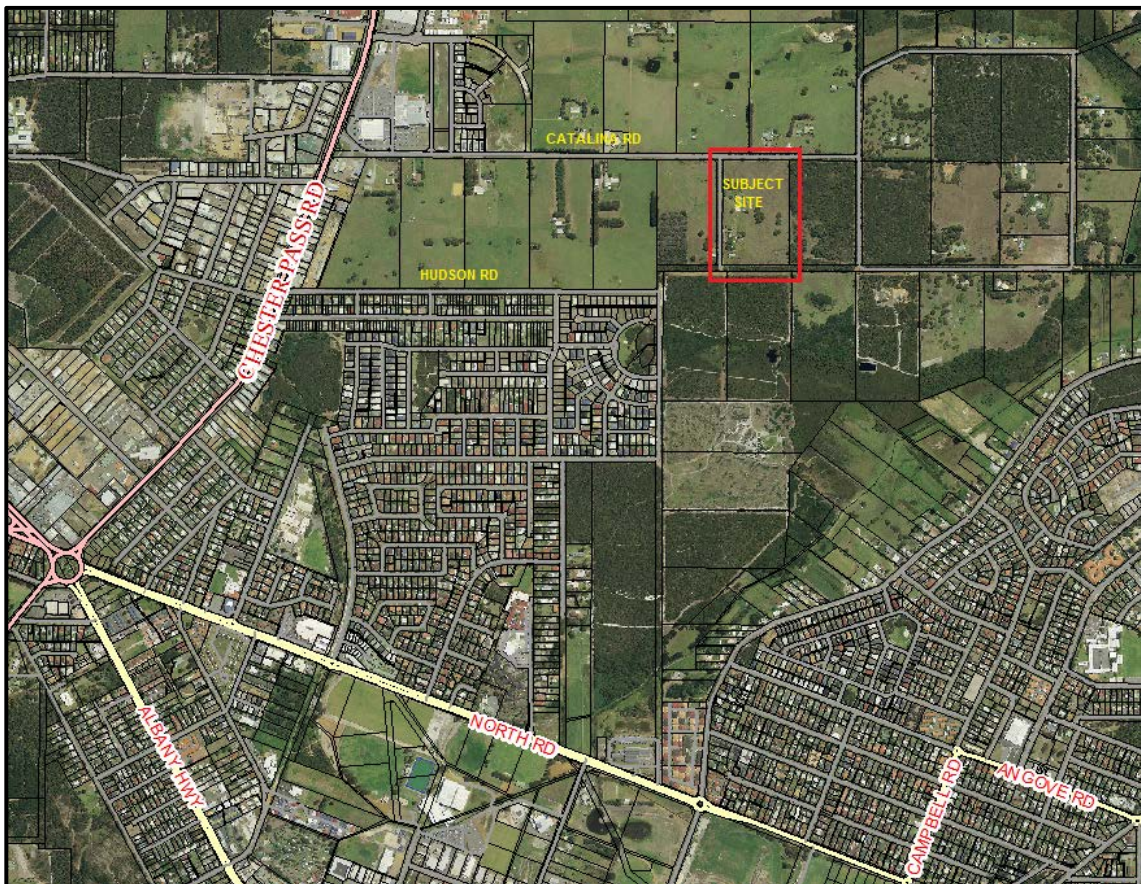
**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

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

**Maps and Diagrams**



**In Brief:**

- A request has been submitted for Council to adopt a local planning scheme amendment to:
  - Rezone portion of Lot 1000 Lockheed Road, Lange from the 'General Agriculture' zone to the 'Residential' zone with an applicable density coding of R25.
- The proposed amendment is consistent with the strategic direction set in the *Albany Local Planning Strategy* and the *Catalina Structure Plan*.
- Structure planning of the subject lots has already taken place as part of the *Catalina Structure Plan* and the proposed amendment seeks to rezone the land according to this plan. Therefore, the proposal may be entertained, as it does not conflict with the current moratorium on the initiation of significant local planning scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
- The proposal provides the opportunity for subdivision and development of a primary school and residential uses.
- Council is requested to adopt the amendment.

**RECOMMENDATION**

**DIS009: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR PRICE**

**SECONDED: COUNCILLOR SMITH**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 10-0**

**DIS009: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005*, resolves to Adopt Amendment No. 25 to amend *City of Albany Local Planning Scheme No. 1* by:

1. Rezoning a 2.7785ha portion of Lot 1000 (No.16) Lockheed Road, Lange from 'General Agriculture' zone to 'Residential' zone with an applicable density coding of R25; and
2. Amending the Scheme Map accordingly;

Note: The Amendment is a 'basic' amendment under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason:

*"The amendment to the scheme map is consistent with the Catalina Structure Plan that has been approved under the scheme for the land to which the amendment relates."*

**BACKGROUND**

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

5. Amendment No. 25 has been prepared to rezone a portion (2.7ha) of Lot 1000 Lockheed Road, Lange from the 'General Agriculture' zone to the 'Residential' zone with an applicable density coding of R25. The remaining portion will retain the current 'General Agriculture' zoning.
6. The subject lot is located approximately 6 kilometres from the Albany Central Business District and is 6.7 hectares in area. The lot is cleared pasture, with some parkland cleared remnant vegetation, two dwellings and associated outbuildings.
7. Land abutting the eastern boundary and to the north is zoned 'General Agriculture', and included within the *Yakamia Structure Plan* area, which identifies these properties for residential and conservation land uses.
8. To the west and south of the subject site, land is zoned 'Future Urban'. Land to the west is included in the *Catalina Structure Plan*, and identified for residential land use.

## DISCUSSION

9. The proposed rezoning of portion of Lot 1000 Lockheed Road from 'General Agriculture' to 'Residential', is consistent with the strategic direction set in the *Albany Local Planning Strategy* and the *Catalina Structure Plan*.
10. The *Albany Local Planning Strategy* identifies the subject lot as being suitable for 'Future Urban' development in the short term ('Priority 1').
11. The *Catalina Structure Plan* identifies the subject lot as being suitable for residential on the southern portion and a primary school on the northern portion. The amendment seeks to rezone the lot according to the structure plan. Therefore, the proposal may be entertained, as it does not conflict with the current moratorium on the initiation of significant local planning scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.

## GOVERNMENT & PUBLIC CONSULTATION

12. In accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*, this 'Basic' amendment is not required to be advertised for public submissions unless directed by the Minister or an authorised person.

## STATUTORY IMPLICATIONS

13. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
14. Section 75 of the *Planning and Development Act 2005* authorises a local government authority to amend its local planning scheme with the approval of the Minister for Planning.
15. Section 81 of the Act requires a local government to refer an adopted local planning scheme amendment to the Environmental Protection Authority to determine if it should be assessed.
16. In accordance with r.58 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, within 21 days of passing a resolution to prepare or adopt a basic amendment to a local planning scheme under regulation 35(1), or such longer period as the Commission approves, the local government must provide the amendment to the Commission together with any relevant maps, plans, specifications and particulars required by the Commission.
17. Voting requirement for this item is **SIMPLE MAJORITY**

## POLICY IMPLICATIONS

18. There are no policy implications directly relating to this item.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Organisational Operations and Reputation</b> <i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>If not supported by the WAPC or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.</i>

## FINANCIAL IMPLICATIONS

20. There are no financial implications relating to the proposal to amend the *Local Planning Scheme No. 1*.

## LEGAL IMPLICATIONS

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

## ENVIRONMENTAL CONSIDERATIONS

22. The proposal to amend the property zoning to enable the development of residential, is to be referred to the Environmental Protection Authority to determine if any environmental implications apply.

## ALTERNATE OPTIONS

23. Council may consider alternate options in relation to this item, such as:

- To resolve not to adopt the amendment to the local planning scheme.

## SUMMARY CONCLUSION

24. It is recommended that Council adopt Local Planning Scheme Amendment No. 25, as the proposal is consistent with the current strategic direction set within the *Albany Local Planning Strategy* and will facilitate the residential development of land, as an extension to the urban front and in accordance with the endorsed *Catalina Structure Plan*.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy 2010</i></li> <li>3. <i>Catalina Structure Plan</i></li> <li>4. <i>City of Albany Strategic Community Plan 2023</i></li> <li>5. <i>City of Albany Corporate Business Plan 2013-2017</i></li> <li>6. <i>Western Australian Planning Commission State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	LAMD25 (Yakamia Ward)
<b>Previous Reference</b>	:	Nil



**DIS010: RECOMMENDATION OF ADOPTION OF LOCAL STRUCTURE PLAN NO.5 – LOT 6 HENRY STREET, LOTS 271, 5498, 1 AND 2 CHESTER PASS ROAD, LOT 4925 TERRY ROAD AND LOT 521 MERCER ROAD.**

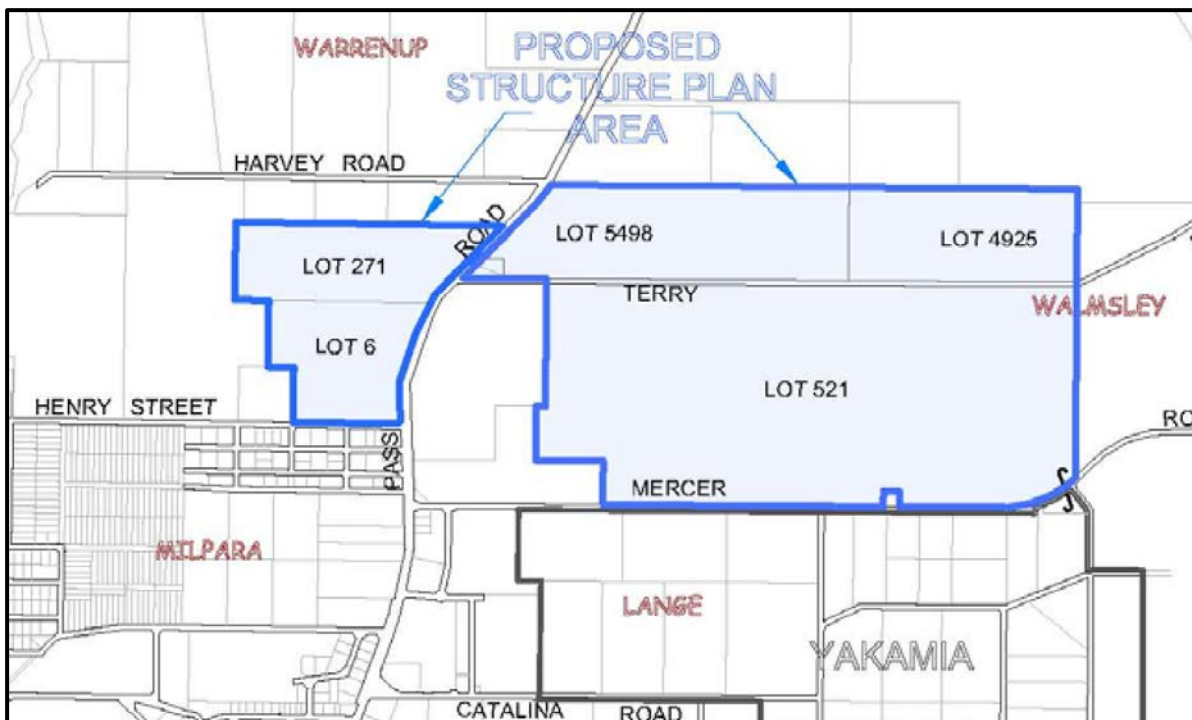
<b>Land Description</b>	: Lot 6 Henry St, Lots 271, 5498, 1 and 2 Chester Pass Road, Lot 4925 Terry Rd and Lot 521 Mercer Rd.
<b>Proponent / Owner</b>	: T & T Gorman Pty Ltd A & B D’Addario G, S Davies, PE List and Cammit Pty Ltd – C/-Wellington & Reeves R Grayson R & PA Weir L & W Spinks Ten Year Developments Pty Ltd
<b>Business Entity Name</b>	: Nil
<b>Attachments</b>	: Schedule of Submissions:
<b>Supplementary Information &amp; Councillor Workstation</b>	: Structure Plan Copy of submissions
<b>Report Prepared By</b>	: Senior Planning officer – Strategic Planning (A Nicoll)
<b>Responsible Officers:</b>	: Executive Director Development Services (P Camins)

**Responsible Officer’s Signature:**

**STRATEGIC IMPLICATIONS**

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

**Maps and Diagrams:**



**In Brief:**

- Local Structure Plan No.5 has been prepared to guide and facilitate the subdivision and development of the subject land for the purposes of residential development and a local centre.
- In accordance with the *Planning and Development Regulations 2015*, the City of Albany has advertised the Structure Plan for public and Government agency comment.
- A number of submissions were received in response to advertising. In response to these submissions, modifications have been proposed.
- Staff support Local Structure Plan No.5 as it is consistent with the strategic direction set in the *Albany Local Planning Strategy*.
- Council is requested to consider the submissions received following advertising and determine whether to recommend support of Local Structure Plan No.5 to the Western Australian Planning Commission, subject to the proposed modifications contained within the schedule of submissions.

**RECOMMENDATION**

**DIS010: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR GOODE**

**SECONDED: COUNCILLOR MOIR**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 8-2 (Against Mulcahy and Price)**

**DIS010: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council AGREE to make the following recommendation to Western Australian Planning Commission:

- The City of Albany recommends that the Western Australian Planning Commission approve Local Structure Plan No.5, subject to modifications proposed in the attached schedule of submissions.

**BACKGROUND**

4. The City of Albany advertised proposed Local Structure Plan No.5 in accordance with the *Planning and Development Regulations 2015*.
5. At the close of advertising, the City of Albany received fifteen (15) submissions commenting on the proposed structure plan.
6. Modifications have been proposed in response to the comments received.
7. Council is requested to consider the submissions received following advertising and determine whether to recommend support of Local Structure Plan No.5 to the Western Australian Planning Commission, subject to the proposed modifications contained within the schedule of submissions.

**DISCUSSION**

8. The proposed Structure Plan is consistent with the current strategic direction set by the Albany Local Planning Strategy, which identifies the site as part of the 'Future Urban' area. In order to proceed to the subdivision and development of the land, it is first necessary to prepare a 'Local Structure Plan'.
9. In accordance with Planning and Development Regulations 2015 (cl.19), the City of Albany must consider any submission made on the Local Structure Plan No.5.

10. A 'Schedule of Submissions' is attached to this report item. The Schedule provides the following;
  - a) A 'Summary of submissions';
  - b) 'City of Albany comments on submissions'; and
  - c) 'Proposed modifications to address issues raised in the submissions'.
11. The main issues raised within the consultation process broadly include the following;
  - a) Staging of development;
  - b) Inclusion of Lot 521;
  - c) Road design;
  - d) Land use conflict; and
  - e) Commercial development not in accordance with Local Planning Strategy.
12. The abovementioned issues are discussed and addressed in further detail under the headings below.

**Staging of development**

13. The Water Corporation described the structure plan area as being 'non-frontal or pioneer, meaning provision of new major works to enable the development to proceed are currently unplanned or un-programmed'.
14. It is therefore recommended that the following additional wording is included in the structure plan to clarify programming/staging of development:

*The structure plan area will require new major infrastructure works, including the development of sewer pumping stations and the upgrading of existing infrastructure.*

*Discussions amongst key agencies and individual landholders can be carried out upon application of a Customer Constructed Works Agreement, when subdivision approvals are available. The costs associated with the development of infrastructure can be shared with other lots or developers if they combine resources.*

*All subdivision and development is to be connected to the Ministers sewerage and water schemes. The staging of infrastructure development or temporary or interim solutions may vary depending on location and timing of development.*

**Inclusion of Lot 521**

15. The landholder of Lot 521 objected to the proposed road design and the designation of a school and open space over Lot 521. The comment was made that the designations were without planning rationale, and not to the standard required by the Planning and Development Regulations 2015, cl.16.
16. Additional assessment undertaken by City staff has concluded that Lot 521 is strategically earmarked within the Local Planning Strategy for 'Future Urban' development. Such development may include residential, school(s) and open space. City staff have also concluded that Lot 521 has capacity for 2 neighbourhoods (1200 – 1600 dwellings). As recommended by the Commission's Liveable Neighbourhood document, primary schools and major areas of open space have the capacity to service a catchment comprising two neighbourhoods.
17. There is merit in recommending that the structure plan be modified to clarify the capacity for roads, a school and open space within Lot 521. However, the provision of these elements would require a substantial amount of additional time, work and consent from landholders of Lot 521.
18. It is instead recommended that the structure plan boundary be modified to remove Lot 521 and delete any recommendations for Lot 521, including the designation of roads, school and district open space.

**Road Design**

19. Landholders objected to the following structure plan proposals:
  - a) The realignment of Terry Road to improve connectivity with Chester Pass Road;
  - b) The extension of Range Road over Lot 521, to provide an alternative north-south route to Chester Pass Road and hence reduce the impact on Chester Pass Road and associated intersections; and
  - c) Development of a neighbourhood connector road adjacent to Henry Street.
20. The Ardess Industrial Estate has requested that a north-south neighbourhood connector road, shown on the proposed structure plan passing through the Ardess Industrial Estate, be aligned with the existing access between the Ardess Industrial Estate and Terry Road. The City recommends that the structure plan be modified to align the proposed north-south neighbourhood connector with the existing Ardess access.
21. In respect to the extension of Range Road over Lot 521, the City is recommending to the Commission that lot 521 be removed from the structure plan. It is therefore improper to recommend the development of Range Road over Lot 521.
22. It is recommended that the structure plan is modified to realign a proposed Neighbourhood Arterial road (adjacent to Henry Street) to align with Mary Street and to therefore alleviate landholder concern.
23. The City also recommends that the following text is included in the structure plan:
  - a) Terry Road and intersections to Chester Pass Road being designed and developed to safely accommodate vehicles generated by development of Lots 5498 and 4925 and including vehicles expected from fringing areas.
  - b) For egress in relation to bushfire protection measures - two different vehicular access routes, both of which connect to the public road network, being developed to provide safe access and egress to two different destinations and be available to residents/the public at all times and under all weather.
  - c) Development of Lots 5498 and 4925 may not occur if the above provisions cannot be achieved.

**Land Use Conflict**

24. The structure plan is proposing to locate residential development with marginal setbacks to an existing strawberry farm and light industrial operations. Potential conflicts arising as a result of proposed residential development adjacent to light industry and horticulture land uses include noise, dust and odours.
25. The Department of Agriculture and Food WA and landholders of the light industrial operations recommended additional setbacks/buffers between the proposed residential development and existing intensive uses.
26. In accordance with the Western Australian Planning Commission State Planning Policy 4.1 - State Industrial Buffer Policy (SPP4.1), the impacts of industries of a light/service nature can usually be retained on-site within industrial area boundaries.
27. As per SPP4.1, buffers beyond the boundaries of light industrial activities, and including horticulture, may be deemed unnecessary. Despite this, the City recommends the modification of the structure plan to include the requirement for notification on titles advising of nearby industrial/horticulture activities.



**Commercial Development not in accordance with Local Planning Strategy**

28. The structure plan currently proposes commercial development on the west side of Chester Pass Road.
29. The *State Planning Policy 4.2 – Activity Centres for Perth and Peel*, states:  
*Activity centre structure plans and developments should be consistent with the centre's classification in the hierarchy. The responsible authority should not support activity centre structure plans or development proposals that are likely to undermine the established and planned activity centre hierarchy.*
30. The City's 'Local Planning Strategy' has not recommended commercial activity on the west side of Chester Pass Road, north of Henry Street. Prior to supporting commercial development as a component of structure planning, a review of the City's strategic framework needs to be undertaken.
31. Until the City's Local Planning Strategy is reviewed to support commercial development adjacent to Chester Pass Road / north of Henry Street, it is recommended the structure plan is modified, by deleting the support of commercial on the west side of Chester Pass Road.

**GOVERNMENT & PUBLIC CONSULTATION**

32. Local Structure Plan No.5 was advertised in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.
33. Submissions were received from public authorities and members of the public and are summarised in the attached Schedule of Submissions

**STATUTORY IMPLICATIONS**

34. Local Structure Plans undergo a statutory process in accordance with Schedule 2, Part 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.
35. Schedule 2, Part 4, clause 19 requires the local government to consider the submissions made within the period specified in the notice advertising the structure plan.
36. Schedule 2, Part 4, clause 20 requires the local government to prepare a report to the Western Australian Planning Commission, including a recommendation on whether the proposed structure plan should be approved by the Commission.
37. Voting requirement for this item is **SIMPLE MAJORITY**

**POLICY IMPLICATIONS**

38. The following policies are applicable to the preparation and assessment of the Local Structure Plan:
  - a) *State Planning Policy 3 – Urban Growth and Settlement;*
  - b) *State Planning Policy 3.7 Planning in Bushfire Prone Areas;*
  - c) *State Planning Policy 4.1 – State Industrial Buffer;*
  - d) *State Planning Policy 4.2 – Activity Centres for Perth and Peel;*
  - e) *State Planning Policy 3.6 Development Contributions for Infrastructure;*
  - f) *Liveable Neighbourhoods; and*
  - g) *Guidelines for the preparation of integrated transport plans (May 2012).*

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Organisational Operations and Reputation</b> The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	Possible	Minor	Medium	If not supported by the WAPC or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.

## FINANCIAL IMPLICATIONS

40. If the local government does not provide a report on the structure plan by April 2017, the Commission may take reasonable steps to obtain the services or information on its own behalf. All costs incurred by the Commission may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

## ENVIRONMENTAL CONSIDERATIONS

41. There are no environmental implications anticipated as a result of the Local Structure Plan No.5. The structure plan proposes to maintain key environmental attributes including remnant stands of vegetation and waterways.

## ALTERNATE OPTIONS

42. Council may consider alternate options in relation to the structure plan, including;
- Recommending to the Western Australian Planning Commission that it does not approve the proposed structure plan; or
  - Recommending to the Western Australian Planning Commission that it approves the proposed structure plan subject to additional modifications.

## CONCLUSION

43. Local Structure Plan No.5 makes recommendations for residential development and a local centre for land in the vicinity of Warrenup and Walmsley.
44. The structure plan has been developed in accordance with the Planning and Development Regulations 2015, State Planning Policy and the City of Albany Local Planning Strategy.
45. The structure plan was advertised and modifications have subsequently been recommended.
46. Council is requested to agree to recommend that the Western Australian Planning Commission approve the structure plan subject to modifications.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• State Planning Policy 3 – Urban Growth and Settlement.</li> <li>• State Planning Policy 3.7 Planning in Bushfire Prone Areas.</li> <li>• State Planning Policy 4.1 – State Industrial Buffer.</li> <li>• State Planning Policy 4.2 – Activity Centres for Perth and Peel.</li> <li>• State Planning Policy 3.6 Development Contributions for Infrastructure.</li> <li>• Liveable Neighbourhoods.</li> <li>• Guidelines for the preparation of integrated transport plans (May 2012).</li> <li>• Local Planning Strategy (2010)</li> <li>• Local Planning Scheme No.1</li> </ul>
<b>File Number (Name of Ward)</b>	:	LSP5 (Yakamia Ward)
<b>Previous Reference</b>	:	Nil

**DIS011: INDUSTRY – EXTRACTIVE (SILICA SAND), LOT 102, MINDIJUP ROAD, PALMDALE**

**Land Description** : Lot 102, Mindijup Road, Palmdale.  
**Proponent** : Great Southern Sands  
**Owner** : Martin Shuttleworth  
**Business Entity Name** : Great Southern Sands  
**Directors** : Martin James Shuttleworth  
**Attachments** : Site Plan  
Schedule of Submissions  
**Supplementary Information & Councillor Workstation:** : Copy of submissions  
Fact Sheet  
**Report Prepared by** : Planning Officer (J Anderson)  
**Responsible Officer** : Executive Director Development Services (P Camins)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

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

**Maps and Diagrams:**



**In Brief:**

- Council is asked to consider an application for development approval for an Industry – Extractive (Silica Sand), at Lot 102, Mindijup Road, Palmdale.
- The application was advertised for public comment and referred to surrounding residents.
- Eight submissions were received in relation to the proposal. One submission objected to the proposal, and seven submissions did not object, yet raised concerns in respect to the proposal.
- The submissions primarily relate to concerns over traffic conflict, current and proposed road conditions, and the proposed 24 hour 7 day a week operation.
- A number of existing uses already occur on the lot. These include a Tyre Disposal, Compost Manufacturing, Sand, Granite, Clay and Gravel Extractive Industries, Asphalt Plant and a Charcoal Plant.
- Due to the nature of the objections raised, the application is being referred to Council for determination.
- Staff recommend that Council approve the proposed development, subject to conditions, which are considered to mitigate the concerns raised through the public advertising process.

**RECOMMENDATION**

**DIS011: COMMITTEE RECOMMENDATION**

**MOVED: MAYOR WELLINGTON**

**SECONDED: COUNCILLOR HAMMOND**

**THAT this matter be DEFERRED for consideration at the Ordinary Council Meeting to be held on Wednesday 26 April 2017, to allow a site meeting to be conducted.**

**CARRIED 10-0**

**Reason:** To allow Councillors sufficient time to inspect the site and road, and consider the ramifications of the costing of road works required prior to making a decision.

**DIS011: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council resolves to ISSUE a notice of determination granting development approval with conditions for Industry – Extractive (Silica) at Lot 102 Mindijup Road, Palmdale.**

**Conditions:**

1. Mindijup and Palmdale Roads are to be widened to a 7 metre seal with 9 metre formation from the site to South Coast Highway. They are to be constructed and drained at the full cost to the Developer, to the specifications and satisfaction of the City of Albany.
2. The applicant will be responsible for the repair of any undue damage to any road within the City of Albany, caused by the mining operations.
3. Top soil to a depth of 150mm, unless otherwise approved by the Director of Works and Services, shall be removed from the extraction areas and stored on-site for use in later rehabilitation works.
4. A minimum of 150mm of top soil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the Director Works and Services.

**(continued on next page)**

5. A Surface Water Management Plan should be prepared demonstrating the measures that will be taken to prevent any run-off from the excavated areas to the satisfaction of the Department of Water. Baseline data should be established to guide the mining operations to ensure the protection of the groundwater.
6. No direct discharge from the extraction area to any watercourse, without the prior approval of the Department of Water.
7. A refundable bond/bank guarantee of \$3000.00 per hectare shall be lodged with the City of Albany for remediation work if required.
8. Truck movements shall be limited to between the hours of 6am and 6pm, unless otherwise agreed in writing by the City of Albany.
9. The applicant shall liaise with school bus operator to establish a traffic schedule to avoid potential conflicts with school bus operations. No truck movements shall be undertaken during the times that the school bus services the area, being between 8.10am – 8.23am and 3.30pm – 3.45pm unless otherwise agreed in writing by the City of Albany.
10. The extraction shall be setback a minimum of 20 metres from the southern boundary, noting:  

*“The applicant is to prepare a plan for the management of dust emissions during the transport of materials and during excavation. This plan should be to the satisfaction of the City of Albany and should be submitted prior to the start of any extraction.”*
11. The site shall be suitably rehabilitated and re-contoured on a per hectare basis, including re-battering of banks and reseeded and stabilising of former extraction areas.
12. Any off site fill must be clean soil, free of weed material or of non-contaminated inert type 1 waste (as defined by Landfill Waste Classification and Waste Definition 2009).
13. The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans.
14. No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Environment Regulation.
15. No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.
16. Only two hectares of the extraction area identified on the stamped, approved plans shall be opened at any one time.
17. Development is required to comply with all relevant Health regulations, in particular, regards should be paid to dust management and noise regulations.
18. Prevention of dust and sand blowing causing a nuisance to adjoining landowners, by the installation of sprinklers, utilisation of water tankers, mulching, or by the adoption and implementation of any other suitable land management system in accordance with the Department of Environmental Protection’s Dust Control Guidelines and the City of Albany Prevention and Abatement of Sand Drift Local Law 2000.
19. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.

## BACKGROUND

1. The City of Albany has received an application for development approval for an Industry – Extractive (Silica Sand), at Lot 102, Mindijup Road, Palmdale.
2. The subject lot lies to the north of Mindijup Road, approximately 30km north-east of the Albany City centre. The lot has an area of approximately 584 hectares and is zoned ‘Priority Agriculture’ under City of Albany *Local Planning Scheme No. 1*.
3. The subject lot is bounded by ‘Priority Agriculture’ zoned land to the north, east and south. The western side of the site adjoins a ‘Parks and Recreation’ reserve, being the Kalgan River.
4. There are a number of existing uses currently being undertaken on the lot. These include;
  - Tyre Disposal (P985168);
  - Compost Manufacturing (P295102);
  - Extractive Industry – Sand (P2115193);
  - Extractive Industry – Granite (P2140482); and
  - Charcoal Plant (P2150274)
  - Extractive Industry – Gravel and Clay (P2150438)
  - Extractive Industry – Processing – Mobile Asphalt Plant (P2150459)
  - An extension to the existing Tyre Disposal site is currently being considered (P2160509)
5. The application was advertised for public comment for a period of 31 days (16 November 2016 to 16 December 2016). Eight submissions were received in relation to the proposal. One submission objected to the proposal, seven submissions did not object, yet raised concerns in respect to the proposal.
6. Council is requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

## DISCUSSION

7. The proposal seeks to extract high grade silica sand from the subject site and transport the material off site to the Port of Albany for export.
8. The application was originally submitted as Industry – Mining on the basis that Silica Sand is classified as a mineral. The Department of Mines have since revised their original comments and have confirmed that Silica is not a mineral by definition. Therefore, the proposal is classified as an Extractive Industry under *Local Planning Scheme No.1*. The revised classification means the proposal no longer requires approval under the *Mining Act* through the Department of Mines and Petroleum.
9. The application is consistent with the general development requirements of the City of Albany Extractive Industry and Mining local planning policy (“the policy”). Compliance with the policy is discussed in below.
10. The proposed extraction area is situated within a previously cleared portion of land which formed part of a blue gum plantation.
11. The proposed (approximate) setbacks are as follows:
  - 70m from the eastern boundary
  - 420m from the western boundary
  - 1900m from the northern boundary and
  - 20m from the southern boundary (adjoining the existing silica mine).
12. The proposed mining area is located approximately 930m from the Kalgan River (situated to the west).
13. The lot to the immediate north and east are currently used as blue gum plantations, with the exception of a portion of the eastern boundary, which is mostly pasture.

14. The lot immediately to the south of the subject lot is the current operational Mineral Sands (Exploration) Mine.
15. The closest residence is located to the west, approximately 1.125 kilometres away, which exceeds the required 300-500 metres specified within the 'Guidance for the Assessment of Environmental Factors Western Australia 2005 – Separation Distance between Industrial and Sensitive Land Uses'.
16. Access to and from the site will be from the existing crossover which is located on the unsealed section of Mindijup Road. It is anticipated that this section will be sealed within the next six months at the cost of the developer.
17. The basic overview of the proposed operations is as follows;
  - Estimated total resource available is 3,125,000 tonnes of high grade silica sand.
  - The total proposed mining area is 60ha in area, with an estimated production rate being 40,000 to 50,000 tonnes per month, resulting in 1-2 hectares being stripped, mined and topsoil re-spread on a monthly basis;
  - The depth of the resource varies from 0.5m to 11m;
  - The applicant seeks to operate 24 hours per day, seven days per week;
  - At the proposed 24 hour/seven day per week operation, it is estimated that the lifespan of the pit is 3-5 years;
  - It is anticipated that the maximum stockpile onsite will be 5000-6000 tonnes (2-3 days stockpile), as the main stockpile will be at the Port of Albany;
  - At the anticipated production rate, it is estimated that there will 23 return trips per day (46 truck movements), via RAV7 'C-trains';
  - The material will be excavated with front end loaders (CAT 980/988 size machines) and loaded into articulated dump-trucks (CAT740) for transport to the wash plant onsite;
  - The material will then be loaded into the plant and washed, screened and stockpiled for transport to the Albany Port; and
  - The topsoil will be progressively re-spread on a monthly basis, recontoured and returned to pasture.
18. Extraction will commence from the existing mining voids towards the east (uphill). Any surface water therefore flows down towards the existing bluegum plantations which will be retained for visual amenity and water management and amelioration. Any ponding will drain away naturally under these plantations and small areas of native vegetation.
19. A total of eight submissions representing six properties were received in relation to the proposal. One submission objected to the proposal, and seven submissions did not object, yet raised concerns to the proposal.
20. The submissions primarily relate to the following concerns;
  - Increased heavy haulage traffic;
  - Current width and condition of Mindijup and Palmdale Road and the lack of centre line marking on these roads;
  - Current speed limit;
  - Trucks operating during times that the school bus route services this area;
  - Impact heavy vehicles will have on infrastructure;
  - Burden of maintenance on road infrastructure; and
  - Noise and volume of traffic resulting from the proposed 24 hour 7 day a week operation.

21. The main concerns raised and the proposed mitigation measures will be addressed via the heading below.

**Infrastructure: The impact heavy haulage traffic will have on the safety of road users, condition of the infrastructure, the school bus route and the ongoing maintenance burden of the infrastructure**

22. Six submissions indicated that Mindijup and Palmdale Roads were not adequately constructed to cater for an increase in heavy traffic. The submissions requested that these roads are widened, marked with centre line markings and signage installed and a maximum speed limit imposed.
23. Within these submissions, safety concerns with the following intersections were raised
- Mindijup/Palmdale Road intersection;
  - Palmdale Road/South Coast Highway intersection;
  - Palmdale Road at Moirs, Fishtrack and James Road; and
  - The blind corner at the Palmdale and Moirs Road.
24. There is also a further concern in regards to the ongoing maintenance of these roads and requests were made that the proponent contributes to the cost of these upgrades.
25. Requests were also made that roadside vegetation be consistently pruned to establish and maintain improved lines of sight.
26. Four submissions raised safety concerns with the school bus route operating along this road and requested that a curfew on truck movements was placed on during the times that the school bus services this area (8.10am to 8.23am and 3.30pm to 3.45pm).
27. Main Roads WA provided the following advice:

*'As the proposal will necessitate the extension of the existing RAV 7 network to service the mining operations Main Roads recommends that the sealed extension of Mindijup Road be built to a minimum width of 7 metre seal with 9 metre formation.*

*Main Roads has applied for funding to undertake intersection improvement works for the Palmdale Rd and South Coast Hwy intersection in the 2017/2018 financial year. The current extent of proposed works is for a left turn pocket from SCH to Palmdale Rd, sight distance improvement works and widening of the Palmdale Road intersection fishtails.'*

28. In consultation with the City of Albany Engineering Department, officers recommend a condition of approval requiring that Palmdale and Mindijup Roads be widened to a 7 metre seal with 9 metre formation from the site to South Coast Highway. The works are to be constructed and drained at the full cost to the Developer, to the specifications and satisfaction of the City of Albany.
29. Officers recommend that a truck movement curfew is placed on the times that the school bus services the area, being 8.10am-8.23am and 3.30pm-3.45pm.
30. Officers recommend that a standard condition requiring the proponent to rectify any damage to any road as a result of the operation within the City of Albany should be applied.
31. The City of Albany will investigate opportunities to improve signage and line marking.
32. It is considered that the proposed conditions mitigate and manage concerns raised in respect to road use and infrastructure.

**Noise and volume of traffic with 24 hour/7 day operation**

33. Four submissions raised concerns with the noise and volume of traffic as a result of the proposed 24 hour/ 7 days per week operation and also the proximity of dwellings to the transport corridor.



34. One submission requested that the applicant construct earth banks between the dwellings and the road to act as a sound barrier. Given the compliant buffer distances, this has not been recommended as a condition of approval.
35. A submission requested that that a curfew was placed on truck movements from 6.00am to 6.00pm.
36. One submission requested that the truck movements are spread between 5.00am to 6.00am and 3.30pm to 8.30pm to limit the interactions between passenger and heavy vehicles. One submission requested that a curfew is observed on all public holidays.
37. One submission raised concerns that an increase in heavy vehicle movements would impede any future business developments for their existing winery.
38. The proponents have stated that the estimated number of truck movements associated with this use would be 23 trucks (or 46 movements) per day, which would be spaced out over 24 hours / 7 days per week, therefore equating to approximately one return trip per hour (two movements).
39. Should truck movements be restricted to between the hours of 6am to 6pm then the estimated truck movements would increase to approximately two return trips per hour (four movements).
40. The vehicles would exit the site and travel south onto Mindijup Road then south-west along Palmdale Road to reach South Coast Highway.
41. Due to the compliant buffers, officers consider that the operations onsite can be undertaken 24/7 with minimal impact on adjoining properties. However, officers recommend that the truck movements be limited to between the hours of 6am and 6pm.
42. Due to the limited lifespan of the proposal, in conjunction with the distance from the existing winery, officers consider that the proposal will have minimal impact on any future business developments for the established winery.

#### **Non-adherence to road rules**

43. Two submissions raised concerns that there would be non-adherence to the prescribed speed limits and requested that the speed limit be reduced to 70/80km/h.
44. RAV 7 'C-trains' are vehicles which are permitted to travel on this network and are subject to adhering to the designated road rules and speed limits.

#### **Impact on South Coast Highway**

45. Concerns were raised that the additional traffic resulting from the proposal would cause a bank up of traffic on South Coast Highway heading into Albany, due the road being a tourist route with a lack of passing opportunities.
46. Concerns were also raised in regards to the extra pressure the heavy traffic would place on the Upper Kalgan Bridge and the North Road roundabout as a result of the additional truck movements.
47. The proposal was referred to Main Roads WA, who provided no objections.
48. The vehicle movements associated with the proposal would be undertaken by RAV7 'C-trains'. This classification of vehicle is currently approved on this part of the road network.
49. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

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

50. The proposal was advertised for public comment for a period of 31 days, in accordance with clause 9.4 – *Advertising of Applications of Local Planning Scheme No. 1*. A sign was placed on site, surrounding landowners were directly notified in writing and a copy of the proposal and Fact Sheet was placed on the City of Albany's website.

51. In addition to the above, the City prepared and distributed a fact sheet for the proposal to all landowners within a 3 kilometre radius of the site, and all landowners that adjoined the subject haul route, being Palmdale and Mindijup Road.
52. Eight submissions representing six properties were received in relation to the proposal. One submission objected to the proposal, and seven submissions did not object however raised concerns to the proposal. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed above.
53. In addition to the public consultation, the proposal was also referred to the Department of Water, the Department of Mines and Petroleum, Department of Environment Regulation, Main Roads WA, Department of Parks and Wildlife (South Coast Region), the Public Transport Authority, the Albany Port Authority, the Oyster Harbour Catchment Group and the Department of Agriculture and Food.
54. Advice was received from the Department of Water stating that they had no objections to the proposal. However, it was recommended that baseline data be established to guide the mining operations to ensure the protection of the groundwater. In addition to this, a Surface Water Management Plan should be prepared, demonstrating the measures that will be taken to prevent any run-off from the excavated areas. It was also requested that the site be recontoured to provide a stable site and avoid ponding of surface water or steep slopes.
55. Main Roads WA recommend that the sealed extension of Mindijup Road be built to a minimum width of 7m seal with 9m formation, which is consistent with the City of Albany Engineering recommendation.
56. The Department of Mines and Petroleum have revised their original comments and have now advised that as Silica is not defined as a mineral under the *Mining Act*, the proposal is now classified as an Extractive Industry.
57. Department of Environment Regulation advised that the applicant will need to lodge an application for a works approval. It is the applicant's obligation to obtain any permits or approvals from the Department of Environment Regulation as required.
58. The Department of Agriculture and Food recommend that if the proposal is supported, that a notification be sent to the Office of the Commissioner for Soil and Land Conservation.
59. The Public Transport Authority have not provided a response. However, a submission was received directly from the school bus operator, requesting a curfew for truck movements during the times that they service these roads, being 8.10am-8.23am and 3.30pm-3.45pm. The restriction on truck movements form a recommended condition of approval.

### STATUTORY IMPLICATIONS

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

### POLICY IMPLICATIONS

62. The primary assessment criteria for the application are set out in the City of Albany *Extractive Industry and Mining* local planning policy.
63. The application is generally consistent with the City of Albany *Extractive Industry And Mining* policy. Compliance with the Policy has been discussed and addressed in the preceding discussion section of the report.
  - a. The proposal is classified as a class 3 extractive industry under the policy. Class 3 extractive industries have site extraction areas exceeding 3 hectares and depths in excess of 10-15 metres.

- b. The Policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The Environmental Protection Authority's *Separation Distances between Industrial and Sensitive Land Uses* guidelines state a buffer between 300-500 metres should apply for large scale sand extraction and 500m for screening. Although this buffer is not contained within the lot boundaries, the closest dwelling is approximately 1.125 kilometres from the nominated extraction area, and is therefore compliant with the intent of the *Separation Distances between Industrial and Sensitive Land Uses* guidelines and Policy.
- c. The proposed pit is compliant with the setback provisions of the policy, which requires extraction to be located 30m from any public road.
- d. The proposed pit area complies with the requirement of being set back a minimum of 50 meters from a watercourse or body. The proposed setback from the Kalgan River is approximately 930 meters.
- e. The Extractive Industry and Mining Policy and Local Planning Scheme No. 1 states that a separation distance of 200 meters should be achieved between dwellings not on the subject property. The closest dwelling is 369 metres away from the nominated extraction area, and is therefore compliant with the *Extractive Industry and Mining Policy*.
- f. The operations will not result in the removal of remnant vegetation

#### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Organisational Operations and Reputation</b> <i>If the conditions are not met, the proposed use could give rise to unacceptable detrimental impacts on the amenity of the area.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Mitigation of impacts to be achieved through adoption and enforcement of conditions.</i>

#### FINANCIAL IMPLICATIONS

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

#### LEGAL IMPLICATIONS

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

## ENVIRONMENTAL CONSIDERATIONS

69. The extraction area is situated in the west of the subject lot. The proposed extraction area is located in a cleared portion of land which was previously used as a blue gum plantation. The Kalgan River is located approximately 930 metres from the proposed site (to the west).

## ALTERNATE OPTIONS

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

- To determine that the proposed use is unacceptable and to resolve to refuse the application; or
- To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

## SUMMARY CONCLUSION

71. The proposal is considered to be consistent with the objectives of the zone and the requirements of the City of Albany's *Extractive Industry and Mining* local planning policy.
72. The matters raised in the public submissions received during the advertising period have also been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions.
73. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy 2010</i></li> <li>3. <i>City of Albany Extractive Industries and Mining local planning policy</i></li> <li>4. <i>Environmental Protection (Noise) Regulations 1997</i></li> <li>5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	A215306(Kalgan Ward)
<b>Previous Reference</b>	:	Nil

**DIS012: INDUSTRY – EXTRACTIVE (GRAVEL), 45720 SOUTH COAST HIGHWAY, KALGAN**

**Land Description** : 45720 South Coast Highway, Kalgan.  
**Proponent** : A.D. Contractors Pty Ltd  
**Owner** : I Attwell  
**Business Entity Name** : A.D. Contractors Pty Ltd  
**Directors** : Ian Attwell  
**Attachments** : Site Plan  
: Schedule of Submissions  
**Supplementary Information & Councillor Workstation:** : Copy of submissions  
**Report Prepared by** : Planning Officer (J Anderson)  
**Responsible Officer** : Executive Director Development Services (P Camins)

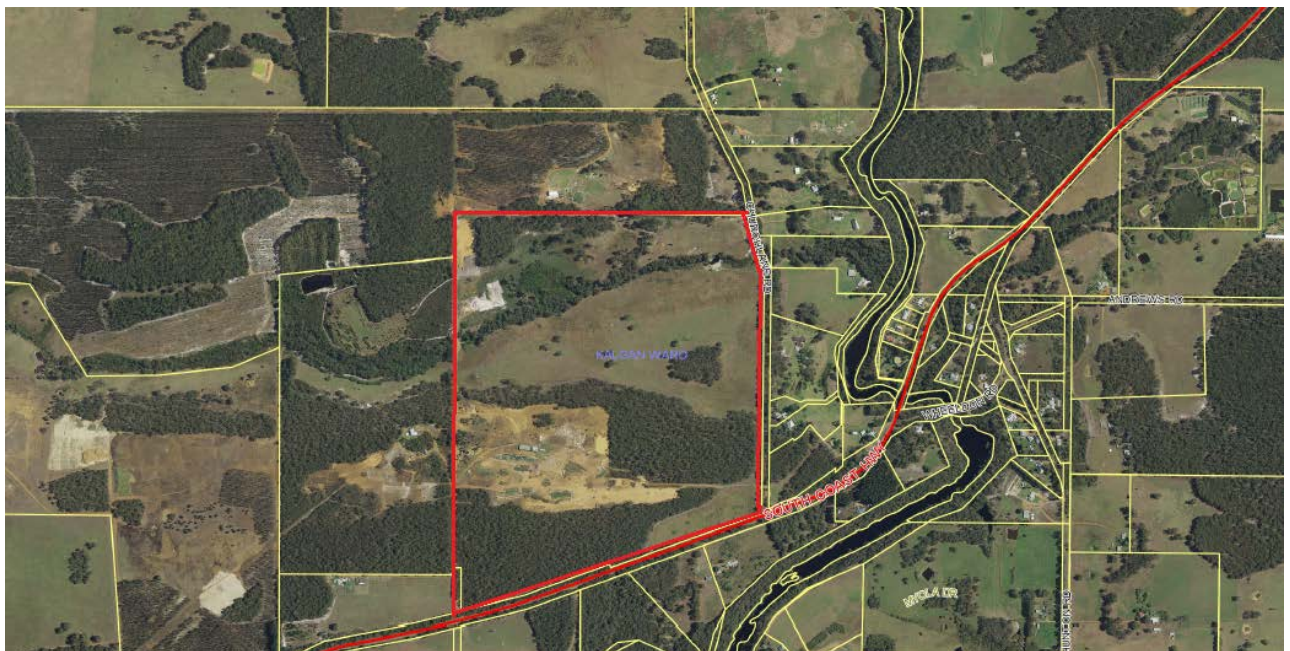
**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

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

**Maps and Diagrams:**



**In Brief:**

- Council is asked to consider an application for development approval for an Industry – Extractive (Gravel), at 45720 South Coast Highway, Kalgan.
- The application was advertised for public comment and referred to surrounding residents.
- Nine submissions were received in relation to the proposal, representing six properties. Eight submissions objected to the proposal and one submission had no objections but provided comment.
- The submissions primarily relate to the proposed access route, noise, dust, proximity to dwellings, health issues, proximity to the Kalgan Rural Village zone, operation of existing pit and property value.
- One submission received from the adjoining landowners had no objections to the proposal, however requested that Churchlane Road was not used as an access route.
- The applicant has since agreed to use the existing access route via South Coast Highway, therefore mitigating the concerns raised in regards to the industry using Churchlane Road to access the property.
- There is an existing extractive industry on this site which predates 1999. The resource has now been exhausted and the applicant is currently rehabilitating the area.
- Due to the number of concerns raised, the application is being referred to Council for determination.
- Staff recommend that Council approve the proposed development, subject to conditions, which are considered to mitigate the concerns raised through the public advertising process.

**RECOMMENDATION**

**DIS012: COMMITTEE RECOMMENDATION**

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

**THAT this matter be deferred for consideration at the Ordinary Council Meeting to be held on Wednesday 26 April 2017, to allow a site visit to be conducted for Elected Members, the proponents and residents.**

**CARRIED 9-1**

**Record of Vote**

Against the Motion: Councillor Mulcahy

**Reason:**

To allow Council to receive further feedback from the proponent and residents regarding this matter.

**DIS012: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council resolves to ISSUE a notice of determination granting temporary development approval with conditions for Industry – Extractive (Gravel) at 45720 South Coast Highway, Kalgan.

**Conditions:**

- (1) This consent is valid until 31/03/2022, after which an application for renewal will be required to be lodged with the City of Albany.
- (2) An earth bund shall be designed, constructed and landscaped to screen the operation from Churchlane Road (in the area indicated in red to the north-west of the extraction area on the plan hereby approved) to the satisfaction of the City.

(continued on next page)

- (3) Access shall be in accordance with the plan hereby approved. No access is permitted via Churchlane Road, unless otherwise agreed in writing by the City of Albany.
- (4) A surface water management plan shall be prepared and implemented in consultation with the Department of Water to the satisfaction of the City.
- (5) The pit shall be suitably drained. No direct discharge shall occur from the pit into a watercourse without the prior approval of the Department of Water.
- (6) The crossover shall be constructed to Main Roads WA specifications, levels and satisfaction.  
  
Advice: A permit from the City of Albany is required prior to any work or clearing being carried out within the road reserve.
- (7) Top soil to a depth of 150mm, unless otherwise approved by the Director Works and Services, shall be removed from the extraction areas and stored on-site for use in later rehabilitation works.
- (8) A minimum of 150mm of top soil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the Director Works and Services.
- (9) The applicant will be responsible for the repair of any damage to any road within the City of Albany, caused by the extraction operations.
- (10) A refundable bond/bank guarantee of \$3000.00 per hectare shall be lodged with the City of Albany for remediation work if required.
- (11) Operation of the extraction areas shall be restricted to the hours of 7.30am – 4.30pm Monday to Friday, unless otherwise agreed in writing by the City of Albany.
- (12) The site shall be suitably rehabilitated and re-contoured on a per hectare basis, including re-battering of banks and reseeding and stabilising of former extraction areas.
- (13) Any off site fill must be clean soil, free of weed material or of non contaminated inert type 1 waste (as defined by Landfill Waste Classification and Waste Definition 2009).
- (14) The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans.
- (15) No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Environment Regulation.
- (16) No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.
- (17) Only one hectare of the extraction area identified on the stamped, approved plans shall be opened at any one time.
- (18) Development is required to comply with all relevant Health regulations, in particular, regards should be paid to dust management and noise regulations.
- (19) Prevention of dust and sand blowing causing a nuisance to adjoining landowners, by the installation of sprinklers, utilisation of water tankers, mulching, or by the adoption and implementation of any other suitable land management system in accordance with the Department of Environmental Protection's Dust Control Guidelines and the City of Albany Prevention and Abatement of Sand Drift Local Law 2000.
- (20) The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
- (21) Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating the Extractive Industries.

## BACKGROUND

1. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
2. The subject lot lies to the northern side of South Coast Highway and to the western side of Churchlane Road, approximately 16km north-east of the Albany City centre. The lot has an area of approximately 87 hectares and is zoned 'Priority Agriculture' under City of Albany *Local Planning Scheme No. 1*.
3. The subject lot is bounded by 'Priority Agriculture' zoned land to the north and west. The land to the east on the opposite side of Churchlane Road is zoned Rural Village, being the Kalgan Rural Village.
4. There is an existing extractive industry on this site which predates 1999. The resource has been exhausted and the licence holder is currently rehabilitating this area.
5. Under provision 9.4.3 of Local Planning Scheme 1, the proposal was required to be advertised for a period of 21 days, however to take into consideration the holiday period, the proposal was advertised for public comment for a period of 32 days (15 December 2016 till 27 January 2017). Nearby landowners were directly notified by letter and a sign was placed onsite.

## DISCUSSION

6. The proposal seeks to extract gravel from the subject site and truck the material off site for use within the Albany area.
7. The total proposed extraction area is approximately 2ha in area. The total area open at any time would not exceed one hectare.
8. The estimated lifespan of the pit is 5 years, however this will depend on demand.
9. The proposed operation times are 7.30am to 4.30pm on weekdays only (Monday to Friday).
10. The proposed extraction area is situated to the north-east of the existing extraction area within a cleared portion of land.
11. The proposed (approximate) setbacks are as follows:
  - 400m from the northern boundary
  - 260m from the western boundary and
  - 450m from both the southern and eastern boundaries.
12. The proposed extraction area is located approximately 130m from a waterway on the site (situated to the north).
13. The closest residence is located to the east, approximately 369 metres away, which exceeds the required 200 meters specified within the Extractive Industry and Mining Policy.
14. Access was initially proposed to be via a new access track on Churchlane Road. The applicant has since agreed to use the existing access track to the south directly onto South Coast Highway. The relocation mitigates any concerns raised in regards to the use of Churchlane Road and the location of the crossover.



15. The proponents have provided the following (summarised) outline of how the proposed extractive industry will operate:
- Mobile plant will be used to extract, push up and stockpile the gravel to a depth of 2 metres.
  - Topsoil will be windrowed and stored onsite and ready to be used in the rehabilitation process. Windrows shall be 5-8 metres wide and stored parallel to the borders of the extraction area.
  - The number of truck movements will vary dependant on demand, however when demand is high it is estimated that three to four trucks making six to seven trips per day would be normal. During low demand times, it is likely that one truck will be entering the site several times per day.
  - Operations generally cease during high wind, and water trucks shall be available to suppress dust.
  - No vegetation will be removed as the pit is within a cleared area.
  - The pit will be rehabilitated after completion of extraction and returned to pasture for cattle grazing.
16. The application is generally consistent with the City of Albany Extractive Industry and Mining local planning policy. Compliance with the policy is further discussed in paragraph 62 below.
17. A total of nine submissions were received in relation to the proposal representing six properties. Eight submissions objected to the proposal and one submission had no objections but requested that Churchlane Road was not used as a means of access.
18. The submissions raised a number of concerns .These concerns and the proposed mitigation measures are addressed in more detail in the following paragraphs
- Noise, dust, vibration, proximity to existing dwellings resulting in health issues:**
19. Seven of the submissions received raised concerns with noise, dust, vibration and proximity to existing dwellings and the impact it will have on the residents adjacent to the subject site. Four of these submissions raised concerns that the dust and noise will result in health issues.
20. The *Extractive Industry and Mining Policy* requires that buffer distances are to be in accordance with the setbacks outlines within the Environmental Protection Authority requirements. The Environmental Protection Authority's Separation Distances between Industrial and Sensitive Land Uses guidelines do not set out a specific buffer for this type of extraction, however the policy states 200 metres should be achieved between dwellings not on the subject property. With the closest boundary being approximately 260m away, this buffer has been achieved onsite. The closest dwelling is approximately 369m from the nominated extraction area, and is therefore compliant with the policy.
21. Concerns were raised that the screening and crushing machinery was not included in the noise calculations. The Department of Environment Regulation is the responsible body for the assessment of the emissions and buffers for screening and crushing plants. The applicant is responsible for ensuring that they have the required licences from DER prior to undertaking this activity onsite.
22. The proposal was referred to the Department of Environment Regulation. The advice provided was that they have no comment on the matter in reference to regulatory responsibilities under the Environmental Protection Act 1986 and the Contaminated Sites Act 2003.
23. Staff have recently attended the site. While the majority of the proposed pit area is currently well screened by a cluster of vegetation approximately 1ha in area, staff recommend that the topsoil is placed to the north-east of the proposed pit to further screen the pit area from Churchlane Road. It is further recommended that a smaller earth bund be created directly to the east of the proposed pit area, in between the two areas of vegetation.

**Use of Churchlane Road and location of crossover:**

24. Seven of the submissions received raised concerns with the use of Churchlane Road and the location of the crossover. The applicant has since agreed to use the existing access track which exits to the south of the lot, directly onto South Coast Highway. Given the modified access it is considered that the concerns raised in relation to Churchlane Road have been mitigated. The use of the existing access track will be applied as a condition of approval.

**Adjacent to the Kalgan Rural Village Zone:**

25. Five of the submissions received raised concerns in relation to the potentially detrimental effect the proposal will have on the amenity of the Kalgan Rural Village zone, which is located directly to the east, on the opposite side of Churchlane Road. The submissions claim that this use should not be permitted as it will destroy the peaceful residential lifestyle and is not in keeping with the objectives for the Kalgan Rural Village.
26. The subject site is zoned Priority Agriculture. Local Planning Scheme No. 1 classifies an extractive industry as a use which can be considered within this zone. An extractive industry is a common use on Priority and General Agriculture zoned land. An extractive industry will not be a new land use on the property, with an existing extractive industry operating on the subject site prior to 1999. Furthermore, in terms of compliance, the proposal meets the requirements of the Extractive Industry and Mining Local Planning Policy.
27. To mitigate any potential impact on amenity, it is recommended that additional earth bunds be implemented as a condition of approval.

**Rehabilitation of existing and proposed pit areas:**

28. Five of the submissions received raised a concern that the existing extractive industry on the site has not been rehabilitated and a new licence should not be granted until it has been fully rehabilitated.
29. The existing extractive industry is subject to a separate licence and rehabilitation bond. During the last extractive industry inspection on 15/12/2014, rehabilitation had commenced and the applicant advised that the rehabilitation will be completed during winter 2017.

**Lack of screening and clearing of vegetation:**

30. Two of the submissions received raised concerns with the lack of screening and clearing of vegetation.
31. The proposed extraction area is within a cleared portion of land, and if approved, extraction must be contained within this area. The applicant does not propose to clear any vegetation. Should the applicant seek to clear the vegetation, they must gain approval from the Department of Environment Regulation.
32. To further screen the proposal, it is recommended that additional earth bunds be implemented as a condition of approval.

**Operation outside of normal hours, and concerns that the operations will not run in accordance with the approvals:**

33. Two of the submissions received raised concerns with the operation of the proposed extractive industry outside of normal hours and that the operation will not be run in accordance with the approval.
34. One submission also raised concerns regarding the current operation running outside of normal hours and clearing of vegetation. After a site inspection and discussion with the landowner, staff were satisfied that the works were short term and were in relation to firebreaks, internal tracks and fencing and not associated with the extractive industry onsite. It should be noted that these works are exempt from requiring development approval.
35. In terms of operating outside of normal hours, the applicant did confirm that the site was subject to vandalism on one occasion when machinery was broken into and started in the early hours of the morning. This was not associated with the operation of the extractive industry.

36. Extractive industries are subject to an annual inspection prior to the licence renewal. The inspection process ensures work is being undertaken in accordance with the approved plan and planning conditions, and that rehabilitation work is correctly carried out. If a breach is found, the licence is not renewed until such a time as the breach has been rectified.
37. The applicant is proposing to operate Monday to Friday between the hours of 7.30am and 4.30pm, which is less than the normal permitted hours for an extractive industry, being 6.00am – 6pm (Monday to Friday) and 8.00am to 5pm (Saturday).

**Advertising:**

38. One of the submissions received claimed that the advertising was received prior to Christmas and fortuitous for the applicant due to many people being away.
39. Under provision 9.4.3 of Local Planning Scheme 1, the proposal was required to be advertised for a period of 21 days. Taking the holiday period into consideration, the proposal was advertised for a period of 32 days.

**Impact of property value:**

40. One of the submissions received claimed property value will be affected.
41. Property value is not a matter to be considered under the *Planning regulations 2015*.

**Drainage concerns – Impact on the Kalgan River:**

42. One of the submissions received raised concerns with the drainage of the works and that the Kalgan River would consequently be affected.
43. The setback from the waterway is approximately 130 metres, such a setback meets the required 50 metres under the Extractive Industry and Mining Local Planning Policy.
44. The proposal was also referred to the Department of Water. It was advised that they have no objections to the proposal, however, have requested the preparation and implementation of a surface water management plan. A surface water management plan is recommended as a condition of approval.

**Landfill contains plastic:**

45. One of the submissions received claimed that the landfill used to construct access ways onsite was contaminated with small bits of plastic.
46. A site inspection was conducted on the 15 February 2017 and the fill was inspected. Although small bits of plastic were found, it was in staff's opinion that this was negligible.

**Discrepancies within application:**

47. One of the submission claimed that there is a number of discrepancies within the application, including the size and location of the pit based on the coordinates supplied - resulting in vegetation removal, the topography, setback from dwellings and that they had not mentioned the use of a screener or crusher onsite.
48. The size of the pit is approximately two hectares, however only one hectare will be open at any one time.
49. The closest dwelling not on the site is approximately 369 metres.
50. The location of the pit will not result in any vegetation removal.
51. The applicant has confirmed that there will be a screener and crusher onsite, however this is subject to gaining a licence from the Department of Environment who are the responsible body for the assessment and licencing of screening and crushing plants.

### Life of pit

52. One submission raised concerns that the life of the pit will be extended or new pits will be opened on the site once this area has been exhausted.
53. The applicant is applying for a 5 year temporary approval. All extraction must be contained within the approved area indicated on the site plan. New areas outside of the approved area, or an extension beyond the 5 year period will be subject to a new approval.
54. The proposed conditions of approval, mitigate and manage the issues raised during the public consultation process.
55. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

### **GOVERNMENT & PUBLIC CONSULTATION**

56. The proposal was advertised for public comment for a period of 32 days, in accordance with clause 9.4 – *Advertising of Applications of Local Planning Scheme No. 1*. A sign was placed on site and surrounding landowners were directly notified in writing.
57. A total of nine submissions were received during the advertising period representing six properties. Eight submissions objected to the proposal and one submission had no objections however requested that Churchlane Road was not used as a means of access. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed in paragraphs 20 – 54 above.
58. In addition to the public consultation, the proposal was also referred to the Department of Water due to the proximity to a waterway.
59. Advice was received from the Department of Water stating that they had no objections however requested the preparation and implementation of a surface water management plan.
60. The proposal was referred to the Department of Environment Regulation. The advice received was that they had no comment on this matter. It should be noted that screening and crushing are subject to a separate licence and assessment through Department of Environment Regulation.

### **STATUTORY IMPLICATIONS**

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

### **POLICY IMPLICATIONS**

63. The primary assessment criteria for the application are set out in the City of Albany *Extractive Industry and Mining* local planning policy.
  - a. The proposal is classified as a class 2 extractive industry under the policy. Class 2 extractive industries have site extraction areas of between 0.75 and 3 hectares with a maximum depth of 3 metres.
  - b. The Policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The Environmental Protection Authority's *Separation Distances between Industrial and Sensitive Land Uses* guidelines do not set out a specific buffer for this type of extraction and therefore the proposal was referred to the Department of Environment Regulation who have advised that they have no comments on the proposal. It should be noted that a separate licence through DER is required to be obtained for screening and crushing plants and therefore a full assessment by DER will be undertaken at this time.

- c. The Extractive Industry and Mining Policy and Local Planning Scheme No. 1 states 200 meters should be achieved between dwellings not on the subject property. The closest dwelling is 369 metres away from the nominated extraction area, and is therefore compliant with the *Extractive Industry and Mining Policy*.
- d. The proposed pit is compliant with the provision of the policy that requires pits be located 30m from any public road.
- e. The proposed pit area complies with the requirement of being set back a minimum of 50 meters from a watercourse or body. The proposed setback from the waterway is approximately 130 meters.
- f. The operations will not result in the removal of remnant vegetation.

**RISK IDENTIFICATION & MITIGATION**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<p><b>Organisational Operations and Reputation</b>  <i>If the conditions are not met, the proposed use could give rise to unacceptable detrimental impacts on the amenity of the area.</i></p>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Mitigation of impacts to be achieved through adoption and enforcement of conditions.</i>

**FINANCIAL IMPLICATIONS**

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

**LEGAL IMPLICATIONS**

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

**ENVIRONMENTAL CONSIDERATIONS**

- 69. The extraction area is situated centrally within the subject lot. The extraction area is approximately 130 metres from a waterway onsite. Their proposed extraction area is located in a cleared portion of land.

**ALTERNATE OPTIONS**

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

- To determine that the proposed use is unacceptable and to resolve to refuse the application; or
- To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

**SUMMARY CONCLUSION**

71. The proposal is considered to be consistent with the objectives of the zone and the requirements of the City of Albany's *Extractive Industry and Mining* local planning policy. The matters raised in the public submissions have also been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions. On this basis, it is considered the proposal can be approved and appropriately managed through ongoing conditions and the yearly licence renewal process.

72. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy 2010</i></li> <li>3. <i>City of Albany Extractive Industries and Mining local planning policy</i></li> <li>4. <i>Environmental Protection (Noise) Regulations 1997</i></li> <li>5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	<b>A72855(Kalgan Ward)</b>
<b>Previous Reference</b>	:	Nil

**DIS013: NATURAL RESERVES STRATEGY AND ACTION PLAN 2017-2021**

<b>Land Description</b>	: All Natural Reserves
<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Natural Reserves Strategy and Action Plan 2017-2021
<b>Supplementary Information &amp; Councillor Workstation</b>	: Natural Reserves Strategy and Action Plan 2017-2021
<b>Report Prepared By</b>	: Reserves Officer (A Tucker)
<b>Responsible Officers:</b>	: Executive Director of Works and Services (M Thomson)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023:
  - a) **Key Theme:** 2: Clean, Green and Sustainable
  - b) **Strategic Objective:** 2.1: To protect and enhance our natural environment, and 2.3 To advocate for and support 'green initiatives' within our region.
  - c) **Strategy:** Preserve our parks, gardens and reserves for the benefit of future generations, and 2.1.1 Deliver effective fire practices that reduce risk, and 2.1.2 Sustainably protect and enhance our iconic coastline and reserves, and 2.3.1 Promote and support effective conservation and environmental management.

**In Brief:**

- Review and adoption of the City of Albany Natural Reserves Strategy and Action Plan 2017-2021.
- The plan provides a framework for the Council to manage the City's Natural Reserves into the future.
- The plan has been developed using a combination of desk top research, community and stakeholder consultations, and internal stakeholder engagement. It builds on and informs a number of key City Strategies and Plans.

**RECOMMENDATION**

**DIS013: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council ADOPT the Draft Natural Reserves Strategy and Action Plan 2017-2021.**

**This item will be considered at the Ordinary Council Meeting on Tuesday 28 March 2017.**

**BACKGROUND**

2. The Natural Reserve Strategy and Action Plan (NRSAP) is a 5-year plan providing the framework to manage the 450 natural reserves under the City's care and management. It identifies key strategies and actions to provide access for the community and protection of the environmental values of the natural reserves.
3. The NRSAP seeks to align previous bodies of planning works undertaken in Natural Reserves to current strategic objectives of the City and enable City officers to implement key actions. It also identifies evolving risks and challenges and makes provision for appropriate responses in line with community expectation.
4. Over time, Management Plans for specific reserves will be reviewed and developed in line with the NRSAP.

5. In its 2015-2016 budget, Council allocated funding for the development of a NSRAP. Consultation took place in early 2016 and this draft plan has resulted from this consultation.

## **DISCUSSION**

6. The development of the NSRAP included a review of all the existing individual reserve management plans and all outstanding operational actions from them. The outstanding actions that are still relevant are included.
7. Significant consultation was led by Dr Louise Duxbury from Greenskills. A number of meetings were held in early 2016, with a total of 105 agencies, local organisations and community invited to participate.
8. The development of the NRSAP is based on 10 strategic management principles. These principles are consistent with those guiding environmental protection principles in the *WA Environmental Protection Act 1986*. They are a mix of social, recreational and health, financial and environmental biodiversity elements. These principles were supported by community comments received during the consultation period.
9. The framework identifies 5 key focus areas of management. These are:
  - a) Environmental Biodiversity;
  - b) Community Safety;
  - c) Recreational Services and Facilities;
  - d) Cultural Heritage Values; and
  - e) Sustainable Management.
10. Actions for each key focus area have been identified and reflect environment best practice, are financially sustainable and balance biodiversity conservation and user needs.
11. There are a total of 76 actions within the 5-year plan and they have been categorised as either existing practices which we will continue, community education elements, and brand new initiatives and projects.
12. The NSRAP will be reviewed annually regarding budget requirements and on a 5-yearly basis regarding strategic directions.
13. The Natural Reserves Strategy and Action Plan (2017-2021) is a whole of City document and its actions are cross-departmental. The objectives and actions are linked to the annual budgets and work plan review cycles. The process of annual review of achievements will ensure the Strategy remains a 'living document', enabling regular performance monitoring.

## **GOVERNMENT & PUBLIC CONSULTATION**

14. Consultation for this Strategy took place over a number of months in early 2016. Various methods were used and included a series of meetings and workshops, an online survey, hardcopy surveys from campers at Cape Riche and Cosy Corner West, and traditional written submissions.
15. Further consultation will be undertaken as required for specific reserve management plans as they develop.
16. A total of 105 local agencies and organisations were invited to be part of the project via the workshops or the online survey. Over 90 people attended the workshops and meetings. A total of 45 responses were received via survey monkey and 69 responses via the camping surveys.

## **STATUTORY IMPLICATIONS**

17. There are no statutory implications related to this report.



## POLICY IMPLICATIONS

18. This NRSAP contributes to the achievement of the following key Australian and Western Australian Government policies, plans and legislative requirements:
- Building Code of Australia;
  - Australian Standards;
  - State Heritage Register;
  - Aboriginal Site and Other Heritage Place Register.
19. It also builds on and informs a number of local City plans, strategies and policies, namely:
- a) Environmental Weed Strategy for City of Albany Reserves (2055-2010);
  - b) Reserves Planning Framework;
  - c) City Mounts Management Plan;
  - d) Environmental Code of Conduct;
  - e) Albany Local Planning Strategy;
  - f) Asset Management Plan: Natural Reserves;
  - g) Black Swan Point Management Plan (2015-2025);
  - h) Cheyne Beach Improvement Plan;
  - i) Community Perceptions;
  - j) Trails Hub Strategy, Vol 1-5 (2015-2025);

## RISK IDENTIFICATION & MITIGATION

20. To ensure appropriate decisions are made with quality information, stakeholder consultation and research, Council must be informed of the risk the City faces as a result of its decision-making.
21. Risk identification and mitigation advice assists Council to maximise opportunity and minimise risks and hazards that may impact upon the effective and efficient management of City assets, functions and services.
22. *For example: The risk identification and categorisation relies on the City's Enterprise Risk and Opportunity Management Framework.*

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Community</b> The Natural Reserves Strategy and Action Plan raises community expectations and actions are not delivered as per the Plan.</p>	Possible	Moderate	Medium	If adopted, Council allocates resources to accommodate actions identified in the plan in a timely manner.
<p><b>Reputation</b> Strategy and Action Plan not adopted or delivered against, resulting in community dissatisfaction and damage to relationships with relevant stakeholders.</p>	Unlikely	Moderate	Low	Adopt the plan and continue ongoing communication with public and relevant stakeholders as to progress of actions within the plan.

## FINANCIAL IMPLICATIONS

23. Ongoing costs for the maintenance and renewal of assets will be the responsibility of the City of Albany. The NRSAP will require linking to the Long Term Financial Plan for some of the proposed actions to be achieved. Allocation(s) for achieving specific actions will be considered as part of the annual budget allocation and review processes.

24. The NRSAP will support the City in applying for external funding to undertake some the larger capital works activities should suitable funding opportunities arise.

**LEGAL IMPLICATIONS**

25. There are no legal implications related to this report.

**ENVIRONMENTAL CONSIDERATIONS**

26. The NRSAP reflects current environmental best practice. However, specific environmental impact assessments will be undertaken for all new actions/works prior to implementation, and any necessary environmental conditions will be implemented at this stage.

**ALTERNATE OPTIONS**

27. Council may choose not to adopt this Strategy. However, this is not recommended as Albany is part of only two identified unique biodiversity hotspots in Australia. As such, there is an expectation that the City would commit to preserving and protecting our unique environmental biodiversity within our natural reserves.
28. Council may wish to modify the NSRAP. In doing so, this would require further review by the Development and Infrastructure Services Committee.

**CONCLUSION**

29. The Natural Reserves are a significant asset for the City in terms of ecological functions and access by residents and visitors to natural areas, as well as generating economic, health and wellbeing benefits for the City and broader community.
30. Council allocated funds to develop a Natural Reserves Strategy and Action Plan (NRSAP) in its 2015-16 budget. The City has undertaken extensive external and internal consultation to identify community priorities and include these in achievable outcomes for natural reserves.
31. It identifies key strategies and actions to provide access for the community and protection of the environmental values of the natural reserves.
32. Specific Reserve Management plans will be reviewed and developed to align to the NRSAP in due course.
33. This report recommends that the Natural Reserves Strategy and Action Plan 2017-2021 be adopted.

<b>Consulted References</b>	:	<i>WA Environmental Protection Act 1986</i> City of Albany Asset Management Plan: Natural Reserves 2013
<b>File Number (Name of Ward)</b>	:	CR.COC.44 (All Wards)
<b>Previous Reference</b>	:	Presentation to Works & Services Committee meeting on 7 December 2016.

**DIS014: WASTE LOCAL LAW 2017**

<b>Proponent</b>	: City of Albany
<b>Attachments</b>	: (1) Re-drafted Proposed Waste Local Law 2017 (2) Recommendations from the Department of Local Government and Communities (DLGC) and Department of Environment Regulation (DER)
<b>Report Prepared by</b>	: Manager Governance and Risk (S Jamieson)
<b>Responsible Officer</b>	: Executive Director Works & Services (M Thomson)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014 - 2018:
  - a. **Key Theme:** 2. Clean, Green and Sustainable
  - b. **Strategic Objectives:** 2.3 To advocate for and support 'green' initiatives within our region.
  - c. **Strategy:** 2.3.2 Deliver effective waste management services.

**In Brief:**

- Recommend the procedures for making the City of Albany Waste Local Law.

**RECOMMENDATION**

**DIS014: RESPONSIBLE OFFICER RECOMMENDATION**

- (1) **NOTE** that the Local Law procedures must be restarted to ensure legal validity and compliance with the prescribed process.
- (2) **APPROVES** the recommended amendments to the proposed Local Law for the purpose of advertising.
- (3) **AGREES** to restart the procedure for making the Local Law.
- (4) In accordance with section 3.12 of the *Local Government Act 1995*, agrees to **GIVE PUBLIC NOTICE** of its intention to **MAKE** the City of Albany Waste Local Law 2017.

This item will be considered at the Ordinary Council Meeting on Tuesday 28 March 2017.

**BACKGROUND**

2. Council at its Ordinary Meeting of 28 July 2015 commenced the process to make the City of Albany Waste Local Law.
3. Final adoption of the Local Law was put on hold until comparable local laws were scrutinised by the Joint Standing Committee on Delegated Legislation (JSCDL) and concerns raised in the original proposed local law were addressed (see attachment 2).

## DISCUSSION

4. Feedback received from the Department of Environmental Regulation (DER) and the Department of Local Government and Communities (DLGC) required the proposed local law to be amended.
5. In accordance with section 3.13 of the Act, it is recommended that the procedure for making the Waste Local Law is restarted.

## GOVERNMENT AND PUBLIC CONSULTATION

6. The City of Albany completed a public consultation period of 42 days. At the close of the advertising period, no community submissions were recorded on the proposed Local Law.
7. As required by section 3.12(3)(b) of the *Local Government Act 1995*, a copy of the proposed Local Law was provided to the Minister for Local Government and Communities and the Minister for Department of Environment Regulation.

### 8. **Feedback from the Department of Environment Regulation:**

*“The majority of the clauses in the proposed Waste Local Law are consistent with the template Waste Local Law to which the Joint Standing Committee on Delegated Legislation has indicated its general approval. However, I do not provide consent to this local law in its current form due to issues with the following clauses:*

- a. *Clause 2.1(2) Deposit of waste in receptacles – this clause has not been amended to reflect the deletion of clause 2.1 ‘Supply of receptacles’ from the template local law, and is unclear.*
- b. *Clause 2.6(c) Duties of owner or occupier – it is not clear how an owner or occupier would seek approval for receptacles in order to meet the requirement to ‘take reasonable steps to ensure that the premises are provided with an adequate number of receptacles’.*
- c. *Clause 3.1 (a) Provision of receptacles – the comments for subclause 2.6(c) apply equally to this subclause.*
- d. *Clause 3.1(b) – (d) Maintenance of receptacles – these subclauses are likely to be beyond the power in that they purport to apply to the maintenance of waste receptacles no provided by the local government.*

*These issues would need to be substantively addressed before consent to the waste local law could be given...”*

### 9. **Feedback from the Department of Local Government & Communities:**

*“Although the City has amended certain parts of the model in preparing its proposal waste local law the City should be prepared for the possibility that the Committee may still raise concerns with the local law. It is suggested that the City consult the Committee’s 77th Report for an idea of what kind of issues the Committee will investigate.*

*A number of the clauses in the local law appear to hold the property owner responsible for offences committed by other people, even when the offence was committed without the owner’s knowledge or permission.*

*The City may wish to consider changing these requirements so the property owner must “take all reasonable steps” to ensure the receptacle is used in compliance with the law...”*

10. Additional recommendations are detailed in the attachment to this report.

## STATUTORY IMPLICATIONS

11. Section 3.12 of the *Local Government Act 1995* (the Act) states the procedures for making local laws.
12. Section 3.12 of the Act requires the person presiding at a Council meeting to give notice to the meeting of the purpose and effect of the proposed local law.

**Purpose:** The purpose of the local law is to provide for the regulation, control and management of activities and issues relating to waste collection, recycling, reuse and disposal within the district of the City of Albany.

**Effect:** The effect of the local law is to control activities and manage influences on waste collection, recycling, reuse and disposal within the district of the City of Albany.

13. Voting Requirement: **Absolute Majority**

## POLICY IMPLICATIONS

14. There are no policy implications related to this item.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Legal &amp; Compliance.</b> <i>Local law process is not restarted - will result in the Joint Standing Committee on Delegated Legislation disallowing the local law.</i>	<i>Possible</i>	<i>Major</i>	<i>Medium</i>	<i>Restart the process, address feedback from the DER and DLGC.</i>

## FINANCIAL IMPLICATIONS

16. Cost will be incurred with respect to the advertising and eventual publication in the Government Gazette of the Local Law.
17. The City of Albany does not supply bins to households - this is the responsibility of the property owner.

## LEGAL IMPLICATIONS

18. Section 3.12 of the Act prescribes the procedures for making Local Laws.
19. In accordance with section 3.13 of the Act, if during the procedure for making a proposed Local Law the government decides to make a Local Law that would be significantly different from what it first proposed, the local government is to recommence the procedure.
20. Whilst the Act does expressly prescribe a timeframe in which the procedural requirements for making Local Laws are to be completed, the procedures should be undertaken with "all convenient speed" in line with the *Interpretations Act 1984*.

## ENVIRONMENTAL CONSIDERATIONS

21. Provisions have been transferred from the Health Act 1911, concerning health and environmental issues related to the waste management services provided by Local Government, to the Waste Avoidance and Resource Recovery (WARR) Act 2007.

22. The proposed local law developed under the WARR Act 2007 provides a framework for the City to manage its waste collection and disposal services to benefit community health and the environment.

### CONCLUSION

23. It is recommended that Council recommence the making of the Local Law process in accordance with section 3.12 of the *Local Government Act 1995*, and agrees to GIVE PUBLIC NOTICE of its intention to MAKE the City of Albany Waste Local Law 2017.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• <i>Local Government Act 1995</i></li> <li>• <i>Local Government (Functions &amp; General) Regulations 1996</i></li> <li>• <i>Waste Avoidance and Resource Recovery Act 2007</i></li> <li>• <i>City of Albany Health Local Laws 2001</i></li> <li>• <i>Local Government Operational Guidelines – Number 16 November 2011</i></li> <li>• <a href="http://www.wastenet.net.au/Assets/Template_Waste_LL_-_December_2014.docx">http://www.wastenet.net.au/Assets/Template_Waste_LL_-_December_2014.docx</a></li> <li>• <a href="http://www.wastenet.net.au/Assets/Template_Waste_Local_Law_Guidance_Note.pdf">http://www.wastenet.net.au/Assets/Template_Waste_Local_Law_Guidance_Note.pdf</a></li> <li>• <a href="#">Report 77 – Joint Standing Committee on Delegated Legislation – Inquiry into a Proposed Template Waste Local Law – November 2014</a></li> </ul>
<b>File Number (Name of Ward)</b>	:	<i>All Wards</i>
<b>Previous Reference</b>	:	<i>OCM 28/07/2015 Resolution WS080</i>

**DIS015: PLANNING AND BUILDING REPORTS FEBRUARY 2017**

**Proponent** : City of Albany  
**Attachment** : Planning and Building Reports February 2017  
**Report Prepared By** : Administration Officer-Planning (Z Sewell)  
Administration Officer-Development Services (J Corcoran)  
Administration Officer-Planning (K Smith)  
**Responsible Officer(s):** : Executive Director Development Services (P Camins)

**Responsible Officer's Signature**



**RECOMMENDATION**

**DIS015: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR MOIR**  
**SECONDED: COUNCILLOR HAMMOND**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 10-0**

**DIS015: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council NOTE the Planning and Building Reports for February 2017.**

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

**12. MEETING CLOSED TO THE PUBLIC Nil.**

**13. CLOSURE**

There being no further business the Chair declared the meeting closed at [7:07:19 PM](#)