



---

# AGENDA

---

## **DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING**

**Wednesday 9 September 2020**

6.00pm

City of Albany Council Chambers

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

**VISION**

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

**VALUES**

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

**Focused: on community outcomes**

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

**United: by working and learning together**

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

**Accountable: for our actions**

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

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

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

## TERMS OF REFERENCE

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

Development Services:

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

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

Infrastructure Services:

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

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

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

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

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

(4) **Meeting Schedule:** Monthly

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

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

(7) **Delegated Authority:** None

**TABLE OF CONTENTS**

	<b>Details</b>	<b>Pg#</b>
<b>1.</b>	<b>DECLARATION OF OPENING</b>	4
<b>2.</b>	<b>PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS</b>	4
<b>3.</b>	<b>RECORD OF APOLOGIES AND LEAVE OF ABSENCE</b>	4
<b>4.</b>	<b>DISCLOSURES OF INTEREST</b>	5
<b>5.</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b>	5
<b>6.</b>	<b>PUBLIC QUESTION TIME</b>	5
<b>7.</b>	<b>PETITIONS AND DEPUTATIONS</b>	5
<b>8.</b>	<b>CONFIRMATION OF MINUTES</b>	5
<b>9.</b>	<b>PRESENTATIONS</b>	5
<b>10.</b>	<b>UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS</b>	5
	<b>REPORTS</b>	
DIS227	ALBANY ARTIFICIAL SURF REEF DETAILED DESIGN	6
DIS228	DISPOSAL OF A PORTION OF RESERVE 37325 TO ADJOINING LANDOWNER & DEDICATION OF A FURTHER PORTION AS PUBLIC ROAD RESERVE	14
DIS229	LOCAL PLANNING SCHEME AMENDMENT NO. 36 – LOTS 201,202 AND 203 CHESTER PASS ROAD AND LOT 1004 VIASTRA DRIVE, LANGE	19
DIS230	RECONSIDERATION OF DIS210 – SINGLE HOUSE – OVERSIZE OUTBUILDING – LOT 109, 248 GREATREX ROAD, KING RIVER	24
<b>11.</b>	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	31
<b>12.</b>	<b>MEETING CLOSED TO PUBLIC</b>	31
<b>13.</b>	<b>CLOSURE</b>	31

**1. DECLARATION OF OPENING**

**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 past, present and emerging”.*

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

Mayor D Wellington

**Councillors:**

Member	E Doughty (Chair)
Member	R Sutton (Deputy Chair)
Member	P Terry
Member	R Stephens
Member	G Stocks (Deputy Mayor)
Member	M Benson-Lidholm JP
Member	J Shanhun
Member	S Smith
Member	A Goode JP
Member	C Thomson

**Staff:**

Chief Executive Officer	A Sharpe
Executive Director Infrastructure, Development and Environment	P Camins
Manager Planning & Building Services	J van der Mescht
Manager Major Projects	A McEwan
Secretary	J Cobbold

**Apologies:**

**Leave of Absence:**

Member	T Sleeman
Member	R Hammond

**4. DISCLOSURES OF INTEREST**

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

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

**6. PUBLIC QUESTION TIME**

**7. PETITIONS AND DEPUTATIONS**

**8. CONFIRMATION OF MINUTES**

**DRAFT MOTION**

**THAT the minutes of the Development and Infrastructure Services Committee meeting held on 12 August 2020 as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**9. PRESENTATIONS**

**10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

## DIS227: ALBANY ARTIFICIAL SURF REEF (AASR)

<b>Land Description</b>	: Middleton Beach, Albany
<b>Proponent / Owner</b>	: City of Albany
<b>Business Entity Name</b>	: N/A
<b>Attachments</b>	: <a href="#">Albany Artificial Surf Reef - Detailed Design Package (Commercial in Confidence)</a> <a href="#">Albany Artificial Surf Reef - Revised Business Case (Commercial in Confidence)</a>
<b>Supplementary Information &amp; Councillor Workstation</b>	: Nil
<b>Report Prepared By</b>	: Manager Major Projects (A. McEwan)
<b>Responsible Officers:</b>	: Executive Director Infrastructure & Environment (P. Camins)

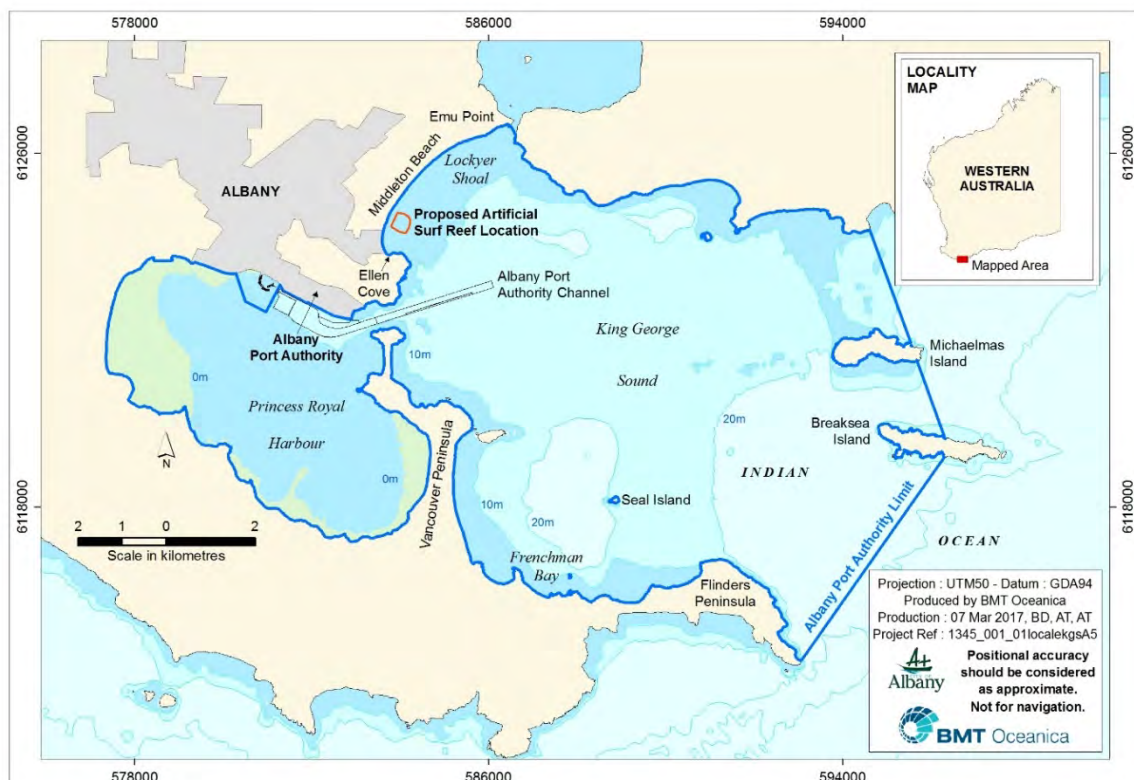
### CONFIDENTIAL ATTACHMENT

*It is recommended that if discussion is required in regards to details contained within the Confidential Attachment, that the matters are discussed behind closed doors, in accordance with section 5.23(2)(c) & (e)(ii) of the Local Government Act 1995, being: a contract which may be entered into and information that has commercial value.*

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Community Health and Participation.
  - **Objective:** To develop and support a healthy inclusive and accessible community
  - **Community Priority:** Develop a range of activities and facilities that connect people, promote a healthy community and are appropriate for all ages.

### Maps and Diagrams:



**In Brief:**

- The City of Albany commissioned detailed design for the Albany Artificial Surf Reef (AASR) as externally funded by Department of Primary Industries and Regional Development (DPIRD)
- Detailed designs have been completed and Council is requested to endorse the design outcome (as presented to the Elected Members briefing on 18 August 2020).
- The City of Albany commissioned a revision to the Business Case for the AASR based on the detailed design outcome, and as a condition of DPIRD funding and requested viability assessment for the pledged \$4.5m implementation funding.
- Council is requested to review the Albany Artificial Surfing Reef Business Case (as presented to the Elected Members briefing on 18 August 2020).
- Council support is sought for funding advocacy to continue for the implementation of the Albany Artificial Surf Reef.
- Council support is sought to implement the project should suitable external funding sources become available.

**COVID-19 IMPACT**

- Potential to stimulate economic growth locally and in the region.

**RECOMMENDATION**

**DIS227: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council:**

- 1. RECEIVE the Albany Artificial Surf Reef revised Business Case.**
- 2. ADOPT the Albany Artificial Surf Reef Detailed Design Report.**
- 3. ENDORSE the CEO to seek external funding support for the Albany Artificial Surf Reef project.**
- 4. NOTE that should suitable external funding sources for the implementation phase become available for the Albany Artificial Surf Reef, this will be the subject of a future report to Council.**

**BACKGROUND**

2. The Albany community have been advocating for an Artificial Surf Reef for nearly two decades. Prior to City involvement, a series of comprehensive reports were undertaken by advocacy groups in relation to the creation of an artificial surf reef in Albany.
3. A Steering Group was established by the City who commissioned an updated Feasibility Study for an Artificial Surf Reef at Middleton Beach. The study was completed in July 2015 by Royal Haskoning DHV (RHDHV) with the primary objective being to deliver:  

“The creation of a consistent, surfable wave, which maximises available swell conditions and is central to Albany, driving benefits in tourism, economic development and retention of Albany’s younger age demographic.”
4. The Feasibility Study determined that Middleton Beach is an ideal location for an artificial surf reef that offers existing unique characteristics: wave period, unidirectional wave climate and tidal advantages that are sought in artificial reef design. The combination of the factors mean that a lot of the variability encountered with previous artificial surf reef locations are eliminated.



5. The AASR Business Case prepared by local professionals *Keston Technologies* and received by Council in November 2016 concluded that the development of an artificial surf reef at Middleton Beach would be a viable investment.
6. The WA State Government through the Department of Primary Industries and Regional Development pledged \$5 million toward the construction of the AASR, agreeing to an early release of \$500k to commence the detailed design process and business case revision. The pledged \$4.5 million was subject to the viability of the investment pending the outcome of detailed design.
7. The City appointed *Bluecoast Consulting Engineers* in November 2019 to complete a detailed design to determine exact requirements for the project's implementation and refine budget requirements.
8. The information received as a result of this commission is an invaluable resource for any future coastal adaption and protection works outside of this specific project and is not considered sacrificial as it provides a detailed study and analysis of our local coastal conditions.
9. A Project Steering Group has been established since 12 February 2015 with the membership evolving and expanding to accommodate the relative project phases. Upon the commencement of the detailed design phase, both a Working Group and Steering Group were established.
10. The Project Working Group's purpose is advisory in nature and membership principally includes representatives of the City of Albany, surfing community, key stakeholder groups, local business, environment and education sectors (and is representative of the initial Steering Group established in 2015).
11. The Project Steering Group is a City of Albany and Authority governance group whose purpose is to provide strategic project oversight and direction for the planning and implementation of the project and membership principally includes representatives of the City of Albany and government agencies.
12. A community survey was undertaken in February 2015. The City of Albany received a total of 732 feedback documents, the largest response for any City of Albany community survey undertaken to date, with Community survey results revealing 90% support for the creation of an Artificial Surf Reef at Middleton Beach.

## **DISCUSSION**

13. The City appointed the local Wave Energy Research Centre to undertake peer review of the detailed design contract deliverables.
14. The Department of Transport have been acting in a peer review capacity to assess the detailed design contract deliverables.
15. The detailed design prepared by the specialist consultant team was developed taking into consideration: recreational amenity and performance, direct and indirect ecological and environmental impacts, approvals process, constructability and an order of costs that met the objectives of the brief.
16. In summary the detailed design outcome concluded that:
  - a. The proposed AASR consists of a submerged rock reef structure, the design of which has resulted from an iterative process involving thorough numerical, physical and conceptual modelling
  - b. All aspects of the AASR design were considered in modelling, including its location, footprint and shape.
  - c. The location has been optimised based on existing seabed variability, user accessibility, shoreline response, wave climate and local ecology.

- d. The shape has been optimised to improve wave breaking characteristics, promote user safety, minimise coastal impacts and reduce construction costs.
  - e. The design provides a 'left-hander' surfing wave, situated 150m north of the 'Surfers Beach' car park and approximately 140m offshore. The reef measures 165m long and varies in width up to 110m. At its shallowest point, the crest of the AASR will be 1m below average water level to maximise wave breaking whilst also ensuring adequate user safety.
  - f. The design provides surfing rides of up to 100m during average conditions with surfable waves expected for 41 per cent of the year over the AASR with further increase in surfing opportunities inshore of the structure.
  - g. The target cost estimate to deliver the project has been estimated to be \$9.5 million.
  - h. Based on the multiple lines of evidence approach, a clear picture of the project's predicted performance has been obtained and evaluated against Key Performance Indicators. With surfing amenity given the highest priority, the other key success factors examined relate to shoreline impact, environment, cost and safety. Modelling suggests that the design satisfies all key performance indicators, with capital cost expected to be refined during a competitive tender process.
  - i. The structure is designed to be low maintenance (with physical modelling tests simulating storm event conditions to prove structure stability and performance) with maintenance requirements associated with inspection and monitoring.
17. The City of Albany re-appointed Keston Technologies to undertake the revision to the business case following the completion of detailed design to determine if the project remained a viable investment.
18. In summary, the revised Business Case concluded that the development of the AASR at Middleton Beach would remain a viable investment. Outcomes included:
- a. The introduction of an artificial surf reef would diversify and grow the regional economy.
  - b. A series of socio-economic benefits would be delivered including economic development, social, health, ecological, environmental and safety.
  - c. The calculations demonstrated a positive Net Present Value of \$19.4m (Benefit Cost Ratio of 3.25), clearly deriving from the high level of community benefits that would accrue - hosting surfing events, uplift in visitation and length of stay, complementing adventure tourism and creation of a Surfing Hub. Note: Benefit Cost Ratio above 1 is considered a viable public investment. The effects of interstate and international visitation are ignored in the base case to consider ongoing Covid-19 impacts. The worst case scenario model maintains a BCR above 1.
  - d. Job creation would be significant. There will be benefit from both the construction phase and the operational phase, with the project expected to create 31 FTE direct jobs in the construction industry and 130 FTE jobs in the economy as a whole, during the construction phase, and an estimated 54.5 sustainable, long-term FTE jobs in the region, based on the additional direct tourism spend.
  - e. The implementation of an artificial surf reef will create a consistent, quality wave appropriate for holding events at state, national and international levels. Surfing WA indicated they would foresee holding 3-4 events per year in Albany that are not currently possible due to the poor quality of surf on Albany's central beaches, e.g. Surfing WA junior events.
  - f. The implementation of the AASR would provide a significant tourism drawcard in Albany's Autumn and Winter season, which predominately experiences lower tourist numbers and overnight visitors to the area.

- g. A real opportunity exists for Albany to be recognised as a Surfing Hub; a clustering of multiple recognised surfing spots in the region (the only other such hub being Margaret River). With existing infrastructure in retail and hospitality and other attractions, the facilitation of a recognised surfing hub in Albany would provide substantial benefits both economically and socially.
  - h. The AASR has a strong potential to become the centrepiece of a city boasting quality surf, accommodation (new hotel), surf related shops, galleries, etc., as well as links to the world-renowned heritage listed 'Snake Run' skate park, mountain bike and cycling trails which all come together to create a complete Adventure Tourism package
  - i. A general uplift in visitation would be expected and an increase in length of stay.
  - j. The project will attract and retain a younger generation, who currently tend to be drawn away to metropolitan areas where a wider variety of recreational facilities exist.
  - k. The project will deliver a recreational outlet beyond those currently available in the region, providing for diversified interests in the community and helping to create a more liveable regional city.
19. The Environmental Protection Authority (EPA) resolved the proposal would not require formal assessment under the Environmental Protection Act 1986. The City received a Notice of Decision Not to Access the Proposal – based on a 'worst case scenario' footprint with the detailed design outcome remaining within this envelope.
20. Should the project be implemented, additional approvals will be required at that time including:
- a. Referral to Department of Transport and endorsement by Department of Water and Regulation for a licence under the Water Ways Conservation Act.
  - b. Seabed lease from Southern Ports Authority. Potential no boating exclusion zones through Department of Transport.
  - c. Notice to Department of Fisheries and navigational safety.
  - d. Neither a development application nor building licence is required.
21. In August 2020 an educative film articulating the design story was released for community engagement purposes (given COVID-19 restrictions), accompanied by a community survey.
22. The community survey does not close until 14 September. The results of this survey will be provided in a briefing note prior to the OCM on 22 September.
23. Council resolution is sought to continue advocating for suitable external funding to implement the project.

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

24. **Government:** The Great Southern Development Commission (GSDC) has been engaged and involved in initial development of the Business Case, as per its membership on the Steering Group.
25. **Government:** The City has undertaken consultation and engagement with key government stakeholders (Department of Transport & Southern Ports Authority and Department of Water & Environmental Regulation) during the detailed design phase.
26. **Government:** The Steering Group has representation from the Department of Transport, Department of Water and Environmental Regulation, Southern Ports Authority, GSCORE, GSDC, Wave Energy Research Centre and Department of Primary Industries and Regional Development.

27. **Government:** The Department of Primary Industries and Regional Development briefed in regular reporting as funding body and as a member of Steering Group.
28. **Government:** Department of Fisheries was briefed on the project scope during the Feasibility Phase.
29. **City of Albany:** The project groups include representation from across the City of Albany including the Major Projects Team, Community Services, Infrastructure, Development, Environment & Planning. The Groups are led by the Manager of Major Projects.
30. **Key Community Groups:** The Working Group has representation from key community user groups including the Albany Surf Life Saving Club, Middleton Beach Group, Surfing WA, Albany Boardriders, local education, and environmental sectors.
31. **Broader Community:** The City of Albany has undertaken a number of broad community engagement activities including public submission period (survey) during the Feasibility and Detailed Design Phase, accompanied by an educative community film released through social media. (Planned events were cancelled due to COVID-19).
32. Mediums used to conduct Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)
Inform	Social Media Film	August 2020 release	Youtube viewings – TBA 14TH SEPTEMBER
Consult	Survey	August/September 2020	TBA 14TH SEPTEMBER
Consult	Regular meetings of Project Working and Steering Groups  Emailed updates provided between meeting dates.	12 February 2015 31 March 2015 20 May 2015 28 May 2015 16 June 2015 23 June 2015 18 February 2016 25 August 2016 11 October 2016 9 October 2019 14 January 2020 19 August 2020	+40 across both groups and through various project phases.
Inform	The Albany Show – stand	November 2016 November 2019	Not recorded
Inform	Community Update and Posters - City of Albany website	Monthly May to August 2020	Not recorded
Consult	Survey	February 2015	732

### STATUTORY IMPLICATIONS

33. The voting requirement of Council is to be **SIMPLE MAJORITY**.

### POLICY IMPLICATIONS

34. Should the project be supported and funding become available, Federal and State policies would apply to the project's implementation.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
------	------------	-------------	---------------	------------

<p><b>Reputation</b></p> <p><i>Risk: If the viable Business Case and detailed design are not supported, funding advocacy will not progress. Relationship with DPIRD may be negatively impacted (as financial contributors for detailed design investigations)</i></p>	Possible	Major	High	<p><i>Design and Business Case results have been favourable.</i></p> <p><i>City officers will resubmit for further discussion addressing concerns raised.</i></p>
<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<p><b>Reputation</b></p> <p><i>Risk: The outcomes raise community expectations that the artificial surf reef will be implemented. (If not supported and currently not fully funded)</i></p>	Likely	Major	High	<p><i>Develop media and Communication Strategy to manage community expectations around funding and implementation.</i></p>
<p><b>Opportunity:</b> <i>An economic enabler, to make Albany and the region a more liveable City to live, work and visit.</i></p>				

### FINANCIAL IMPLICATIONS

36. The detailed design and business case were completed within the agreed budget allocation from Department of Primary Industries and Regional Development of \$500,000.
37. A funding acquittal is required to be undertaken prior to the 30<sup>th</sup> September 2020 project completion date.
38. No City cash funds were expended during this phase of works (detailed design). The City provided in-kind project management services.
39. Any funding advocacy will request external funding is made available in full for the implementation of the AASR.

### LEGAL IMPLICATIONS

40. There are no legal implications related to the detailed design and business case.
41. Any legal implications for the AASR's implementation will be addressed as part of the approvals process if funding is secured and approved for its implementation.

### ENVIRONMENTAL CONSIDERATIONS

42. There are no direct environmental considerations related to these reports.
43. Any environmental considerations will be considered should the project be implemented. Ongoing data collection and approvals process are outlined and addressed in the Operational and Environmental Management Plan and Environmental Impact Statement.
44. Detailed design outcomes revealed:
  - a. Shoreline impact & amenity - The coastal response post-construction is expected to fall within the erosion and accretion triggers when interpreted in the context of the final design location of the AASR (as outlined in the Operational and Environmental Management Plan).
  - b. Shoreline impact & amenity - Useable beach widths along Middleton Beach are expected to be increased compared to pre-project levels. This exceeds the target for the beach amenity key performance indicator which was for beach widths to be maintained.

45. The three design key performance indicators associated with the environmental impacts due to the introduction of an artificial surf reef were:
- a. Minimise environmental impact during construction phase.
  - b. Minimise environmental impact during operational phase.
  - c. Increase in abundance and diversity of marine life in the local area of the AASR.

The metrics for each of these key performance indicators cannot be realised at the design stage, however assurances would be made during the construction and operational phases (through monitoring) via the Operational and Environmental Management Plan and the Construction Environmental Management Plan to ensure they are adhered to or realised.

**ALTERNATE OPTIONS**

46. Council may choose not to support the AASR detailed design outcome and revised business case.
47. Failure to support the project will result in the project not progressing further, and forfeit of the pledged \$4.5million from the Department of Primary Industries and Regional Development.

**CONCLUSION**

48. The community response so far has revealed overwhelming support for the project.
49. Detailed designs completed are in line with previously sought approvals.
50. The Business Case concluded that the implementation of an AASR at Middleton Beach would be a viable investment. In line with the outcome of the Business Case, the City recommends to continue with the project to ensure the potential implementation would have positive impacts to retain youth and be an economic driver for tourism into the future, especially during the winter season tourism decline.
51. Support of the AASR Business Case will allow funding advocacy to commence and improve the community’s confidence in the City’s ability to deliver recreational projects that contribute to Albany’s liveability and reputation as one of WA’s key tourism destinations.
52. A Council commitment to fund implementation of an AASR at Middleton Beach is not being sought. External funding opportunities would be pursued for this.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• <i>Local Government Act 1995</i></li> <li>• Commercial-in-Confidence: Albany Artificial Surf Reef Detailed Design Report</li> <li>• Commercial-in-Confidence: Albany Artificial Surf Reef Revised Business Case</li> </ul>
<b>File Number (Name of Ward)</b>	:	EM.PLA.28 (Breaksea Ward)
<b>Previous Reference</b>	:	<ul style="list-style-type: none"> <li>• Strategic Briefing Presentation dated 18/08/2020</li> <li>• Strategic Briefing Presentation dated 19/11/2019</li> <li>• Project Briefing Note dated 19/11/2019</li> <li>• Strategic Briefing Presentation dated 27/09/2018</li> <li>• Project Briefing Note dated 27/09/2018</li> <li>• Project Briefing Note dated 15/08/2017</li> <li>• OCM 09/11/2016 Resolution WS117</li> <li>• OCM 22/03/2016 Resolution WS101</li> <li>• 2016/2017 City Adopted Budget</li> <li>• Strategic Briefing Presentation dated 23/06/2015</li> <li>• Strategic Briefing Presentation dated 18/10/2016</li> </ul>

**DIS228: DISPOSAL OF A PORTION OF RESERVE 37325 TO ADJOINING LANDOWNER & DEDICATION OF A FURTHER PORTION AS PUBLIC ROAD RESERVE**

<b>Land Description</b>	: Lot 7487 South Coast Highway
<b>Proponent / Owner</b>	: State of Western Australia
<b>Adjoining Owner</b>	PA Boyd
<b>Attachments</b>	: Main Roads Lands Dealing Plan 2060-118.
<b>Report Prepared By</b>	: Lands Officer (A Veld)
<b>Responsible Officers:</b>	: Executive Director Infrastructure Development & Environment (P Camins)

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Leadership.
  - **Objective:** To provide strong, accountable leadership supported by a skilled and professional workforce.
  - **Community Priority:** Provider positive leadership that delivers community outcomes and gains a reputation for doing what is good for Albany and the surrounding region.
  
- **Theme:** A Connected & Safe Built Environment.
- **Objective:** To advocate, plan for and build friendly and connected communities.
- **Community Priority:** Improve connectedness and traffic flows via a well-designed and safe transport and pathway network that connects people and services and encourages pedestrians and cyclists.

**Maps and Diagrams:**



**In Brief:**

- Council is requested to consider the disposal of a portion of Reserve 37325, which is a Public Recreation reserve vested in the City of Albany, to the adjoining owner at Lot 7 No 413 Link Road.
- Main Roads requires a section of Lot 7 No 413 Link Road for the Albany Ring Road project and property access to Link Road will no longer be available.
- Disposal of portion of Reserve 37325 to the landowner of this property will allow access to their land from South Coast Highway.
- Main Roads also requires an additional section of Reserve 37325 for upgrading the intersection of Link Road with South Coast Highway and resolving the road alignment over the information bay on South Coast Highway.

**RECOMMENDATION**

**DIS228: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council:**

1. **AGREES** to revoke the management order for Reserve 37325 held by the City of Albany pursuant to section 50 of the Land Administration Act 1997, over section marked Area A, B & C on Main Roads Lands Dealing Plan 2060-118;
2. **REQUESTS** that, pursuant to sections 51 and 87 of the *Land Administration Act 1997*, the Minister for Lands cancel portion of Reserve 37325 and dispose of the land, to the adjoining landowner under the provisions of the Government Land Policy – Section 20A Public Recreation Reserves:



3. **ACKNOWLEDGES** this land is to be disposed of to the adjoining landowner at Lot 7 No 413 Link Road on the condition that the land is amalgamated with their current title;
4. **REQUESTS** that, pursuant to sections 56 of the *Land Administration Act 1997*, the Minister for Lands cancel portion of Reserve 37325 and dedicate the land as public road marked Area A on Main Roads Lands Dealing Plan 2060-118;
5. **ACKNOWLEDGES** Main Roads will be responsible for all land costs associated with the section 20A disposal and road dedication of portions of Reserve 37325;
6. **DELEGATES** authority to the Chief Executive Officer, subject to no objections being received during the required public consultation period, to forward this request to the Minister for Lands, for all dealings on this matter to be finalised in conjunction with the Department of Planning Lands & Heritage, Main Roads and the owners of Lot 7 No 413 Link Road.
7. **SUPPORTS** the use of Delegation 2020:036 to address all further request by Main Roads to seek Council concurrence to action requests to the Minister for Lands to dedicate land as road and indemnify the Minister against any claims for compensation as required under section 56 of the *Land Administration Act 1997*.

## BACKGROUND

2. As part of Stage 3A of the Albany Ring Road project, Main Roads is acquiring/excising private freehold land along the eastern border of Link Road, between Albany Highway and South Coast Highway.
3. Properties along this section of road will also no longer have direct access to Link Road. This includes Lot 7 No.413 Link Road.
4. Main Roads also requires an additional section of Reserve 37325 for upgrading the intersection of Link Road with South Coast Highway and resolving the road alignment over the information bay on South Coast Highway

## DISCUSSION

5. Alternative access arrangements have been resolved for all properties between Albany Highway and South Coast Highway, affected by the Albany Ring Road project except for Lot 7 No.413 Link Road.
6. Lot 7 No 413 Link Road will no longer have direct access to Link Road and an alternative access to a constructed public road needs to be facilitated.
7. In order to maintain access to a constructed public road (South Coast Highway), Main Roads have proposed excising a portion of Reserve 37325 for amalgamation with this property.
8. Public Recreation reserve (Reserve 37325) adjoins Lot 7 No.413. This reserve is currently underutilised and is not currently or likely to provide a community recreational benefit.
9. As the City of Albany has a Management Order over this Reserve, Council is being requested to consider a proposal to excise portion of R37325 for disposal to the adjoining landowner.
10. Land acquired by Main Roads WA will be dedicated as road reserve for the Albany Ring Road.

11. Although the City of Albany Staff has delegated authority (delegation 2020:036) to to dedicate a portion of Reserve 37325 as public road, without Council resolution.
12. Given the variety of matters that needs to be considered, it is more appropriate to include the road dedication request into this report as well.
13. The Main Roads proposal is a practical solution and will also regularise the use over information bay.
14. Given the location of Reserve 37325, Excising portions of this reserve is unlikely to a have detrimental impact on public recreation space provision.

### **GOVERNMENT & PUBLIC CONSULTATION**

15. It is a requirement under the Department of Planning Lands & Heritage provisions of the Government Land Policy – Section 20A Public Recreation Reserves, to advertise any proposed changes to Reserves created under section 152 of *the Planning and Development Act 2005* or formerly section 20A of the now repealed *Town Planning & Development Act 1928*.
16. Community Engagement (proposed)

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Inform	Public Notice	1 October – 6 November 2020		yes
Inform	Onsite signage	1 October – 6 November 2020		yes

### **STATUTORY IMPLICATIONS**

17. Section 50 of the *Land Administration Act 1997* allows the Minister for Lands to revoke a management order for a Crown Reserve where the management body agrees that it should be revoked. The City of Albany is the management body for the subject Reserve.
18. Section 51 of the *Land Administration Act 1997* allows the Minister for Lands to cancel a Reserve.
19. Section 87 of the *Land Administration Act 1997* allows the Minister for Lands to sell Crown land to the owner of adjoining land.
20. Section 56 of the *Land Administration Act 1997* allows a local government to request the Minister for Lands to dedicate land that is reserved or acquired for use by the public, as a public road.
21. Section 152 of the *Planning and Development Act 2005* (previously 20A of the *Town Planning and Development Act 1928*) states that on a plan of subdivision, any land shown on a diagram or plan as being reserved for a public purpose shall be vested in the Crown without the payment of any fee or the need to transfer that land.
22. Voting requirement for this item is **SIMPLE MAJORITY**.

### **POLICY IMPLICATIONS**

23. There are no policy implications in relation to this matter.

## RISK IDENTIFICATION & MITIGATION

24.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Reputation</b></p> <p><i>Risk: There is a risk that by not assisting with resolving property access and additional road dedication matters, the City will not meet State Government or community expectations for the Albany Ring Road project.</i></p>	Likely	Moderate	High	<p><i>If the proposed Reserve excision is not supported, Main Roads can redesign the road or undertake further compulsory acquisition actions.</i></p> <p><i>This will cause further delays and cost.</i></p>
<p><b>Opportunity:</b> Consistent message to State Government and community that the City supports large infrastructure projects like the Albany Ring Road. Overall cost saving on the Ring Road Project.</p>				

## FINANCIAL IMPLICATIONS

25. There are no financial implications in relation to this matter.

## LEGAL IMPLICATIONS

26. There are no legal implications in relation to this matter.

## ENVIRONMENTAL CONSIDERATIONS

27. There are no environmental implications in relation to this matter.

## ALTERNATE OPTIONS

28. Council may:

- a. Not support the officer recommendations to excise of portions of Reserve 37325 for amalgamation with Lot 7 No. 143 Link Road and dedication as public road;
- b. Support the officer recommendations with modifications.

## CONCLUSION

29. The Main Roads proposal is a practical solution and will also regularise the use over the information bay.

30. Given the location of Reserve 37325, Excising portions of this reserve is unlikely to have detrimental impact on public recreation space provision.

29. Council is requested to adopt the Officer's recommendation in order to assist Main Roads WA with facilitating access to Lot 7 No. 143.

<b>Consulted References</b>	:	<i>Land Administration Act 1997</i>
<b>File Number (Name of Ward)</b>	:	RD.PLA.3 (Vancouver)
<b>Previous Reference</b>	:	Nil

**DIS229: LOCAL PLANNING SCHEME AMENDMENT NO.36 –  
LOTS 201, 202 AND 203 CHESTER PASS ROAD AND LOT 1004  
VIASTRA DRIVE, LANGE.**

<b>Land Description</b>	: Lots 201, 202 and 203 Chester Pass Road and Lot 1004 Viastra Drive, Lange.
<b>Business Entity Name</b>	: Enanby Pty Ltd and Cloudy Beach Investment Company Pty Ltd.
<b>Attachments</b>	: LAMD36 Amendment Document.
<b>Report Prepared by</b>	: Senior Planning Officer – Strategic Planning (A Nicoll).
<b>Responsible Officer</b>	: Executive Director Infrastructure, Development and Environment (P Camins).

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed amendment, the Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2019* and its *Community Strategic Plan – Albany 2030*. The amendment complies with strategic planning for the following reasons:
  - a) The *Albany Local Planning Strategy 2019* promotes urban consolidation by making better use of existing zoned land and infrastructure through urban renewal.
  - b) The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).

**Maps and Diagrams:**



**In Brief:**

- Lots 201, 202 and 203 Chester Pass Road and Lot 1004 Viastra Drive, Lange are zoned ‘Special Use 23’. Within this ‘Special Use’ zone, there are specified land uses, which may be considered for approval.
- The landholder has expressed a need to amend the specified land uses and zoning, to better reflect market demand.
- The City received a Scheme Amendment application, proposing the following;
  - a) Delete the Special Uses of ‘Aged Persons’ and ‘Nursing Home’;
  - b) Add the Special Uses of Child Care Premises, Community Purpose, Recreation-Private and Veterinary Centre;
  - c) Rezone a portion of the subject land from “Special Use (SU23)” to “Highway Commercial”.
- The proposed scheme changes are justified in the context of the Local Planning Strategy 2019, which seeks to promote urban consolidation and diversify and consolidate activity centres. The subject Lots are located adjacent to the ‘Brooks Garden’ activity centre.
- Council is requested to adopt the amendment, for the purpose of public advertising.

**COVID-19 IMPACT**

- No identified implications.

**RECOMMENDATION**

**DIS229: RESOLUTION**

1. **THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and Part 5, r.35(2) and r.37(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:**
  - a) **ADOPT AND ADVERTISE Standard Amendment No. 36 to amend City of Albany *Local Planning Scheme No. 1* by:**
    - (i) **In Schedule 4 Special Use Zones, for Special Use Zone No.23 (SU23), delete the Special Uses of “Aged Persons’ Village” and “Nursing Home”.**
    - (ii) **In Schedule 4 for SU23, add the Special Uses of:**
      - **Child Care Premises**
      - **Community Purpose**
      - **Recreation-Private**
      - **Veterinary Centre**
    - (iii) **In Schedule 4 for SU23, modify the “Conditions” column by:**
      - **Adding “as a ‘D’ use” after “Local Government” in Condition 1.**
      - **Replacing “Structure Plan and/or Local Development Plan and Design Guidelines” with “Local Development Plan” in Condition 1.**
      - **Replacing “Design Guidelines” with “Local Development Plan” in Condition 2.**

**(iv) Rezone a portion of Lot 1004 Viastra Drive, Lange from “Special Use (SU23)” to “Highway Commercial”.**

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

- **The amendment is consistent with the Local Planning Strategy.**
  - **The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment.**
  - **The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.**
- 2. Refer the amendment to the Environmental Protection Authority to determine if formal environmental assessment is required.**
  - 3. Advertise the amendment for a period not less than 42 days.**

### **BACKGROUND**

3. In 1999, the ‘Catalina Central Planning Framework’ was adopted, to identify the subject land for a ‘Health Precinct’.
4. As per the ‘Catalina Central Planning Framework’, the following design principles apply:
  - a) Access to the subject land is limited to Viastra Drive;
  - b) The design of any development, is to address Chester Pass Road; and
  - c) A landscape buffer is to be developed adjacent to Chester Pass Road.
5. In 2017, the land was rezoned from ‘General Agriculture’ to ‘Special Use 23’, to enable a range of medical type uses, including aged persons village, consulting room, hospital, medical centre, nursing home and pharmacy.
6. All development within the Special Use Zone No.23 is to accord with a Local Development Plan and is to arrange access via Viastra Drive.
7. The landholder believes there is no market interest for the current uses set out in Special Use Zone No.23 and is therefore requesting to identify a new zone (Highway Commercial) for a portion of the site and additional land uses for a portion of the site zoned Special Use.

### **DISCUSSION**

8. The subject land is located in the locality of Lange, adjacent to the ‘Brooks Garden’ activity centre and 4 kilometres north of the Albany town centre. The site is currently vacant and surrounded by Chester Pass Road, Mercer Road, Viastra Drive, a Harvey Norman development and an aged persons development.
9. The Amendment proposes to keep a portion of the site under the “Special Use (SU23)” zone and to rezone the remaining portion to “Highway Commercial”.
10. For the portion remaining SU23, the Amendment proposes to delete the existing uses of ‘Aged Persons Village’ and ‘Nursing Home’ and to extend the range of uses, to include:
  - a) Child Care Premises;
  - b) Community Purpose;
  - c) Recreation-Private; and
  - d) Veterinary Centre.



11. Removing the opportunity for ‘Aged Persons Village’ and ‘Nursing Home’ is thought to negate any potential land use conflict between accommodating aged persons and commercial activity.
12. The proposal to change the zoning for a portion of the site and to extend the range of uses for the SU23 portion, is expected to increase market opportunity.
13. Staff recommend that Council adopt (for advertising) the proposed amendment, which complies with the strategic direction endorsed by the Local Planning Strategy 2019.

**GOVERNMENT & PUBLIC CONSULTATION**

14. The *Planning and Development (Local Planning Schemes) Regulations 2015* require that a local planning scheme amendment be prepared/adopted by a resolution of Council prior to the proposal being advertised for public comment (42 day advertising period). Consequently, no formal consultation has been undertaken at this stage.
15. If a local government resolves under regulation 35(1) to prepare/adopt an amendment to a local planning scheme, the local government must advertise the amendment.
16. Section 81 of the Act requires a local government to refer an amendment to the Environmental Protection Authority to determine if it should be assessed.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Statutory Consultation.	Mail out to agencies and adjoining landowners and advertised in Paper and on Website.	42 day advertising period to occur as soon as practicable after notice from EPA is received.		In accordance with the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .

**STATUTORY IMPLICATIONS**

17. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
18. Division 2, Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to adopt a Standard scheme amendment for advertising and referral to relevant public authorities.
19. Voting requirement for this item is **SIMPLE MAJORITY**.

**POLICY IMPLICATIONS**

20. The following State Planning Policies are relevant to the assessment of this amendment;
  - a) State Planning Strategy 2050 - The Amendment is consistent with the Strategy given it promotes commercial, community and associated development within an activity centre.
  - b) State Planning Policy No. 3 (2006) - The Amendment is consistent with SPP3 given it provides opportunities for employment and business activity and an infill site which forms part of an activity centre.
  - c) State Planning Policy 5.4 - With appropriate attenuation measures, future development at the subject Lot should be able to comply with the provisions of State Planning Policy 5.4.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation</b> <i>The proposal may attract objections from members of the public – Aged Persons Village (Viastra Drive).</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Widely consulting with all parties who may be affected and all relevant public authorities should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.</i>
<i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i>	<i>Possible</i>	<i>Moderate</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>
<b>Opportunity:</b> <i>To support urban consolidation by making better use of existing zoned land and infrastructure through land use permissibility.</i>				

## FINANCIAL IMPLICATIONS

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

## LEGAL IMPLICATIONS

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

## ENVIRONMENTAL CONSIDERATIONS

24. The referral of Amendment No.36 to the Environmental Protection Authority will clarify if any environmental implications apply.

## ALTERNATE OPTIONS

25. Council may consider not adopting the amendment to the local planning scheme.

## CONCLUSION

26. The Lots 201, 202 and 203 Chester Pass Road and Lot 1004 Viastra Drive, Lange are zoned 'Special Use 23'. Within this 'Special Use' zone, there are specified land uses, which may be considered for approval. The landholder has expressed a need to amend the zoning of the subject land and to allow for additional land uses, to better reflect market demand.
27. The proposed scheme changes are justified in the context of the Local Planning Strategy 2019, which seeks to promote urban consolidation and diversify and consolidate activity centres.
28. Council is requested to adopt the amendment for the purpose of public advertising and referral to public authorities.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy (2019)</i> 3. <i>State Planning Strategy 2050</i> 4. <i>State Planning Policy No. 3 (2006)</i> 5. <i>State Planning Policy 5.4</i>
<b>File Number (Name of Ward)</b>	:	LAMD36 (Yakamia Ward)
<b>Previous Reference</b>	:	Nil



**DIS230: RECONSIDERATION OF DIS210 - SINGLE HOUSE –  
OVERSIZE OUTBUILDING – LOT 109, 248 GREATREX ROAD, KING  
RIVER**

<b>Land Description</b>	: Lot 109, 248 Greatrex Road, King River WA 6330
<b>Proponent</b>	: DR & ME Palmer
<b>Business Entity Name</b>	: NIL
<b>Attachments</b>	: 1. Copy of Supplementary Justification
<b>Supplementary Information &amp; Councillor Workstation</b>	: Previous consideration by Council DIS 210
<b>Report Prepared By</b>	: Senior Planning and Development Compliance Officer - (T Wenbourne)
<b>Responsible Officers:</b>	: Executive Director Infrastructure, Development and Environment (P Camins)

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed development application, Council is obliged to draw conclusion from its adopted *Community Strategic Plan – Albany 2030*.
  - a) The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).
3. The item relates to the following Strategic Objectives of the Albany Local Planning Strategy (ALPS):
  - a) *Plan for the sustainable supply of land for rural living purposes and maximise land use efficiency within existing rural living areas.*

**Maps and Diagrams:** Lot 109, 248 Greatrex Road, King River



**In Brief:**

- At the May 2020 Ordinary Council Meeting, Council resolved to refuse an application for an oversized outbuilding at 248 Greatrex Road.
- The applicant subsequently sought review of that decision with the State Administrative Tribunal (SAT).
- In orders dated 6 August 2020, the SAT required Council to reconsider its decision in respect to the Oversize Outbuilding at 248 Greatrex Road.
- In compliance with the orders of the SAT, the proponent has provided the City with additional information in support of the application. This additional information provides the proponent's justification on why the oversized outbuilding should be approved. It also includes an offer to:
  - Reduce the height of the shed to conform with the policy,
  - Use Colorbond colours that complement the existing shed,
  - Relocate the shed closer to the eastern boundary to be further setback from the driveway view corridor, and,
  - Plant additional trees and shrubs to assist screening.
- Having objectively considered the additional information, and the requirement to reconsider the proposal, staff remain of the view that the proposed oversized outbuilding does not satisfy the principles of orderly and proper planning. Staff can find no cogent reason or justification of why, in the particular circumstances of the proposal, such a significant variation to the maximum floor space area for outbuildings on the site should be allowed.
- Staff recommend that Council reaffirms its decision to refuse the application.

## **COVID-19 IMPACT**

- No identified implications.

## **RECOMMENDATION**

### **DIS230: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council resolves to REAFFIRM its decision to refuse development approval, for Single House – Oversize Outbuilding at Lot 109, 248 Greatrex Road, King River, for the following reasons:**

- 1. The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, namely;**
  - (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;**
  - (b) the requirements of orderly and proper planning;**
  - (g) any local planning policy for the Scheme area;**
  - (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;**
  - (n) the amenity of the locality including the following –**
    - (ii) the character of the locality;**
- 2. The proposal does not comply with the objectives of the Rural Residential Zone, of Local Planning Scheme No.1.**

## **BACKGROUND**

4. The proposal was previously refused at the May 2020 OCM.
5. In orders dated 6 August 2020, the State Administrative Tribunal invited the City of Albany to reconsider its decision at the September OCM. The applicant was given the opportunity to provide additional justification and to consider any revisions of the proposal.
6. The proponent submitted their additional justification to the City on 14 August 2020.
7. The proponent has offered the following revisions:
  - Reduce the height of the shed to conform with the policy,
  - Use Colorbond colours that complement the existing shed,
  - Relocate the shed closer to the eastern boundary to be further setback from the driveway view corridor, and,
  - Plant additional trees and shrubs to assist screening.
8. The original proposal was advertised for public comment. The revisions offered by the proponent are not considered significant to require re-advertising of the proposal.

9. Council is now requested to consider the merits of the application in light of the additional justification and revisions and to determine whether or not to alter the previous resolution to refuse the development application.

## **DISCUSSION**

10. The proposal is fundamentally the same development as that considered by Council in May. The assessment of the physical development proposed and its impacts were comprehensively covered in that previous report. The only matters to be discussed now are in relation to the additional information provided by the proponent in support of their application.
11. In the additional information provided, the proponent attempts to explain and justify their storage needs as being legitimate. However, the number and nature of the listed items are not considered standard domestic items and possessions. These are better described as exceptional and having exceptional storage needs does not legitimise the requested storage in a domestic and residential setting.
12. The revisions offered by the proponent do little to alleviate the concerns this proposal presents and it essentially remains the same. The floor area of the proposed outbuilding coupled with the existing outbuilding would total 376.8m<sup>2</sup>, when the maximum under the City's planning policy for this size lot within this zone is 200m<sup>2</sup>. This proposal represents a significant departure from the policy and none of the justification offered by the proponent is sufficient to overcome the planning concerns detailed when Council previously considered this matter.
13. Given the reasoning applied in the above paragraphs, after considering the matter against the statutory framework, including the discretion afforded when applying Local Planning Policies, officers are of the view that the proposal does not represent proper and orderly planning and Council should re-affirm its previous decision to refuse the proposed development.

## **GOVERNMENT & PUBLIC CONSULTATION**

14. No additional consultation or advertising has been undertaken over and above the letters sent to adjoining owners when the original proposal was lodged with the City.

## **STATUTORY IMPLICATIONS**

15. The subject land is zoned Rural Residential Area 17 under LPS 1.
16. The objectives listed under clause 3.2.17 of LPS for the Rural Residential Zone, are:
- a) *Create small rural land holdings for residents who wish to enjoy a residential lifestyle within a rural landscape and environment; and*
  - b) *Provide for residential and limited incidental land uses which:*
    - (i) *Are compatible with the preservation and protection of environmentally sensitive areas such as remnant vegetation and groundwater protection areas;*
    - (ii) *Do not visually detract from the landscape and the visual amenity of the locality;*
    - (iii) *Allow for uses and developments that are fit for purpose and minimise any on-site or off-site impacts such as soil erosion, nutrient loss, drainage and potential land use conflicts; and*

- (iv) *Are located in close proximity to existing urban areas and can enjoy appropriate urban servicing to the lots including rubbish disposal, reticulated water, community facilities and fire infrastructure.*

17. Voting requirements for this item is **SIMPLE MAJORITY**.

### **POLICY IMPLICATIONS**

18. The proposal is subject to assessment against the City of Albany *Non-Habitable Structures* Local Planning Policy.
19. Local Planning Policies are guidelines used to assist the local government in making decisions under the Local Planning Scheme. Although Local Planning Policies are not part of the Local Planning Scheme, they must be consistent with, and cannot vary, the intent of the Local Planning Scheme provisions. In considering an application for Development Approval, the local government must have due regard to a Local Planning Policy as required under Schedule 2, Part 9, clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015.
20. For the reasons outlined in the May Council report on this matter, staff consider the proposal fails to meet the provisions and objectives of the Policy and that using discretion to approve the application would not represent proper and orderly planning. The additional information provided by the proponent in support of their application does not alter this view.

### **RISK IDENTIFICATION & MITIGATION**

21. 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>Operational and Reputation.</b> <i>If the application were to be approved it would create an undesirable precedent for future applications, and prejudice the City in being able to apply the policy consistently. It would also generate unacceptable impacts on the amenity on the area.</i></p>	Possible	Moderate	Medium	The application has been assessed against the relevant statutory framework. The reasons provided do not adequately demonstrate a variation to the Policy. Not supporting the development would continue to uphold the City's position on the application of the Policy.

### **FINANCIAL IMPLICATIONS**

22. Should Council follow the officer recommendation and re-affirm its previous decision to refuse development approval, the Review of the decision at the State Administrative Tribunal will proceed to a full hearing. The State Administrative Tribunal hearing will require targeted staff time and resourcing, but this is covered within existing budget line allocations.
23. Accordingly, there are no financial implications directly relating to this item.

## **LEGAL IMPLICATIONS**

24. The proponent is exercising their right to seek a review of the Council's decision conferred by the *Planning and Development Act 2005*. The City of Albany will be required to defend the decision at a State Administrative Tribunal hearing.

## **ENVIRONMENTAL CONSIDERATIONS**

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

## **ALTERNATE OPTIONS**

26. Council has the following alternate options in relation to this item, which are:
- To resolve to approve the proposal subject to conditions; or
  - To re-affirm the previous decision to refuse the proposal subject to additional or modified reasons;

## **CONCLUSION**

27. As part of the State Administrative Tribunal process, the proponent has taken the opportunity to provide the City with additional justification in support of their proposal. As a result, and in compliance with the orders of the State Administrative Tribunal, this proposed development has come back to Council to reconsider its previous decision to refuse development approval.
28. The additional supporting information has been considered objectively. The officer recommendation to reaffirm the previous refusal is made with a sound basis for doing so, and is grounded in the principles of orderly and proper planning.
29. If the exercise of discretion on a local planning policy is to be an orderly one, the planning principles identified as relevant to an application should not be lightly departed from without the demonstration of a sound basis for doing so.
30. The original and additional justification received from the proponent does not adequately demonstrate such a significant departure from the Policy should be supported. In addition to this, it is considered that a development of this scale does not comply with the objectives of the Rural Residential zone.
31. Supporting this application would erode the ability for the City to apply policy fairly and with equity. The policy sets out a very generous outbuilding size, and the proposal does not provide any solid reasoning or justification to depart from this. If approved, it would be difficult to provide reasoning as to why this proposal was supported and others not. It would also likely encourage larger outbuildings on properties throughout the municipality, and could be used to set an undesirable precedent for future applications.
32. After carefully considering the proposal and for the reasons set out above, staff are not satisfied the objectives and development criteria of the policy are met. As a matter of orderly and proper planning, staff can find no cogent reason why, in the particular circumstances of the subject proposal, such a significant variation to the cumulative maximum outbuilding size should be allowed or approved.
33. It is therefore recommended that Council reaffirms its previous decision to refuse the proposed development, in accordance with the reasons provided.

<b>Consulted References</b>	:	1. Local Planning Scheme No. 1 2. Albany Local Planning Strategy 2019 3. Planning and Development (Local Planning Schemes) Regulations 2015 4. City of Albany Local Planning Policy - <i>Non-Habitable Structures</i>
<b>File Number (Name of Ward)</b>	:	A181513 Yakamia Ward
<b>Previous Reference</b>	:	DIS 210 OCM May 2020

- 11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 12. MEETING CLOSED TO THE PUBLIC**
- 13. CLOSURE**