



ATTACHMENTS

Development and Infrastructure Services Committee Meeting

09 September 2020

6.00pm

City of Albany Council Chambers

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE
ATTACHMENTS – 09/09/2020





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REPORT ITEM DISCLOSURE REFERS

LEGE4ND

-  LAND REQUIRED FOR ROAD PURPOSES
 LAND EXCISED FROM A 37325 TO GO TO LOT 7
 LAND TO BE EXCISED FROM A 37325
 BOUNDARY TO BE SURVEYED.

NOTES

- 1 DIMENSIONS AND AREAS ARE APPROXIMATE ONLY AND ARE SUBJECT TO SURVEY.
- 2 S.L.K.IS A M.R.STRAIGHT LINE KILOMETRE AND IS APPROXIMATE ONLY
- 3 HORIZONTAL DATUM IS MGA 94.
- 4 NOT TO BE USED FOR SURVEY
REFER TO DRG 1960-235

PLANNING & TECHNICAL SERVICES

APPROVED FOR IMPLEMENTATION

FILE NUMBER	FOLIO	DATE	APPROVAL NUMBER
19/4659			
AUTHORISED			
APPROVED			



FINANCE AND SERVICES
PROPERTY MANAGEMENT

Telephone 9323 4580

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FILE No.	19/6189
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DRAWN/DESIGNED W.M. ROLLINGS 20/5/20

AUDITED IN ACCORDANCE WITH STANDARD 67-08-48 IN THE
ROAD AND TRAFFIC ENGINEERING MANUAL

ALBANY RING ROAD H54

LAND DEALINGS

Λ 37325 (LOT 7487), ? SLK

LOCAL AUTHORITY (302) CITY OF ALBANY

DRAWING TYPE
7200

DRAWING NUMBER
2060-118

AMEND.

SCAN DATE

A
3



City of Albany
Local Planning Scheme No. 1
Scheme Amendment No. 36

Lots 201, 202 and 203 Chester Pass Road
and Lot 1004 Viastra Drive, Lange



Prepared by Edge Planning & Property for Cloudy Beach Investment Company Pty Ltd

www.edgeplanning.com.au

August 2020

REPORT ITEM DIS229 REFERS

PLANNING AND DEVELOPMENT ACT 2005 RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME

CITY OF ALBANY LOCAL PLANNING SCHEME No. 1

AMENDMENT No. 36

RESOLVED that the local government in pursuance of Section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. In Schedule 4 Special Use Zones, for Special Use Zone No.23 (SU23), delete the Special Uses of "Aged Persons' Village" and "Nursing Home".
2. In Schedule 4 for SU23, add the Special Uses of:
 - Child Care Premises
 - Community Purpose
 - Recreation-Private
 - Veterinary Centre
3. 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.
4. 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.

Dated this day of20.....

.....
CHIEF EXECUTIVE OFFICER

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REPORT ITEM DIS229 REFERS

PROPOSAL TO AMEND A LOCAL PLANNING SCHEME

- | | |
|---|---|
| 1. LOCAL GOVERNMENT: | City of Albany |
| 2. DESCRIPTION OF LOCAL PLANING SCHEME: | Local Planning Scheme No. 1 |
| 3. TYPE OF SCHEME: | District Scheme |
| 4. SERIAL NUMBER OF AMENDMENT: | 36 |
| 5. PROPOSAL: | <ol style="list-style-type: none">1. In Schedule 4 Special Use Zones, for Special Use Zone No. 23 (SU23), delete the Special Uses of "Aged Persons' Village" and "Nursing Home".2. In Schedule 4 for SU23, add the Special Uses of:<ul style="list-style-type: none">• Child Care Premises• Community Purpose• Recreation-Private• Veterinary Centre3. In Schedule 4 for SU23, modify the "Conditions" column by:<ul style="list-style-type: none">• 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 2.4. Rezone a portion of Lot 1004 Viastra Drive, Lange from "Special Use (SU23)" to "Highway Commercial". |

REPORT BY THE CITY OF ALBANY

1. INTRODUCTION

The City of Albany seeks the support of the Western Australian Planning Commission (WAPC) and the approval of the Hon. Minister for Planning to:

- Modify and extend the range of discretionary land uses on Lots 201, 202 and 203 Chester Pass Road and portion of Lot 1004 Viastra Drive, Lange within Special Use Zone No. 23 (SU23);
- Clarify that development within SU23 is to be generally consistent with an endorsed Local Development Plan; and
- Rezone a portion of Lot 1004 Viastra Drive from "Special Use No. 23" to "Highway Commercial".

The site is zoned Special Use No. 23 (SU23).

In particular, the Amendment will assist to facilitate a new future for the site which complements the area and assists to provide feasible land uses.

The purpose of this report and associated plans are to explain and set out the planning merits of the Amendment. More detailed planning and investigations will occur at the Local Development Plan and Development Application stages and as required at the Building Permit stage.

The site is shown in Attachment 1. The site is suitable for a range of commercial, health and community uses given its current zoning, the planning framework and its context (see Attachments 2 and 3). Expanding the range of uses that can occur on the site will assist to 'normalise' what occurs on similar adjoining/nearby properties, assist to provide feasible development and enhance the range of goods and services provided to the locality. The proposal to rezone a portion of the site to Highway Commercial is consistent with the planning framework.

2. BACKGROUND

2.1 Property Address and Cadastral Details

The City previously owned Lots 201, 202 and 203 Chester Pass Road. Lots 202 and 203 were purchased by the then Shire of Albany in 1968 and Lot 201 was purchased in 1985. The land was then developed as public gardens and a tribute to Archibald Menzies was placed on the site. Archibald Menzies was a Scottish naturalist who accompanied Captain George Vancouver on his visit to King George Sound in 1791.

The City sold the land to the current owner in 2017.

A copy of the Certificates of Title are provided in Attachment 4. Cadastral details for the site are summarised below in Table 1.

Table 1 – Cadastral Details

Details of land	Deposited Plan	Title Number	Area
Lot 201 Chester Pass Road, Lange	DP400007	Volume 2820 Folio 132	1168m ²
Lot 202 Chester Pass Road, Lange (multi-lot title)	DP400007	Volume 2820 Folio 133	1731m ²
Lot 203 Chester Pass Road, Lange (multi-lot title)	DP400007	Volume 2820 Folio 133	1790m ²
Lot 1004 Viastra Drive, Lange	DP41555	Volume 2623 Folio 478	1.61 hectares

2.2 Regional Context

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

2.3 Local Context

Figure 2 shows the site is located approximately 4 kilometres north of the Albany city centre. The site complements the adjoining Chester Pass Mall Activity Centre and forms part of the Chester Pass Road Specialised Centre.

Attachment 3 shows the Context Plan **which outlines the site's context**. The site adjoins and is generally surrounded by commercial, light industrial, community and residential uses. The mix of uses in the area is reflected in the Existing Scheme Map which shows a range of zones and reserves.

The site is bounded by Chester Pass Road, Mercer Road, Viastra Drive and Harvey Norman/Furniture Barn. The site is near:

- The Chester Pass Mall;
- A Bunnings Warehouse (under construction);
- An extensive area of light industrial/commercial land to the west of the site while Harvey Norman/Furniture Barn (bulky retail development) is to the south;
- Residential development (aged persons' village);
- A service station;
- A visitor information bay; and
- The City's Depot.

2.4 Physical Characteristics

The site is outlined in Attachment 1 and has the following characteristics and features:

- It is located at the corner of Chester Pass Road and Mercer Road, which are two significant roads in Albany;

- Lots 201, 202 and 203 Chester Pass Road were previously developed as a public garden;
- It has a total land area of approximately 2.08 hectares;
- It has a gentle gradient, having an elevation of approximately 50 metres AHD (Australian Height Datum) in the south-west section, sloping to approximately 46m AHD in the north-east;
- The north-west section contains planted vegetation, while Lot 1004 has been cleared;
- It contains a drainage basin in the north-east section; and
- It is not on the Department of Water and Environmental Regulation's Contaminated Site Database.

The site's physical features present no constraints to the Amendment.

2.5 Services

The site is provided with standard 'hard' infrastructure including reticulated (scheme) water, reticulated sewerage, power, telecommunications, drainage and sealed roads. The site has three road frontages in Chester Pass Road, Mercer Road and Viastra Drive. Based on Condition 4 of SU23, no direct vehicular access to Chester Pass Road is permitted. Instead, all vehicular access will be to/from Viastra Drive.

Chester Pass Road adjoining the site is managed by Main Roads WA.

2.6 Heritage

There is no registered Aboriginal heritage site on the subject land area as set out on the Department of Planning, Lands and Heritage Affairs heritage inquiry system. While noting this, land developers have an obligation under the *Aboriginal Heritage Act 1972* to protect places and objects in Western Australia that are important to Aboriginal people because of the connections to their culture.

Additionally, the site does not contain any structure or place of non-indigenous

heritage significance on the *City of Albany Municipal Inventory (heritage inventory)* or on the *City's* Heritage List.

2.7 Scheme Amendment No.18

The landowner, who develops and operates medical centres, acquired the land and amended the site's zoning from 'General Agriculture' to 'Special Use No. 23' (SU23) via Amendment 18. The landowner specifically wanted the requested range of uses in SU23 but has subsequently found the uses are too limiting and not marketable or feasible. Significantly, circumstances have changed including the development of the Health Precinct in Cockburn Road, Mira Mar.

Amendment 18 was gazetted on 10 February 2017.

Amendment 18 addressed several matters including that the public gardens would be removed from the site. The Archibald Menzies Memorial has since been relocated to Eco Park on Reidy Crescent, Spencer Park given this is a more suitable location for such a dedication.

2.8 Landowner intent

The current range of discretionary uses permitted in SU23 is limited. This contrasts with the range of discretionary uses available on adjoining and nearby commercial land.

Following extensive marketing, there is no market interest for most of the uses set out in the current SU23. This has been exacerbated by the development of the Health Precinct in Cockburn Road, Mira Mar.

The landowner still intends to develop and operate a medical centre/pharmacy on the site which is proposed in the north-west section. The medical centre/pharmacy will however, only occupy a portion of SU23 and there is a need to find suitable and feasible uses for the balance of the site. In addition to modifying and extending the range of uses within SU23, the Amendment also proposes to rezone a portion of Lot 1004 Viastra Drive to Highway Commercial.

The Amendment will expand the range of suitable uses for the site to assist in facilitating feasible development. The sale of the balance of the site also assists in raising capital for the medical centre/pharmacy.



Photo 1: Viastra Drive looking south

3. PLANNING FRAMEWORK

3.1 Overview

The following section will outline how the Amendment suitably addresses relevant planning policies, strategies, plans and the *City of Albany Local Planning Scheme No. 1*. In summary, the Amendment is consistent with the State, regional and local planning framework.

3.2 State Planning Framework

The following strategies and policies are of relevance to the Amendment:

- *State Planning Strategy 2050* - sets a broad strategic plan for Western Australia built on sustained growth and prosperity. The Strategy highlights the importance of job creation and supports developing strong and resilient regions. The Amendment is consistent with the Strategy given it promotes commercial, community and associated development within an activity centre.
- *State Planning Policy 1 State Planning Framework Policy (2006)* - identifies that the primary aim of planning is to provide for the sustainable use and development of land.
- *State Planning Policy No. 2.9 Water Resources (2006)* - development is required to adopt water sensitive urban design principles.
- *State Planning Policy No. 3 (2006)* - the Policy sets out the principles and considerations which apply for urban growth and settlement in Western Australia. The Policy promotes a sustainable settlement pattern, promoting development on 'brownfield' (previously developed) land, supports building on existing communities and seeks convenient access to employment and services. The Amendment is consistent with SPP3 given it provides opportunities for employment and business activity on an infill site

which forms part of an activity centre.

- *State Planning Policy 3.7 Planning in Bushfire Prone Areas (2015)* - the site is within a Bushfire Prone Area as shown at <https://maps.slp.wa.gov.au/landgate/bushfireprone/>.
- *State Planning Policy 4.2 Activity Centres for Perth and Peel (2010)* - the principles guided the *City of Albany Activity Centres Planning Strategy (2015)*.
- *State Planning Policy 5.4 Road and Rail Noise (2019)*.
- *State Planning Policy 7.0 Design of the Built Environment (2019)*.

3.3 Regional Planning Framework

3.3.1 Great Southern Regional Planning and Infrastructure Framework

The Framework identifies Albany as a regional centre and a focus for growth, services and facilities. The Framework supports a diverse economic base and supports commercial, community and associated development in appropriate locations. It supports the development of activity centres.

3.3.2 Great Southern Regional Investment Blueprint

The Blueprint establishes priorities for economic development and growth of the Great Southern region and provides an analysis of local, regional, national and global factors influencing the region. A strategic economic growth plan and proposed transformational projects are set out. The Blueprint also supports growing the region's population, promoting development in regional centres and a vibrant economy.

3.4 Local Planning Framework

3.4.1 City of Albany Local Planning Strategy

The Local Planning Strategy (LPS) classifies Albany as a regional centre and a focus for development and for promoting economic activity.

Attachment 5 shows Figure 2: Urban. The LPS does not allocate a colour/land use allocation for the site which is the approach adopted for all Special Use zoned land in the *City of Albany Local Planning Scheme No. 1*.

The LPS designates Chester Pass Mall as a Neighbourhood Centre and seeks to change the area from a shopping centre to an activity centre. This includes diversifying land uses and providing an employment node. The land to the west of the site is classified as Industry on Figure 2: Urban.

The Amendment is consistent with the LPS. The LPS:

- Sets a vision of 'To be Western Australia's most sought after and unique regional city to work, live and visit';
- Includes aspirations of Smart, Prosperous & Growing; Clean, Green & Sustainable; and A Connected & Safe Built Environment;
- Includes objectives of:
 - Contain urban development and rural living within the existing supply of land zoned and planned for settlement growth
 - Promote urban consolidation by making better use of existing zoned land and infrastructure through urban renewal and infill residential and rural living development
 - Provide an appropriate level of community facilities and service in existing and planned settlement areas
 - Progressively move retail centric shopping centres towards true activity centres that meets the shopping, employment and recreation needs of the community
- Notes the importance of the commercial/business sector to employment. The LPS supports growing and diversifying the economy and encouraging

commercial development in appropriate locations; and

- States in Part 2 (pages 30 and 31) that 'Most of Albany's medical centres are located within a 3km radius of the central business district (CBD) but most residents live further than 5km from the CBD. The lack of medical centres in the suburbs is partly addressed by diversification of retail-centric shopping centres into mixed-use activity centres which will in the future allow for services such as medical centres to establish outside of the CBD.' A focus for health facilities is within activity centres.

Given the vision and objectives of the LPS, the Amendment is consistent with the LPS.

It is also highlighted the Amendment does not propose the use of 'shop'.

The proposed Highway Commercial zoning will facilitate various uses including 'showroom'. Any showroom proposed on the site will be modest especially noting the scale of the recently approved Bunnings Warehouse (lot size of 6.6 hectares and associated floorspace).

As outlined in section 3.4.6, the proposed Highway Commercial zoning is consistent with the *City of Albany Activity Centres Planning Strategy* for the Chester Pass Road Specialised Centre.

3.4.2 *City of Albany Local Planning Scheme No.1*

The *City of Albany Local Planning Scheme No.1* (Scheme) zones the site as 'Special Use No. 23 (SU23)'. The site-specific planning controls for SU23 are outlined in Schedule 4 of the Scheme.

There are currently limited uses that are permissible in SU23. The current uses are **limited to aged persons' village, consulting room, hospital, medical centre, nursing home, ancillary health uses and pharmacy.**

As outlined on the Existing Scheme Map, there are a wide range of nearby zones and reserves. For instance, there is Light

Industrial land west of Chester Pass Road, residential land to the east, Highway Commercial land to the south and a Public Use reserve to the north (City's Depot site). Modifying and extending the range of uses within SU23 is consistent with the adjoining and nearby zoning, **the site's context** and the planning framework. Additionally, rezoning a portion of the site to Highway Commercial is consistent with **the site's context**.

3.4.3 Local Planning Policies

The Council has endorsed several Local Planning Policies. Various policies are of relevance to the future use and development of the site including advertising signage.

3.4.4 City of Albany Strategic Community Plan

The Strategic Community Plan sets the **community's vision for the future and it is the principal strategic guide for the Council's future planning and activities**. The plan supports growth and progress locally and regionally. The Council seeks to promote Albany as a prosperous community, to support existing businesses and to attract new businesses.

3.4.5 Catalina Central Planning Framework

The *Catalina Central Planning Framework* (The Framework) was originally adopted by the City in 1999 and sets the overall approach for the neighbourhood centre. The Framework includes the Catalina Central Structure Plan, design guidance and general background for the planning and development of the centre. The Framework has not been endorsed by the WAPC.

The site is located within Precinct 2 in the Framework. The Framework (page 34) identified the site for a nursing home and private day care hospital. It noted the former plans for the site were showrooms.

The Framework does not provide a detailed plan for Precinct 2. The Framework sets out principles to be considered when the Precinct Plan, for Precinct 2, is prepared.

The Framework recommends that any development of this site should address Chester Pass Road but with access from Viastra Drive.

The Framework supports the need for precinct plans (now local development plans). This is reflected in the provisions for SU23.

Noting that Precinct 2 was essentially not addressed in detail in the Framework, the Amendment is consistent with the intent of the Framework. This includes a need to prepare a local development plans.

3.4.6 City of Albany Activity Centres Planning Strategy

The Activity Centres Planning Strategy identifies the Brooks Garden (Chester Pass Mall) as a neighbourhood centre. The site adjoins the Chester Pass Mall Neighbourhood Centre (activity centre) and is in the Chester Pass Road Specialised Centre (activity centre). As outlined in Attachment 6, this highlights the strengths and aspirations of this activity centre including suitability for bulky goods, comparison retail and auto services.

The Amendment does not propose the use of 'shop'.

The Amendment proposes modifying and extending uses in SU23 that will enhance the health and community precinct.

Additionally, the Amendment proposes Highway Commercial zoning consistent with the Activity Centres Planning Strategy for the Chester Pass Road Specialised **Centre and which reflect the site's context**. Noting the modest size of the site, the scale is small compared to the nearby Bunnings Warehouse and the number of existing showrooms nearby on Chester Pass Road.

3.5 Planning Framework Implications for the Amendment

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

- Supporting sustained growth, job creation and economic development including in Albany which is a designated regional centre;
- Addressing land use compatibility;
- Providing more diverse land uses in activity centres;
- The site forms part of an activity centre and is identified for commercial, community and related uses;
- Vehicular access is to be via Viastra Drive; and
- There is a need for a Local Development Plan.

Based on the above, the requested additional uses are consistent with the planning framework and are consistent with the principles of orderly and proper planning.



Photo 2: View towards west

4. AMENDMENT PROPOSAL

The intent of the Amendment is to modify and extend the range of uses on SU23 along with rezoning a portion of Lot 1004 Viastra Drive to "Highway Commercial". The changes proposed by the Amendment for SU23 are outlined in Attachment 7 which shows new provisions in green highlight and proposed deleted provisions in strikeout.

The Amendment retains SU23 but adds to and modifies the range of uses associated with SU23. The Amendment retains the requirement to prepare a Local Development Plan to provide statutory backing to prevent direct vehicular access to Chester Pass Road and to address other key planning matters.

The Amendment proposes additional uses of childcare premises, community purpose, recreation-private and veterinary centre in SU23. The Amendment deletes the uses of **aged persons' village and nursing home** in SU23.

Additionally, the Amendment proposes to rezone a portion of Lot 1004 Viastra Drive to "Highway Commercial".

The proposed additional uses and new zoning are based on a review of the site's context, the planning framework, adjoining and nearby zoning, the approval of the Bunning's store, passing trade and market interest.

The landowner wants to develop a medical centre/pharmacy in the north-west section of the site. At this stage, there has not been detailed design.

Future development and uses will be subject to gaining necessary approvals from the City including a Local Development Plan and development approval.



Photo 3: Looking south – adjacent commercial



Photo 4: Chester Pass Road looking south

5. PLANNING CONSIDERATIONS AND PLANNING JUSTIFICATION

5.1 Overview

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

5.2 Appropriate Location for Commercial and Community Uses

The site is appropriate for commercial and community uses, outlined in the Amendment, for reasons including:

- It is consistent with the planning framework;
- The area contains a mix of land uses;
- The proposed commercial and community uses are located or are a discretionary use on adjoining/nearby land;
- The site adjoins land zoned Highway Commercial;
- The site forms part of an activity centre, adjoins the regional road network and is a corner lot;
- Vacant commercial land on Chester Pass Road, between Mercer Road and the main roundabout, is a rare resource;
- The site can provide generous on-site car parking;
- Traffic impacts will be modest, especially in relation to existing commercial and industrial development on the western side of Chester Pass Road, the Chester Pass Mall and the Bunnings Warehouse and can readily be accommodated on adjoining roads and intersections;
- Uses such as childcare premises and community purposes will be beneficial in complementing the nearby Chester Pass Mall;
- It is appropriately serviced;
- The site has no environmental assets and future development will not create any adverse environmental impacts;
- The health/community precinct will be separate from the Highway Commercial (likely showroom precinct); and
- The Local Development Plan will address a range of matters in greater detail.

Accordingly, the Amendment raises limited planning issues.

Noting the proposal to develop a medical centre/pharmacy on part of the site, the balance of the site is modest in area. Proposed uses such as showroom will be low-key in scale compared to nearby showroom development on Chester Pass Road, Chester Pass Mall and the recently approved Bunnings showroom. The Bunnings showrooms is 14,747m² in area plus nursery, trade yards and timber trade sales.

The Amendment is consistent with LPS and other recent planning documents to diversify and consolidate activity centres. Accordingly, the site lends itself to a greater range of land uses for this property within an activity centre.

5.3 Compatibility with Adjoining and Nearby Land Uses

The proposed additional uses will be compatible with adjoining and nearby land uses/development which are predominately commercial/business and residential in nature (see Attachment 3). For instance:

- Various proposed uses are located on adjoining/nearby properties;
- The uses are consistent with the planning framework;
- The site is setback from residential properties by Viastra Drive which has a width of 22 metres and there is a brick wall on the western boundary of the aged persons' village;
- Given the statutory requirement to prepare a Local Development Plan, it is expected that carparking will be in the eastern portion of the site (this will provide

further separation to the aged persons' village);

- The proposed uses do not need buffers (there will be a need for appropriate building setbacks, building design/construction and consideration of the location of major openings. This can be addressed in future planning stages);
- There will be a need for appropriate landscaping;
- Subject to the proposed use, impacts are to be retained on-site to acceptable standards; and
- Given no habitable buildings are proposed on the Amendment site, there will be compatibility between uses within SU23 and the proposed Highway Commercial zoning.

Most of the proposed uses within SU23 will have similar noise generation as those in the current SU23. Acoustic implications were not raised as an issue in Scheme Amendment No.18.

Accordingly, the proposed expanded uses on SU23 and in the Highway Commercial zone will complement and not conflict with adjoining and nearby land uses. The proposed additional uses and zoning represent a logical and sound planning outcome for the site.

A broader range of uses are clearly suitable for the site given its current zoning (with a limited range of uses), context and that it forms part of an activity centre. The strategic direction and actions in the LPS and other documents have a broad intent to diversity the range of commercial, community and associated uses of activity centres.

The additional uses within SU23 will benefit the locality by adding to the range of goods and services provided plus the opportunity to create a place for people to connect through social interaction. The additional uses will support the proposed medical centre/pharmacy.

5.4 A Need for an Increased Range of Uses

As outlined in other sections, the landowner intends to develop a medical centre/pharmacy in the north-west portion of the site. The balance of the site will be developed by others.

Ensuring there are appropriate updated planning rules in place will assist in making the site more attractive for development and assist in providing funds to develop the medical centre/pharmacy. Developing a medical centre/pharmacy and related uses will benefit the locality through having convenient access to health facilities.

Following extensive marketing, there is no demand for most of the uses set out in current SU23. This has implications in providing the landowner with capital injection to develop the medical centre/pharmacy.

The Amendment seeks to modify and extend the current very narrow range of uses permitted within SU23. The Amendment also reflects that the health precinct is developing on Cockburn Road and a new future is required for SU23. The additional uses proposed for SU23 support uses that have the potential to be feasible and are also suitable for the site's context.

The Amendment seeks modified and additional uses for SU23 which address the **site's context**, the planning framework, exposure to Chester Pass Road and adjoining/surrounding land uses. Providing a broader range of uses is consistent with existing adjoining/nearby zoning and is consistent with the planning framework in supporting sustainable activity centres.

In relation to the proposed Highway Commercial zoning, the uses would be similar to what occurs on the western side of Chester Pass Road near the Amendment site. This is also consistent with the Activity Centres Planning Strategy for the Chester Pass Road Specialised Centre.

5.5 No Residential Component

The Amendment proposes to delete the uses of aged persons' village and nursing home. The reasons include:

- These uses are generously provided in the locality (near Chester Pass Mall) through existing/planned aged persons accommodation;
- Based on extensive marketing, there is limited market interest in the site which has lower amenity compared to properties further from Chester Pass Road; and
- There are amenity considerations along with additional costs of addressing acoustic standards given the site adjoins Chester Pass Road.

5.6 Environmental Impact

Environmental considerations were addressed through Scheme Amendment No. 18. This includes road noise from Chester Pass Road.

The Amendment will create minimal environmental impacts. For instance, the site has been previously cleared of native vegetation, the site is connected to the reticulated sewerage system and the site is connected to the City's stormwater system. Additionally, the site forms part of an activity centre which facilitates some journeys to be made by cycling and walking, and in time, by public transport.

The proposed additional uses within SU23 are low-key in nature while the range of uses in a Highway Commercial zone do not require buffers. Possible impacts such as noise and light-spill can be effectively controlled through the Local Development Plan and development approval conditions.

It is expected that noise implications created by uses on the site will be minimal compared to traffic noise on Chester Pass Road (in particular), Mercer Road and Viastra Drive.

5.7 Managing Bushfire Risks

No issues were raised relating to bushfire risks in Amendment No. 18.

The site is classified as a Bushfire Prone Area as outlined at <https://maps.slip.wa.gov.au/landgate/bushfireprone>. The Amendment will lower bushfire risks compared to the current uses in SU23 through the removal of aged persons' village and nursing home which are vulnerable land uses. Subject to what uses are proposed at the Development Application stage, it will be necessary to prepare a BAL assessment. While noting this, a range of measures will assist to lower bushfire risks on the site including provision of appropriate water supplies, fire hydrants, low-fuel areas around buildings and multiple access/escape routes.

5.8 Vehicular Access and Car Parking

Access and traffic impacts were considered in Amendment 18.

The site has frontage to Chester Pass Road, Mercer Road and Viastra Drive. Vehicular access will, however, be limited to/from Viastra Drive. Future access will comply with sight distance standards which will facilitate safety for road users.

Traffic impacts from the site will be modest and can readily be accommodated on adjoining roads as has been demonstrated through various traffic impact assessments. The existing road network and intersections have sufficient capacity to address traffic generation from proposed development uses on the site without undermining traffic operations or safety.

The traffic generation from the site will be minor compared to Chester Pass Mall, the Bunnings Warehouse and other traffic generation in the area.

The site will accommodate car parking on-site.

5.9 Local Development Plan

Based on advice from the local government, the Amendment proposes to delete the requirement to prepare design guidelines for SU23. References to design guidelines for the site are now more effectively addressed through a Local Development Plan. The required Local Development Plan is required to be prepared to the satisfaction of the local government.

Accordingly, there is a statutory requirement to prepare a Local Development Plan for SU23. The Local Development Plan will provide assurances to the City and other stakeholders that relevant matters will be suitably addressed.

At the Amendment stage, there are some known design parameters such as no direct vehicular access to Chester Pass Road. There are, however, various unknown design parameters/different options including the mix of uses and their land requirements. These matters will be clarified and addressed in greater detail through the Local Development Plan.

The landowner intends to develop a medical centre/pharmacy in the north-west section. With the current health and economic changes and challenges, the final footprint will not however be known for some time. Accordingly, the Amendment does not prescribe the footprint for the medical centre/pharmacy as this has yet to be finalised. It is noted there are more rules applying to this small commercial/community site than most other comparable properties in Albany.

5.10 Servicing

The site is already appropriately serviced. It is not envisaged that upgrading of services is required to facilitate the Amendment.

5.11 Supporting the Local Economy

As previously outlined, the Amendment is consistent with the planning framework. Approval and implementation of the Amendment will assist to encourage additional commercial and community

activity on the site (which forms part of an activity centre), assist with job creation and will have various economic benefits. This includes it will support local employment, assist in a more sustainable local economy and it will add to Albany's overall viability, vitality and prosperity as a regional centre.

5.12 Future Subdivision and/or Boundary Realignments

As part of the Local Development Plan, it is expected that the future lot designs will be addressed. In time, as part of a subdivision application, Lots 201 – 203 will either be realigned or amalgamated and extended to ensure they have legal and practical vehicular access to Viastra Drive.

5.13 Visual Impact/Design

This will be addressed through the Local Development Plan. A range of requirements are set out in SU23.

5.14 Planning Justification

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

Table 2 – Summarised Planning Justification				
Strategic	Land Use Planning	Environment, Landscape and Heritage	Transport and Servicing	Economic and Community
The Amendment is consistent with the State, regional and local planning framework including that it promotes job creation and development in an activity centre.	<p>The site is well located for commercial and community development including that it is compatible with adjoining and nearby uses.</p> <p>The site is suitable and capable for commercial and community uses.</p> <p>Development will be effectively controlled through Scheme provisions plus the requirement to prepare a Local Development Plan.</p>	<p>The site contains no environmental assets and will not create adverse environmental impacts.</p> <p>Bushfire risks will be lowered through the removal of vulnerable land uses.</p> <p>There are manageable landscape impacts and there are opportunities to upgrade the landscaping. This will, in part, be addressed through the Local Development Plan.</p>	<p>Traffic impacts can be readily accommodated on adjoining roads.</p> <p>Car parking will be contained on-site.</p> <p>The site is appropriately serviced.</p>	<p>It will promote job creation by supporting development within an activity centre and assist to diversify and grow the local economy.</p> <p>The proposal will assist in enhancing Albany as a regional centre and assist in creating jobs.</p> <p>The proposal will assist to enhance Albany through adding to its overall viability, vitality and prosperity and adding to the range of services that can be provided.</p>

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

6. CONCLUSION

This report confirms that the Amendment, which modifies and extends the range of uses within SU23 and rezones a portion of Lot 1004 Viastra Drive to Highway Commercial:

- Is consistent with the planning framework;
- It respects the local context; and
- Will assist to facilitate suitable and feasible development on a site that forms part of an activity centre.

The support of the WAPC and the Hon. Minister for Planning is requested to approve the Amendment to modify and extend the range of uses in Special Use No. 23 for Lots 201, 202 and 203 Chester Pass Road and portion of Lot 1004 Viastra Drive, Lange along with rezoning a portion of Lot 1004 Viastra Drive to Highway Commercial.

REPORT ITEM DIS229 REFERS

PLANNING AND DEVELOPMENT ACT 2005

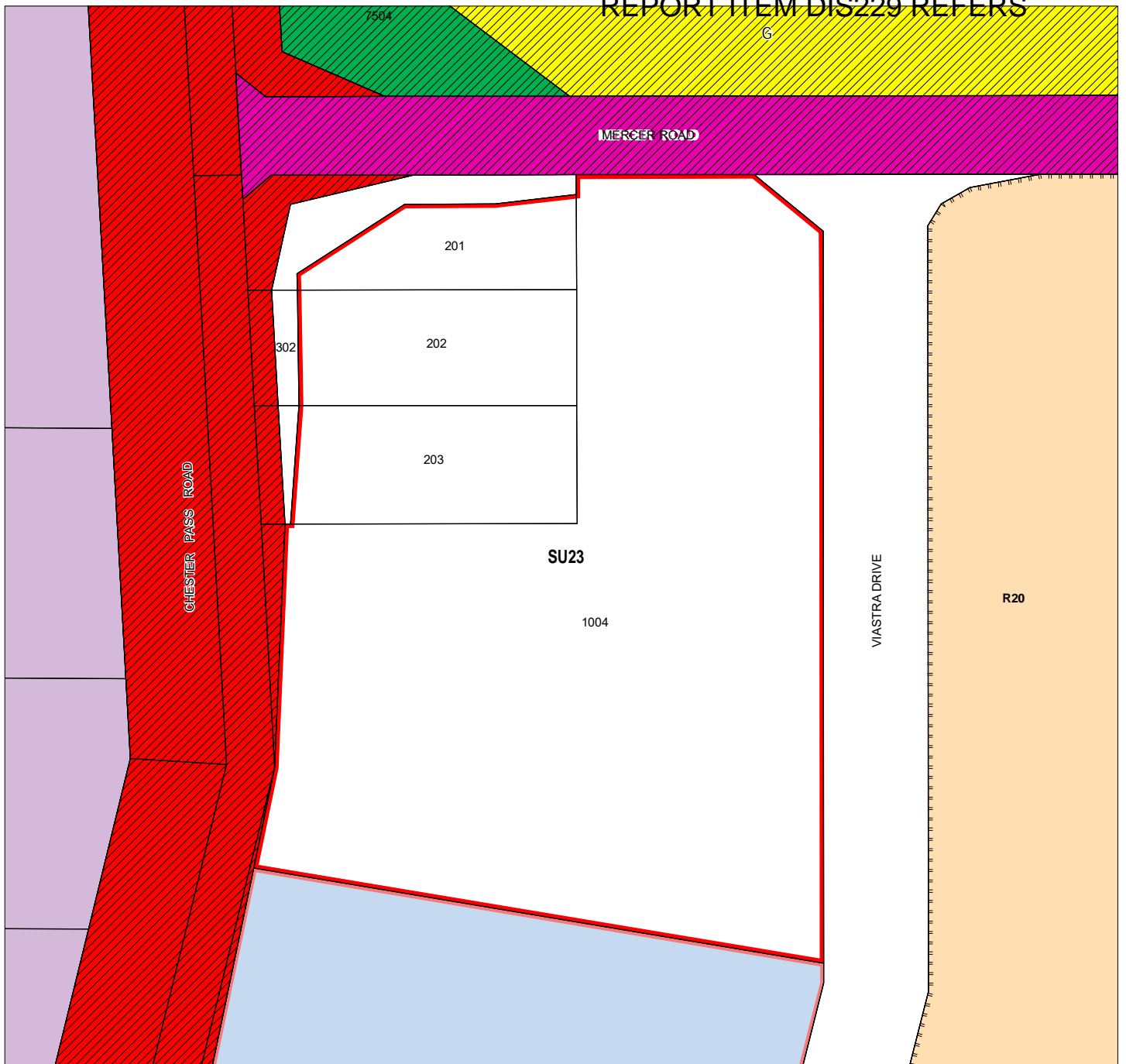
CITY OF ALBANY

LOCAL PLANNING SCHEME No. 1

AMENDMENT No. 36

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

1. In Schedule 4 Special Use Zones, for Special Use Zone No.23 (SU23), delete the Special Uses of "Aged Persons' Village" and "Nursing Home".
2. In Schedule 4 for SU23, add the Special Uses of:
 - Child Care Premises
 - Community Purpose
 - Recreation-Private
 - Veterinary Centre
3. 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.
4. Rezone a portion of Lot 1004 Viastra Drive, Lange from "Special Use (SU23)" to "Highway Commercial".



EXISTING SCHEME MAP

Legend

	Cadastre with Lot number		LPS Reserves
	R Codes		Local road
	Highway commercial		Major road
	Light industry		Parks and recreation
	Residential		Priority road
	Special use		G Public use : Government



Department of Planning,
Lands and Heritage

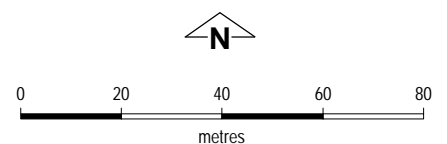
City of Albany

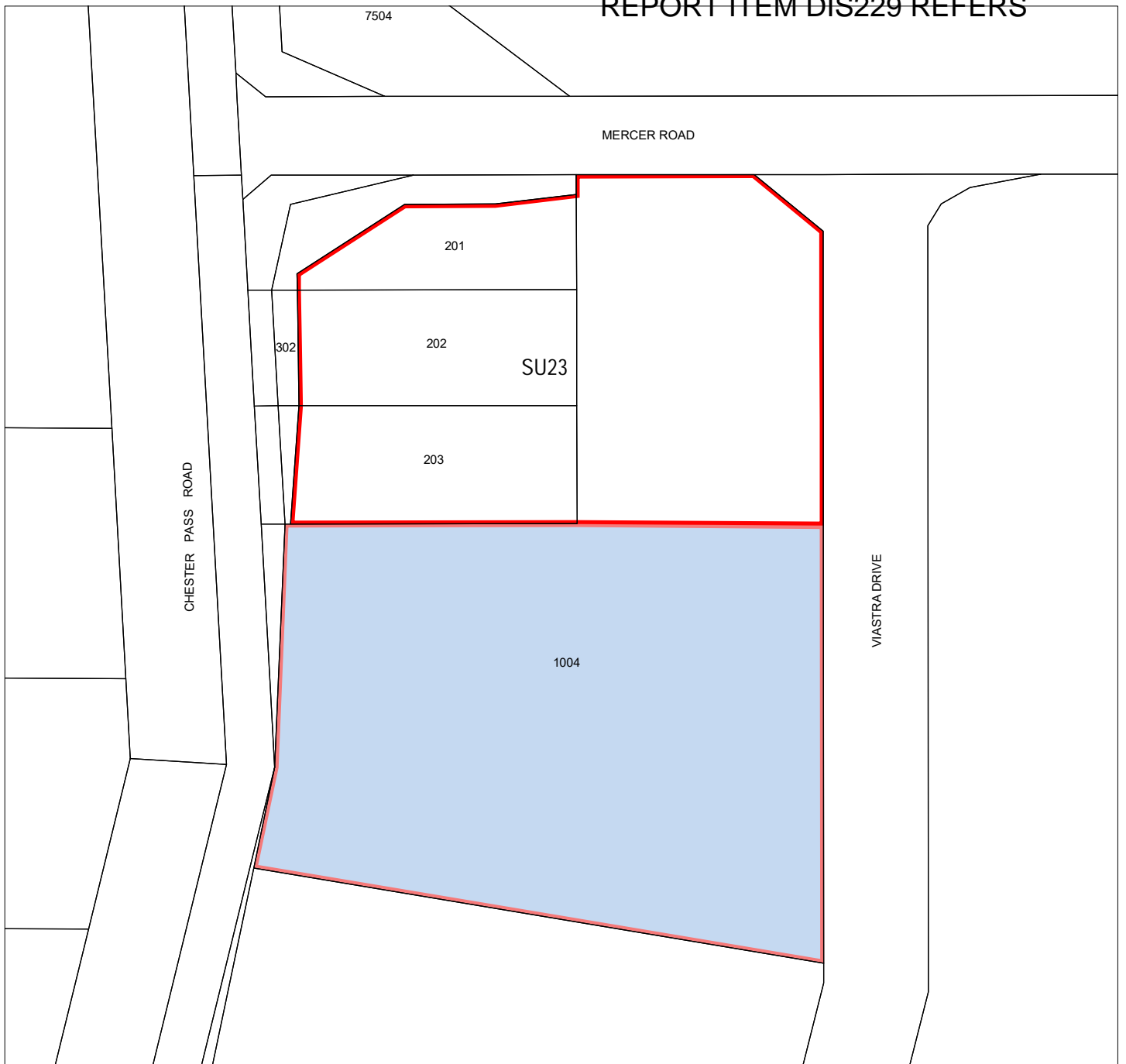
Local Planning Scheme No. 1

Amendment No. 36

21

Produced by Geospatial Research and Modelling,
Department of Planning, Lands and Heritage, Perth WA
Base Information supplied by Western Australian
Land Information Authority SLIP 1096-2018-1





PROPOSED SCHEME AMENDMENT MAP

Legend

 Cadastre with Lot number

LPS Zones and Reserves Amendments

 Highway commercial

 Special use



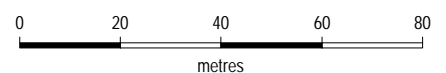
Department of Planning,
Lands and Heritage

City of Albany

Local Planning Scheme No. 1

Amendment No. 36

Produced by Geospatial Research and Modelling,
Department of Planning, Lands and Heritage, Perth WA
Base Information supplied by Western Australian
Land Information Authority SLIP 1096-2018-1



REPORT ITEM DIS229 REFERS

COUNCIL ADOPTION FOR ADVERTISING

This Standard Amendment was adopted for advertising by resolution of the Council of the City of Albany at the Ordinary Meeting of the Council held on the day of2020.

.....
MAYOR

.....
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDED/SUBMITTED FOR APPROVAL

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

.....
MAYOR

.....
CHIEF EXECUTIVE OFFICER

WAPC RECOMMENDED/SUBMITTED FOR APPROVAL

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

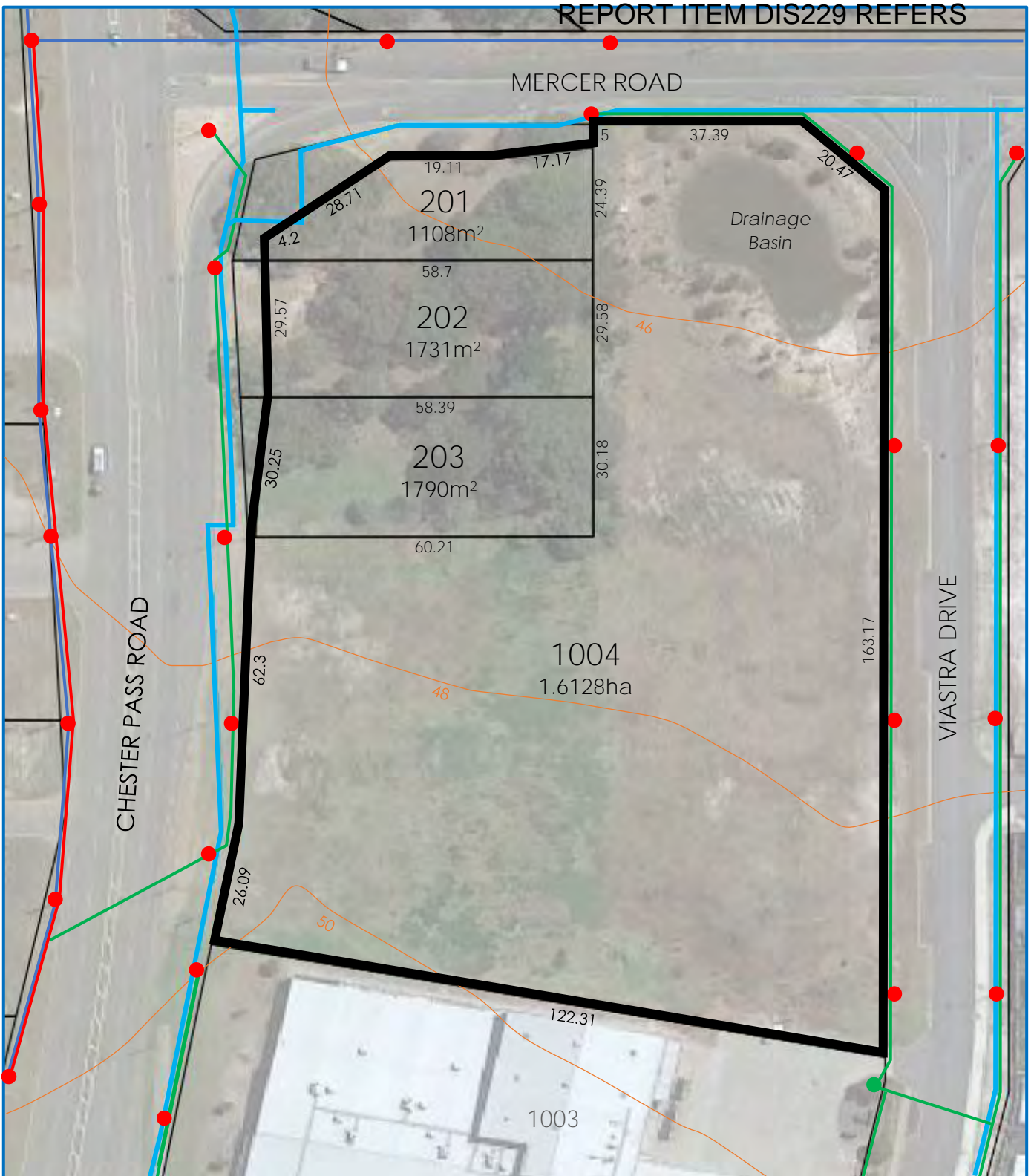
DATE.....

APPROVAL GRANTED

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

DATE.....

ATTACHMENT 1



AMENDMENT SITE PLAN

Lots 201, 202 & 203 Chester Pass Road & Lot 1004 Viastra Drive
Lange
City of Albany



Legend

- Amendment Site
- Contours (2m)
- Western Power Powerpole
- Western Power Distribution Overhead Powerline High Voltage 1kV – 33kV
- Western Power Distribution Overhead Powerline Low Voltage 1kV – 33kV
- Western Power Pillar
- Underground Water Pipe



Edge Planning & Property
134 Hale Street, Mount Clarence
ALBANY WA 6330
W: www.edgeplanning.com.au
E: info@edgeplanning.com.au
M: 0409 107 336

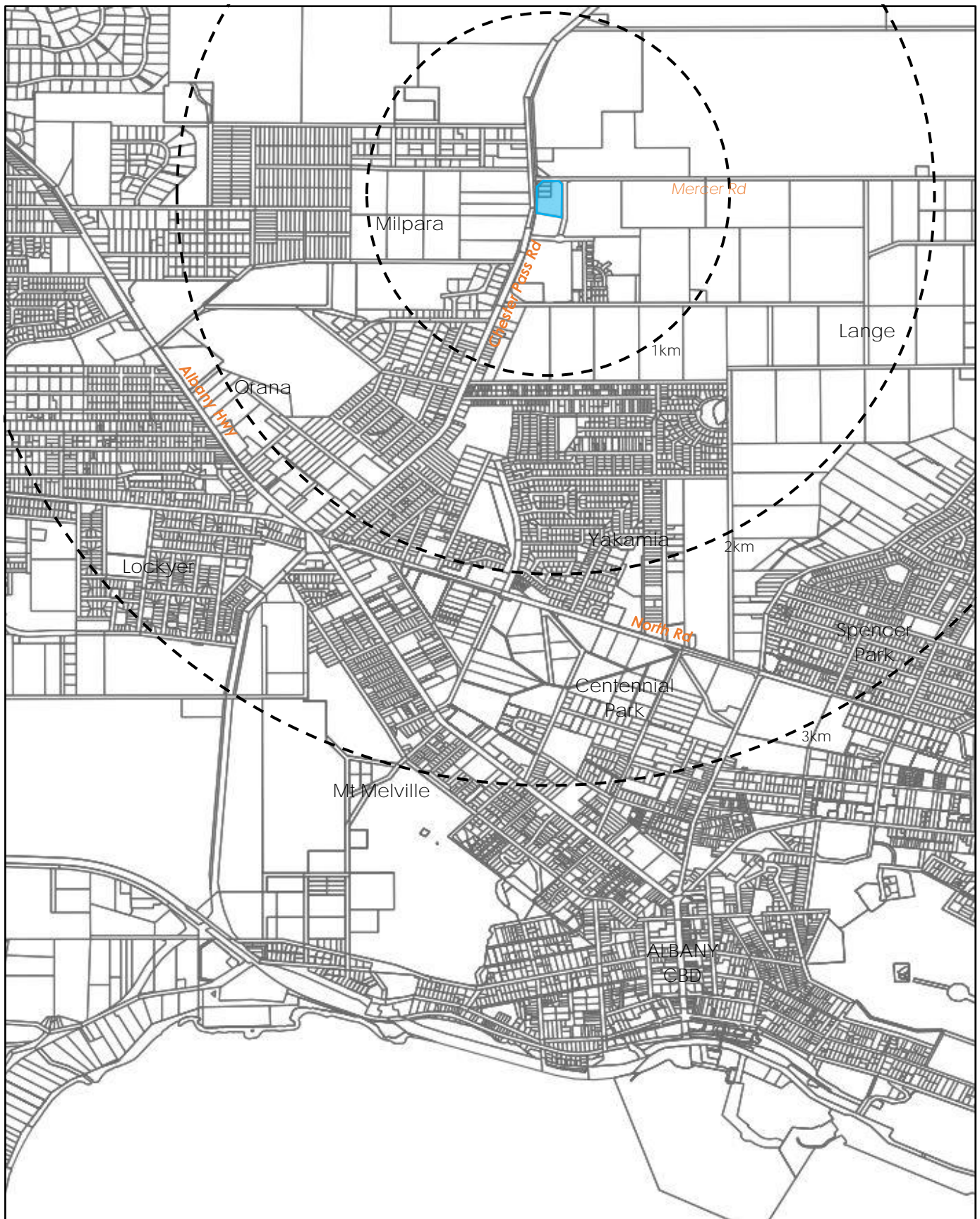
A	AMENDMENT SITE	200317	APPROVED
REV	DESCRIPTION	YYMMDD	

DRAWING NUMBER
EP 200317 01

REV
B

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

ATTACHMENT 2



LOCATION PLAN

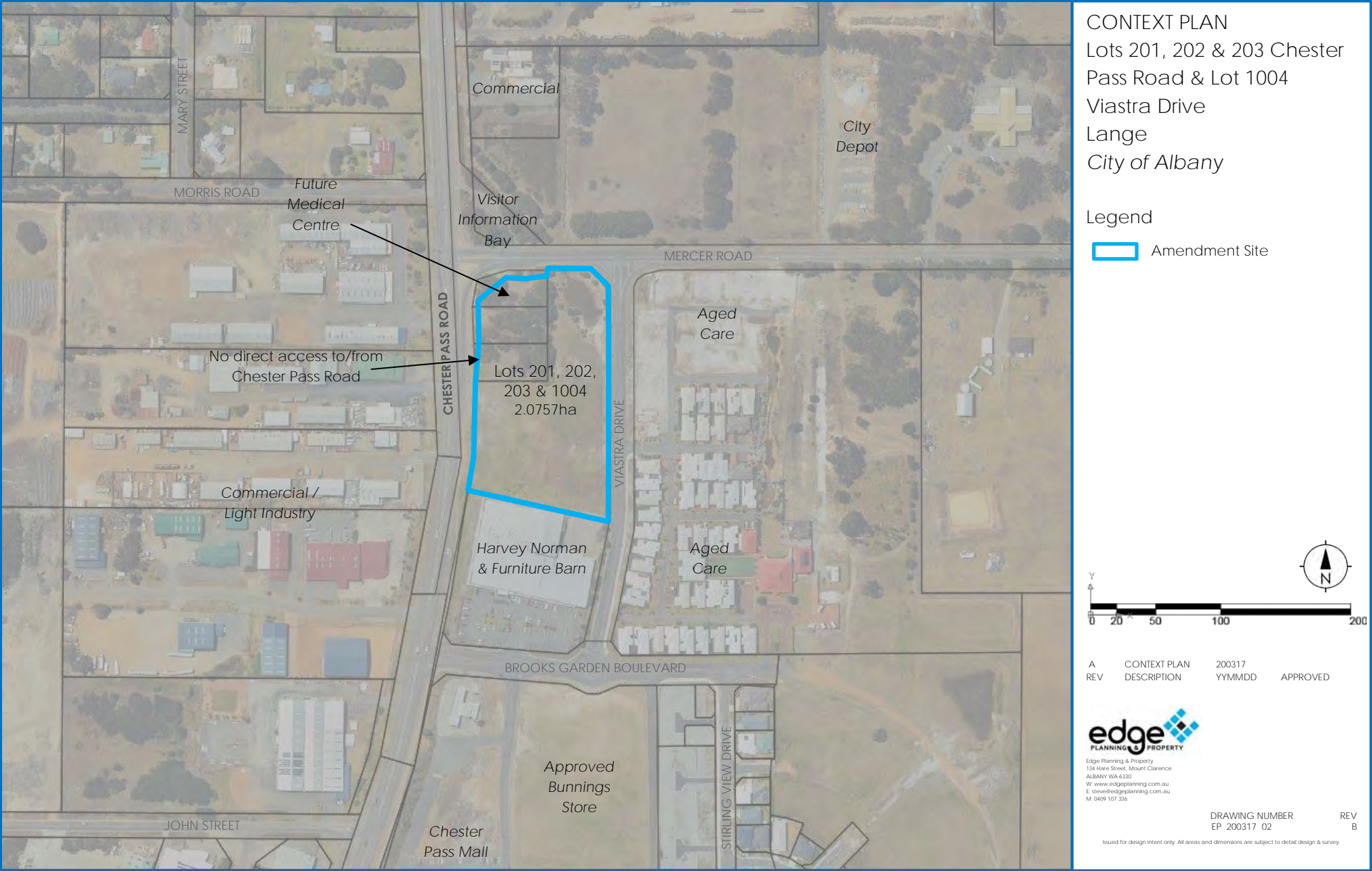
Lots 201, 202 & 203 Chester Pass Road
 Lot 1004 Viastra Drive
 Lange

City of Albany



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

ATTACHMENT 3



ATTACHMENT 4

WESTERN



AUSTRALIA

REGISTER NUMBER 201/DP400007	
DUPLICATE EDITION 2	DATE DUPLICATE ISSUED 20/2/2017

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

VOLUME
2820FOLIO
132

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



REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 201 ON DEPOSITED PLAN 400007

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

ENANBY PTY LTD OF 12 CAREY STREET BUNBURY WA 6230

(T N558358) REGISTERED 20/2/2017

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

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

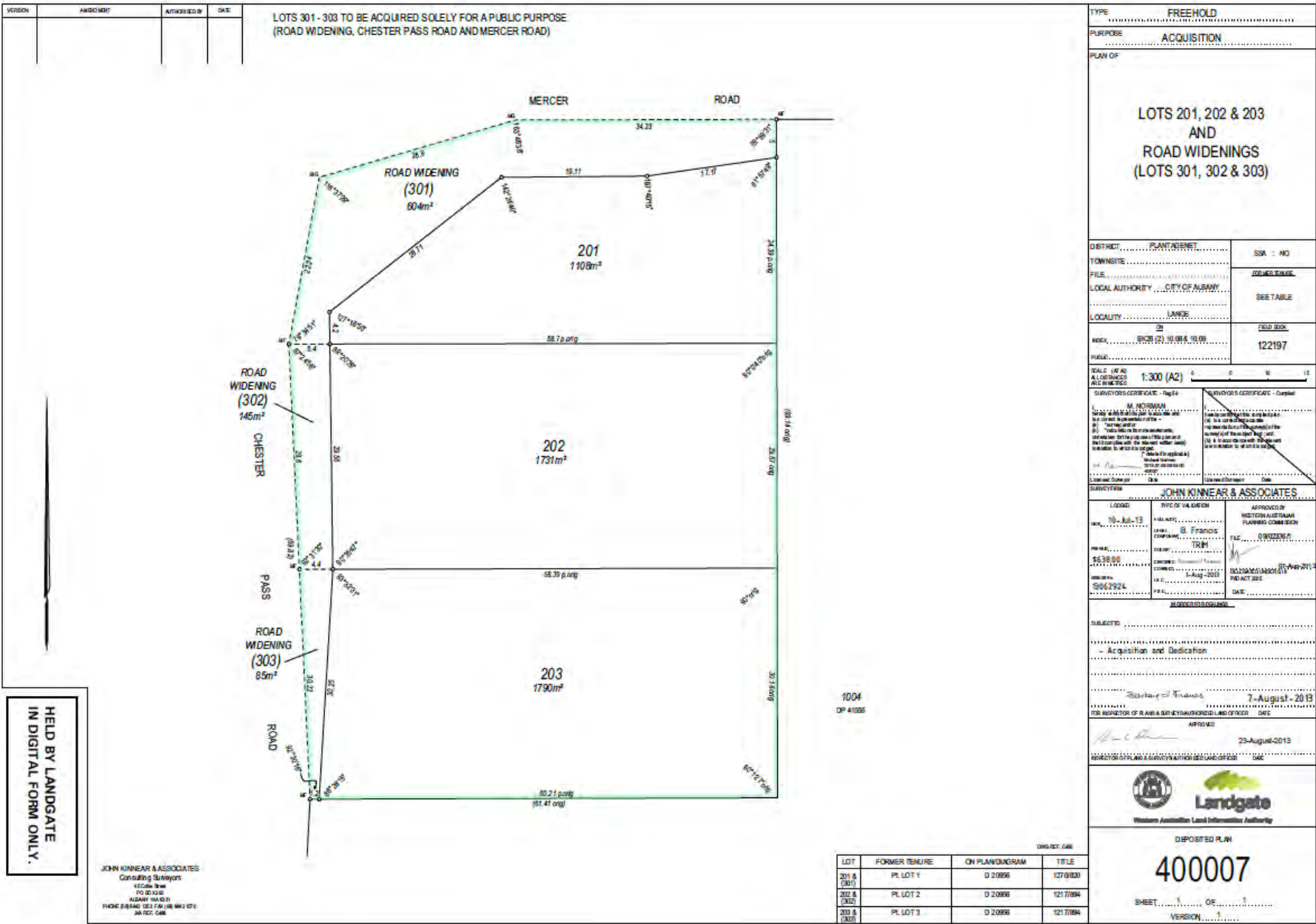
-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

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

SKETCH OF LAND: DP400007
PREVIOUS TITLE: 1270-820
PROPERTY STREET ADDRESS: 214 CHESTER PASS RD, LANGE.
LOCAL GOVERNMENT AUTHORITY: CITY OF ALBANY

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REPORT ITEM DIS229 REFERS

WESTERN



AUSTRALIA

REGISTER NUMBER N/A	
DUPLICATE EDITION 2	DATE DUPLICATE ISSUED 20/2/2017

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

VOLUME
2820

FOLIO
133

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

REGISTRAR OF TITLES



THIS IS A MULTI-LOT TITLE

LAND DESCRIPTION:

LOTS 202 & 203 ON DEPOSITED PLAN 400007

REGISTERED PROPRIETOR: (FIRST SCHEDULE)

ENANBY PTY LTD OF 12 CAREY STREET BUNBURY WA 6230

(T N558358) REGISTERED 20/2/2017

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

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
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Lot as described in the land description may be a lot or location.

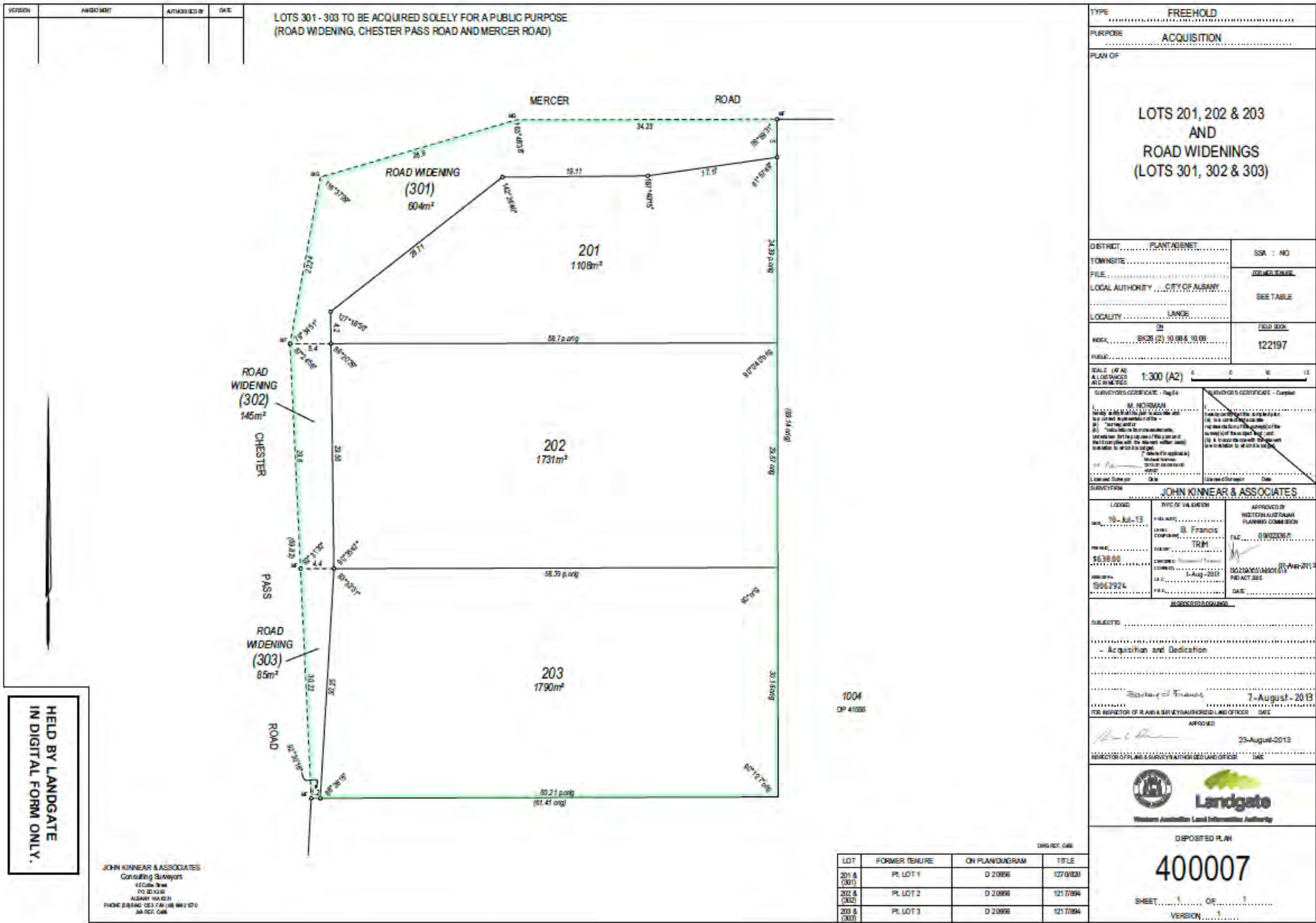
-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

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

SKETCH OF LAND: DP400007
PREVIOUS TITLE: 2820-129, 2820-130
PROPERTY STREET ADDRESS: 212 CHESTER PASS RD, LANGE (202/DP400007).
210 CHESTER PASS RD, LANGE (203/DP400007).
LOCAL GOVERNMENT AUTHORITY: CITY OF ALBANY

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WESTERN



AUSTRALIA

REGISTER NUMBER

1004/DP41555DUPLICATE
EDITION**5**

DATE DUPLICATE ISSUED

5/12/2016**RECORD OF CERTIFICATE OF TITLE**

UNDER THE TRANSFER OF LAND ACT 1893

VOLUME
2623FOLIO
478

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



REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 1004 ON DEPOSITED PLAN 41555

**REGISTERED PROPRIETOR:
(FIRST SCHEDULE)**

CLOUDY BEACH INVESTMENT COMPANY PTY LTD OF 12 CAREY STREET, BUNBURY
(TP N077871) REGISTERED 30/7/2015

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

1. EASEMENT BURDEN CREATED UNDER SECTION 167 P. & D. ACT FOR DRAINAGE PURPOSES TO CITY OF ALBANY - SEE DEPOSITED PLAN 41555.
2. J745625 RESTRICTIVE COVENANT TO COMMISSIONER OF MAIN ROADS - SEE DEPOSITED PLAN 41555. REGISTERED 16/5/2006.
3. N500260 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA REGISTERED 5/12/2016.

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

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

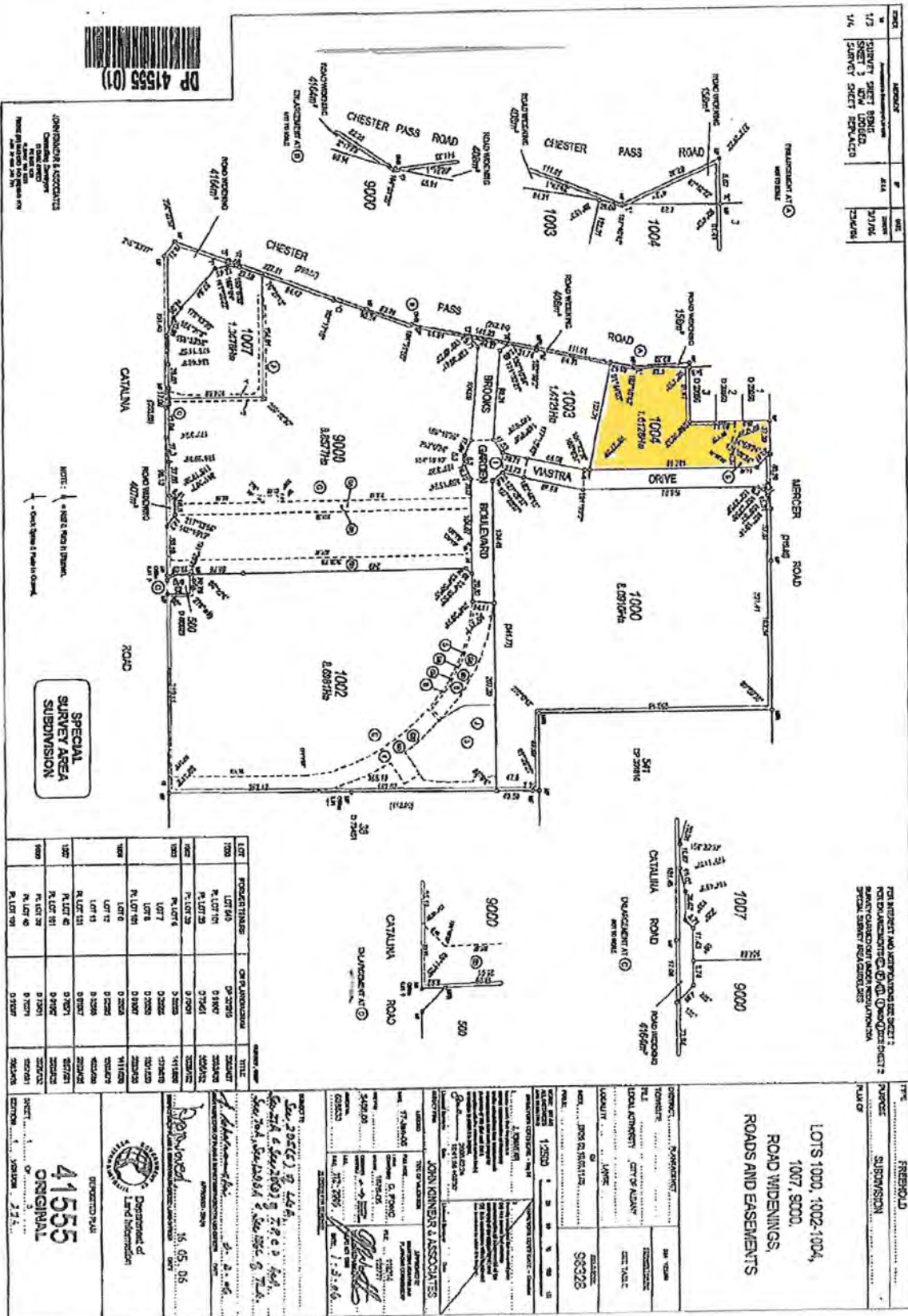
STATEMENTS:

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

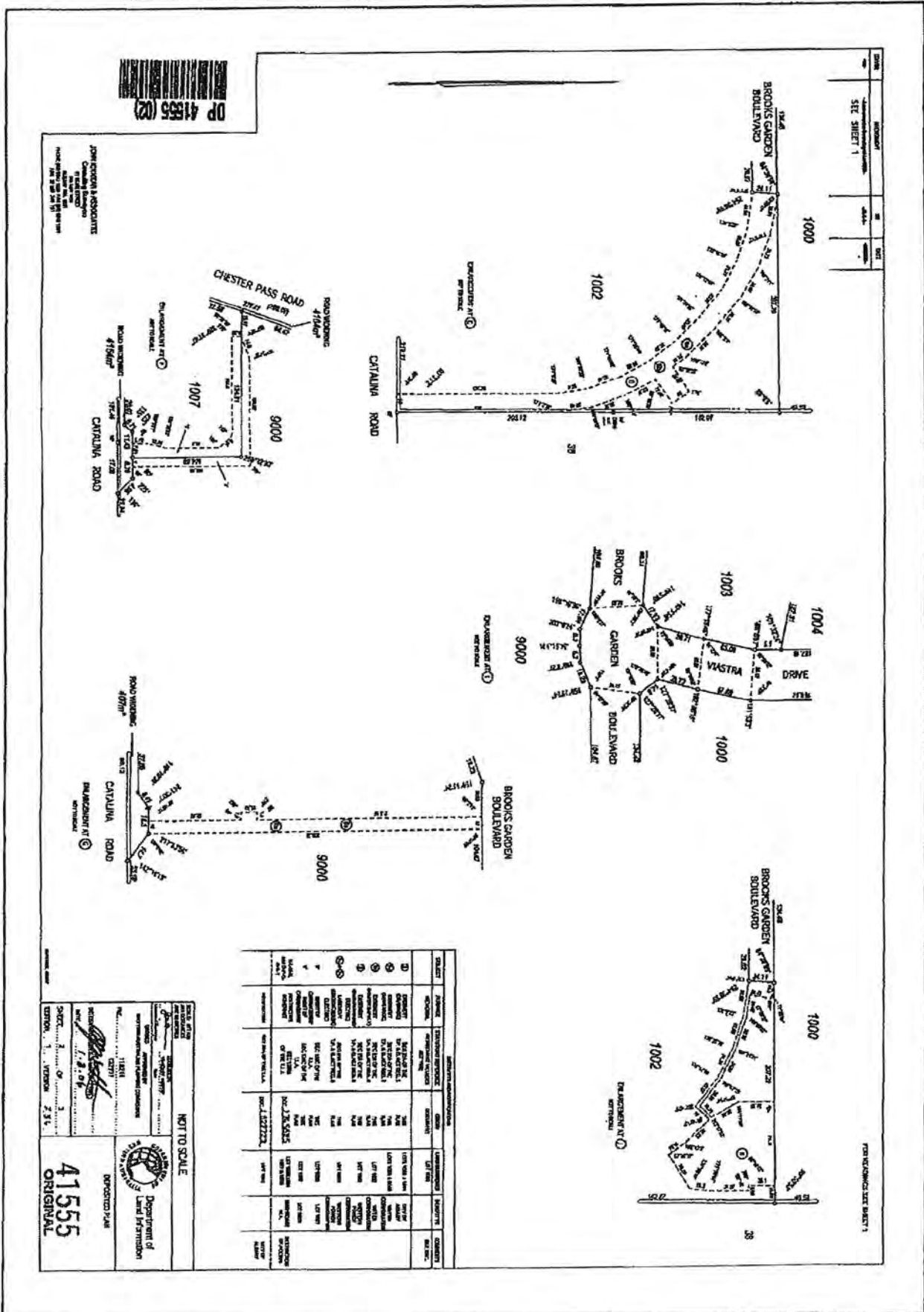
SKETCH OF LAND: DP41555
PREVIOUS TITLE: 1411-886, 1503-679, 1503-680, 2083-426
PROPERTY STREET ADDRESS: NO STREET ADDRESS INFORMATION AVAILABLE.
LOCAL GOVERNMENT AUTHORITY: CITY OF ALBANY

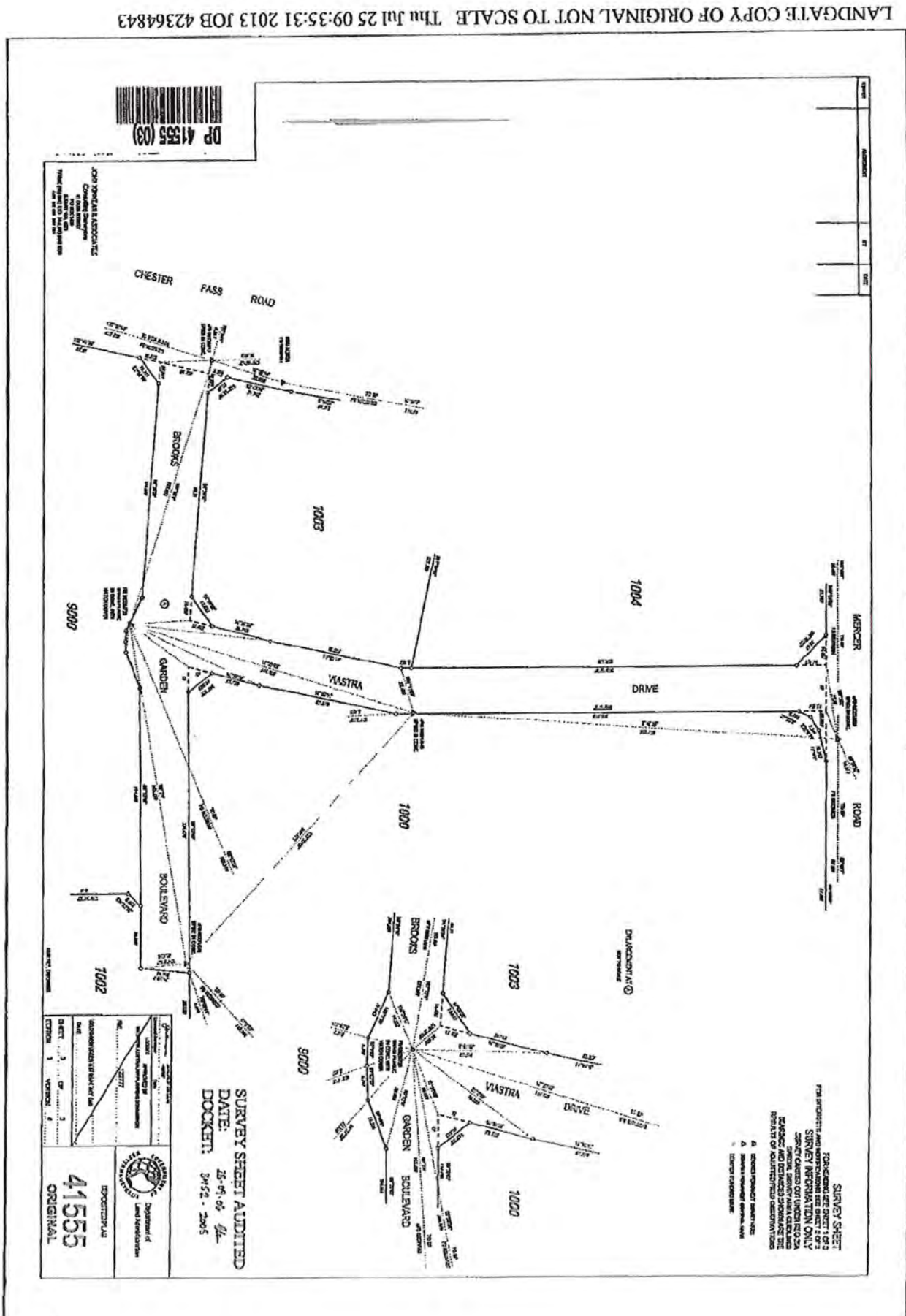
NOTE 1: L635401 SECTION 138D TLA APPLIES TO CAVEAT K254991

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ATTACHMENT 5

Local Planning Strategy 2019

Figure 2: Urban



Legend

Designation

- | | | |
|--------------------------------------|-----------------|-----------------------------|
| Rural | Commercial | Neighbourhood Centre |
| Parks and Recreation | Industry | Future Neighbourhood Centre |
| Rural Living | Public Use | Local Centre |
| Urban | Regional Centre | Future Local Centre |
| Existing Tourism Accommodation Sites | Urban Growth | Rural Enterprise |

Strategic Direction/Action

- | | |
|---|---|
| 4 Protect agricultural land from urban sprawl and inappropriate development | IA1 Investigation Area 1 - Centennial Park Urban Renewal Area |
| 5 Direct urban settlement growth of Albany to areas designated as 'urban growth' | IA2 Investigation Area 2 - Wool Stores |
| 6 Direct rural living settlement of Albany to areas designated as 'rural living' | IA3 Investigation Area 3 - Neighbourhood and Local Centres |
| 7 Support the collaboration between the City and State government in the redevelopment of the Spencer Park Urban Renewal Area | IA4 Investigation Area 4 - Mirambeena Strategic Industrial Area |
| Identify localities or precincts in the City suitable to increase residential densities (infill development) based on accessibility to services and facilities, utility infrastructure, heritage, character and amenity, and land capability | IA5 Investigation Area 5 - Pendeen Expansion Area |
| 8 | IA6 Investigation Area 6 - Proposed Ardross Estate Light Industrial Area |
| Continue to protect the primacy of the regional centre, identify its unique identity and build upon this, facilitate new mixed-use commercial development, increase the density and diversification of housing within and surrounding the regional centre, protect and enhance the heritage character, improve public realm with universal access, improve public transport, walkability and bikeability, diversify users - residents (age and cultural diversity), workers and visitors that engage with the regional centre and attract the location of regional facilities | IA7 Investigation Area 7 - Lot 2 Hanrahan Road (CSBP Fertiliser Depot) |
| 9 | IA8 Investigation Area 8 - Robinson Industrial Area |
| Identify education precincts in conjunction with activity centres and support diversification of housing and land uses to cater for accommodation, entertainment and shopping needs of students | IA9 Investigation Area 9 - Gledhow Industrial Area |
| 10 | IA10 Investigation Area 10 - Mueller Road |
| 11 Advocate for the completion of the Ring Road | IA11 Investigation Area 11 - Protection of Yakamia Creek and Lake Seppings |
| 12 Facilitate the planning and construction of key link roads | IA12 Investigation Area 12 - Implementation of the Emu Point to Middleton Beach Coastal Hazard Risk Management Adaptation Plan |
| 13 Advocate for development of industry in Mirambeena | IA13 Investigation Area 13 - Potential Airport Business Area |

Other

- | | | |
|---|--------------------------------|--------------------|
| Rail | Indicative Rail Spur Extension | Macro-corridors |
| Primary Road | Landscape Protection Areas | SCA PDWSA |
| District Road | Housing Strategy | Education Precinct |
| Significant waterway | Strategic Infrastructure | |
| Strategic Important Road Extensions | | |
| Investigation Area 4 - Mirambeena Strategic Industrial Area | | |
| Investigation Area 12 - Emu Point to Middleton Beach CHRMAP | | |

1 0.5 0 Kilometers

1:100,000

SCALE @ A3

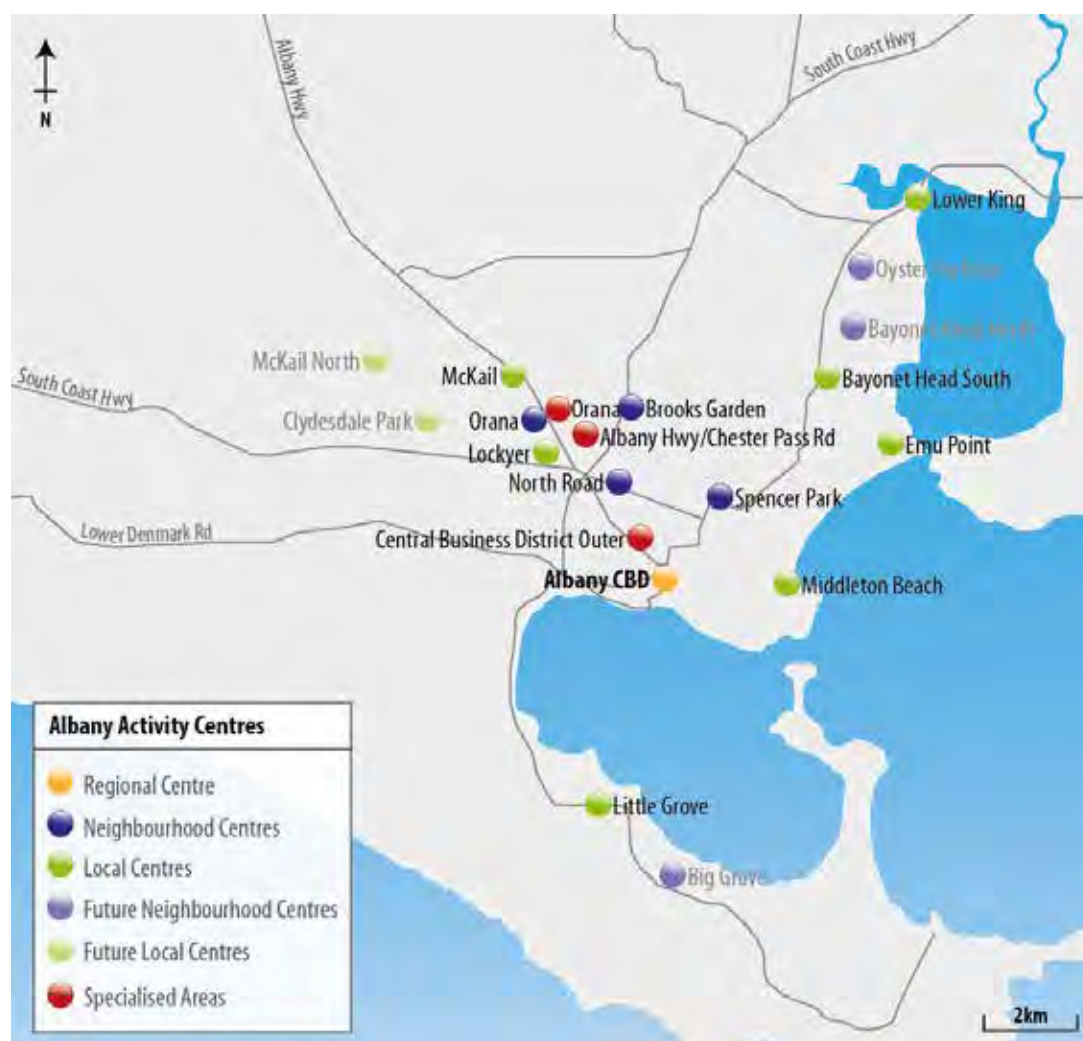
This map has been produced by the City of Albany using data from a range of agencies.

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ATTACHMENT 6

Figure 36. Activity centre map

Source: Pracsys 2015

Figure 37. Current Activity Centre Hierarchy

Current Centre Type	Function	Typical Land Uses	Name
 Neighbourhood Centre	A focus on servicing the daily and weekly needs of residents. Their relatively smaller scale catchment enables them to have a greater local community focus and provide services, facilities and job opportunities that reflect the particular needs of their catchments.	Convenience retail (e.g. Specialty Shops, Supermarkets, Convenience Goods, Personal Services) Local professional and services offices Community purpose	Bayonet Head North (Future) Bayonet Head South Brooks Garden North Road Orana Oyster Harbour (future) Spencer Park Big Grove (future)
Current Centre Type	Function	Typical Land Uses	Name
 Local Centre	Some daily and weekly household shopping needs, community facilities and a small range of other convenience services.	Convenience retail Personal services Local offices Community purpose	Clydesdale Park (future) Emu Point Little Grove Lockyer Lower King McKail General Store McKail North (future) Middleton Road
Current Centre Type	Function	Typical Land Uses	Name
 Specialised Centre	Provides for a regionally significant strategic purpose or service industry. The function will be unique for each centre.	Industrial or light industrial Bulky goods and large format retail Convenience retail Offices Other uses as appropriate to the unique function of the centre	Albany Highway Orana Chester Pass Road

Brooks Garden Neighbourhood Centre

Current land uses in Brooks Garden are primarily Light Industry, Future Urban, Neighbourhood Centre, Highway Commercial and General Industry (see Figure 50). Primary functions include convenience, comparison and bulky goods retail (see Figure 51). There

are aspirations for this centre to increase the quantity and quality of comparison retail offer and improve the urban form throughout the centre.

Figure 50. Brooks Garden



Source: Pracsys 2015

Figure 51. Brooks Garden strengths, aspirations and challenges



Source: Pracsys 2015

Chester Pass Road Specialised Centre

Current land uses at Chester Pass are primarily Highway Commercial, Light Industry and General Industry (see Figure 72). Primary functions include bulky goods retail and comparison retail (see Figure 73). There are aspirations for this centre to continue to

provide bulky goods retail and comparison retail for City of Albany residents.

Figure 72. Chester Pass Road

Source: Pracsys 2015

Figure 73. Chester Pass Road strengths, aspirations and challenges

Source: Pracsys 2015

ATTACHMENT 7

REPORT ITEM DIS229 REFERS

No.	Description of Land	Special Use	Conditions
SU23	Lot 1004 Viastra Drive, Lange Lots 201, 202 and 203 Chester Pass Road, Lange	<p>Aged Persons' Village</p> <p>Consulting Room</p> <p>Hospital</p> <p>Medical Centre</p> <p>Nursing Home</p> <p>and Other ancillary health and support uses approved by the Local Government</p> <p>Pharmacy</p> <p>Child Care Premises</p> <p>Community Purpose</p> <p>Recreation-Private</p> <p>Veterinary Centre</p>	<ol style="list-style-type: none"> All development and land use shall require development approval from the Local Government as a 'D' use and shall be generally in accordance with an approved Structure Plan and/or Local Development Plan and Design Guidelines Local Development Plan prepared by the proponents and endorsed by the Local Government. The Design Guidelines Local Development Plan shall address: <ul style="list-style-type: none"> Building height and bulk; Setbacks and noise mitigation; Building design and windows, openings and street frontages/facades; Materials and colours; Access, loading/servicing areas and car parking; Landscaping, public art and signage. The development of the land shall be subject to preparation and implementation of a Stormwater Management Plan. No direct vehicular access to Chester Pass Road is permitted. The Pharmacy use shall include a dispensary and the sale of incidental & medical products. In making application for a Pharmacy Use, the developer shall provide evidence that approval has been granted under the Pharmacy Location Rules as set by the National Health Act 1953 and the National Health (Australian Community Pharmacy Authority Rules) Determination 2006, for as long as these rules are current.

Our Ref: 20-28

13 August 2020

City of Albany
PO Box 484
ALBANY WA 6331

ATTENTION: Paul Camins
Your Ref: A181513/PA91254/P2200041

Dear Sir

**Re: SAT Directions Hearing: DR 128/2020,
Proposed Shed, Lot 109 (248) Greatrex Road, King River.**

I refer to the SAT Directions Hearing in relation to the above matter which was held on the 6th of August 2020.

It was agreed at that hearing that the proposal to develop another shed on Lot 109 Greatrex Road be referred back to Council for reconsideration.

This course of action was suggested by the SAT Member Rebecca Moore following a discussion of the proposal and a number of statements contained in the officer report in the Ordinary Council Meeting Agenda dated 26/05/2020.

It is hoped that a reconsideration of the unique aspects of the proposal will avoid the alternative which was for the matter to go to a full SAT Hearing.

We were advised that providing we relodged the proposal by Friday 14th August, it would be possible for it to be included in the agenda for the September meeting of Council.

It would be appreciated if the proposal could be put to Council for reconsideration as directed by SAT.

It is also requested that Councillors be invited to a meeting on site prior to the Council meeting which we believe will facilitate a better appreciation of the particular merits of the proposal.

Please do not hesitate to call me if you require further information or clarification.

Yours sincerely



Nick Ayton
AYTON BAESJOU PLANNING

PLANNING REPORT

PROPOSED SHED
LOT 109 (248) GREATREX ROAD, KING RIVER

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1. INTRODUCTION

At the Ordinary Meeting of Council, held on the 26th of May, 2020, an application for an additional shed was considered by Council and refused based on the following grounds:

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;

(c) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

(d) 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.

The applicant subsequently lodged an Appeal with the State Administrative Tribunal (SAT) and has commissioned Ayton Baesjou Planning to assist with the matter. Following the SAT Directions Hearing held on August 6th 2020, it was agreed that the proposal be put back to Council for reconsideration.

The following report addresses a number of the reasons in the officer report which formed the basis of the recommendation to refuse the application.

While the proposed shed is significantly larger than the maximum size permitted in the City of Albany's "Non-Habitable Structures Local Planning Policy", Council does have the discretion to approve a variation(s) to the Policy

The following report addresses the reasons contained in the officer's report which formed the basis for the recommendation to refuse the application and argues that there are reasons unique to the locality and site which justify a variation to the Policy.

It is considered that approval of the variation(s) will not create an undesirable precedent and undermine Council's ability to apply the Policy consistently in the future.

2. THE CITY OF ALBANY NON-HABITABLE STRUCTURES LOCAL PLANNING POLICY

The City of Albany Non-Habitable Structures Local Planning Policy (the Policy) is the primary policy document used to assess the proposal.

The objective of the Policy is;

“To achieve a balance between providing for various legitimate storage needs of residents while minimising any adverse impacts non-habitable structures may have on the locality.”

3. LEGITIMATE STORAGE NEEDS

The reason the proponent is requesting a relaxation of Council’s Policy is to accommodate storage needs which include:

- A caravan which is 10m long requiring a 12m long space.
- Two historic bulldozers for restoration and associated workspace.
- A boat.
- Two trailers.
- Recreational ute.

The existing shed on the property is at capacity and houses the following items:

- A tractor with slasher which is used to maintain the property.
- Quad bikes and ride on mower.
- Two Dodge vehicles.
- Car parts and workshop area.
- Space for the work vehicle.

The photos illustrate the current use of the existing shed and the recreational vehicle is shown parked next to the shed.



Photo 1: Use of existing shed. Tractors & slasher, ride on lawn mower and quad bike.



Photo 2: Use of existing shed. Two Dodge vehicles.



Photo 3: Use of existing shed. Car parts, workshop area and space for the recreational vehicle.



Photo 4: Use of existing shed. Recreational vehicle and historic bull dozer outside existing shed.



Photo 5: Storage required for caravan.



Photo 6: Trailers.

The photos illustrate the caravan, trailers and one of the bulldozers.

It is considered that these are legitimate storage needs which relate to:

- The need for machinery to manage the property which, at 1.97ha, is the size of an average Australian rules football oval.
- The need for storage for his vehicles and hobby of restoring agricultural machinery.
- The need for storage of his caravan, boat and trailers.

It is not unreasonable for a resident to store these possessions on the property where they are readily accessible for use, maintenance and secure storage. Storage off site is clearly inconvenient as well as costly. The alternative of leaving them in the open air is not a practical option and likely to result in a more adverse impact on the amenity of the locality.

Point 30 of the May Agenda officer response to the application states that:

“ the notion that the applicant has an abundance of possessions and requests a significantly larger shed than the policy allows, is not considered a cogent reason to depart from the policy.”

Point 18 of the officer’s comments also states that:

“...the inclusion of dozers raises concerns from Staff that the outbuilding may be used for purposes not consistent with a rural outbuilding and that on this basis the use may be more correctly classified as “storage”, which is a land use not suitable for the zone.

In relation to Point 30, the implication that Council should dictate how many possessions a person should have is considered inappropriate. The initial issue is whether the possessions are legitimate.

As they are personal possessions used for the maintenance of the property and recreational activities, it is contended that they are legitimate.

As to Point 18, the storage of the dozer relates to the applicant’s hobby of restoring historic machinery and is considered an entirely legitimate storage need.

The proviso is of course that the additional storage space can be accommodated on site without any adverse impact on the locality. The objective of the Policy is to achieve a balance between the legitimate storage needs of residents while minimising any adverse impacts they may have on the locality.

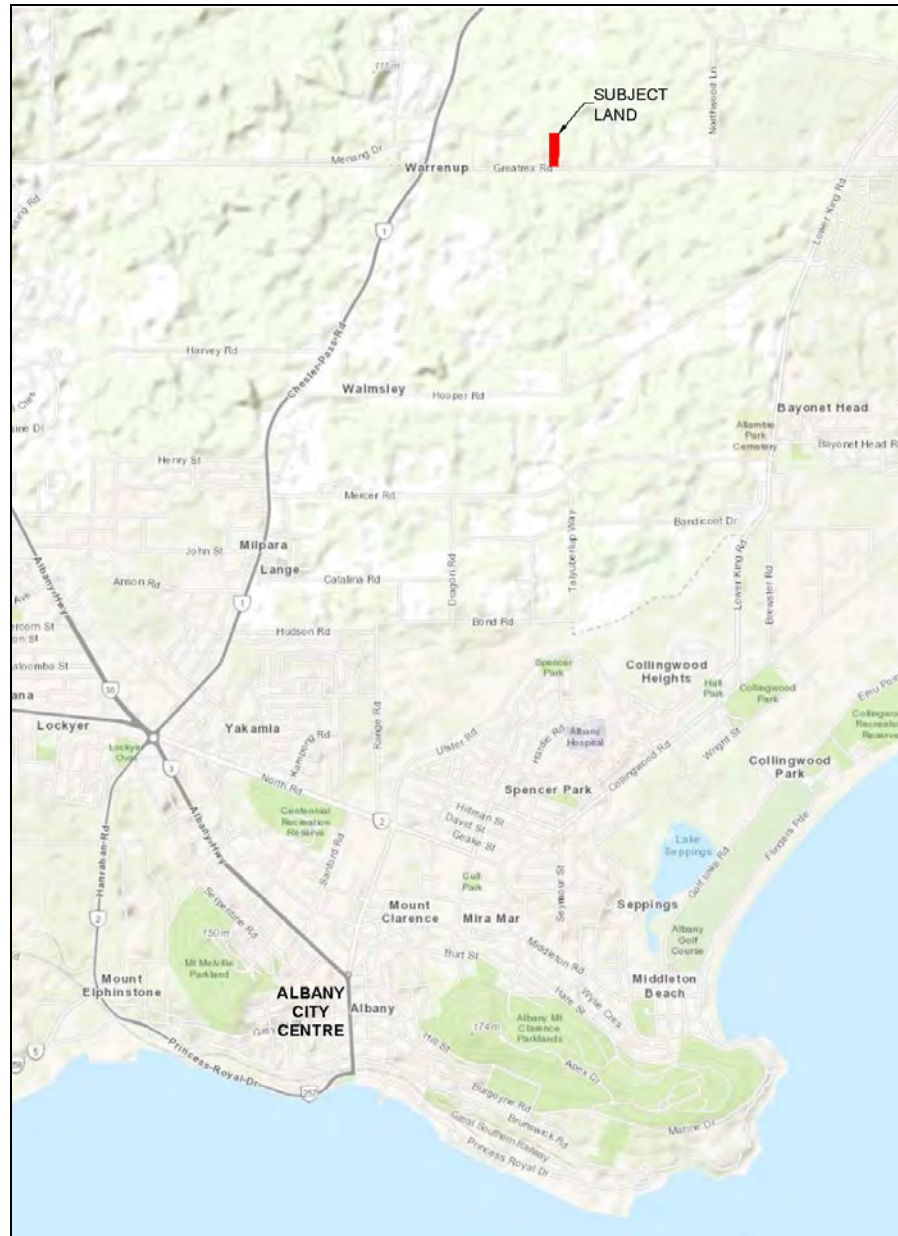
In this regard it may be that an abundance of personal possessions cannot be accommodated without an adverse impact.

The following section examines whether the additional shed has an adverse impact.

4. IMPACT OF PROPOSED SHED ON THE LOCALITY

4.1 Site Context.

The subject land is located in a rural residential enclave located approximately 7km north of the Albany CBD. Refer Location Plan.



Location Plan

Access to the property is via Greatrex Road which is a low-key road servicing 17 Rural Residential lots and a strawberry farm. Refer Local Context Plan.

As the road has not been constructed through to Lower King Road, and is unlikely to be for the foreseeable future, it will not be a thoroughfare of any significance. The location of a heavily vegetated Parks and Recreation reserve on the southern side of the road further reduces the amount of traffic using the road.



The property has significant plantings of mature trees within the Greatrex Road reserve and additional planting within the property running parallel to Greatrex Road. This is readily apparent from the aerial photograph and Photo 7.



Photo 7: Vegetation screening subject land from Greatrex Road.

These trees will screen any impact of the proposed shed from Greatrex Road and there is plenty of room for further screening if considered necessary.

The view from the entrance to the property is directly to the house up the driveway. The driveway is planted with trees on either side which help screen the existing shed and the proposed shed site. Refer Photo 8 and Site Plan. The existing shed is visible from the joint driveway crossing but is not considered obtrusive. Nevertheless, it can be easily screened if considered necessary.



Photo 8: View to dwelling from Greatrex Road.



With regard to the adjoining properties, the existing shed is screened from the property to the west by trees planted on that property. There is room to plant additional screening on the subject land if required. However, it is noted that the adjoining neighbour has raised no objections in that regard, or to the proposed shed site which will be screened by the planting on either side of the proponent's driveway. In relation to the property to the east which will be closest to the proposed shed, there are two rows of vegetation on the subject land and additional planting on the neighbouring lot that fully screen the proposed site.



Photo 9: Screening of neighbouring property to the east.

In relation to the siting of the proposed shed, Point 25 of the officer report notes that:

"From a siting perspective, the policy outlines that non-habitable structures should be located towards the rear of the lot. The intent of this provision is to avoid large blank walls facing the street and to have the primary dwelling, which generally of a higher design standard and design, as the main focal point. Officers are of the view that this policy provision is not met, as the proposed outbuilding is located towards the front boundary, directly in between the dwelling and road. Further to this, the proposed outbuilding is a bland, metal-clad structure, devoid of any architectural features that may mitigate this significant departure from the policy position in respect to siting".

These comments fail to address the significant characteristics of the property. The main amenity for the property and adjoining lots is the rural aspect and view to the Porongurup's which are to the north, i.e. to the rear of the property. Refer Photo 10. Locating the sheds to the rear of the property would detrimentally impact on the views, and in particular on the view of the neighbours. The proponent's dwelling and those of the neighbours have their alfresco areas orientated to the rear of their property to enjoy the aspect and amenity of their location.



Photo 10: View to the rear of the property to the Porongurups.

In order to retain the amenity of the area it therefore makes sense to locate the shed either to one side of the house or in front of the house. As a site on either side of the house is constrained in terms of available area to access the shed with the caravan and boat, as well as potentially creating a greater visual impact on adjoining neighbours, a site in front of the house was selected. This site is well set back from the house and Greatrex Road.

The vegetation within and adjacent to Greatrex Road effectively screens the shed from the road and the colonnade of trees on either side of the driveway reduces the visual impact of the shed from the house. There is ample space to plant additional screening if this is considered necessary. As noted above, the location of the house and the orientation of the driveway ensures the house remains the focal point when viewed from Greatrex Road.

In relation to the comment that the proposed shed is a bland, metal-clad structure devoid of any architectural features, the proponent is happy to use colours to the satisfaction of Council. However, it is the nature of sheds to be constructed of metal and the objective is for them to look like rural sheds that blend in with the rural character. The focus is on the architectural details of the residence, not the shed.

The proponent is agreeable to reducing the height of the shed to comply with the Policy.

It is noted that of the eight developed lots fronting Greatrex Road, four of them have sheds located in front of the residence.

4.2 Size of Shed.

Point 28 of the officer report notes that the existing shed of 148m² and the proposed shed of 216m² will represent a significant departure from the allowance in the Policy of 200m².

It is acknowledged that the proposed additional shed represents a significant departure from the Policy, however, as Point 29 notes there is discretion to consider a variation to the Policy and it is agreed that the use of discretion should be used consistently where possible and be based on considerations of orderly and proper planning.

Point 33 contends that the size of the shed

“would likely negatively impede on neighbouring properties, including visual amenity and potentially the enjoyment of their land. The proposal therefore directly conflicts with the objectives of the Rural Residential zone under clause 3.2.17 of LPS 1. It is noted that the primary objective of the zone is ‘Provide for residential and limited incidental land uses’.”

Section 4 above, examines the impact of the shed and demonstrates that it will not negatively impede on neighbouring properties, including visual amenity and potentially the enjoyment of their land. The proposed location of the shed will in fact help to preserve the amenity of the neighbours by ensuring it is not located to the rear of the property where it will impact on their views. Consequently, the proposal will not conflict with the objectives of the Rural Residential zone under clause 3.2.17 of Local Planning Scheme 1.

In Point 34 Council officers consider that *“376m² of outbuildings is beyond what might be considered reasonable for the storing of personal assets.”* In response, the size the shed should be considered in relation to the size of the property. The combined area of both sheds is 364m² only represents 1.8% of the property and the area is smaller than the dwelling on the property which has a roof area of 500m². The two smaller sheds help to minimise the visual impact compared to one large shed. There is ample room to set the sheds back from the dwelling and adjacent properties and plant trees and shrubs to minimise any impact.

It is acknowledged that it is often difficult to accommodate large sheds on smaller properties. For example, on a 1000m² lot, the maximum size shed is 100m² which represents 10% of the lot, or on a 2000m² lot, a shed of up to 150m² is permitted representing 7.5% of the lot. However, the subject land is approximately 20 times larger than a 1000m² lot and 10 times larger than a 2000m² lot and is only allowed a 200m² shed which represents only 1% of the lot size. Logic would suggest the significantly larger lot size provides an opportunity for greater discretion to be allowed in certain situations as there is much more room to locate and screen the sheds.

Point 35 of the officer report states that:

“there are limited orderly and proper reasons for such a significant departure from the policy and zone objectives. Staff are of the view that the sizes contained within the policy are considerably generous and that the City of Albany has some of the most liberal outbuilding sizes compared to other local governments within the State. If the applicant’s storage needs are so significant, it may be appropriate for them to investigate off site storage measures.”

Point 32 also notes that:

“the construction industry in general is well aware of the sizes contained within the policy and rarely requests variations to the size of non-habitable structures. This indicates that the vast majority are accepting of the generous sizes contained within the Policy.”

It is important that Council’s outbuilding Policy acknowledges that larger lifestyle lots in a semi-rural and rural setting are a significant reason why people are attracted to live in Albany. Many farmers in the region also choose to retire or own a second home in Albany and often prefer a larger “lifestyle” lot. They may also have a number of work and recreational vehicles as well as caravans, boats, kayaks, jet skis and quad bikes which are used to make the most of Albany’s unique environment.

It is an important economic driver for the City and the acquisition, maintenance and storage of these possessions is important to Albany's economy. Where possible Council's outbuilding Policy should allow for the appropriate storage of these possessions and discretion should be allowed for, particularly on the larger lots, rather than unnecessarily requiring valuable storage space on off-site industrial and commercial areas to be taken up.

As Point 32 notes the Policy appears to be working as variations are rarely required. However, this should not be a reason to preclude the use of discretion when there are legitimate storage needs that can be accommodated without having any adverse impacts.

Point 36 of the officer report concludes that:

"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 should be refused."

The review of the officer analysis as outlined above demonstrates that it is flawed in several significant points:

- It does not acknowledge the fact that the proponent has a legitimate need for additional storage space. The Policy does not dictate how many possessions a person may have. Instead it requires that a balance be achieved between providing for the storage needs while minimising any adverse impacts on the locality.
- In terms of assessing the impact on the locality the analysis fails to have due regard to the site characteristics of the subject land and the surrounding locality, in particular:
 - The flat topography and fact that the area is not overlooked from public vantage points except Greatrex Road.
 - The substantial vegetation located along Greatrex Road, particularly along the frontage of the subject land.
 - The lack of development on the opposite side of Greatrex Road which is instead a heavily vegetated Parks and Recreation reserve.
 - The views from the rear of the subject land and adjoining properties to the north across the rural landscape to the Porongurups which contributes significantly to the amenity of the area.
 - The size of the property which is just under 20,000m² with a 71 metre wide frontage and capable of accommodating an average size football oval. The size enables a large shed to be located to one side and in front of the dwelling in such a way that it does not impact on the amenity of the dwelling. The location also has the benefit of making the shed conveniently accessible to the dwelling and minimises the cost of constructing driveways and connecting a power supply.
 - The large scale of many of the dwellings in the rural residential area which are often considerably larger than the non-habitable structures. The dwelling on the subject land has a roof area of approximately 500m², well in excess of the existing and proposed shed. The construction of two sheds rather than one larger shed helps to retain the dominance of the dwelling.
 - There is a disparity between the size of sheds permitted on much smaller lots compared with the size permitted on the subject land. There is more scope to use discretion on larger lots which are not in exposed locations and are well screened or capable of being screened.
 - A failure to allow for covered storage is likely to result in possessions being stored outside on the property where they can have a much greater adverse impact on the amenity of the locality. This is already apparent in this locality.

5. PRECEDENT AND USE OF DISCRETION.

A number of Points raised in the officer report raise their concern that approval of a significant increase in the size of the shed will set a precedent and prejudice its position in being able to apply the Policy consistently in the future

It is agreed that decisions need to be made consistently and that decisions made without sufficient justification will make it difficult to apply the Policy consistently in the future. The suggestion that this application is not supported by sufficient planning grounds is contested and it can be demonstrated that there are reasonable grounds for the City to use its discretion which will not prejudice the on-going implementation of the Policy.

The fact that the vast majority of applications comply with the shed size constraints indicates that the Policy is apparently meeting the storage needs of residents. Not everyone has a car collection, a hobby restoring agricultural machinery as well as a large caravan and boat. There is no regulation restricting a person from owning these possessions and subject to ensuring there is no detrimental impact there should be the ability for Council to use its discretion to approve an oversize shed, particularly given the size, location, aspect and other site characteristics. As has been made clear by the Tribunal on a number of occasions, a discretionary approval does not create a precedent unless the circumstances are identical which is rarely ever the case. Where the circumstances are identical then it follows that it should also be capable of approval.

6. ADVERTISING & PUBLIC COMMENT

The application was advertised for public comment for a period of 16 days, with nearby landowners directly notified by letter. No objections were received as part of the advertising process, however letters of support from the both the adjoining eastern and western landowners were sought by the owner and submitted with the application detail.

The fact that no objections were received and that immediate neighbours provided letters of support, appears to have been given little weight in assessing the application.

7. CONCLUSION

The officer report concludes that:

“The planning proposal has been subject to significant review through its assessment, in a manner that has been objective, methodical, logical and systematic. The officer recommendation to refuse the planning proposal is not made without of a sound basis for doing so, and is grounded in the principles of orderly and proper planning.”

A careful assessment of the site, its location, aspect, surrounding development, vegetation and potential impact of the proposed development suggests that the recommendation to refuse the application has not been based on an objective, methodical, logical and systematic assessment. It is considered that there are reasonable grounds for Council to consider a relaxation of the Policy and that this can be justified on orderly and proper grounds which will not create an undesirable precedent or erode the ability of the City to apply the Policy fairly and consistently.

The proponent agrees to:

- Reduce the height of the shed to conform with the Policy guidelines.
- Utilise Colourbond colours that complement the existing shed.
- Relocate the shed further to the eastern boundary so that it is further setback from the view corridor along the driveway from Greatrex Road to the dwelling: and
- Plant additional trees and shrubs where necessary to minimise any potential visual impact.

The proponent respectfully requests Council review its decision to refuse the additional shed and agree to a discretionary approval in order to avoid a time consuming and costly full hearing at SAT.