

APPENDICES

ORDINARY MEETING OF COUNCIL

To be held on
Tuesday, 17 July 2012
6.00pm
City of Albany Council Chambers

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Nil.		



Failen James
Chief Executive Officer
PO Box 484
ALBANY WA 6331

City of Albany Records
Doc No: ICR1266546
File: DB.PSC.1
Date: 01 JUN 2012
Officer: SPLAN2
Attach:
Box:
/of:
Box+Vol:



Dear Ms James

RE PROPOSED TOURIST ACCOMMODATION / P2120093

Our property, _____, is situated on the opposite side of the road and two doors away from the proposed tourist accommodation at 35 Karrakatta Road. Even though we are some distance away, we are very aware when the house is occupied by the generally substantial noise generated by the occupants.

Noise travels readily at Goode Beach, but the settlement is on the whole very quiet. However, the noise generated at 35 Karrakatta Road when occupied is generally substantial and invasive over a wide area. The whole house is on poles and sounds to be lacking insulation, reverberating noise like a sound amplification box when it is occupied by generally large groups of people.

If the house is to continue being used for short term holiday lets, then the structure of the building should be modified to better contain the noise. The floors, walls and ceilings could be better insulated, and bare floor areas could be carpeted.

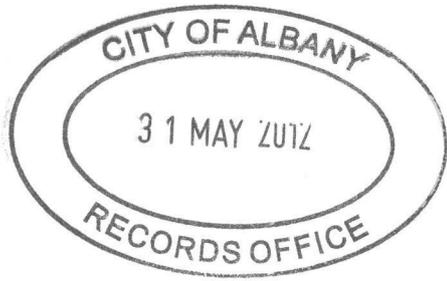
Guests are paying substantial amounts of money for their holiday accommodation at 35 Karrakatta Road and the construction of the house should be of a standard that normal social behaviour would not impact on the neighbours as it does. The owner needs to address the shortcomings of the house construction.

It appears that the house is rented out through Private Properties Booking Agency based in Cottesloe. The information provided to guests does include a "Noise and Nuisance Issues" section though there is no caretaker nearby to manage this. Up until the present complaint and consequent application by the owner to have the property officially listed as "Tourist Accommodation", the local residents have had no recourse other than complaining to the City of Albany.

If the house is to continue as a holiday let, there should be a local manager who could be contacted in the event of substantial noise and unsociable behaviour, who could also act quickly to assess and contain any disturbances.

Residents adjacent to 35 Karrakatta Road have further concerns over rubbish disposal, parking and invasion of their privacy.

We would appreciate hearing what actions are taken by the City of Albany to remedy the current unsatisfactory situation.



Chief Executive Officer

Albany City Council

PO Box 484

Albany 6331

Reference Building Application P2120093

Dear Sir,

In regard to Application P2120093 for Tourist Accommodation at 35 Karrakatta Road, Goode Beach.

The particular construction of this house with uninsulated timber floors, high stumps and the house open underneath, allows transmission of a substantial amount of noise around the nearby area, when people are normally moving about and living in the house.

As tourist accommodation would expectedly increase the number of people staying at the house, could the noise be reduced by insulating the underfloor area?

This comment offered constructively.



	City of Albany Records
Doc No:	ICR1266528
File:	DB.PSC.1
Date:	31 MAY 2012
Officer:	SPLAN2

Attach:
Box:
Vol:
Box+Vol:

Chief Executive Officer
PO Box 484
Albany WA 6331

Dear CEO

Re 35 Karrakatta Rd, Ref: A14122/PA37903/P2120093

I am most definitely NOT inclined to support the application for planning consent, referenced above.

Before I explain my lack of support for this proposal, I would like an explanation from the City as to how, if the property at 35 Karrakatta Road does not currently have planning approval from the City of Albany to operate as a short term rental, how is it that it has operated for the last 10 years as such and continues to do so to this day? Is this legal?

It has been advertised on the Internet and in publications such as Scoop magazine as to “sleeps 12” or “sleeps 10”. The pattern of occupancy over the last years has certainly included more than 6 people on most occasions of tenancy. Based on the City’s police on Holiday Homes, this suggests that the property actually is usually let out as a “lodging house”, so the planning application may in fact not be appropriate, as the application is for approval for a “Holiday Home”.

Also, I contacted the council in late 2008 or early 2009, requesting the noise measuring machine. At that point the Council contacted the owner explaining the issue of noise emission to the owner, but there was no action taken then. I advised the council that it was leased out as holiday let, but the City took no action then to elicit a request for planning approval. May I have an explanation as to why this was the case.

Further more, I believe that the City of Albany is acting as if it has given approval for the application by allowing the property to continue to be on the market for rent during the application process. I perceive this as tacit approval and that the application process is merely a formality. Given the noise issues with the structure of the house, does this mean that the City of Albany will waive conditions in this case that it would not in the case of a new application on new property. In reality, this is a retrospective application as the business has been run for 10 years. How is there no legal sanction for this situation?

I have tried to cope with the noise emissions from the house, but the fact is that irrespective of whether the house is owner occupied, let long term, let as a Holiday Home or a lodging house, the structure of

the house renders it a permanent **public nuisance** because of the way that it amplifies and emits the noise of every footstep taken inside the house.

To date, with all the occupancy that has taken place, there has been no evidence of effective management. We had no access to a number for a caretaker, there was no “meet and greet” person that I observed.

In good faith, I would like to express the following concerns based on this property operating as a short term, high occupancy, high turnover rental property for the last 10 years, without planning permission and with disregard to the quality of life for the permanent residents, whose homes lie in proximity to this business.

There are a number of issues with the physical design and structure of the building that have caused ongoing issues, leading to distress and consternation each time the building was occupied.

Like most communities, the mix of residential and vacation is unpleasant for the residents. The nature of the building means that it will fail to meet the policy objective of Holiday Homes – 2K “To encourage good quality, well managed holiday accommodation for use by short term visitors, generally in locations that will enhance the tourism experience while minimising potential impacts on adjoining residents.”

Clearly the architecture of this building renders it unable to comply as it does not minimise potential impacts on adjoining residents. It actually introduced a number of negative impacts on adjoining residents.

Noise:

Noise is emitted consistently from the building when it is tenanted. I have resided in high density cities in Australia and overseas (Sydney, UK, Melbourne, Florence) in high density apartment buildings and semi-detached homes and have NEVER experienced a problem with noise of footfall, conversation or dishwashing.

Each footstep taken within the house, whether by toddling infant, child or adult can be heard throughout my home, in each room. The noise is impossible to mask out because of its low frequency. It becomes a matter of me “surviving” each tenancy as I can hear the footsteps throughout my home, above any ambient or background noise – e.g. television, radio, music. The thud-thud-thud of each footstep taken in the house is distressing to say the least and one does reach “screaming point” when there is running in the house and there is often running involved. As the house is frequently occupied by more than 6 people, who are in a festive mood there is a LOT of noise.

Scraping of chairs, conversation whilst they prepare meals or wash dishes is very invasive in to my house.

When music is played, inside 35 Karrakatta Rd, the base notes and beat resonate out of the house throughout my home. This came to a head this Easter (2012) when some young people played contemporary music and it was the final straw.

Because the tenants are on vacation in a residential area, the balcony barbeques, drinks sessions can be lengthy and late and very noisy. Constant greetings and lots of very excited children shrieking, fighting, shouting and running constantly through the house is challenging to bear.

I was recovering from treatment for a very bad cancer all through 2010 and most of 2011 and it did not help my need to rest or sleep peacefully when people were in the house.

Parking

Because the house can sleep many occupants, there are often several vehicles and motor-boats. The drivers are often reluctant to tackle the slope of the drive way at 35 Karrakatta and so their solution is to park a boat and four wheel drives or cars out the front of my home, on the road. This has caused problems for me for visitors and tradesmen when they attempt to work at my home.

It makes it more dangerous for pedestrians. We have no footpaths and the house at 35 Karrakatta Rd is on the top of a hill around a blind corner. People unfamiliar with the street will drive unknowingly at a higher speed than residents and may be unaware that pedestrians are frequently on that road.

The tenants park their vehicles and boats on the road out front of mine and my neighbours houses as the verge is not accessible on No. 35.

Increased Traffic

There can be a considerable increase in traffic with three – four cars not uncommon coming into the property at 35 Karakatta Rd. Again, people not familiar with the street will not anticipate the amount of pedestrian traffic on the road in Karrakatta Rd. My elderly dog was grazed by a four wheel drive turning in to the drive way at 35 Karrakatta Rd. The drivers were in a convoy of two four wheel drives and were arriving at the property. She was seated by my side as I stood talking to several neighbours in my drive way, one afternoon. She was not badly hurt but it was a bit distressing. The driver and passengers did not realise, and as she wasn't injured, and I didn't want to cause a fuss, I didn't say anything at the time.

Oversight

The building at 35 Karrakatta Rd is extremely tall and the windows positioned along the side of the house see into my back yard and front driveway. The Balcony is rather intrusive and I often feel very self-conscious when I come home or leave for work. When lots of strangers are out on the balcony, it is a bit disconcerting as I leave for or return from work.

I have never refused tenants when they have come to my door for various requirements such as tomato ketchup, a lemon, some coffee and several other requests. I have always been polite and never spoilt their holiday by pouring out my frustration about the distress their presence in the home causes me.

Refuse Disposal

Bins are an issue. They are most often left on the verge for a week between bin pick ups. As lots of tenants take the opportunity to fish or have celebratory meals around festivals, the bins are usually very smelly and very full and can cause feelings of nausea and sometimes dry retching when driving up my driveway or walking to and from my home.

Summary

Cumulative Impact – It is clear from my experience as a property owner that over the last 10 years, the tenancy of 35 Karrakatta Rd, has diminished my own amenity and quality of life – I feel anxious and depressed as the holiday season approaches and then get unexpected blasts of despair when the house is let outside of holiday season.

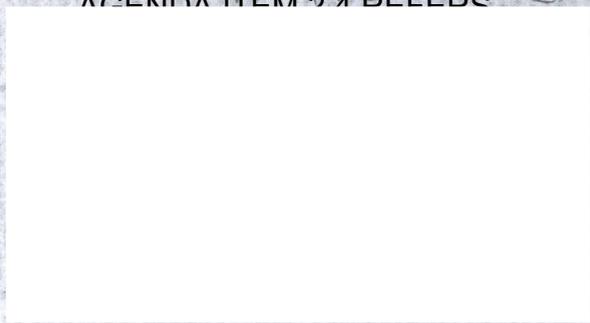
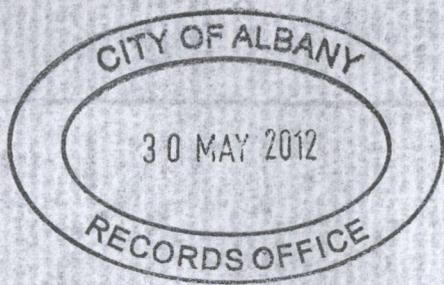
Still, as I mentioned in the beginning, the nature of the acoustics of the house means that it would be worse in some ways if the house was permanently occupied. Although if it was, one might be able to form a relationship with the occupants and negotiate that the house be modified so that it was not a public noise nuisance.

I do not dislike people, I am not being selfish about “my back yard”, I have been prepared to grit my teeth during the school holidays and festive seasons to get through those periods but it is not an ideal way to live the remainder of one's life. Wishing that holiday periods did not roll around. The house is so big and such a perfect resonating chamber for a constant stream of low frequency, thudding noise that is unacceptable. The noise issue is tantamount to a public nuisance.

The constant turn over and turn around of large groups of people is very disconcerting in a neighbourhood of permanent residents, and especially for me as there is a constant stream of strangers on the balcony overlooking my little cottage, my outdoor space, the driveway and front door.

In spite of Frenchman Bay being a gazette tourist zone, Karrakatta Rd is a community of residents. I reside permanently and carry out my life as if I lived in any other street in any other urban community. I would have thought I could expect that my leisure time – weekends and holiday periods would be relaxing experiences for me as well as for the holiday makers at number 35 Karrakatta Road.

I look forward to your feedback.



Chief Executive Officer
Albany City Council
Dear Sir,

Re 35 KARRAKATTA RD REF A14122/PA37903/P2120093

We would like to oppose the planning consent referenced above. Goode Beach is a particularly quiet and peaceful residential area and we feel that the short term, high occupancy (with the considerable noise factor that this involves) rental is inappropriate.



City of Albany Records
Doc No: ICR1266310
File: DB.PSC.1
Date: 30 MAY 2012
Officer: SPLAN2

Attach:
Box:
Vol:
Box+Vol:



City of Albany Records
Doc No: ICR1266311
File: DB PSC.1
Date: 30 MAY 2012
Officer: SPLAN2
Attach:
Box:
Vol:
Box+Vol:

The chief Executive offices.
City of Albany.
PO Box 484
Albany WA 6331

Re: Proposed Tourist Accommodation / P2120093

Dear Sir,

As a very frequent visitor to a home in Karrakatta Road Goodie Beach I wish to endorse and support the efforts being made by other residents to reduce the public nuisance matters now being addressed.

The major and most invasive problem is of noise coming from the building at no 35 Karrakatta Road. The structure is very high and elevated above one home, with no insulation whatsoever, therefore every step and action or noise spoken penetrates through the very thin floor boards. Music becomes intolerable and at times is heard several residences away. This is so bad for the young lady recovering from cancer and needing peace and quiet.

The owner was asked to install mats or carpet to try to alleviate some of the noise which comes through the flooring and reverberates off the concrete under the very high house - to no avail!!

The noise emanating from the building is constant and therefore punishing on whatever reserves of nerves are left.

The other matters are one of parking and rubbish. Cars, boats and trailers are always parked on the road as the driveway is too steep to negotiate. Visitors are not aware of local conditions, as for the rubbish, last time it was absolutely foul. The stench nauseating as bins were out for a week before pick-up! Hence the locals had to endure a rotting health hazard.

As no one has seen the owner in person dwelling at that address and from seeing "Romantic holiday house - Albany" advertisement with sleeping feet 10, one can only conclude that this structure was purpose built as a holiday facility and not a home.

I also find it sneaky that the closing date for submission date to be a public holiday, or are you going to accept submissions on Tuesday, the first-next working day when your offices are open.

Yours sincerely,



DB. PSC
AGENDA ITEM 2.4 REFERS
18 PAGES
JAN

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



Doc No: City of Albany Records
File: ICR1266524
Date: DB.PSC.1
Officer: 30 MAY 2012
SPLAN2

Dear Sir/Madam

**Re: Proposed Tourist Accommodation / P2120093
(35 KARRAKATTA ROAD GOODE BEACH, WA 6330)**

Whilst the application for short term rental accommodation is new, the property was built over 11 years ago and has been let as an unregistered short-term holiday house for a long time. So it is with our experience of living next to this rental property all this time that we make our submission to Council. In this submission we outline the contributing factors which combine to create the problem associated with the property, all of which need to be rectified.

With regard to 35 KARRAKATTA ROAD there are five issues: two separate noise issues which are our prime concern, but also issues relating to bins, to vehicles & parking and to privacy:

- 1 The dominant, pole construction of the house over a high void, apparently lacking any sound insulation results in continual, very annoying & disturbing thumping, scraping, drumming noises which reverberate widely along & across the road and to the street behind. **This noise occurs whoever occupies the dwelling.** It is worse with heavy footsteps & running in the house.
- 2 In addition, it appears that **some tenants** while away from home and incognito, have little sense of social responsibility and set out to enjoy themselves with roistering behaviour regardless of their surroundings. This often includes disturbingly loud music, loud voices and shouting from the games room and balcony, sometimes until very late.
- 3 Refuse bins are often left out for weeks, either full (sometimes over-full & smelly) or empty. When tenants leave, the bins are put out apparently regardless of collection days, and simply left on the street. A number of times they have been blown over by our quite frequent strong winds. The bins are unsightly, especially in a neighbourhood where we take pride in our surroundings, and they present a health hazard.
- 4 On many occasions the property could not accommodate the number of vehicles, boats & trailers which were then parked on the road. Council should note that there are no footpaths in the street and pedestrians have to share the road with traffic.
- 5 Privacy issue – see notes below

General Notes:

While this application (P2120093) might be the first official application for short term tourist accommodation, as far as local residents are concerned the proposed usage is not new - the house in question has been running as an unregistered short-term rental property for years. Local residents were given no formal opportunity to voice their concerns about the situation during this time. But, resulting from this extensive period of operation we have, over the years experienced considerable loss of amenity in this otherwise quiet neighbourhood. We feel there are adequate grounds for opposing the proposal.

The management plan gives Private Properties Booking Agency as the booking agent. We note that this property has been listed on the website of Private Properties Booking Agency (www.privateprop.com/alb/alb01.php) for many years and continues to be listed there although Council is still considering the proponent's application.

The Management Plan submitted to Council (and forwarded to us by Mr Jan Van Der Mescht), gives assurances regarding noise, rubbish & vehicle management. These instructions have not been adhered to in the past & we have no confidence that it will be different in the future, particularly since the same people seem to be involved in dealing with the property.

On the Private Properties Booking Agency web site the house is advertised as having 10 beds (as queen, double & single) and until a few weeks ago, as being suitable for up to 10 people: the number has now been reduced to 6 people. Besides the noise problems mentioned above, there is a privacy problem because of the narrowness of the blocks and the rental house being effectively 3 storeys high, and set in an elevated, rather stark, exposed position. We keep our blinds closed on windows facing the rental property and have planted some trees & shrubs to try to effect a partial privacy barrier. It is unsettling and disquieting to have strangers, especially as they can be highly visible, moving in and out next door, potentially every 3 or 4 days (minimum rental period specified in the above web site). We are of course not against having people next door per se and have periodically assisted visitors with consumables and advice on local attractions, and sometimes invited them to join in at local functions such as Australia Day BBQs & Christmas carol singing on the beach. It is simply that, considered as a whole, the short term rental of this property has had too much adverse impact on the amenity of our locality.

On several occasions in the past we have personally approached noisy tenants but with mixed success. This is stressful to us and has attendant risks. We and many others have submitted complaints to the Environmental Health section of Council. After a particularly noisy, disruptive Easter weekend last month when at least seven young men were occupying the property we simply could not accept the situation any longer.

We have never been given any contact details of overseers of the property who could be called on to address concerns. Many noise problems have occurred at night, often over holidays or long weekends and require an on-the-spot response at any time, eg at 1 am on a Sunday of an Easter long weekend.

In our view Goode Beach is essentially a residential suburb where people who value the environment, the beauty, peace and natural surroundings of our isolated suburb, have chosen to

live. Permanent residents are often, but not always older, always respectful of others needs, helpful and quiet and generally have small numbers of persons per home.

For many years until roughly six months ago, 28 Karrakatta Road has been a short term rental property. It is a single storey, low profile brick house discretely situated in a bushy garden. This appears to have been a suitable, well managed short term rental house. Immediate neighbours who have always lived next door, say they have had no cause for complaint about people in the house. As outlined above, the situation at no 35 Karrakatta Road is very different and this house does not lend itself to successful short term rental usage. This has been borne out by past experience.

We feel that until the noise issues raised in point 1 (page 1) are addressed, the house would be a disturbance to neighbours whoever occupies it.

We therefore respectfully submit our considered opinion that Council should reject the proponent's application regarding short-term rental approval for this property.

We should be happy to meet with Council representatives to discuss the matter further.

Yours faithfully



27th May 2012
Reference A14122/PA37903/P2120093

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



City of Albany Records
Doc No: ICR1266314
File: DB.PSC.1
Date: 29 MAY 2012
Officer: SPLAN2

Attach:
Box
Vol
Box+Vol:

Dear Sir/Madam

Re Notice of Application for Planning Consent (Tourist Accommodation 35 Karrakatta Rd)

In reference to your letter dated 10th May, the attached management plan for 35 Karrakatta Rd submitted by Private Property Booking Agency has gone to great lengths to highlight their credentials, management history and skills, like conditions of stay, blacklisting of problem guests and what will not be tolerated by users but there are more fundamental issues that needs to be considered and these are whether the properties construction (over 10 years ago), the materials used for construction, its topographic location and its access difficulties, lend itself to holiday accommodation. I believe there are considerable deficiencies in these areas that if not addressed will cause regular aggravation and impact on adjacent residents.

The noise that emanates from the property is significant, is the current single biggest issue, and is largely due to non-existent insulation on the floor areas which are totally open to the underside of the residence. This seems to create an echo or magnifying effect .Our house is some 50 metres from this residence but we hear the foot traffic/movement noise regularly , without any difficulty and loud enough to be an annoyance.

My question to the Local Authority is: - if you received an application to build a holiday accommodation house at 35 Karrakatta Rd Goode Beach, in a single residential zoned area that has the potential to sleep 10 persons. Would it be approved? If not then I cannot see how approval can now be granted and no further discussion is needed on this matter. If however the answer is yes then what conditions will be placed on the development, because these conditions, current conditions i.e. 2012 conditions need to be applied as the properties use is now changing from a private dwelling which is its original planning approval to a commercial entity. If these conditions are now waived, reduced or modified due to the property already being used illegally as holiday accommodation then it seems to me that the owner/owners of No 35 have achieved a result at the expense of the surrounding ratepayers i.e. Getting a belated approval with reduced requirements.

I also find it extremely cynical that the property is still being advertised with a new web site. Have the owners been given approval? Has this application for planning consent already been decided? Are we wasting our time commenting on this proposal? Changes have been made to the number of guests in the advertising on this web site from 10 persons, some 5 weeks age, to now 6 to align with the Councils Holiday Accommodation Policy. Is this all that will be required of the applicant?

Your Holiday Homes Policy mentions the need to provide for 2 car bays and space for boat/trailer/caravan etc. this property provides space for two vehicles but does not lend itself to access for these other types of additional vehicles due to the very steep drive and lack of space and these vehicles regularly park on the road. I say road and not the road verge as at this location there is no verge space to talk about and the road is only 5.4m wide. These additional vehicles cause all other cars etc. to cross to the wrong side of the road and any pedestrians movements are severely hindered.

I see also under your policy that accommodation in a residential area is for a maximum of 6 persons. If approval is granted to operate as holiday accommodation I wonder how the Council is going to control/police the property @6 persons when it has for the last 10 plus years operated as an upmarket accommodation for up to **10 persons**(10 beds are currently provided). With an asking rent in summer of \$3000 pw and 10 sleeping facilities there is going to be a continual problem of more than 6 persons staying at this house. If the answer to this questions is that it will be up to neighbours to ensure that the conditions of approval are not exceeded then I think that answers the question the Council's rules/conditions approval processes have failed.

In all I cannot support the proposed use of this property, in its current status, as holiday accommodation.

Jan Van Der Mescht

Subject: FW: EF1266201 - A14122 - FW: Feedback form

Postal Address:
(none specified)

Attention: CEO

We have just received advice about the application for a proposed tourist accommodation at 35 Karrakatta Road Goode Beach, reference P2120093. A written response would not reach you by the closing date.

Firstly I would point out that this property has been used for tourist accommodation since we arrived 6 years ago!

This property is a pole house with bare floorboards resulting in very loud noises when there are people moving around and terrible when there are children.

Generally our views are:

- noise level of visitors in the house and on balcony penetrating neighbouring residential properties
 - lack of insulation to reduce noise transfer
 - noise of holiday makers partying with loud music late into the night
 - number of people in the holiday accommodation (10 persons though numbers recently reduced to 6)
 - holiday makers parking vehicles and trailers on road
 - dustbins left unattended and at times smelling on roadside
- We therefore do not support the application, or if allowed that the house has to be sound insulated, visitor numbers restricted, and some regulatory conditions for visitors considering the residential area, such as a curfew at 10pm.

IP Address: 78.86.51.91

Referer:

<http://www.albany.wa.gov.au/website/page.php?main=feedback&receiver=10&folder=21a>

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Your ref: A14122/PA37903/P2120093

Atten: Chief Executive Officer

Re: Tourist Accommodation at 35 Karrakatta Road, Goode Beach

Dear Sir,

Thank you for the letter from Mr. Jan Van Der Mescht regarding the application for the above mentioned property.

We are very supportive of this application for Tourist Accommodation.

Over the years our family has stayed at several different properties in the Goode Beach area and we believe this kind of accommodation is needed for families looking to enjoy the beach and tourist attractions nearby. Furthermore, we have no doubt such accommodation brings significant advantage to many businesses in the main Albany shopping area.

We note from the information you have provided, that the property appears to be managed and marketed very professionally.

Yours sincerely,



Doc No:	City of Albany Records
File:	ICR1266159
Date:	A14122
Officer:	28 MAY 2012
	SPLAN2

Attach:
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