



MINUTES

Ordinary Meeting of Council

Tuesday 24 August 2021

6.00pm

Council Chambers

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



ORDINARY COUNCIL MEETING
MINUTES – 24/08/2021

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1. DECLARATION OF OPENING

The Mayor declared the meeting open at 6.00pm.

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

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

We would also like to pay respect to Elders past, present and emerging”.

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor

D Wellington

Councillors:

Breaksea Ward

P Terry

Breaksea Ward

R Hammond

Frederickstown Ward

G Stocks (Deputy Mayor)

Kalgan Ward

E Doughty

Kalgan Ward

M Benson-Lidholm JP

Vancouver Ward

T Sleeman

Vancouver Ward

J Shanhun

West Ward

A Goode JP

West Ward

S Smith

Yakamia Ward

R Sutton

Yakamia Ward

C Thomson

Staff:

Chief Executive Officer

A Sharpe

Executive Director Corporate & Commercial Services

D Olde

Executive Director Infrastructure, Development
& Environment

P Camins

Executive Director Community Services

N Watson

Manager Planning and Building Services

J van der Mescht

Meeting Secretary

J Williamson

Apologies:

Frederickstown Ward

Vacant

Three members of the media and approximately 75 members of the public were in attendance.

4. DISCLOSURES OF INTEREST

Name	Report Item Number	Nature of Interest
Executive Director Community Services Mr Nathan Watson	CCS373	Impartiality. The nature of the interest being that Mr Watson is a former financial member of the Emu Point Tennis Club and remains a partially active player using their facilities. Mr Watson's father-in-law is also a current office bearer of the Emu Point Tennis Club. Mr Watson remained in the Chamber and was present during the discussion and vote for this item.
Councillor Shanhun	CCS375	Impartiality. The nature of the interest being that Councillor Shanhun is the nominee to the Museum of the Great Southern Advisory Committee. Councillor Shanhun left the Chamber and was not present during the discussion and vote for this item.
Councillor Thomson	CCS375	Impartiality. The nature of the interest being that Councillor Thomson is an unpaid community member of the advisory committee in question. Councillor Thomson remained in the Chamber and participated in the discussion and vote for this item.
Councillor Thomson	DIS266	Impartiality. The nature of the interest being that Councillor Thomson lodged a submission during the public comment period for this agenda item. Councillor Thomson remained in the Chamber and participated in the discussion and vote for this item.
Councillor Hammond	DIS273	Impartiality. The nature of the interest being that during early 2021 Councillor Hammond attended an inconclusive, informal meeting attended by representatives of Harvest Road Pty Ltd and Intepredata Pty Ltd. The purpose of the meeting was to raise awareness of locally available technology. Councillor Hammond's role was merely a casual observer representing the interests of Quantifie Pty Ltd, a shareholder of Interpretdata Pty Ltd. Councillor Hammond remained in the Chamber and participated in the discussion and vote for this item.
Councillor Smith	DIS270	Proximity. The nature of the interest being that Councillor Smith is the joint owner of a property adjacent to the subject site. Councillor Smith left the Chamber and was not present during the discussion and vote for this item.
Councillor Stocks	DIS273	Financial. The nature of the interest being that Councillor Stocks has had preliminary discussions on behalf of his company, of which he is the Managing Director, with a view to forming a financial relationship with Harvest Road and Leeuwin Coast. Councillor Stocks left the Chamber and was not present during the discussion and vote for this item.
Councillor Thomson	DIS268	Impartiality. The nature of the interest being that two of the proponents (not the land that DIS268 applies to) are Councillor Thomson's next door neighbours. Councillor Thomson remained in the Chamber and participated in the discussion and vote for this item.

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Name	Report Item Number	Nature of Interest
Councillor Benson-Lidholm	DIS266	Impartiality. The nature of the interest being that Betty's Beach, both North and South, is a licensed Salmon and Herring commercial fishing beach. A member of Councillor Benson-Lidholm's extended family is a commercial Salmon and Herring fisher at Betty's Beach. As Chair of the Southern Seafood Producers (WA) Association, Councillor Benson-Lidholm receives no direct financial gain from commercial fishing operations at Betty's Beach. Councillor Benson-Lidholm remained in the Chamber and participated in the discussion and vote for this item.

5. REPORTS OF MEMBERS

6.03pm Councillor Hammond

Councillor Hammond stated that he was concerned over comments by the Friends of Emu Point regarding the Harvest Road proposal. Councillor Hammond stressed that he has most certainly not ignored concerns expressed by the Friends of Emu Point regarding the proposed aquaculture industry, and hoped that all parties would work together to ensure the best outcome. Councillor Hammond offered his sincere apologies to the Friends of Emu Point.

6.04pm Councillor Smith

Councillor Smith said that FOGO (Food Organics and Garden Organics) is a laudable initiative, reducing organic waste going into land fill and recycling as compost. Councillor Smith also said that it was interesting to note that of second hand clothing being sent to Ghana, over 40% was going to landfill, or polluting water ways.

Councillor Smith said that a new initiative to make bricks from end of life garments-FabBRICKS- is an exciting new idea. On average, one fabBRICK contains the equivalent of two t-shirts. The production of FabBRICKS uses no energy as it is hand operated. FabBRICKS are fire and moisture resistant, with good thermal and acoustic properties.

6.07pm Councillor Thomson

Councillor Thomson said the he accepted Councillor Hammond's apology regarding Friends of Emu Point, and noted Councillor Hammond's nomination for a Long and Loyal Service to Local Government Award.

6.08pm. Councillor Sutton

Councillor Sutton said that projects such as the Pump Track, the Artificial Surf Reef and Motorplex would be wonderful assets in retaining youth in the City of Albany. Councillor Sutton said that the Pump Track was proving hugely popular for all ages and congratulated City staff on the project, which is still to be completed. Councillor Sutton urged Pump Track users to wear PPE, and suggested that the City look at installing CCTV cameras and reducing the speed limit in the area to improve safety for users.

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE Nil

7. PUBLIC QUESTION TIME

In accordance with City of Albany Standing Orders Local Law 2014 (as amended):

- 5) *The Presiding Member may decide that a public question shall not be responded to where—*
(a) the same or similar question was asked at a previous Meeting, a response was provided and the member of the public is directed to the minutes of the Meeting at which the response was provided;
(b) the member of the public asks a question or makes a statement that is offensive, unlawful or defamatory in nature, provided that the Presiding Member has taken reasonable steps to assist the member of the public to rephrase the question or statement in a manner that is not offensive, unlawful or defamatory.

6.10pm Mr Bruce Mattinson, Kalgan

Summary of key points:

Mr Mattinson addressed Council regarding DIS266: Vehicles on Beaches. Mr Mattinson is not in favour of allowing vehicles on Nanarup Beach West.

6.15pm Mr Kim Snowball, on behalf of Friends of Emu Point

Summary of key points:

Mr Snowball addressed Council regarding DIS273: Aquaculture Facility (Stage 2)-2 Swarbrick Street, Emu Point. Mr Snowball's tabled address is detailed at Appendix A.

6.19pm Ms Karla Kinnear, Nanarup

Summary of key points:

Ms Kinnear addressed Council regarding DIS266: Vehicles on Beaches. Ms Kinnear is not in favour of allowing vehicles on Nanarup Beach West.

6.22pm Jane Bell, Wylie Crescent, Middleton Beach

Summary of key points:

Ms Bell addressed Council regarding DIS266: Vehicles on Beaches. Ms Bell is not in favour of allowing vehicles on Nanarup Beach West.

6.27pm Mr Darren Russell, Emu Point Slipway Services

Summary of key points:

Mr Russell addressed Council regarding DIS273: Aquaculture Facility (Stage 2)-2 Swarbrick Street, Emu Point. Mr Russell said that he considered the community engagement and consultation around this proposal had been inadequate, and that his concerns regarding the proposal had not been addressed.

6.29pm Mr Justin Welsch, Harvest Road Pty Ltd

Summary of key points:

Mr Welsch addressed Council on behalf of the proponent regarding DIS273: Aquaculture Facility (Stage 2)-2 Swarbrick Street, Emu Point. Mr Welsch said that there had been overwhelming support for the proposal from the wider community.

6.32pm Mr Tony Harrison, Little Grove

Summary of key points:

Mr Harrison addressed Council regarding DIS267: Emu Beach Foreshore Management Plan. Mr Harrison said that the groyne was always going to fail, and a breakwater also caused problems with erosion at Emu Point.

6.36pm Mr Theo Newhouse, on behalf of Great Southern Motorplex

Summary of key points:

Mr Newhouse said that after three and a half years of work, the proposal to rezone the site on Down Road had received Ministerial approval. Mr Newhouse said that the proposal would now be the subject of a 1142 page Development Approval for consideration by the Joint Development Assessment Panel.

6.40pm Mr Peter Speldewinde, Bayonet Head

Summary of key points:

Mr Speldewinde addressed Council regarding DIS266: Vehicles on Beaches. Mr Speldewinde expressed concern over damage to macro invertebrate's biomass should vehicles be allowed on beaches. Mr Speldewinde said that periodic closures to allow regeneration of the biomass could be considered as part of a management plan.

6.44pm Mr Jacob Podlich, McKail

Summary of key points:

Mr Podlich addressed Council regarding the public consultation process for DIS266: Vehicles on Beaches. Mr Podlich said that the consultation process is flawed, and the City should be empowering community members to drive community consultation and engagement.
DIS266 public consultation process flawed.

6.47pm Mr Don Phillips, 314 Frenchman Bay Road

Summary of key points:

Mr Phillips addressed Council regarding the recent Water Corporation sewerage spill into Yakamia Creek.

6.51pm Edwin McLean, Spencer Street, Albany

Summary of key points:

Mr McLean addressed Council as one of the proponents of DIS268: Local Planning Scheme Amendment No.38- Lots 33, 35, 37 & 121 Cockburn Road and Lots 100 & 102 Prior Street, Centennial Park. Mr McLean said that he wished for the Scheme Amendment to proceed.

There being no further speakers, the Mayor declared Public Question Time closed at **6.53pm**.

8. APPLICATIONS FOR LEAVE OF ABSENCE

RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR THOMSON

THAT:

- 1. Councillor Hammond be GRANTED Leave of Absence for the period 13 September 2021 to 20 September 2021 inclusive.**
- 2. Councillor Stocks be GRANTED Leave of Absence for the period 06 September 2021 to 17 September 2021 inclusive.**

CARRIED 12-0

9. PETITIONS AND DEPUTATIONS Nil

10. CONFIRMATION OF MINUTES

RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR DOUGHTY

THAT the minutes of the Ordinary Council Meeting held on 27 July 2021, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 12-0

11. PRESENTATIONS Nil

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil

CCS365: ALBANY BICENTENARY: GOVERNANCE MODEL

Proponent / Owner	: City of Albany
Attachments	1. Albany Bicentenary Governance Model 2. Terms of Reference – Advisory Group 3. Terms of Reference – Menang Noongar Reference Group 4. Terms of Reference – Community Reference Group 5. Terms of Reference – Commercial and Industry Reference Group.
Report Prepared By	: Bicentenary Coordinator (B Findlay)
Authorising Officer:	: Executive Director Community Services (N Watson)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Community Strategic Plan or Corporate Business Plan informing plans or strategies:

Theme: Leadership, Smart, Prosperous and Growing

Objective:

- To establish and maintain sound business and governance structures.
- Encourage, support and deliver significant events that promote our region and have a positive economic and social benefit.
- To develop and promote Albany as a unique and sought-after visitor location.

Community Priority:

- Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflects the level of associated risk and is adequately explained to the community.
- Our City regularly hosts significant events and activities which attract positive feedback.
- Encourage, support and deliver significant events that promote our region and have a positive economic and social benefit.

In Brief:

- To seek Council's support of the governance framework for the planning and delivery of the 2026 Albany Bicentenary.

COVID-19 Impact:

2. Preliminary work was undertaken across 2018-2019 around scoping a high-level discussion paper for 2026, but progress towards strategic planning and engagement for the Bicentenary was stalled by the COVID-19 pandemic.

RECOMMENDATION

CCS365: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS

SECONDED: COUNCILLOR THOMSON

THAT the City of Albany Bicentenary Governance Model be ENDORSED.

CARRIED 12-0

CCS365: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR STOCKS

SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the Authorising Officer Recommendation be ADOPTED

CARRIED 11-0

CCS365: AUTHORISING OFFICER RECOMMENDATION

THAT the City of Albany Bicentenary Governance Model be ENDORSED.

BACKGROUND

3. Albany is the traditional lands of the Menang Noongar people and, in 1826, became the first European settlement in Western Australia, established three years before the Swan River Colony (now Perth).
4. Within this context, it is fully recognised that place anniversaries in Australia – marking points in time of European history – mean different things to different people.
5. To some, these occasions recognise the foundations of one of the most successful and peaceful western liberal democracies in the world. But for one of the oldest living cultures in the world, it means something very different. With this in mind, planning for the acknowledgement of Western Australia's bicentenary requires a careful and sensitive whole-of-community approach.
6. Albany's Bicentenary in 2026 is a significant opportunity for Albany to realise its potential as a cultural destination in regional WA.
7. Albany has a deeply rooted Aboriginal heritage, proud military history – notably as the departure point for the Anzacs in 1914 – has a strong contribution to music and arts, well-recognised, beautiful and diverse landscapes and coastlines, including access to World Heritage biodiversity hotspots, and historically-significant streetscapes and architecture.
8. Work on the project re-commenced in January 2021 and a governance model has been developed to guide the City's engagement with the community and key stakeholders to develop a scope for the Bicentenary.

DISCUSSION

9. The governance model for the Bicentenary project acknowledges the role of the City of Albany as the key stakeholder and project leader.
10. The purpose of the Terms of Reference which support the governance model is to enable funding advocacy and project partnerships which will lead to the successful delivery of the Bicentenary project.
11. The Terms of Reference may be reviewed as planning progresses to include specific personnel or groups considered vital to the successful delivery of the project.
12. The purpose of the proposed model is to demonstrate the integrated and holistic approach in formulating a suitable response to the Bicentenary. As the project develops, this model may be reviewed to incorporate personnel or groups considered relevant to delivery.
13. Core to the governance structure is engagement and collaboration between the City of Albany and key stakeholder groups within the Community.
14. The Terms of Reference will guide and inform community engagement and consultation for the Bicentenary, and cover the Bicentenary Advisory Group and three specific Reference Groups representing the Menang-Noongar community, Community at large, and the Commercial and Industry sector.
15. Inclusion of a Commercial and Industry Reference Group is a direct response to learnings from the 2014 Anzac Centenary to ensure business and industry is better represented and engaged as part of the planning and delivery of the Bicentenary.

16. The Advisory Committee and Reference Groups will develop an initial scope of works necessary to progress the delivery the Bicentenary. An infographic and Terms of Reference for groups have been developed to provide clarity on the governance arrangements, noting:
 - a. The proposed Key Objectives, General Responsibilities and Membership Arrangements of each group are outlined within the respective Terms of Reference; and
 - b. A Local Implementation Group will be developed following delivery of a prospectus in order to progress delivery of the Bicentenary.
 - c. A Bicentenary Book working group and relevant Terms of Reference will be developed to oversee and coordinate the production and publication of a contemporary history of Albany, in the form of a hard cover illustrated book for the Bicentenary, as per the resolution of Council at the Ordinary Council Meeting held on 28 July 2020.
17. Following Council endorsement, the membership of all groups will be finalised consistent with the arrangements detailed within each group's Terms of Reference and a further report will be provided to Council to endorse the membership

GOVERNMENT & PUBLIC CONSULTATION

18. The proposed model is intended to ensure broad consultation and collaboration with the community surrounding the Bicentenary project.
19. The Advisory Group and dedicated Reference Groups are intended to support the City of Albany as key advocates for the Bicentenary.
20. Members will work in collaboration with the City of Albany to collate the ideas, aspirations and needs of their communities or sectors.
21. City officers have sought advice from members of the Advisory Group regarding the governance model and nomenclature.
22. Following feedback from Council, officers have revised the infographic to better reflect the collaborative intent of the proposed model.

STATUTORY IMPLICATIONS

23. Nil.

POLICY IMPLICATIONS

24. Nil.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Operational. <i>Risk: The governance model and Terms of Reference are not adopted</i>	Possible	Major	High	Review the governance model and Terms of Reference in consultation with elected members and the Advisory Group and re-present to Council for their consideration.
Reputational. <i>Risk: The opportunity to achieve broader cultural acknowledgement and reconciliation as key outcomes of 2026 is missed.</i>	Possible	Major	High	Establish a framework that fosters collaboration with the Menang Noongar community and facilitates Noongar engagement and involvement in 2026 outcomes.
Reputational. <i>Risk: The Bicentenary project does not meet community expectations.</i>	Possible	Major	High	Ensure that the governance model and Terms of Reference facilitate engagement and collaboration with all sectors of the community to create defined outcomes for the Bicentenary.
Opportunity: To formalise a governance structure that enables the involvement of community and key stakeholders in achieving coordinated and collaborative planning and delivery of the 2026 Albany Bicentenary.				

FINANCIAL IMPLICATIONS

26. A budget allocation of \$150,000 per financial year for operational planning of the Bicentenary project has been included in the City of Albany's long-term financial planning.
27. A budget allocation of \$30,000 has been included in the 2021-2022 Budget for the production and publication of a book for the Bicentenary, as resolved by Council at the Ordinary Council Meeting held on 28 July 2020.
28. The City of Albany's long term financial plan includes annual allocations to a Reserve for delivery of the Bicentenary in 2026 and will be used to leverage additional State and Federal funding at the appropriate time.
29. A funding application was submitted under Round 5 of the Building Better Regions Fund to resource the consultation phase of the project. An outcome on this application is expected by August 2021.

LEGAL IMPLICATIONS

30. Nil.

ENVIRONMENTAL CONSIDERATIONS

31. Nil.

ALTERNATE OPTIONS

32. Council may choose not to endorse the Governance Model and associated Terms of Reference.
33. Council may choose to revise and amend the Governance Model and associated Terms of Reference.

CONCLUSION

34. The 2026 Bicentenary presents an opportunity for Albany to lead the way in large scale, collaborative community projects and achieve greater cultural acknowledgement and inclusion as legacy outcomes of the significant Bicentennial milestone.
35. This Governance Model has been developed to support and facilitate consultation, engagement and collaboration with the Albany community and achieve input from key stakeholder groups into the scope for 2026.
36. The proposed Model and Terms of Reference will be reviewed as required as the project develops.
37. Officers are seeking Council's endorsement of the Governance Model for the Albany Bicentenary in order to progress the project and resolve full membership of all the groups.

Consulted References	:	Nil
File Number (Name of Ward)	:	All wards
Previous Reference	:	15.2 OCM 28/07/2020

CCS368: FINANCIAL ACTIVITY STATEMENT – JUNE 2021

Proponent / Owner : City of Albany
Attachments : Financial Activity Statement - June 2021
Report Prepared By : Manager Finance (S Van Nierop)
Authorising Officer: : Executive Director Corporate & Commercial Services (D Olde)

COVID-19 IMPACT

- Impacts to the financial performance of the City are detailed in the 'Explanation of Material Variances to the YTD Budget in Excess of \$100,000' (Note 1) of the Attachment to this report (Statement of Financial Activity).

RECOMMENDATION

CCS368: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR TERRY

THAT the Financial Activity Statement for the period ending 30 June 2021 be RECEIVED.

CARRIED 12-0

CCS368: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR GOODE

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

CCS368: AUTHORISING OFFICER RECOMMENDATION

THAT the Financial Activity Statement for the period ending 30 June 2021 be RECEIVED.

BACKGROUND

1. The Statement of Financial Activity for the period ending 30 June 2021 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Activity, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

DISCUSSION

3. In accordance with section 34(1) of the *Local Government (Financial Management) Regulations 1996*, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.
5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. Variations in excess of \$100,000 are reported to Council.
6. These financial statements are still subject to further year-end adjustments and have not been audited by the appointed auditor.

“Please note that rounding errors may occur when whole numbers are used, as they are in the reports that follow. The ‘errors’ may be \$1 or \$2 when adding sets of numbers. This does not mean that the underlying figures are incorrect.”

STATUTORY IMPLICATIONS

7. Section 34 of the *Local Government (Financial Management) Regulations 1996* provides:
 - I. A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22 (1)(d), for that month in the following detail:
 - a. annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - b. budget estimates to the end of the month to which the statement relates; and
 - c. actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - d. material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - e. the net current assets at the end of the month to which the statement relates.
 - II. Each statement of financial activity is to be accompanied by documents containing –
 - a. an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - b. an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - c. such other supporting information as is considered relevant by the local government.
 - III. The information in a statement of financial activity may be shown –
 - a. according to nature and type classification; or
 - b. by program; or
 - c. by business unit.
 - IV. A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
 - a. presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - b. recorded in the minutes of the meeting at which it is presented.
 - V. Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances

POLICY IMPLICATIONS

8. The City’s 2020/21 Annual Budget provides a set of parameters that guides the City’s financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

FINANCIAL IMPLICATIONS

10. Expenditure for the period ending 30 June 2021 has been incurred in accordance with the 2020/21 proposed budget parameters.
11. Details of any budget variation in excess of \$100,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

File Number (Name of Ward)	:	FM.FIR.7 - All Wards
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CCS369: LIST OF ACCOUNTS FOR PAYMENT – JULY 2021

Business Entity Name : City of Albany
Attachments : List of Accounts for Payment
Report Prepared By : Manager Finance (S Van Nierop)
Authorising Officer: : Executive Director Corporate and Commercial Services (D Olde)

STRATEGIC IMPLICATIONS

- This item relates to the following elements of the City of Albany Strategic Community Plan:

Theme: Leadership.

Objective: To establish and maintain sound business and governance structures

Community Priority: Implement systems and controls that ensure the prudent use of rates and ensure value for money in all aspects of Council operations.

IN BRIEF

- Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the City's municipal and trust funds.
- In accordance with Regulation 13 of the Local Government (Financial Management) Regulations 1996, a list of accounts paid by the Chief Executive Officer is to be provided to Council.

RECOMMENDATION

CCS369: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR SUTTON

THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 July 2021 totalling \$9,740,856.90 be RECEIVED.

CARRIED 12-0

CCS369: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR SMITH

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

CCS369: AUTHORISING OFFICER RECOMMENDATION

THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 July 2021 totalling \$9,740,856.90 be RECEIVED.

DISCUSSION

- The table below summarises the payments drawn from the municipal fund for the period ending 15 July 2021. Please refer to the Attachment to this report.

Municipal Fund	
Trust	\$0.00
Credit Cards	\$28,407.17
Payroll	\$2,295,328.36
Cheques	\$35,468.16
Electronic Funds Transfer	\$7,381,653.21
TOTAL	\$9,740,856.90

3. The table below summaries the total outstanding creditors as at 15 July 2021.

Current	\$231,071.92
30 Days	\$8,200.00
60 Days	\$9,271.59
90 Days	-\$50,097.43
TOTAL	\$198,446.08
Cancelled Cheques	Nil

STATUTORY IMPLICATIONS

4. Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996, provides that payment may only be made from the municipal fund or a trust fund if the Local Government has delegated this function to the Chief Executive Officer or alternatively authorises payment in advance.
5. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
6. Regulation 13 of the *Local Government (Financial Management) Regulations 1996* provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.

POLICY IMPLICATIONS

7. Expenditure for the period to 15 July 2021 has been incurred in accordance with the 2020/2021 budget parameters & the 2021/2022 DRAFT budget parameters.

FINANCIAL IMPLICATIONS

8. Expenditure for the period to 15 July 2021 has been incurred in accordance with the 2020-21 and 2021-22 budget parameters.

CONCLUSION

9. That the list of accounts has been authorised for payment under delegated authority.
10. It is requested that any questions on specific payments are submitted to the Executive Director Corporate Services by 4pm of the day prior to the scheduled meeting time. All answers to submitted questions will be provided at the Committee meeting. This allows a detailed response to be given to the Committee in a timely manner.

Consulted References	:	<i>Local Government (Financial Management) Regulations 1996</i>
File Number (Name of Ward)	:	FM.FIR.2 – All Wards

CCS370: DELEGATED AUTHORITY REPORTS – JUNE 2021 to JULY 2021

Proponent / Owner : City of Albany
Attachments : Executed Document and Common Seal Report.
Report Prepared By : Personal Assistant to the ED Corporate & Commercial Services (H Bell)
Authorising Officer: : Chief Executive Officer (A Sharpe)

RECOMMENDATION

CCS370: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR SLEEMAN

THAT the Delegated Authority Reports 16 June 2021 to 15 July 2021 be RECEIVED.

CARRIED 12-0

CCS370: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR DOUGHTY
SECONDED: COUNCILLOR SHANHUN

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

CCS370: AUTHORISING OFFICER RECOMMENDATION

THAT the Delegated Authority Reports 16 June 2021 to 15 July 2021 be RECEIVED.

BACKGROUND

1. In compliance with Section 9.49A of the *Local Government Act 1995* and Part IV of the *Local Government (Functions and General) Regulations 1996* the attached report applies to the use of the Common Seal and the signing of documents under Council's Delegated Authority:
 - Delegation: 006 - SIGN DOCUMENTS ON BEHALF OF THE CITY OF ALBANY (Chief Executive Officer)
 - Delegation: 009 - GRANT FUNDING, DONATIONS, SPONSORSHIP
 - Delegation: 018 - CHOICE OF TENDER, AWARD CONTRACT

Consulted References	: Register of Delegations and Authorisations 2021-22
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CCS371: WRITE-OFF RATES DEBT REPORT AS AT 30 JUNE 2021

Proponent / Owner : City of Albany
Attachments : Write Off Rate Debt Report as at 30 June 2021.
Report Prepared By : Senior Finance Officer – Rates (G Shephard)
Authorising Officer: : Executive Director Corporate & Commercial Services (D Olde)

RECOMMENDATION

CCS371: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR SHANHUN

THAT the Write off Rates Debt Report as at 30 June 2021 be RECEIVED.

CARRIED 12-0

CCS371: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR SLEEMAN

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

CCS371: AUTHORISING OFFICER RECOMMENDATION

THAT the Write off Rates Debt Report as at 30 June 2021 be RECEIVED.

CCS372 : NATIONAL ANZAC CENTRE – Q4 2020-21 REPORT

Proponent / Owner	: City of Albany
Attachments	: National Anzac Centre (NAC) – Quarter 4 (Q4) 2020/21 Operational Report
Report Prepared By	: Manager Facilities (L Stone)
Authorising Officer:	: Executive Director Community Services (N Watson)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:

Theme: Smart Prosperous and Growing

Strategic Objectives:

- To strengthen our region's economic base; and
- To develop and promote Albany as a unique and sought after destination.

Community Priorities:

- Strengthen our economy by supporting business innovation and diversity; and
- Promote the Albany region as a sought after and iconic tourism destination.

In Brief:

- To provide Council with update on Q4 2020-21 performance of the National Anzac Centre (NAC).

RECOMMENDATION

**CCS372: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR SMITH**

THAT the NAC Operational Report for Q4 2020-21 be RECEIVED.

CARRIED 12-0

CCS372: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR SLEEMAN
SECONDED: MAYOR WELLINGTON**

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

CCS372: AUTHORISING OFFICER RECOMMENDATION

THAT the NAC Operational Report for Q4 2020-21 be RECEIVED.

BACKGROUND

2. The NAC is the City of Albany's most significant tourism asset.
3. The NAC represents a \$10.6 million investment from the Federal and State Government with an additional \$1.5 million invested by Wesfarmers for the construction of the Convoy Walk and Lookout.

4. The City of Albany manages this national museum and understands the importance of generating economic outcomes for the region using the NAC and the Albany Heritage Park (AHP) assets to encourage increased visitation and extended stays to the region.
5. The City established an independent NAC Advisory Group during the 2016/17 financial year to assist in the further development of both the NAC and AHP, to ensure the assets continue to evolve, aligned with contemporary museum standards. The NAC Advisory Group has been meeting quarterly since convening.
6. It was agreed in November 2018 that the NAC Advisory Group would now meet twice a year. The next meeting is planned for Oct 2021.
7. Council has budgeted a subsidy of \$250,000 annually for the operations of the NAC and the AHP and has established a reserve on the understanding that any surplus funds be reinvested and used to leverage additional grant funding to improve the asset.
8. This report template is reviewed regularly to ensure that the Community & Corporate Services Committee and the NAC Advisory Group receive all relevant information to assess its performance.

DISCUSSION

9. Q4 2020/21 achieved overall total visitation numbers of 415,171 visitors to the NAC since opening in November 2014. This equates to an average annual visitation of 62,275 visitors per year.
10. April NAC visitation numbers of 7,426 are in line with all previous years, outside of opening years and Field of Light.
11. May NAC Visitation of 4,226 is the second highest since opening, with May recording 5,707 in 2015.
12. June NAC visitation of 3,400 is the second highest since opening, with June recording 3,420 in 2015.
13. Total visitation for Q4 2020/21 decreased by 1,175 visitors compared to the same period in 2018/19, but was an increase of 13,401 compared to 19/20 due to the April-May closure related to COVID restrictions last year.
14. The visitation in Q4 2020/21 from the Great Southern Region totalled 1,193 people, equating to 11% of Western Australia's overall visitation of 10,951. (6.4% increase from previous quarter).
15. The total visitation in Q4 2020/21 originated from Western Australia (75%) and interstate (25%).
16. Visitors from other States and Territories consisted of 32% from NSW, 25% from VIC, 16% from SA, 17% from QLD, followed by TAS, ACT and NT all on 2-3%.
17. Revenue generated in Q4 2020/21 by the NAC was \$18,175 less compared to the previous quarter (Q3) in 2020/21. The Forts Store revenue of \$123,958 saw a minor decrease of \$1,715 compared to the Q3 period in 2020/21.
18. As at the end of Q4 2020/21, 5,311 households hold memberships to the NAC League of Local Legends program, an increase of 1,188 from the previous quarter.
19. The increase in memberships in Q4 of 2020/21 is directly attributed to the free-entry membership promotion for Great Southern residents offered from 1st January 2021 to 30th June 2021.

GOVERNMENT & PUBLIC CONSULTATION

20. Not Applicable.

STATUTORY IMPLICATIONS

21. Not Applicable.

POLICY IMPLICATIONS

22. Not Applicable.

RISK IDENTIFICATION & MITIGATION

23. Nil.

FINANCIAL IMPLICATIONS

24. Refer to the financial summary below for the National Anzac Centre full year budget and YTD position as at June 30, 2021.

25. Full year operating expenditure budget includes:

- a. \$199,000 of costs from accounts that are “shared” across the AHP. A total of \$774,000 of budgeted costs reported under the AHP have been deemed to be a shared cost, across the four reporting areas under the AHP (NAC, Retail, Forts, and AHP Precinct). For the purpose of presenting a standalone view of the NAC, managers have used their best judgement to notionally allocate the \$774,000 across the four areas. Significant shared expenses attributed to the NAC include shared employee costs (\$77,000 of the \$199,000), marketing, ground maintenance, internal service delivery, security, electricity, and insurance.

National ANZAC Centre	FY20/21 Budget	YTD Budget	YTD Actual	YTD Variance
Operating Income	\$805,500	\$805,500	\$1,016,016	\$210,516
Operating Expenditure	\$(529,001)	\$(529,001)	\$(399,638)	\$129,363
Net Operating Income/(Expense) before Indirect Costs	\$276,499	\$276,499	\$616,378	\$339,879
Indirect Expenses	\$(199,077)	\$(199,077)	\$(183,069)	\$16,008
Net Operating Income/(Expense)	\$77,422	\$77,422	\$433,309	\$355,888
Capital Expense	\$(492,882)	\$(492,882)	\$(119,047)	\$373,835
Total	\$(415,460)	\$(415,460)	\$314,262	\$729,722

LEGAL IMPLICATIONS

26. Nil.

ENVIRONMENTAL CONSIDERATIONS

27. Nil.

ALTERNATE OPTIONS

28. Council may request further development and refinement of the quarterly reporting tool including both content and frequency of reporting.

SUMMARY CONCLUSION

29. Overall Q4 2020/21 has shown a steady hold in numbers visiting the NAC, this is pleasing after the unknown impact on visitation from COVID.
30. Q4 has shown the highest numbers for May and June since 2014/15. The assumption being visitation from within our State is higher due to State border closures/restrictions, and the success of the League of Local Legends program membership promotion to all Great Southern residents.
31. Lower numbers in group bookings from bus tours and no Cruise ships is having an impact for this time of year.

32. Great Southern visitation to the NAC has increased from what has been a steady 1% of overall WA visitation in the past, to 11% during April – June period in Q4 2020/21.
33. This increase is credited to the expansion and promotion of the League of Local Legends program, and travel restrictions encouraging more Great Southern residents to explore their own backyards.
34. Interest in the Princess Royal Fortress and exhibitions has remained steady during Q4, with 910 people taking part in Princess Royal Fortress Tours.
35. Overall Q4 generated steady figures of attendance in the NAC and Fort Store sales, given the ongoing impact of interstate and international visitation.

Consulted References	:	Nil.
File Number (Name of Ward)	:	All Wards
Previous Reference	:	Nil.

CCS373: COMMUNITY SPORTING AND RECREATION FACILITIES FUND 2021/2022 SMALL GRANT ROUND APPLICATIONS

Attachments	:	Emu Point Sporting Club, Albany Pony Club, City of Albany, Correspondence and Project Assessment Sheet;; DLGSCI Community Sporting and Recreation Facilities Fund – Policy and Procedures 2022-2023 Funding Round; Policy for Community Sport and Recreation Facilities Small Grant Funding Policy
Report Prepared By	:	Acting Manager Recreation Services (M Green)
Responsible Officers:	:	Executive Director Community Services (N Watson)

Executive Director Community Services Mr Nathan Watson declared an Impartiality Interest in this item. Mr Watson remained in the Chamber during the discussion and vote for this item.

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** A Sense of Community.
 - **Objective:** To create interesting places, spaces and events that reflect our community's identity, diversity and heritage.
 - **Community Priority:** Provide positive leadership that delivers community outcomes.

In Brief:

- To seek Council endorsement of the priority ranking for the submitted Community Sport and Recreation Facility Fund (CSRFF) Small Grant funding round.
- To seek Council support to provide funding assistance through the City of Albany's Capital Seed Fund in line with the Council's Community Sports & Recreation Facilities Small Grant Funding Policy for the Emu Point Sporting Club and Albany Pony Club upon return of successful CSRFF Small Grant round applications.
- To seek Council support for the City of Albany application to the CSRFF Small Grant round for funding towards change room upgrades at Albany Leisure & Aquatic Centre, noting the City's application is not eligible for a contribution from the City's Capital Seed Fund and the City's contribution towards this project will come from its existing Capital Works budget.

RECOMMENDATION

CCS373: RESOLUTION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS

SECONDED: COUNCILLOR THOMSON

THAT Council RANK the CSRFF applications in the following order for the CSRFF small grant July 2021 Funding Round:

1. Emu Point Sporting Club – Court Resurfacing (Ranked one of three)
2. Albany Pony Club – Installation of Storage Shed (Ranked two of three)
3. City of Albany – Changeroom Upgrades (Ranked three of three)

CARRIED 12-0

CCS373: RESOLUTION 2
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR DOUGHTY

THAT Council APPROVE a total of \$39,572.00 (exc. GST) from the 2021/2022 Capital Seed Fund budget as the Councils commitment towards the CSRFF small grant applications as follows;

- a) Emu Point Sporting Club (\$30,000.00) and Albany Pony Club (\$9,572.00);**
- b) This funding will still be allocated even if the funding application is unsuccessful, providing applicants can demonstrate that projects will be completed and acquitted using funding from other sources; and**
- c) The funding amount does not exceed a total of \$39,572.00 (exc. GST)**

CARRIED 12-0

CCS373: RESOLUTION 3
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR SLEEMAN

THAT Council NOTE:

- 1. The ALAC Change rooms project is not eligible for the City's Capital Seed Funding, however, this project is eligible for one third funding through the State Government CSRFF Small Grant Program.**
- 2. If the application to CSRFF is successful for one third funding, the additional two thirds to complete this project will be covered from an existing Capital Works Budget allocation in the current 2021-22 budget, or other funding sources; and**
- 3. Should the City of Albany's CSRFF application be unsuccessful, other external funding sources will be explored or the project will be re-scoped to fit the existing Capital Works Budget allocation.**

CARRIED 12-0

CCS373: COMMITTEE RECOMMENDATION 1

MOVED: COUNCILLOR THOMSON
SECONDED: COUNCILLOR SUTTON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

CCS373: AUTHORISING OFFICER RECOMMENDATION 1

THAT Council RANK the CSRFF applications in the following order for the CSRFF small grant July 2021 Funding Round:

- 1. Emu Point Sporting Club – Court Resurfacing (Ranked one of three)**
- 2. Albany Pony Club – Installation of Storage Shed (Ranked two of three)**
- 3. City of Albany – Changeroom Upgrades (Ranked three of three)**

CCS373: COMMITTEE RECOMMENDATION 2

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR SMITH

THAT The Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

CCS373: AUTHORISING OFFICER RECOMMENDATION 2

THAT Council APPROVE a total of \$39,572.00 (exc. GST) from the 2021/2022 Capital Seed Fund budget as the Councils commitment towards the CSRFF small grant applications as follows;

- a) Emu Point Sporting Club (\$30,000.00) and Albany Pony Club (\$9,572.00);
- b) This funding will still be allocated even if the funding application is unsuccessful, providing applicants can demonstrate that projects will be completed and acquitted using funding from other sources; and
- c) The funding amount does not exceed a totals of \$39,572.00 (exc. GST)

CCS373: COMMITTEE RECOMMENDATION 3

MOVED: COUNCILLOR DOUGHTY
SECONDED: MAYOR WELLINGTON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

CCS373: AUTHORISING OFFICER RECOMMENDATION 3

THAT Council NOTE:

1. The ALAC Change rooms project is not eligible for the City's Capital Seed Funding, however, this project is eligible for one third funding through the State Government CSRFF Small Grant Program.
2. If the application to CSRFF is successful for one third funding, the additional two thirds to complete this project will be covered from an existing Capital Works Budget allocation in the current 2021-22 budget, or other funding sources; and
3. Should the City of Albany's CSRFF application be unsuccessful, other external funding sources will be explored or the project will be re-scoped to fit the existing Capital Works Budget allocation.

BACKGROUND

2. The Community Sport and Recreation Facilities Fund (CSRFF) administered by the Department of Local Government, Sport and Cultural Industries (DLGSCI) has three rounds of available funds including:
 - Small Grant Funding Round (Summer)
 - Annual and Forward Planning Funding Round
 - Small Grant Funding Round (Winter)
3. The CSRFF program is a \$12 million program. All three rounds are often oversubscribed and clubs may need to reapply on a number of occasions to be successful.
4. The Small Grants Round targets community sport projects where the financial value of the total project is up to \$300,000 and is delivered within a 12-month period.
5. Applicants must be either a local government authority or a not-for-profit sport or community organisation incorporated under the WA Associations Incorporation Act 1987.
6. Clubs and local government authorities applying for funds must demonstrate equitable access to the public on a short term and casual basis.

7. The land on which the facility is to be developed must be one of the following:
 - Crown reserve
 - Land owned by a public authority
 - Municipal property
 - Land held for public purposes by trustees under a valid lease, title or trust deed that adequately protects the interests of the public.
8. Whilst there is no obligation for Local Government to contribute to the community sporting projects, local government is viewed as a key funding partner in supporting improved community sporting amenities.
9. The City of Albany has a Community Sports & Recreation Facilities Small Grant Funding Policy to guide how it will allocate funding through its annual Capital Seed Fund towards community sporting projects applying for CSRFF funding.
10. The DLGSCI – Sport and Recreation application form requires applications to be initially submitted to the Local Government within which the project proposal is located.
11. The CSRFF funding application process requires Local Government to assess all relevant applications and to rank the applications in priority order for the municipality. The applications are then submitted to DLGSCI on behalf of the applicants prior to August 31, 2021.
12. Once the assessment process from Local Government Authorities is complete, all applications received from Western Australian organisations are assessed by the relevant State Sporting Association and the DLGSCI – Sport and Recreation CSRFF Committee against a number of criteria, with the final decision on funding being at the discretion of the Minister for Sport and Recreation.

DISCUSSION

13. The DLGSCI grant guidelines require Council to provide a ranking for the projects.
14. The DLGSCI – Sport and Recreation provides guidelines for Local Government Authorities to assess each submission. This assessment uses the following criteria and a project rating of satisfactory/unsatisfactory or not relevant:
 - Project justification
 - Planned approach
 - Community input
 - Management planning
 - Access and opportunity
 - Design
 - Financial viability
 - Coordination
 - Potential to increase physical activity
 - Sustainability
15. With overall project rating, being:
 - Well planned and needed by municipality
 - Well planned and needed by applicant
 - Needed by municipality, more planning required
 - Needed by applicant, more planning required
 - Idea has merit, more planning work needed
 - Not recommended

16. The type of projects which will be considered for funding through the CSRFF program include:
 - New playing surfaces - ovals, courts, synthetic surfaces etc;
 - Floodlighting projects (must be to Australian Standards);
 - Change rooms and ablutions;
 - Sports storage.
17. Projects are ranked on the strength of the application, participation numbers, and ability to increase physical activity and potential impact as well as consultation with the Department of Local Government, Sport and Cultural Industries – Sport and Recreation and the applicant.
18. Projects that are directly related to the delivery of the sport (surface or grounds) or will increase participation (lighting) are usually ranked higher over those that support the sporting environment.
19. The City of Albany has engaged a peer review independent of the City's administering officers to review the City's assessment process and subsequent ranking of projects. The independent assessment panel involved the following representatives:
 - Chief Executive Officer Shire of Jerramungup, Mr Martin Cuthbert
 - Deputy CEO Great Southern Development Commission, Mr Jarrad Gardner
 - Manager Finance City of Albany, Mr Steve Van Nierop
20. This independent assessment review provides a higher level of transparency and provides a higher level of confidence for Council when considering the officer recommendations and proposed rankings.
21. Of the three reviews, all were of the view that the projects submitted met the CSRFF criteria, with two of the reviews supporting the proposed project rankings, and one recommending a change in ranking for the projects proposed to be ranked 2 and 3. The independent review comments are attached.
22. The City of Albany has received three (3) Small Grant Application this round. The following additional information is provided about the project and funding application:

Emu Point Sporting Club - Resurfacing 6 courts and Replacing Boundary Fence.

- The funding application is a Small Grant Application to resurface the synthetic tennis courts and replace the existing boundary fence at the Emu Point Tennis facility.
- This will consist of replacing the 6 courts and replacing the boundary fence. The current synthetic court surface is 15 years old and the boundary fence is falling down, creating obvious safety issues.
- Emu Point Tennis Club has 105 members. Members use the facility all year round. There are 3 social tennis days on a Wednesday, Thursday & Saturday. These are well supported by the members.
- Current financial statement for Emu Point Tennis Club: Total of \$24,476.89 as per bank statement.
- Current financial statement for Emu Point Sporting Club: Total of \$191,000.00 as per bank statement.
- The Club is contributing both cash and volunteer labour to the project.
- The project is well planned and needed by the applicant.
- The application, installation and project will be managed by Emu Point Tennis Club.

- Department of Local Government, Sport and Cultural Industries – Sport and Recreation Great Southern Regional Manager has indicated that the project meets the criteria and would be supported at a regional level. The priority given to this project is high.
- The priority given to this project ranked at 1 of 3.

Albany Pony Club - Storage Facility

- The funding application is a Small Grant Application for construction of an additional Storage Facility
- The Albany Pony Club is located just off the Robinson Rd, at the Albany Equestrian Centre.
- The club has a membership of 56 with a mix of ages and genders participating.
- The club is contributing both cash and volunteer labour to the project.
- Current financial statements: Total of \$5,383.00 as per bank statement.
- The project is well planned and needed by the applicant.
- The application, installation and project will be managed by the Albany Pony Club.
- Department of Local Government, Sport and Cultural Industries – Sport and Recreation Great Southern Regional Manager has indicated that the project meets the criteria and would be supported at a regional level. The priority given to this project is medium.
- The priority given to this project ranked at 2 of 3.

City of Albany - ALAC Aquatic Change rooms

- The ALAC Change rooms are a well utilised community asset and complement all of the programming which takes place at the centre.
- Upgrades will include the addition of shower facilities to the gym area and a refresh to the change rooms throughout the aquatics area.
- The addition of showers to the gym space will help increase member amenity and complement the 24/7 access functionality of the ALAC Gym.
- The aquatics change rooms were last upgraded in 2008 and they are now showing signs of wear and tear and in desperate need of a refresh.
- All upgrades will include disability access design requirements.
- No Council Financial Support is being requested through this application process as City of Albany applications are not eligible for its Capital Seed Funding and the project already has funds allocated on its budget through its Capital Works program.
- Department of Local Government, Sport and Cultural Industries – Sport and Recreation Great Southern Regional Manager has indicated that the project meets the criteria and would be supported at a regional level. The priority given to this project is medium.
- The priority given to this project ranked at 3 of 3

23. The below ranking recommendation has been provided based on the applicant meeting the required criteria and its overall project ranking:

RANK	ORGANISATION	PROJECT DETAIL	OVERALL PROJECT RATING
1.	Emu Point Sporting Club	Resurfacing 6x courts and replacing boundary fence	Well planned and needed by the applicant. This projects meets the criteria for the Community Sports and Recreation Facilities Policy and CSRFF Guidelines. The project is a high priority as the current surface and fencing is over 15 years old the sporting surface supports a large membership base and high level of participation. The project is recommended for ranking 1 of 3.
2.	Albany Pony Club	Storage Shed	Well planned and needed by the applicant. This project meets the criteria for the Community Sports and Recreation Facilities Policy and CSRFF Guidelines. The project supports rather than directly relates to delivery of the club's activities, and is a medium priority. It is recommended for ranking 2 of 3.
3.	City of Albany	ALAC Change rooms refurbishment	Well planned and needed by the applicant. This project meets the criteria for the Community Sports and Recreation Facilities Policy and CSRFF Guidelines. The project supports the social amenity of the ALAC facility, is a medium priority and is recommended for ranking 3 of 3.

24. Correspondence requesting financial assistance and a completed Officers Project Assessment Sheet for the project application is attached.

GOVERNMENT & PUBLIC CONSULTATION

25. The Department of Local Government, Sport and Cultural Industries – Sport and Recreation Regional Manager for the Great Southern has been consulted with by the City of Albany (June 2021).
26. The City of Albany has conducted a site visit (July 2021) and follow up consultation sessions to assist the clubs benefiting from this Community Sporting project.

STATUTORY IMPLICATIONS

27. There is no statutory implication related to this report.
28. Council Officers assess each project and make a recommendation for the ranking of projects based on the Department of Local Government, Sport and Cultural Industries criteria and strategic overview.
29. Council has the opportunity to provide a recommendation that ranks applications in priority order for the City of Albany.
30. It should be noted that the Department of Local Government, Sport and Cultural Industries – Sport and Recreation will make the final decision on funding allocation.

POLICY IMPLICATIONS

31. The Recreation Planning Strategy adopted in 2008 has been applied in ranking this submission.
32. The Community Sports and Recreation Facilities Small Grant Funding Policy has been applied in the assessment and recommendations.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation & Community Property Failure to secure required funding may result in the condition of the amenities deteriorating to an unsafe condition	Possible	Minor	Medium	Council may choose to support the funding application, or work with City officers and the Club to source alternate funding streams.
People Health & Safety Failure to secure required funding may result in the condition of the amenities deteriorating to an unsafe condition	Possible	Moderate	Medium	Council may choose to support the funding application, or work with City officers to source other funding streams.
Reputation & Financial Failure to distribute the Council's Financial Support in an equitable and sustainable manner may result in community dissatisfaction or projects not going ahead.	Possible	Moderate	Medium	Council may choose to support the officer's recommendation, or work with City officers to deliver an equitable allocation of funding.

FINANCIAL IMPLICATIONS

34. The City allocated a total of \$75,000.00 Capital Seed Funding for Sporting Clubs in the 2022/2023 financial year to assist in the development and maintenance of community sporting infrastructure as determined through the CSRFF funding process.
- \$121,184.00 has been carried forward from the 2020/21 Budget
 - A total of \$196,184.00 is currently available in the Capital Seed Fund
35. The Capital Seed Reserve Fund has been established to assist with leveraging State Government funds for sporting clubs. Funds from unsuccessful grant applications are returned to the Capital Seed Reserve Fund to be reused for other grant applications.
36. The total projected costs of all 3 projects is \$504,469.50.
37. The clubs have requested a total of \$39,572 from the Capital Seed Fund.
38. The next CSRFF Small Grant round is due March 2022.
39. The following table provides the project budget detail and requests for financial support from each of the applications received:

Project	Total project cost (ex GST)	Applicant contribution (ex GST)	CSRFF Grant (ex GST)	Request for Council Financial Support (ex GST)
Emu Point Sporting Club – Courts and Boundary fence	\$250,753.50	\$137,169.00	\$83,584.50	\$30,000.00
Albany Pony Club – Storage shed	\$28,716.00	\$9,572.00	\$9,572.00	\$9,572.00
City of Albany – ALAC change rooms	\$225,000.00	\$150,000.00	\$75,000.00	Nil
TOTAL	\$504,469.50	\$296,741.00	\$168,156.50	\$39,572.00

40. The next Small Grant round is February 2022.
41. The Emu Point Sporting Club & Albany Pony Club application draws down on the current Capital Seed Fund. If the application is successful there will be \$156,612.00 remaining for the next annual and small grant rounds.
42. The City of Albany application is not eligible for the Capital Seed Fund however; this project is eligible for one third funding through the State Government CSRFF Small Grant Program.
43. If the application is unsuccessful, the club can reapply in the next round.

LEGAL IMPLICATIONS

44. Nil

ENVIRONMENTAL CONSIDERATIONS

45. Nil.

ALTERNATE OPTIONS

46. Council may choose not to provide funding assistance for the submitted projects.
47. Council may choose to provide more or less funding assistance to the submitted projects.
48. Council may choose to change the project ranking based on its strategic priorities.

CONCLUSION

49. The Department of Local Government, Sport and Cultural Industries – Sport and Recreation requires local government to assess received applications and to rank applications in priority order for the municipality.
50. All three projects meet the criteria provided by the Department of Local Government, Sport and Cultural Industries – Sport and Recreation. All projects are considered well planned and needed by the applicants. Council is required to endorse the officers recommended rankings. City officers have ranked the applications in the following order:
 1. Emu Point Sporting Club – Court Resurfacing and Fence Replacement
 2. Albany Pony Club – Storage Shed
 3. City of Albany – ALAC Changeroom Upgrades
51. Council may consider capping its financial contribution or sourcing alternate means to meet budget allocations.
52. The Department of Local Government, Sport and Cultural Industries – Sport and Recreation requires a response from the City of Albany on the priority ranking order by 31 August 2021.

Consulted References	:	Community Sports & Recreation Facilities Small Grant Funding Policy
File Number (Name of Ward)	:	RC.SPV.8 (All Wards)
Previous Reference	:	OCM March 2021 Resolution CCS330

CCS374: STRATEGIC COMMUNITY PLAN 2032

Attachments	:	Strategic Community Plan 2032 Corporate Business Plan 2021-2025
Report Prepared By	:	Business Planning and Performance Coordinator (A Olszewski)
Authorising Officers:	:	Chief Executive Officer (A Sharpe) Manager People and Culture (L Harding)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** Leadership.
 - **Objective:** To engage effectively with our community.
 - **Community Priority:** Develop structures and processes that engage the community and engender community confidence, and trust that their input is valued and used to inform decisions and priorities, and;
Improve community engagement processes and platforms to provide our community with a variety of opportunities to be involved and to contribute to decisions.

In Brief:

- The new Strategic Community Plan (SCP) and Corporate Business Plan (CBP) (collectively 'the revised Plans') have now been completed having recently undergone a major review as required every four years.
- The major review process included a comprehensive program of community engagement, involving over 1400 survey and workshop participants.
- Comprehensive community feedback was received through the biennially commissioned community survey.
- The focus of the revised Plans is to ensure this feedback directly informs the City's strategic direction into the future.

COVID IMPACT:

- There were no COVID-related impacts on the development and delivery of the revised Plans.

RECOMMENDATION

CCS374: RESOLUTION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR SHANHUN

THAT the Strategic Community Plan 2032 and Corporate Business Plan 2021-2025 be ADOPTED.

CARRIED 12-0
ABSOLUTE MAJORITY

CCS374: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR THOMSON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

CCS374: AUTHORISING OFFICER RECOMMENDATION

THAT the Strategic Community Plan 2032 and Corporate Business Plan 2021-2025 be ADOPTED.

BACKGROUND

2. It is a regulatory requirement under s5.56 of the Local Government Act 1995 that the City completes a major review of our SCP, CBP, and other core informing strategies that comprise the Integrated Planning and Reporting (IPR) Framework (namely the Asset Management, Workforce, and Long Term Financial Plans) every four years.
3. As part of this review process, the City has commissioned a community survey every two years since 2013, with the last survey being conducted in 2019, to receive community feedback on the City's performance, services and facilities.
4. This community survey process has been undertaken by Perth-based consultancy firm Catalyse, who were engaged in an expanded capacity this year to assist with the development of the revised Plans as well.
5. The revised Plans, once adopted by Council, will inform the development of the other core components of the IPR Framework (listed in point 2 above) throughout the rest of the year.

DISCUSSION

6. A high level summary of the key changes made in both documents are as follows:

Strategic Community Plan	Reason
Title changed from 'Community Strategic Plan' to ' Strategic Community Plan '	Complies with legislation/standard terminology
Vision changed from "To be Western Australia's most sought-after and unique regional city to work, live and visit" to " Amazing Albany, where anything is possible "	Brings into line with evolving community sentiment, as understood by Council, without losing traditional association with 'Amazing' branding
'Strategic Themes' changed to ' Pillars '	Simplifies and improves line of sight over related actions
Aspiration statements paired back/simplified	Provides concise description of Pillars
Community Scorecard integrated	Provides specific measure of City's performance as perceived by the community, as well as additional, detailed context under 'Current situation' section for each Pillar
Sustainable Development Goals integrated	Introduces best practice performance framework for external partners in line with Australian Government endorsement
'What we will do' section added	Provides community with understanding of what the City has committed to doing (without having to reference full action list in CBP)
Corporate Business Plan	Reason
'Strategic Priorities' consolidated as ' Actions ' and significantly expanded upon	New suite of Actions provides and assigns strategic priorities across the City, as informed by community and staff through survey and workshop process
'Responsible Office' added	To establish responsible office for completion of the Action (from Manager level upwards)
'Timing' expanded upon to include four year term of CBP	To support ongoing monitoring and accountability
Financial detail has been removed	The revised Plans were developed out of the established budget cycle, and so included actions are only those currently (2021-22) fully or partially budgeted for (with clear distinction made). Next year's mandatory review of the CBP will be undertaken in parallel with the budget process, which will allow currently new actions from the community engagement process to be considered for resourcing, with due regard given to available funds, relative community priority, and the City's sphere of influence.

GOVERNMENT & PUBLIC CONSULTATION

7. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Collaborate (Gov.)	Council Workshops	1 May, 1 July & 20 July 2021	~13	No.
Collaborate (Gov.)	EMT/Manager Workshops	29 April and 19 July 2021	~16	
Consult (Public)	Survey by Mail Out / E mail / In-person	8-26 March 2021	1429	Reg.19C of the <i>Local Government (Administration) Regulations 1996</i> .
Consult (Public)	Community Workshops	5-6 May 2021	78	

STATUTORY IMPLICATIONS

8. **Local Government Act 1995:** Section 5.56(1) and (2) of the *Local Government Act 1995* requires that each local government is 'to plan for the future of the district', by developing plans in accordance with the regulations.

9. **Local Government (Administration) Regulations 1996**, regulation 19DA, Note:

- **Corporate Business Plan** means a plan made under regulation 19DA that, together with a strategic community plan, forms a plan for the future of a district made in accordance with section 5.56;
- **Strategic Community Plan** means a plan made under regulation 19C that, together with a corporate business plan, forms a plan for the future of a district made in accordance with section 5.56.

- (1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.
- (3) A corporate business plan for a district is to —
 - (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and
 - (b) Govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and
 - (c) Develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.
- (4) A local government is to review the current corporate business plan for its district every year.
- (5) A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.
- (6) A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications. ***Absolute majority required.**
- (7) If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.

POLICY IMPLICATIONS

10. While there are no specific policy implications known at this time, the revised Plans will form the primary source of reference for the development of the remaining core components of the IPR Framework per point 5 above.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation Risk: The Community Strategic Plan and Corporate Business Plan are not adopted.	Unlikely	Moderate	Medium	Facilitate review and re-present for adoption.
Opportunity: The revised Plans present a significant opportunity to mature the City's strategic reporting and performance framework, improving transparency and accountability.				

FINANCIAL IMPLICATIONS

12. There are no direct financial implications in relation to this item.
13. The revised Plans will assist with informing the Long Term Financial Plan for 2022-23 (refer to table in point 6 above).

LEGAL IMPLICATIONS

14. N/A

ENVIRONMENTAL CONSIDERATIONS

15. The revised Plans outline a series of strategic actions relating to climate change mitigation, environmental conservation, and waste minimisation initiatives.

ALTERNATE OPTIONS

16. Council may choose not to adopt the Strategic Community and Corporate Business Plans.

RECOMMENDATION

17. It is recommended that the Strategic Community Plan 2032 and Corporate Business Plan 2021-2025 be adopted.

Consulted References	:	<ul style="list-style-type: none"> Local Government Act 1995, s5.56 Local Government (Administration) Regulations 1996, Reg. 19C IPR Framework and Guidelines 2019
File Number (Name of Ward)	:	All Wards
Previous Reference	:	OCM 26/09/2017 – Report Item CCCS057 OCM 25/05/2021 - Report Item CCS352

CCS375: REQUEST FOR ENDORSEMENT OF APPOINTMENT OF COUNCILLOR SHANHUN TO THE MUSEUM OF THE GREAT SOUTHERN ADVISORY COMMITTEE

Attachments : Correspondence from Museum of the Great Southern requesting endorsement of Councillor Shanhun's appointment.
Report Prepared By : Senior Team Leader Records/Council Liaison (J Williamson)
Authorising Officer: : Chief Executive Officer (A Sharpe)

7.05pm Councillor Shanhun declared an Impartiality Interest in this item and left the Chamber.

Councillor Thomson declared an Impartiality Interest in this item. Councillor Thomson remained in the Chamber and participated in the discussion and vote for this item.

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** Leadership and Community Health and Participation
 - **Objective:**
 - To provide strong, accountable leadership supported by a skilled and professional workforce.
 - To build resilient and cohesive communities with a strong sense of community spirit.
 - **Community Priority:**
 - Provide positive leadership that delivers community outcomes and gains a reputation for doing what is good for Albany and the surrounding region.
 - Facilitate and promote arts and cultural activities for all ages by providing a variety of arts and cultural activities that attract local and visiting patrons.

In Brief:

- The City has received a request from the Museum of the Great Southern Advisory Committee to endorse the appointment of Councillor Shanhun as an ex-officio representative of Council to that committee.

RECOMMENDATION

CCS375: RESOLUTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR SUTTON

THAT the appointment of Councillor Shanhun to the Museum of the Great Southern Advisory Group be ENDORSED.

**CARRIED 11-0
ABSOLUTE MAJORITY**

CCS375: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR HAMMOND

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS375: AUTHORISING OFFICER RECOMMENDATION

THAT the appointment of Councillor Shanhun to the Museum of the Great Southern Advisory Group be ENDORSED.

BACKGROUND

2. The City has received a written request from the Museum of the Great Southern Advisory Committee to endorse the appointment of Councillor Shanhun as an ex-officio member of the Committee.
3. The Regional Manager of the Museum of the Great Southern has approached Councillor Shanhun to extend the invitation, and Councillor Shanhun has accepted the appointment subject to endorsement by Council.

DISCUSSION

4. The appointment of Councillor Shanhun as a Council representative is recognition of the City of Albany's role as a key stakeholder and major partner with the Museum of the Great Southern.
5. Ex officio positions on the committee do not have a fixed term of appointment and the Committee is an advisory body only and has no delegated powers.

FINANCIAL IMPLICATIONS

6. There are no financial implications related to this report.

CONCLUSION

7. It is recommended that Councillor Shanhun's appointment to the Museum of the Great Southern Advisory Committee be endorsed.

7.06pm Councillor Shanhun returned to the Chamber. Councillor Shanhun was not present during the discussion and vote for this item.

AR094: INTERNAL AUDIT – STRATEGIC INTERNAL AUDIT PLAN

Business Entity Name	: City of Albany
Proponent	: AMD Audit & Assurance t/as AMD Chartered Accountants
Attachment	: AMD Strategic Internal Audit Plan- Confidential
Report Prepared By	: Manager Finance (S van Nierop)
Authorising Officer:	: Executive Director Corporate & Commercial Services (D Olde)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan:
 - **Theme:** Leadership.
 - **Objective:** To establish and maintain sound business and governance structures.
 - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflects the level of associated risk and is adequately explained to the community.

In Brief

- The objective of this report is to provide the Audit and Risk Committee with an opportunity to agree upon the Internal Audit Modules for review by AMD Chartered Accountants (“AMD”) in the 2021/2022 financial year.

RECOMMENDATION

**AR094: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR TERRY**

THAT the modules recommended to be audited by AMD in Financial Year 2021-2022 be ENDORSED with the following amendment:

1. **REMOVE Financial Information Supplied to Council and INCLUDE HR module NOTING that the OSH Audit items relating to HR will be considered separately under the review being undertaken by LGIS.**
2. **The budgeted amount for the HR module be REVISED as the OHS elements are not required.**

CARRIED 12-0

AR094: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR DOUGHTY**

THAT the modules recommended to be audited by AMD in Financial Year 2021-2022 be ENDORSED with the following amendment:

1. **REMOVE Financial Information Supplied to Council and INCLUDE HR module NOTING that the OSH Audit items relating to HR will be considered separately under the review being undertaken by LGIS.**
2. **The budgeted amount for the HR module be REVISED as the OHS elements are not required.**

CARRIED 7-0

AR094: AMENDMENT BY COUNCILLOR STOCKS

MOVED: COUNCILLOR STOCKS

SECONDED: COUNCILLOR DOUGHTY

THAT the modules recommended to be audited by AMD in Financial Year 2021-2022 be ENDORSED with the following amendment:

1. REMOVE Financial Information Supplied to Council and INCLUDE HR module NOTING that the OSH Audit items relating to HR will be considered separately under the review being undertaken by LGIS.
2. The budgeted amount for the HR module be REVISED as the OHS elements are not required.

CARRIED 7-0

Councillor Reason:

It would be prudent to ensure that the systems in place for management of employment contracts and other obligations under the City's EBA are supported by robust policy and procedure.

AR094: AUTHORISING OFFICER RECOMMENDATION

THAT the modules recommended to be audited by AMD in Financial Year 2021-2022 be ENDORSED.

BACKGROUND

2. Internal auditing is an important element of our governance structure. It gives Council and the Executive Management Team independent assurance that a robust internal control structure is in place and our outputs are operating effectively, efficiently and lawfully.
3. In May 2019 Council approved the engagement of AMD to provide Internal Audit Services to the City of Albany.
4. On 5 August 2019, Tim Partridge from AMD presented his Draft Strategic Internal Audit Plan ("the Plan") to the Audit and Risk Committee (**Attachment: AMD Strategic Internal Audit Plan**). The Plan broadly consisted of the following:
 - a. A detailed scope behind the strategic internal audit plan, based on the internal audit modules as requested within the Request for E-Quote RFQ Q19017; and
 - b. Additional scope areas for consideration by the Audit and Risk Committee.
5. At the Audit and Risk Committee meeting on 5 August 2019, the committee recommended that a further Audit and Risk workshop be held as soon as possible to discuss the draft Strategic Internal Audit Plan, and to include any additional internal modules with a further costing requested if required.
6. On 23 August 2019, AMD provided an additional scope plan, with estimated costs for the additional modules
7. An Elected Member Workshop was held on 5 November 2019, providing elected members in attendance the opportunity for information and discussion about the proposed program for additional internal audit modules.
8. City of Albany Management prepared a draft Management Recommendation for the internal audit modules ranked in order of importance and relevance, including any statutory requirements, and providing the cost of each module. The below table outlines management's recommendation on the importance and timing of each module that was presented at the Elected Member workshop on 5 November 2019:

Module	Ranking	CoA Management Year Ending Recommendation	Estimated Cost Exc GST (\$)	Completed?
General Finance Controls	High	30-Jun-20	\$8,100	Yes (FY19/20)
Financial Management System Review	High	30-Jun-20	\$10,800	Yes (FY19/20)
Insurance Management	High	30-Jun-20	\$800	Yes (FY19/20)
	Total	30-Jun-20	\$19,700	
Procurement/Project Tender & Contract management	High	30-Jun-21	\$8,500	Yes (FY19/20)
Access to Account Functions	High	30-Jun-21	\$2,800	No
Risk Management	High	30-Jun-21	\$8,700	Yes (FY20/21)
Policy & Procedure Maintenance	Medium	30-Jun-21	\$1,500	Yes (FY20/21)
Fraud	High	30-Jun-21	\$8,250	Yes (FY20/21)
	Total	30-Jun-21	\$29,750	
Vehicle Fleet Management	Medium	30-Jun-22	\$6,750	No
Asset management and Capital Commitment	Medium	30-Jun-22	\$7,250	No
Stock Control	Medium	30-Jun-22	\$3,800	No
Financial Information Supplied to Council	Medium	30-Jun-22	\$1,800	No
Audit Reg 17 Review and Compliance (req'd FY22)	High	30-Jun-22	\$11,300	No
	Total	30-Jun-22	\$30,900	
Total 3 year term			\$80,350	
HR (Excluding OHS)	Medium	FY22 Onwards	\$8,500	Yes (FY 21/22)
Customer Service & complaints Handling Process	Low	FY23 Onwards	\$2,200	No
Record Keeping Policy	Low	FY23 Onwards	\$2,900	No
Security and emergency procedures inc accident and incident reporting	Low	FY23 Onwards	\$2,750	No
IT Systems Review	Low	FY23 Onwards	\$7,500	Yes (FY20/21)
Fines and Infringement	Low	FY23 Onwards	\$2,000	No
		FY23 Onwards	\$25,850	

9. Details on AMD's scope of work for each of the modules listed above are detailed in the **Attachment: AMD Strategic Internal Audit Plan.**
10. The Audit & Risk Committee selected the following modules that were audited in the 2019/2020 and 2020/2021 financial years:

Module	Ranking
2019/2020 Financial Year	
General Finance Controls	High
Financial Management System Review	High
Insurance Management	High
Procurement/Project Tender & Contract management	High

2020/2021 Financial Year	
IT Systems Review	High
Risk Management	High
Fraud	High
Policy & Procedure Maintenance	Medium

DISCUSSION

11. It is recommended that the following modules are included in the internal audit process for the 2020/21 financial year, and that the auditing process be concluded by 30 June 2022:

Module		Estimated Cost Exc GST (\$)
Audit Reg 17 Review and Compliance (req'd FY22)		\$11,300
Access to Account Functions		\$2,800
Asset management and Capital Commitment		\$7,250
Financial Information Supplied to Council		\$1,800
Total		\$23,150

12. It is noted that the Audit Regulation 17 Review (please refer to the Statutory Implications section below) is required to be completed by the City in the 2021/2022 financial year.

GOVERNMENT & PUBLIC CONSULTATION

13. No government or public consultation was required in preparing this report.

STATUTORY IMPLICATIONS

14. The Local Government Amendment (Auditing) Regulations 2017 states, in part:

Regulation 16. Functions of audit committee: *An audit committee has the following functions –*

(a) to guide and assist the local government in carrying out –

(i) its functions under Part 6 of the Act; and

(ii) its functions relating to other audits and other matters related to financial management.

Regulation 17. CEO to review certain systems and procedures:

(1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to –

(a) risk management; and

(b) internal control; and

(c) legislative compliance.

(2) The review may relate to any or all of the matters referred to in sub regulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.

(3) The CEO is to report to the audit committee the results of that review.

POLICY IMPLICATIONS

15. Nil

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Operational & Compliance. <i>Internal audit modules that have a statutory requirement and are not included.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<p>Council acknowledge that the following modules must be included as part of the Internal Audit Program;</p> <ul style="list-style-type: none"> Financial Management System Review (completed in FY 2020). Audit Reg 17 - Review and Compliance (required by FY 2022).

FINANCIAL IMPLICATIONS

17. The 2021-22 Budget adopted by Council has allocated \$30,000 for internal audit services.
18. The recommended modules to be audited fall within budget, however should Council wish to include additional internal audit modules in the 2021-22 financial year, the cost may exceed budget and a budget review may be required.

LEGAL IMPLICATIONS

19. Failure to undertake mandatory internal audit functions that are required by legislation would breach the Act and Regulations.

ENVIRONMENTAL CONSIDERATIONS

20. Nil.

ALTERNATE OPTIONS

21. Council may consider other audit modules for inclusion in the 2021-22 financial year internal audit.

CONCLUSION

22. That the Authorising Officer Recommendation be adopted.

Consulted References	:	<ul style="list-style-type: none"> Local Government Act 1995 Local Government Amendment (Auditing) Act 2017 Auditor General Act 2006
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	<ul style="list-style-type: none"> Audit & Risk Committee – 08/10/2018 – Report AR049 Audit & Risk Committee – 22/11/2018 – Report AR052 Audit & Risk Committee – 07/05/2019 – Report AR059 Audit & Risk Committee – 05/08/2019 – Report AR064 Audit & Risk Committee – 04/11/2019 – Report AR067 Audit & Risk Committee – 04/08/2020 – Report AR078

AR096: ACTIVITY BASED COSTINGS

Business Entity Name	: City of Albany
Attachment	: Activity Based Costing
Report Prepared By	: Manager Finance (S van Nierop)
Authorising Officer:	: Executive Director Corporate & Commercial Services (D Olde)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan:
 - **Theme:** Leadership.
 - **Objective:** To establish and maintain sound business and governance structures.
 - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflects the level of associated risk and is adequately explained to the community.

In Brief

- The objective of this report is to provide the Audit and Risk Committee an explanation as to why Activity Based Costs (“ABC”) are applied at the City of Albany, and an overview as to how such costs are calculated.

RECOMMENDATION

AR096: RESOLUTION VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR DOUGHTY**

THAT the ‘Activity Based Costing’, as attached, be NOTED.

CARRIED 12-0

AR096: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR DOUGHTY**

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 7-0

AR096: AUTHORISING OFFICER RECOMMENDATION

THAT the ‘Activity Based Costing’, as attached, be NOTED.

BACKGROUND

2. Activity Based Costing (ABC) aims to allocate overhead costs to particular activities.
3. It is used extensively in businesses that are product-focused, to better allocate expenses to work out a more accurate cost of production.
4. The City emulates this concept to determine a more accurate cost of service delivery.

5. By using activity-based costing, the City can:
 - a. Take into consideration both the direct and overhead costs of delivering services
 - b. Recognise that different service areas require different indirect expenses
 - c. More accurately set service levels
 - d. Greater transparency of overhead costs and the management of such costs
6. The drawbacks of ABC include:
 - a. Complexity to calculate and implement; and
 - b. ABC is only ever an estimate.

GOVERNMENT & PUBLIC CONSULTATION

7. No government or public consultation was required in preparing this report.

STATUTORY IMPLICATIONS

8. The Local Government Accounting Manual (Edition 3 September 2012) released by the Department of Local Government, Sport and Cultural Industries, states:

“All administration overheads are to be assigned to the programs.

The amount allocated to other programs should be shown in the sub-program as a reduction of the expenditure on general administration.

For the purpose of grouping, allocating and classifying assets this sub-program should be used for administration assets that cannot be readily assigned to another program.”

POLICY IMPLICATIONS

9. Nil.

RISK IDENTIFICATION & MITIGATION

10. Nil.

FINANCIAL IMPLICATIONS

11. Nil.

LEGAL IMPLICATIONS

12. Nil.

ENVIRONMENTAL CONSIDERATIONS

13. Nil.

ALTERNATE OPTIONS

14. Not Applicable.

CONCLUSION

15. That the Authorising Officer Recommendation be adopted.

Consulted References	:	The Local Government Accounting Manual (Edition 3 September 2012) released by the DLGSCI
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	N/A

AR098: RISK AND OPPORTUNITY MANAGEMENT FRAMEWORK & POLICY

Business Entity Name	: City of Albany
Attachment	: <ul style="list-style-type: none">• Revised Risk & Opportunity Management Framework and revision report.• Revised Policy Position and revision report.
Report Prepared By	: Manager Governance & Risk (S Jamieson)
Authorising Officers:	: Chief Executive Officer (A Sharpe) Executive Director Corporate & Commercial Services (D Olde)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** Leadership.
 - **Objective:** To establish and maintain sound business and governance structures.
 - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflects the level of associated risk and is adequately explained to the community.

In Brief:

- The review the updated Risk & Opportunity Management Framework and Policy, which implements the recommendations by the auditor.

RECOMMENDATION

AR098: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR SLEEMAN

THAT:

1. The revised Risk & Opportunity Management Framework be **ADOPTED**.
2. The revised Risk & Opportunity Management Policy be **ADOPTED**.

CARRIED 12-0

AR098: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR DOUGHTY
SECONDED: COUNCILLOR TERRY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 7-0

AR098: AUTHORISING OFFICER RECOMMENDATION

THAT:

1. The revised Risk & Opportunity Management Framework be **ADOPTED**.
2. The revised Risk & Opportunity Management Policy be **ADOPTED**.

BACKGROUND

2. As previously reported, it was identified during the internal audit that the City's Risk and Opportunity Management Policy, which was last fully reviewed and approved on 20 June 2017 still referenced the AS/ISO 31000:2009 as opposed to AS/ISO 31000:2018 and is therefore out of date.
3. It was recommended that Risk and Opportunity Management Framework documents be reviewed in accordance with the updated standard (AS/ISO 31000:2018) and updated accordingly.
4. In summary the main messages that are communicated in the reviewed standard, are:

- a. Leadership and Commitment: ISO 31000:2018 incorporates a firm commitment to ensuring support from stakeholders, identifying "top management" and "oversight bodies" to lead the integration of risk management in the organisation.

Previously, the 2009 Standard only specified a management framework for commitment to risk whereas now, Clause 5.2 in ISO 31000:2018 makes top management accountable for managing risk with oversight bodies accountable for overseeing risk management. It also incorporates particular responsibilities relating to accountability of risks that were previously contained in Annex A of the 2009 Standard. Annex A does not exist in ISO 31000:2018 and is further discussed below.

- b. Risk Identification: Where the 2009 Standard in Clause 5.4.2 provided broad areas of risk identification including identifying sources of risk, areas of impacts, events and their causes and potential consequences, Clause 6.4.2 of ISO 31000:2018 significantly expands on risk identification by specifying a list of 11 interrelated factors which should be considered when identifying sources of risk within an organisation.
- c. Risk Evaluation: In the 2009 Standard, risk evaluation broadly defined the actions which could result from a risk evaluation. In ISO 31000:2018, at Clause 6.4.4, there is a specific list of five decisions which support the risk evaluation process.
- d. General Risk Treatment: The description and selection of risk treatment in ISO 31000:2018 has been simplified and condensed. Specifically, where the 2009 Standard detailed both specific risk treatments and the general risk treatment cyclical process in Clause 5.5.1, they have been further separated and clearly listed in separate Clauses 6.5.1 and 6.5.2 in ISO 31000:2018.

The cyclical risk treatment process has also had the phrasing changed from "tolerable" risk to "acceptable" risk. While there has been no definition provided, a simple dictionary search indicates that this involves a movement from an endurable (negative) risk treatment towards a pleasing (positive) risk treatment.

- e. Recording and Reporting: The old reporting processes contained in Clause 5.7 of the 2009 Standard have been expanded to include a reporting element in ISO 31000:2018.

Where the 2009 Standard focused on simply recording the day-to-day decisions associated with risk management in the organisation, ISO 31000:2018 also adds the element of communicating activities and outcomes across the organisation and assisting interaction with stakeholders, including the quality of the dialogue with top management and oversight bodies to meet their responsibilities for risk management.

Recording and Reporting has been added to the Risk Process diagram.

- f. Attributes of Enhanced Risk Management: The 2009 Standard contained Annex A which outlined the attributes of enhanced risk management including continual improvement, full accountability, continual communication and integration of risk management across the organisation, especially in all levels of decision making. Annex A has been removed from ISO 31000:2018, with the principles being integrated across its entirety, which clearly achieves the goals of simplification and clarification of the Standard.

DISCUSSION

Risk & Opportunity Management Policy

5. A review of the current adopted policy position has been conducted.
6. Where the 2009 Standard identified establishing a risk management policy to demonstrate an organisation's commitment to risk management, ISO 31000:2018 takes this commitment further by stating that top management and oversight bodies should not only demonstrate their organisation's commitment to risk management but also demonstrate continual commitment through a policy, statement or other forms that clearly convey an organisation's objectives and commitment to risk management.
7. Changes are detailed in attached revised document and associated revision report.

Risk & Opportunity Management Framework

8. The attached Risk & Opportunity Management Framework has been amended to reflect these changes.
9. It is recommended that Part 6 – Analyse Risk Process is reviewed separately.

GOVERNMENT & PUBLIC CONSULTATION

10. Consultation was facilitated through the internal audit process, conducted by AMD Chartered Accountants.

STATUTORY IMPLICATIONS

11. There is no legislative provision that specifically requires Councils to implement risk management.
12. However, there are references within the Local Government Act 1995 ("the Act") that require Councils to adopt appropriate policies, practices and procedures that ensure their assets are protected through sound administrative management.
13. In addition, each Council's Audit Committee is responsible for 'reviewing the adequacy of accounting, internal control, reporting and other financial management systems and practices of the Council on a regular basis.
14. Specifically, under Regulation 17 of the Local Government (Audit) Regulations 1996 it is a responsibility of the Audit & Risk Committee to receive the CEO reviews conducted on the appropriateness of systems and procedures in relation to risk management, internal control and legislative compliance.

POLICY IMPLICATIONS

15. No direct implications related to this report.

RISK IDENTIFICATION & MITIGATION

16. Explored in the discussion section of the report.

FINANCIAL, LEGAL IMPLICATIONS & ENVIRONMENTAL CONSIDERATIONS

17. It is also acknowledged that by putting in place appropriate systems of risk oversight and internal controls, the City of Albany can help to increase the likelihood that our City will continue to deliver on its purpose, to ensure that duties and obligations to our community with respect to operations and service delivery are appropriate and sustainable.

ALTERNATE OPTIONS

18. No alternate options are proposed. The Council may consider to adopt the proposed amended documents as presented or amend accordingly.
19. If significant amendments are proposed, it is recommended that the presented documents are not adopted.

CONCLUSION

20. That the Authorising Officer Recommendations be adopted.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Government Act 1995</i>
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	<ul style="list-style-type: none">• Audit & Risk Committee, 4 May 2021, Report AR091• OCM 28 June 2016, Resolution AR021• OCM 23 May 2017, Resolution CCS028

DIS265: LAKE MULLOCULLUP - POST GAZETTAL ENVIRONMENTAL MONITORING

Land Description	: Lake Mullocullup - Reserve 16367 (NR083).
Proponent / Owner	: City of Albany (Land vested in the care and control of the City of Albany).
Attachments	: 1. Lake Mullocullup, Reserve 16367, Post Gazettal Environmental Monitoring Report (May 2021) 2. Avian Fauna Survey at Lake Mullocullop Reserves February 2021 3. Lake Mullocullop Water-Ski Zone Monitoring Report: Summary of Results from April 2021
Report Prepared By	: Reserves Officer (V Jackson) and Manager City Reserves (J Freeman)
Authorising Officer:	: Executive Director Infrastructure, Development & Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2030 and Corporate Business Plan 2018 - 2022:
 - **Themes:** Leadership and Clean, Green & Sustainable.
 - **Objectives:** To engage effectively with our community, and to protect and enhance our natural and built environment in a changing climate.
 - **Community Priority:** Sustainably protect and enhance our iconic coastline and reserves flora and fauna by delivering projects and programs that reflect the importance of our coastline and natural reserves.

Maps and Diagrams:



Figure 1. Lake Mullocullup – Warriup Road



Figure 2. Signage installed at Lake Mullocullup.

In Brief:

- Reference is made to Council resolution items DIS035 - August 2017, DIS092 - May 2018, DIS123 – October 2018 and DIS212 – June 2020.
- The purpose of this report is to update Council on the progress of condition 3 '*An annual environmental monitoring program be developed by the City. The results of the monitoring shall be reviewed every two (2) years*' under DIS035.
- The results of the annual monitoring program over the last two years' post gazettal indicates no significant increased activity, change or adverse environmental impacts as per the attached report.

RECOMMENDATION

DIS265: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR TERRY

THAT Council:

1. **NOTES** the Lake Mullocullup Post-Gazettal Environmental Monitoring Report April 2021.
2. **RESOLVES** to:
 - a) **Reduce** the annual monitoring to bi-annual (twice a year) site inspections and visitation data collection only to monitor the vegetation and use of the launch and camping areas in peak times between September and March.
 - b) **Undertake** water monitoring and bird surveys on an as-required basis only.
 - c) **Receive** updates on request as required.

CARRIED 12-0

DIS265: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR STOCKS

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

DIS265: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

1. NOTES the Lake Mullocullup Post-Gazettal Environmental Monitoring Report April 2021.
2. RESOLVES to:
 - a) Reduce the annual monitoring to bi-annual (twice a year) site inspections and visitation data collection only to monitor the vegetation and use of the launch and camping areas in peak times between September and March.
 - b) Undertake water monitoring and bird surveys on an as-required basis only.
 - c) Receive updates on request as required.

BACKGROUND

2. Annual monitoring has been undertaken since the gazettal of Lake Mullocullup by the Department of Transport (DoT) to allow water skiing in March 2019, which has included:
 - a) Regular site inspections to determine any impacts such as use, litter, presence of algae and vegetation damage.
 - b) Annual water monitoring by staff from UWA School of Agriculture and Environment. Sampling for the physical and biological aspects of water quality, as well as chemical contamination (polycyclic aromatic hydrocarbons (PAHs)) of the lake sediment.
 - c) Annual bird surveys.
 - d) Track counters to determine visitation.

DISCUSSION

3. Over the 2020-21 period of monitoring there have been some constraints that have prevented the monitoring being undertaken as it was the previous year in 2019-20 such as:
 - The COVID pandemic affecting resources with reduced hours for staff and less visitors in the region during this time;
 - Main Roads construction works along South Coast Highway which closed the access to Warriup Road and Lake Mullocullup; and
 - The track counters failing and no data available.
4. The above has affected the data available on the use of the area although the water quality and bird survey results have shown no significant impact.
5. Water monitoring results indicate that water-skiing has had no detectable impact on the water quality at Lake Mullocullup, suggesting that historical use of powered boats has had little to no impact on the lake sediment and no additional impact since 2018.
6. The Avian Fauna survey was undertaken in February 2021. A total of 47 species were recorded, of which 21 species were waterbirds (478 individuals counted in total). There were a higher number of waterbirds observed than in 2016 and 2019. The Great Crested Grebe was also recorded for the first time in 2021.

7. The traffic counter that was installed to measure visitation failed with no data recorded over the 2020/21 summer period.
8. Details of all the monitoring is provided in the attached reports.

GOVERNMENT & PUBLIC CONSULTATION

9. N/A.

STATUTORY IMPLICATIONS

10. Nil.

POLICY IMPLICATIONS

11. Nil.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Environment <i>If monitoring is not continued, any impacts to the values may not be identified or mitigated.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>Continue to undertake site observations to ensure significant values are not being impacted.</i>
Opportunity: to collect ongoing data to inform management of the Reserve.				

FINANCIAL IMPLICATIONS

13. The reduction of monitoring to site observations and visitation only during peak times will reduce the costs from approximately \$18,500 to \$1,000 under existing operational budgets.

LEGAL IMPLICATIONS

14. Nil.

ENVIRONMENTAL CONSIDERATIONS

15. Any evidence observed of impacts to the environment will be assessed and addressed as required.

ALTERNATE OPTIONS

16. The Council may decide to maintain the current annual monitoring program with results reviewed every two (2) years.

CONCLUSION

17. The previous two (2) years of monitoring has shown no impacts on the significant environmental and cultural values of Lake Mullocullup post-gazettal for water-skiing.

Consulted References	:	<ul style="list-style-type: none"> Avian Fauna Survey at Lake Mullocullup Reserves February 2021. Lake Mullocullup Water-ski Zone Monitoring Report: Summary of Results from April 2021.
File Number (Name of Ward)	:	EM.MON.10 (Kalgan Ward)
Previous Reference	:	DIS035 – OCM 22/08/2017 DIS092 – OCM 22/05/2018 DIS123 – OCM 23/10/2018 DIS212 – OCM 23/06/2020

DIS266: VEHICLES ON BEACHES

Land Description	: City of Albany
Proponent / Owner	: City of Albany
Attachment	: Redacted Schedule of Submissions
Report Prepared By	: Manager City Reserves (J Freeman) Manager Governance & Risk (S Jamieson)
Authorising Officer	: Executive Director Infrastructure, Development & Environment (P Camins)

Councillor Benson-Lidholm declared an Impartiality Interest in this item. Councillor Benson-Lidholm remained in the Chamber and participated in the discussion and vote for this item.

STRATEGIC IMPLICATIONS

- This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - Theme:** Leadership.
 - Objective:** To provide strong, accountable leadership supported by a skilled and professional workforce
 - Community Priority:** Provide positive leadership that delivers community outcomes.

In Brief:

- Council resolved on 22 June 2021 to give public notice to the proposed determination.
- The period of advertising closed on 30 July 2021 with an additional 10 working days added due to an error in advertising. A total of 38 submissions were received and have been detailed in the attachment, and referenced at paragraph 7 of this report.

RECOMMENDATION

DIS266: RESOLUTION (ALTERNATE MOTION BY COUNCILLOR DOUGHTY) VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR DOUGHTY
SECONDED: COUNCILLOR SUTTON

THAT:

- The submissions received during the public submission period be **NOTED**.
- The proposed determination under the City of Albany Property Local Law 2011 be **ADOPTED**:

Vehicles Permitted:

Reserve Name & Number	Proposed Determination
Emu Point Marina Beach - R22698	Vehicles Permitted
Shoal Bay - R25295	Vehicles Permitted
Nanarup Beach (West) – R45631 (excluding lagoon area)	Vehicles Permitted
Bettys Beach (North) – R52835	Vehicles Permitted

Vehicles Prohibited:

Reserve Name & Number	Proposed Determination
Anvil Beach - R30883	Vehicles Prohibited
Black Swan Point - R25551	Vehicles Prohibited
Boronia Reserve Foreshore - R6862	Vehicles Prohibited
Brambles West - R25295	Vehicles Prohibited
Cosy Corner West - R24547	Vehicles Prohibited
Emu Point Beach South - R22698	Vehicles Prohibited

Middleton Beach - R14789 & R26149	Vehicles Prohibited
Normans Beach - R2031	Vehicles Prohibited
Nullaki Peninsula (Ocean Beach) - R30883	Vehicles Prohibited
Rushy Point - R35754	Vehicles Prohibited
Whaleworld Beach - R21337	Vehicles Prohibited

Vehicles Prohibited other than for boat launching:

Reserve Name & Number	Proposed Determination
Cheynes Beach (Central) - R878	Vehicles Prohibited other than for boat launching or commercial fishing
Bettys Beach (South) - R52825	Vehicles Prohibited other than for boat launching.
Cape Riche - R1010	Vehicles Prohibited other than for boat launching.
Frenchman's Bay (Whalers Beach) R21337	Vehicles Prohibited other than for boat launching.

3. Barriers are installed to prohibit vehicles from accessing Nanarup Beach (West) Lagoon.
4. A Code of Conduct be developed and implemented to guide the use of 4WDs on beaches.
5. The Nanarup Beach Management Plan (1999) be reviewed and updated to guide future use of Nanarup Beach.

TIED 6-6
THE MAYOR EXERCISED HIS CASTING VOTE
CARRIED 7-6

Record of Vote

Against the Motion: Councillors Thomson, Sleeman, Benson-Lidholm, Hammond, Terry and Shanhun.

Councillor Reason:



This Alternate Recommendation provides an opportunity for 4WDs to access Nanarup Beach (West) and Betty's Beach (North) whilst also acknowledging community feedback.

The key themes communicated during the community consultation period were:

- Safety of all beach users;
- Anti-social behavior; and
- Environmental impacts of vehicles on beaches.

Mitigation strategies were identified by City officers, however, this motion identifies further mitigation to specifically prevent access to Nanarup Beach (West) Lagoon by vehicles. This will alleviate community concerns for the safety of beach users (specifically children) vs vehicles on the beach.

The installation of barriers (please refer to images A and B) will prevent vehicles being able to access and park directly around the Lagoon. The barriers will not prevent those with disabilities, the elderly or parent with young children accessing the Lagoon as parking will be in close proximity.

Image A



Image B



As detailed at Paragraph 11 of the report, City of Albany Ranger Team met with community members to discuss methodologies and reporting channels in relation to beach user safety and anti-social behavior, committing to:

- an improved professional presence;
- being as responsive as possible within resource constraints;
- improved education with an aim to modify driver behaviour; and
- another meeting with other parties including Police and DBCA.

To facilitate the proposed outcomes, the development and implementation of a Code of Conduct guiding the use of 4WDs on beaches will assist in managing community expectations for all beach users.

The Australian Recreational Motorists Association is prepared to work with the City of Albany and beach users to facilitate an educational program aimed at reducing conflict between vehicles and other beach users.

From an environmental perspective, all beaches in WA experience periods of coastal damage and/or erosion. To isolate Nanarup Beach (West) as the only beach to experience this within the City of Albany is unlikely to achieve any meaningful outcome at a macro level, and may lead to the conclusion that this specific focus has been included to strengthen the argument against allowing vehicles to access this particular beach.

The review and update of the Nanarup Beach Management Plan will assist both the City and community members in understanding any issues to be addressed and protect the dune system.

It is worth noting that camping and fires on all City of Albany beaches are already prohibited.

Officer Comment (Executive Director Infrastructure, Development and Environment):

The Alternate Motion is reasonably consistent with the original Authorising Officer Recommendation and is considered a good compromise. It is supported by officers.

PROCEDURAL MOTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR THOMSON

THAT this report be DEFERRED.

LOST 4-8

Record of Vote

For the Motion: Councillors Sleeman, Thomson, Shanhun and Benson-Lidholm.

**DIS266: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT:

1. The submissions received during the public submission period be NOTED.
2. The proposed determination under the City of Albany Property Local Law 2011 be ADOPTED:

Vehicles Permitted:

Reserve Name & Number	Proposed Determination
Emu Point Marina Beach - R22698	Vehicles Permitted
Shoal Bay - R25295	Vehicles Permitted

Vehicles Prohibited:

Reserve Name & Number	Proposed Determination
Anvil Beach - R30883	Vehicles Prohibited
Black Swan Point - R25551	Vehicles Prohibited
Boronia Reserve Foreshore - R6862	Vehicles Prohibited
Brambles West - R25295	Vehicles Prohibited
Cosy Corner West - R24547	Vehicles Prohibited
Emu Point Beach South - R22698	Vehicles Prohibited
Middleton Beach - R14789 & R26149	Vehicles Prohibited
Normans Beach - R2031	Vehicles Prohibited
Nullaki Peninsula (Ocean Beach) - R30883	Vehicles Prohibited
Rushy Point - R35754	Vehicles Prohibited
Whaleworld Beach - R21337	Vehicles Prohibited
Bettys Beach (North) - R52825	Vehicles Prohibited
Nanarup Beach (West) - R45631	Vehicles Prohibited

Vehicles Prohibited other than for boat launching:

Reserve Name & Number	Proposed Determination
Cheyne's Beach (Central) - R878	Vehicles Prohibited other than for boat launching or commercial fishing
Bettys Beach (South) - R52825	Vehicles Prohibited other than for boat launching.
Cape Riche - R1010	Vehicles Prohibited other than for boat launching.
Frenchman's Bay (Whalers Beach) R21337	Vehicles Prohibited other than for boat launching.

3. Vehicles remain prohibited on Nanarup Beach West and Bettys Beach North.
4. A report be provided to Council by April 2022 on the additional environmental matters raised in the latest round of public consultation relating to Nanarup Beach West and Bettys Beach North.

DIS266: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY

SECONDED: COUNCILLOR THOMSON

THAT:

1. The submissions received during the public submission period be NOTED.
2. The proposed determination under the City of Albany Property Local Law 2011 be ADOPTED:

Vehicles Permitted:

Reserve Name & Number	Proposed Determination
Emu Point Marina Beach - R22698	Vehicles Permitted
Shoal Bay - R25295	Vehicles Permitted

Vehicles Prohibited:

Reserve Name & Number	Proposed Determination
Anvil Beach - R30883	Vehicles Prohibited
Black Swan Point - R25551	Vehicles Prohibited
Boronia Reserve Foreshore - R6862	Vehicles Prohibited
Brambles West - R25295	Vehicles Prohibited
Cosy Corner West - R24547	Vehicles Prohibited
Emu Point Beach South - R22698	Vehicles Prohibited
Middleton Beach - R14789 & R26149	Vehicles Prohibited
Normans Beach - R2031	Vehicles Prohibited
Nullaki Peninsula (Ocean Beach) - R30883	Vehicles Prohibited
Rushy Point - R35754	Vehicles Prohibited
Whaleworld Beach - R21337	Vehicles Prohibited
Bettys Beach (North) - R52825	Vehicles Prohibited
Nanarup Beach (West) - R45631	Vehicles Prohibited

Vehicles Prohibited other than for boat launching:

Reserve Name & Number	Proposed Determination
Cheynes Beach (Central) - R878	Vehicles Prohibited other than for boat launching or commercial fishing
Bettys Beach (South) - R52825	Vehicles Prohibited other than for boat launching.
Cape Riche - R1010	Vehicles Prohibited other than for boat launching.
Frenchman's Bay (Whalers Beach) R21337	Vehicles Prohibited other than for boat launching.

3. Vehicles remain prohibited on Nanarup Beach West and Bettys Beach North.
4. A report be provided to Council by April 2022 on the additional environmental matters raised in the latest round of public consultation relating to Nanarup Beach West and Bettys Beach North.

CARRIED 7-5

Record of Vote:

Against the Motion: Mayor Wellington, Councillors Doughty, Sutton, Stocks and Smith.

DIS266: AMENDMENT BY COUNCILLOR TERRY

MOVED: COUNCILLOR TERRY

SECONDED: COUNCILLOR THOMSON

THAT the Authorising Officer Recommendation be AMENDED to read as follows:

3. Vehicles remain prohibited on Nanarup Beach West and Bettys Beach North.
4. A report be provided to Council by April 2022 on the additional environmental matters raised in the latest round of public consultation relating to Nanarup Beach West and Bettys Beach North.

CARRIED 7-5

Record of Vote:

Against the Motion: Mayor Wellington, Councillors Doughty, Sutton, Stocks and Smith.

DIS266: AMENDMENT BY MAYOR WELLINGTON

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR STOCKS

THAT the Authorising Officer Recommendation be AMENDED with the addition of Point 3 being that Council:

3. MONITOR vehicles on Nanarup Beach West and Bettys Beach North for two (2) years and provide a report to Council for review.

LOST 5-7

Record of Vote:

For the Motion: Mayor Wellington, Councillors Doughty, Sutton, Stocks and Smith.

Councillor Sleeman subsequently withdrew her support for the amendment.

Councillor Stocks then seconded the amendment.

DIS266: AMENDMENT BY MAYOR WELLINGTON

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR SLEEMAN

THAT the Authorising Officer Recommendation be AMENDED with the addition of Point 3 being that Council:

3. MONITOR vehicles on Nanarup Beach West and Bettys Beach North for two (2) years and provide a report to Council for review.

DIS266: AUTHORISING OFFICER RECOMMENDATION

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR SLEEMAN

THAT:

1. The submissions received during the public submission period be NOTED.
2. The proposed determination under the City of Albany Property Local Law 2011 be ADOPTED:

Vehicles Permitted:

Reserve Name & Number	Proposed Determination
Bettys Beach (North) - R52825	Vehicles Permitted
Emu Point Marina Beach - R22698	Vehicles Permitted
Nanarup Beach (West) - R45631	Vehicles Permitted
Shoal Bay - R25295	Vehicles Permitted

Vehicles Prohibited:

Reserve Name & Number	Proposed Determination
Anvil Beach - R30883	Vehicles Prohibited
Black Swan Point - R25551	Vehicles Prohibited
Boronia Reserve Foreshore - R6862	Vehicles Prohibited
Brambles West - R25295	Vehicles Prohibited
Cosy Corner West - R24547	Vehicles Prohibited
Emu Point Beach South - R22698	Vehicles Prohibited
Middleton Beach - R14789 & R26149	Vehicles Prohibited
Normans Beach - R2031	Vehicles Prohibited
Nullaki Peninsula (Ocean Beach) - R30883	Vehicles Prohibited
Rushy Point - R35754	Vehicles Prohibited
Whaleworld Beach - R21337	Vehicles Prohibited

Vehicles Prohibited other than for boat launching:

Reserve Name & Number	Proposed Determination
Cheynes Beach (Central) - R878	Vehicles Prohibited other than for boat launching or commercial fishing
Bettys Beach (South) - R52825	Vehicles Prohibited other than for boat launching.
Cape Riche - R1010	Vehicles Prohibited other than for boat launching.
Frenchman's Bay (Whalers Beach) - R21337	Vehicles Prohibited other than for boat launching.

DIS266: AUTHORISING OFFICER RECOMMENDATION

THAT:

1. The submissions received during the public submission period be NOTED.
2. The proposed determination under the City of Albany Property Local Law 2011 be ADOPTED:

Vehicles Permitted:

Reserve Name & Number	Proposed Determination
Bettys Beach (North) - R52825	Vehicles Permitted
Emu Point Marina Beach - R22698	Vehicles Permitted
Nanarup Beach (West) - R45631	Vehicles Permitted
Shoal Bay - R25295	Vehicles Permitted

Vehicles Prohibited:

Reserve Name & Number	Proposed Determination
Anvil Beach - R30883	Vehicles Prohibited
Black Swan Point - R25551	Vehicles Prohibited
Boronia Reserve Foreshore - R6862	Vehicles Prohibited
Brambles West - R25295	Vehicles Prohibited
Cosy Corner West - R24547	Vehicles Prohibited
Emu Point Beach South - R22698	Vehicles Prohibited
Middleton Beach - R14789 & R26149	Vehicles Prohibited
Normans Beach - R2031	Vehicles Prohibited
Nullaki Peninsula (Ocean Beach) - R30883	Vehicles Prohibited
Rushy Point - R35754	Vehicles Prohibited
Whaleworld Beach - R21337	Vehicles Prohibited
Vehicles Prohibited other than for boat launching:	
Reserve Name & Number	Proposed Determination
Cheynes Beach (Central) - R878	Vehicles Prohibited other than for boat launching or commercial fishing
Bettys Beach (South) - R52825	Vehicles Prohibited other than for boat launching.
Cape Riche - R1010	Vehicles Prohibited other than for boat launching.
Frenchman's Bay (Whalers Beach) - R21337	Vehicles Prohibited other than for boat launching.

BACKGROUND

- On 22 June 2021, Council resolved to give public notice on the subject determination.

DISCUSSION

- There was a mistake in the advertisement / Public Notice for the Proposed Vehicles on Beaches Determination which appeared in The Weekender on 01 July 2021. This notice had the Frenchman's Bay and Nanarup Beaches around the wrong way.
- The Weekender apologised for these mistakes and agreed to place the appropriate correction notices free of charge. The corrected advertisement was published in the 08 July 2021 edition.

Public Consultation Period:

- As the planned consultation period already exceeded the statutory period of time of 21 days, the closing date for submission remained as 30 July 2021.
- To accommodate the misinformation, the Council allowed for late submissions to be accepted up to 10 working days from the closing date.
- At the close of the public comment period, there were thirty eight (38) submissions opposing including All Beaches (3), Nanarup West (36) and Betty's Beach North (3)); and two (2) submissions in support (Nanarup West) of the proposed determination.
- Due to the advertising error, submissions will be received up to 10 working days after the closing date of 30 July 2021. Any further submissions will be emailed to Elected Members prior to the DIS Committee meeting on 11 August.
- The submissions received were generally from the same constituents and considered the same key concerns as the original community consultation, however there were very few supporting submissions made during the subsequent public comment period.

13. The key themes of concern particularly at Nanarup West were:
- Safety
 - Anti-social behaviour
 - Environment
14. In relation to Nanarup West, City of Albany Ranger team members met with concerned community members to discuss methodologies and reporting channels in relation to safety and anti-social behaviour, committing to (subject to Council resolution):
- an improved professional presence
 - being as responsive as possible within resource constraints
 - improved education with an aim to modify driver behaviour
 - another meeting with other parties including Police and DBCA
15. Proposed risk mitigation measures are identified within this item and the schedule of submissions.
16. Refer to attached Schedule of Submissions document.

GOVERNMENT & PUBLIC CONSULTATION

17. Additional consultation was made post the 22 June 2021 with the Department of Local Government.
18. On 14 July 2021, the Manager Governance & Risk confirmed that with the amendment of local laws (through determination), the delegation sits within the remit of the City of Albany, and does not require the involvement of the Department of Premier and Cabinet.

STATUTORY IMPLICATIONS

19. The Local Government Property Local Law 2011, prescribes the determination process.

Clause 2.2 Procedure for making a determination

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
- (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
- (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) amend the proposed determination, in which case subclause (5) will apply; or
 - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
- (a) consider those submissions; and
 - (b) decide—
 - i. whether or not to amend the proposed determination; or
 - ii. not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
- (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

20. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

21. There are no direct policy implications.
22. Note under the City of Albany Local Government Property Local Law 2011 (clause 4.8 – Signs):

4.8 Signs
(1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.
(2) A person shall comply with a sign erected under subclause (1).
(3) A condition of use specified on a sign erected under subclause (1) is—
(a) not to be inconsistent with any provision of this local law or any determination; and
(b) to be for the purpose of giving notice of the effect of a provision of this local law.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation <i>Risk: Changes to beach access may not be accepted by some residents.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Provide clear signage, information and education on any changes.</i>
People Health & Safety <i>Risk: Vehicle access to beaches can pose a risk to other beach users</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Install Code of Conduct signage and provide information and education.</i>
Environment: <i>Vehicle access to dunes causing damage to environment</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Monitor and undertake a dune protection plan and provide signage and education</i>
Opportunity: <i>To manage coastal reserves for current use and consolidate compliance requirements.</i>				

FINANCIAL IMPLICATIONS

24. The cost of updated and new signage can be accommodated within existing budget lines.

LEGAL IMPLICATIONS

25. There are no direct legal implications.
26. Compliance will be administered under the City of Albany Local Government Property Local Law 2011.
27. Infringements will be administered by City of Albany Authorised Persons (i.e. Rangers).
28. Non-payment of fines will be administered through the Fines & Enforcement Registry.

ENVIRONMENTAL CONSIDERATIONS

29. Environmental considerations were explored in previous reports and briefings.

ALTERNATE OPTIONS

30. Council may choose not to support the proposal to change beach access for vehicles, in which case ongoing enforcement will be required to manage vehicular access.

CONCLUSION

31. It is recommended that the Council approve the determination to allow better management and compliance of our coastal reserves.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Government Act 1995</i>• <i>City of Albany Property Local Law 2011</i>
File Number (Name of Ward)	:	EM.PLA.5 (All Wards)
Previous Reference	:	<ul style="list-style-type: none">• Council Presentation 12 May 2021, post DIS Committee meeting.• OCM 22 June 2021 Resolution DIS260.

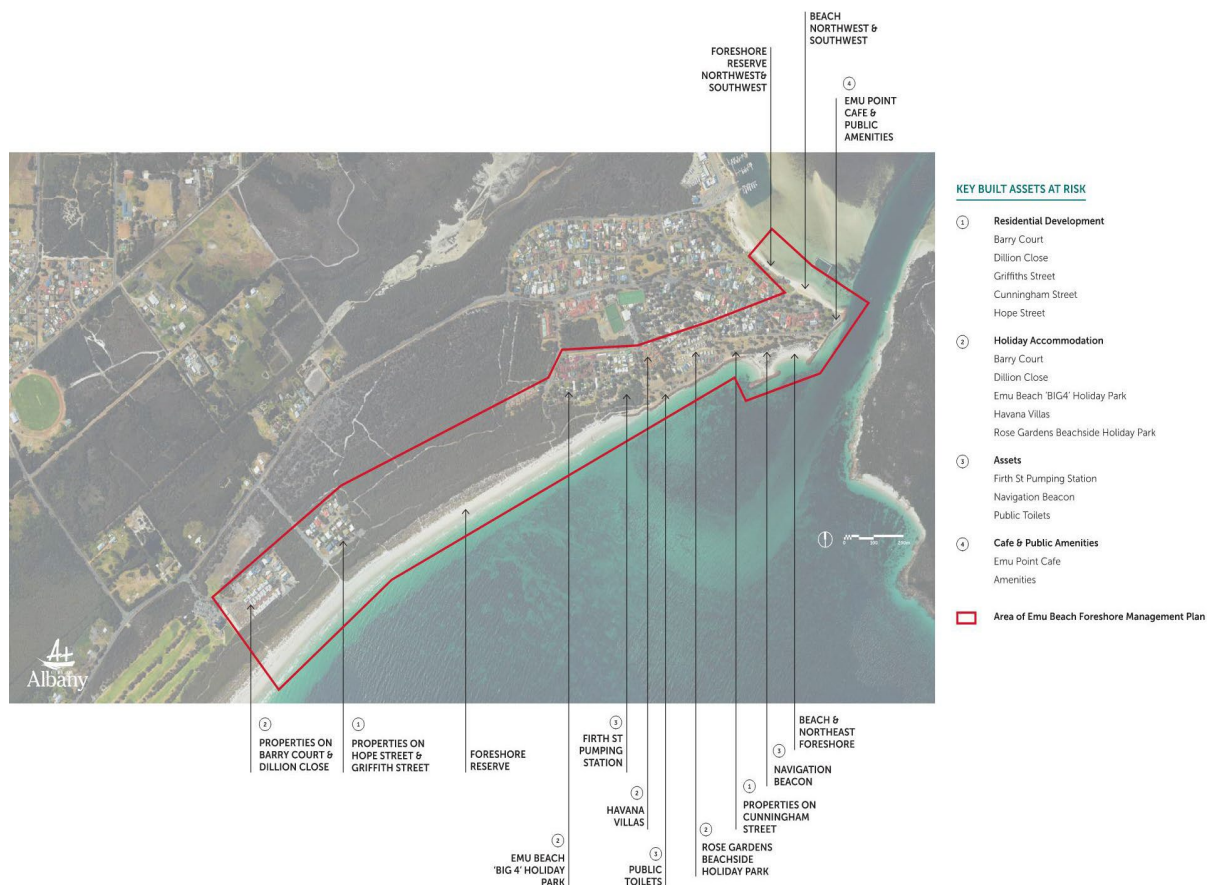
DIS267: EMU BEACH FORESHORE MANAGEMENT PLAN

Land Description	: Area of coast from the Emu Point Café to east of the Albany Golf Course
Proponent / Owner	: City of Albany (Management Order or Vested Crown Land)
Attachments	: Emu Beach Foreshore Management Plan (FMP) Schedule of Submissions
Supplementary Information & Councillor Workstation	: Public Submissions Briefing Note – Emu Beach Foreshore Management Plan (FMP)
Report Prepared By	: Manager Major Projects (A McEwan)
Authorising Officer:	: Executive Director Infrastructure, Development & Environment (P Camins)

STRATEGIC IMPLICATIONS

- This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - Theme 3:** Clean, Green and Sustainable
 - Objective 3.1:** To protect and enhance our natural and built environment in a changing climate
 - Community Priority 3.1.1:** Deliver effective practices that reduce risk to property, infrastructure and the natural environment and improve community awareness and resilience.

Maps and Diagrams: Subject Site and Key Assets



In Brief:

- A key recommendation from the Coastal Hazard Risk Management and Adaptation Plan (CHRMAP), adopted Dec 2019, was to develop a Foreshore Management Plan (FMP) for the Emu Beach area.
- The Emu Beach FMP is an important guiding document for the management of coastal erosion and hazards between the Albany Golf Club and Emu Point.
- The purpose of this report is to seek Council adoption of the final Emu Beach FMP prepared for the City of Albany.

RECOMMENDATION

DIS267: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS

SECONDED: COUNCILLOR DOUGHTY

THAT Council, in accordance with *State Planning Policy No. 2.6 – State Coastal Planning Policy*, ADOPT the final Emu Beach Foreshore Management Plan.

CARRIED 11-1

Record of Vote

Against the Motion: Councillor Hammond

DIS267: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY

SECONDED: COUNCILLOR HAMMOND

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

DIS267: AUTHORISING OFFICER RECOMMENDATION

THAT Council, in accordance with *State Planning Policy No. 2.6 – State Coastal Planning Policy*, ADOPT the final Emu Beach Foreshore Management Plan.

BACKGROUND

2. A key recommendation from the Coastal Hazard Risk Management and Adaptation Plan (CHRMAP), adopted December 2019, was to develop a Foreshore Management Plan (FMP) for the Emu Beach area.
3. A key objective of the FMP is to integrate the Coastal Adaptation recommendations from the CHRMAP with Environmental and Landscape Management.
4. The Emu Beach FMP has been funded 50:50 by City of Albany and WA Planning Commission through Dept. Planning, Lands and Heritage. Work was produced by a consultant team comprising *RPS Group* (Environmental/Planning), *Seedesign Studio* (Landscape Architecture) and *Bluecoast Consulting Engineers* (Coastal Engineering).
5. The Emu Beach FMP is an important guiding document for the management of coastal erosion and hazards between the Albany Golf Club and Emu Point.
6. The 90% complete draft document was presented to Council via online presentations and Strategic Briefing on 15 June 2021.

DISCUSSION

7. This FMP is consistent with State Planning Policy 2.6 - State Coastal Planning Policy and the endorsed CHRMAP. Whilst the CHRMAP makes broad recommendations about what to do to manage the coast over the long-term, this FMP essentially details the how – identifying a series of key management actions.
8. This FMP details key infrastructure and governance management actions to be implemented over the short term (0-5 years) and medium term (5-10 years) planning horizons.
 - a) Infrastructure:
 - Undertake the capital works for the Landscape Master Plan and granite boulder groyne field establishment (short term)
 - Undertake sand nourishment in Emu Beach and Oyster Harbour (short term)
 - Undertake the capital works for the upgrades to the existing coastal protection structures, including the Emu Point rock revetment (medium term).
 - b) Governance:
 - Approve the advertisement of the Emu Beach FMP for the purpose of advertising/public consultation (short term)
 - Complete the CoA's LPS No.1 review, which is currently being progressed, to include the vulnerable zone (the modelled hazard area to 2120) in a Special Control Area (short term)
 - Updated lease arrangement for the southern portion of the Emu Beach 'BIG4' Holiday Park (medium term)
 - Investigate the opportunity to acquire at risk land as it becomes available on the public market (medium term)

GOVERNMENT & PUBLIC CONSULTATION

9. The project governance structure included a Project Steering Group, comprising City of Albany staff and relevant government and community, business stakeholders (incl.: Department of Planning, Lands and Heritage, Department of Water and Environmental Regulation, Department of Biodiversity, Conservation and Attractions, Department of Primary Industries and Regional Development, Department of Transport, Southern Aboriginal Corporation, Southern Ports Authority, South Coast Natural Resource Management, Friends of Emu Point, Middleton Beach Group).
10. The City of Albany conducted community engagement between July-Sept 2020. Draft documents have been updated to incorporate community and Council feedback (ref: Briefing Note – Emu Beach Foreshore Management Plan).
11. The FMP was advertised for public comment from 22nd June 2021 to 14th July 2021. Two submissions were received during this period and three submissions have recently been received in regards to coastal erosion at Emu Beach. These submissions have been provided in the Councillors Workstation.
12. Overall, engagement across the project was extensive and over a long period of time. The community has been at the forefront of the City's planning for this area, and there have been multiple opportunities and processes to be engaged and input on project outcomes.

13. **Community Engagement:**

Community Engagement (Examples)	
Involve	Project Steering Group
Consult	Community Engagement July to September – online and in situ
Inform	Emu Point Meet and Greet
Consult	Comment Period 22/06/2021 – 14/07/2021

STATUTORY IMPLICATIONS

14. *State Planning Policy No. 2.6 State Coastal Planning Policy* and associated Guidelines is the most pertinent policy to inform and guide decision-making for coastal planning; including managing development and land use change; establishment of foreshore reserves; and to protect, conserve and enhance coastal values.
15. The most relevant section of the policy is section 5.5 and deals with Coastal hazard risk management and adaptation planning.
16. The FMP includes a number of actions which will lead to further amendments and controls being introduced into the Planning framework over the area, these include:
- Disclosure of risk through the planning process.
 - Adaptation measures.

POLICY IMPLICATIONS

17. Should the Emu Beach FMP be adopted and recommendations progressed in the future, Federal and State policy may apply to the project implementation phase.

RISK IDENTIFICATION & MITIGATION

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation and Business Operation <i>Risk: The FMP is not adopted.</i>	Possible	Moderate	Medium	The FMP will be reviewed and re-presented for adoption.
Opportunity: Confidence in the City of Albany to deliver outcome from funding body and confidence with the community and key stakeholders is maintained.				
Financial <i>Risk: The project is unable to be delivered.</i>	Possible	Moderate	Medium	The FMP will be reviewed and re-presented for adoption.
Opportunity: There is an opportunity for the City to advocate and lobby for funds from State and Federal Government for contribution to implement control measures.				

FINANCIAL IMPLICATIONS

18. There are no financial implications related to this report.
19. This project was funded 50:50 by Western Australian Planning Commission and City of Albany. The Emu Beach FMP was completed within the agreed budget allocation.
20. The implementation of recommendations of the Emu Beach FMP will be subject to further funding.

LEGAL IMPLICATIONS

21. Governments at all levels and private parties (individuals, businesses and the community) each have important, complementary and differentiated roles in managing risk arising from coastal hazards.
22. Local government decision making on coastal planning and development is steered by state government policy and legislation.
23. There are no direct legal implications related to this report. However, it should be noted that the City is responsible for:
 - a) Local land use planning;
 - b) Significant aspects of environmental management in the coastal zone, including the provision of waste removal and treatment services, and working with state government for the provision of water, drainage and sewerage services
 - c) Land management of coastal reserves and other coast buffer areas; and
 - d) Provision and management of public infrastructure such as roads, recreational areas and parks in the coastal zone.
24. Governments, on behalf of the community, are primarily responsible for managing risk to public goods and public assets which they own and manage.
25. The City has access to a document recently produced for WALGA titled *Legal Response to the Local Government Coastal Hazard Planning Issues Paper*.
26. Whilst not a formal legal opinion this document provides a legal opinion in regard to issues that WA Local Governments are experiencing in meeting coastal hazard planning responsibilities established by SPP 2.6.

ENVIRONMENTAL CONSIDERATIONS

27. Implementation of individual recommendations will require further environmental consideration.

ALTERNATE OPTIONS

28. Council may choose not to support the adoption of the Emu Beach FMP.

CONCLUSION

29. The City of Albany has undertaken development of a FMP for Emu Beach to guide the management of coastal erosion and hazards between the Albany Golf Club and Emu Point. This area has been identified by the community as highly valued for economic, social and environmental reasons.
30. The report proposes several key management actions relating to infrastructure and governance. Adoption of these will allow the City and its community to become more resilient to coastal hazards such as coastal erosion and coastal inundation.
31. It is recommended that Council ADOPT the final Emu Point FMP.

Consulted References	:	<ul style="list-style-type: none"> Local Government Act 1995, Planning and Development Act 2005. State Planning Policy No. 2.6 State Coastal Planning Policy and Guidelines. Coastal hazard risk management and adaptation planning guidelines. July 2019
File Number (Name of Ward)	:	EM.PLA.33 (Breaksea Ward)
Previous Reference	:	Strategic Briefing - 15 June 2021. CHRMAP- Coastal Hazard Risk Management Adaptation Plan RPT12420 adopted 17/12/2019.

DIS268: LOCAL PLANNING SCHEME AMENDMENT NO.38 – LOTS 33, 35, 37 & 121 COCKBURN ROAD AND LOTS 100 & 122 PRIOR STREET, CENTENNIAL PARK.

Land Description	: Lots 33, 35, 37 & 121 Cockburn Road and Lots 100 & 122 Prior Street, Centennial Park.
Proponent / Owner	: Proponent/s: Edge Planning & Property/Great Southern Endeavour Projects Owner/s: Lot 33 - Gary and Lee Ironmonger Lot 35 - Crusti Pty Ltd Lot 37 - Andreotti Nominees Pty Ltd Lot 121 - Rita McLean Lot 100 - Three of A Kind Pty Ltd Lot 122 - Wanslea Family Services Incorporated
Business Entity Name	: <ul style="list-style-type: none">• Edge Planning & Property (Family Partnership) Holders being Stephen Thompson and Corinne Thompson• Great Southern Endeavour Projects Director being Edwin McLean• Crusti Pty Ltd Director being Stanley Date• Andreotti Nominees Pty Ltd Directors being Orano Andreotti, Mauro Andreotti and Giuseppe Andreotti• Three of a Kind Pty Ltd Directors being John Boccamazzo and Nicole Boccamazzo• Wanslea Limited Directors being Michael W Clare, Kaye M Mazzoleni, Paul I Malcolm, Andrew B Hall, Amanda K Gadson, Robin L Cohen, Edna J Fahy and Rodney S O'Dea.
Attachments	: Scheme Amendment 38 Report (27 May 2021).
Supplementary Information & Councillor Workstation	: Alternate Recommendation
Report Prepared by	: Senior Planning Officer – Strategic Planning (A Nicoll)
Authorising Officer	: Executive Director Infrastructure, Development and Environment (P Camins)

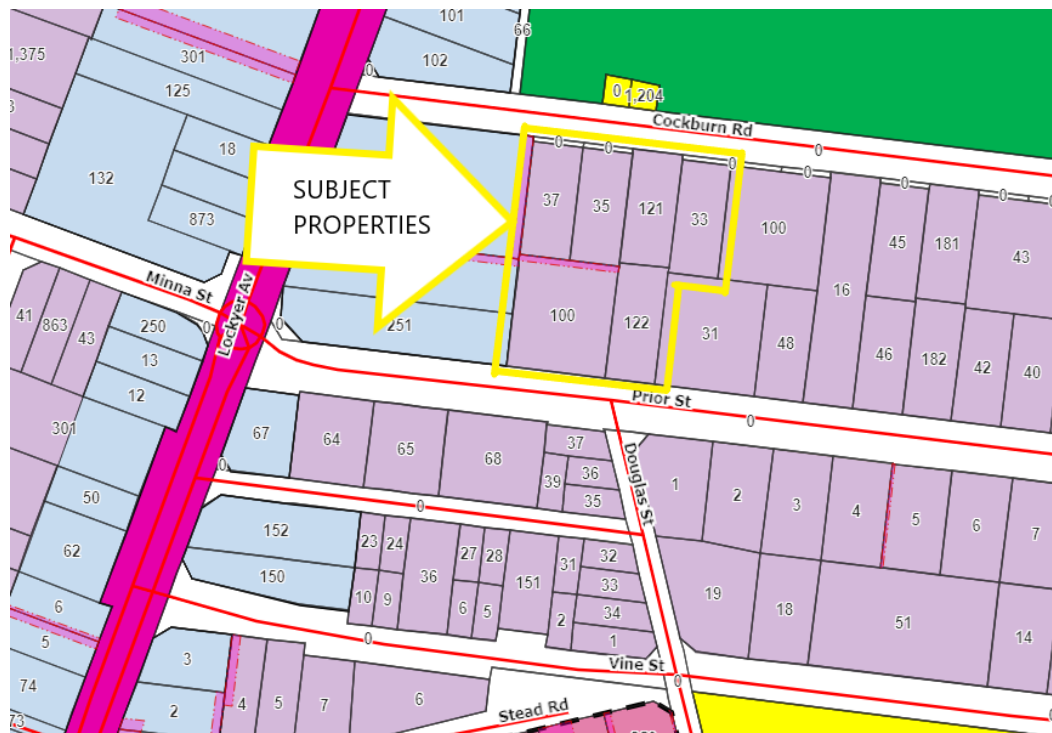
Councillor Thomson declared an [Impartiality Interest in this item](#). Councillor Thomson remained in the Chamber and participated in the discussion and vote for this item.

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. This item relates to the following elements of the City of Albany *Strategic Community Plan 2030*:
 - **Theme:** Smart, Prosperous and Growing.
 - **Objective:** To strengthen and grow our region's economic base.
 - **Community Priority:** Work with business and other stakeholders to attract investment, diversify the economy, create jobs and support small business growth.
 - **Theme:** A connected and safe built environment.
 - **Objective:** To advocate, plan for and build friendly and connected communities
 - **Community Priority:** Create infrastructure and connected streetscapes that are consistent and reflect our unique heritage.

3. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy 2019* (the Planning Strategy), which identifies Centennial Park for urban renewal.

Maps and Diagrams:



In Brief:

- The City has received a proposal to amend its current Local Planning Scheme No.1 (LPS1) to amend the zone of Lots 33, 35, 37 & 121 Cockburn Road and Lots 100 & 122 Prior Street, Centennial Park. from 'Light Industry' to 'Mixed Use'.
- The City is concurrently in the process of preparing draft Local Planning Scheme No. 2 (LPS2). Staff have substantially progressed the preparation of draft LPS2 and anticipate reporting to Council in November seeking endorsement to advertise the new draft scheme.
- LPS2 is required to follow the 'Model Provisions' set out under the Planning and Development (Local Planning Schemes) Regulations 2015 (the Planning Regulations), with the Mixed Use zone and development provisions related to the zone required to be introduced and considered as part of preparation of LPS2. The Mixed Use zone is not a zone in LPS1.
- It is recommended that Council do not initiate the amendment for the following reasons:
 - a) Although in principle, the scheme amendment proposal aligns with the strategic direction set out under the Planning Strategy and meets the Model Provisions of the Planning Regulations, the resourcing required to process a scheme amendment at the same time as progressing LPS2 results in duplication of workflows that have the same intended outcome, a dilution of staff resourcing currently dedicated to processing draft LPS2 and subsequent unintended delays in finalising LPS2.
 - b) Potential confusion within the community as to what changes are being made, when a scheme amendment to LPS1 is advertised at a similar time when the City is engaging with the community on draft LPS2 (during advertising and considering submissions).
 - c) As the proposal is generally supported in principle, it is recommended that Council request the CEO in consultation with staff to incorporate elements of the scheme amendment proposal as part of its consideration of draft LPS2, relating to the rezoning and application of residential density to the land the subject of the scheme amendment.

RECOMMENDATION

DIS268: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS

SECONDED: COUNCILLOR TERRY

THAT Council RESOLVE to:

- 1. NOT INITIATE Standard Amendment No. 38 to amend City of Albany Local Planning Scheme No. 1, for the following reasons:**
 - a) The processing of the amendment is expected to conflict with the processing of the new Local Planning Scheme No. 2.**
- 2. ADVISE the proponent of its decision and reasons to NOT INITIATE Scheme Amendment No. 38.**
- 3. REQUEST that the CEO, in consultation with staff, includes elements of the amendment in the new draft Local Planning Scheme No.2, relating to the rezoning of Lots 33, 35, 37 and 121 Cockburn Road and Lots 100 and 122 Prior Street, Centennial Park, from 'Light Industry' to 'Mixed Use' and allocating an R-Code density of R60 in accordance with the Scheme Amendment Map.**

CARRIED 7-5

Record of Vote

Against the Motion: Councillors Sutton, Thomson, Sleeman, Hammond and Benson-Lidholm.

DIS268: ALTERNATE MOTION BY COUNCILLOR THOMSON

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR THOMSON

SECONDED: COUNCILLOR SLEEMAN

THAT Council:

- 1) Pursuant to section 75 of the *Planning and Development Act 2005* and Part 5, r.35 and r.47 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to ADOPT Standard Amendment No. 38 to City of Albany Local Planning Scheme No. 1, by:**
 - a) Adding objectives for the Mixed Use zone to clause 3.2.24.**
 - b) Adding provisions applicable to the Mixed Use zone to clause 4.5.20.**
 - c) Adding clause 4.6.2(g) for variation to R-Codes.**
 - d) Amending Table 2 – Zoning Table by adding a new column and symbols of permissibility for the Mixed Use zone.**
 - e) Adding Mixed Use zone to the Scheme Map legend.**
 - f) Rezoning Lots 33, 35, 37 and 121 Cockburn Road and Lots 100 and 122 Prior Street, Centennial Park from 'Light Industry' to 'Mixed Use' and allocating an R-Code density of R60 in accordance with the Scheme Amendment Map.**

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

- a) An amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;**
 - b) The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and**
 - c) The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.**
- 2) Refer the amendment to the Environmental Protection Authority to determine if formal environmental assessment is required.**
- 3) ADVERTISE the amendment in accordance with Part 5, r.47 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

LOST 4-8

Record of Vote

For the Motion: Councillors Thomson, Sutton, Sleeman and Benson-Lidholm.

Councillor Reason:

This alternative motion looks complex, but is in fact very simple. It is the polar opposite of what the City's officers have recommended.

As somebody with postgraduate qualifications in urban planning, I have great respect for the City's planners and what they set out to achieve. However, in declining to initiate a scheme amendment that was applied for back in May, the officer recommendation risks sending the wrong economic signal to the real estate and development industries, which as we emerge from COVID-19 need to know that Albany is open for business.

State and Federal housing incentives and pandemic-induced migration trends that favour regional (particularly coastal) locations have precipitated a property boom in Albany after many years of stagnation. At the same time, Mayor Wellington has publicly expressed a desire to see Albany reach 50,000 population within the next decade. Albany's position as a nature tourism and farming centre that recently ratified a climate change action declaration will be threatened if most of that growth occurs as sprawl at the urban fringe. To quote the City's Local Planning Strategy 2019:

"... Albany ... is a sprawling city, characterised by low density residential development in the form of detached single family homes on large lots. It is composed of numerous car-dependent communities owing to the proliferation of single-use development ... As a result, the places where people live, work, shop and recreate are far from one another to the extent that public transport, walking and cycling are largely impractical ... There are a number of environmental, economic and social costs associated with urban sprawl in Albany. Valuable agricultural land is consumed for housing and areas of remnant vegetation cleared, leading to a loss of biodiversity ..."

The strategy elaborates: *"... better use of existing infrastructure and land ... will be achieved through building on the existing strengths of the regional centre and other activity centres ... Consolidation will also be achieved by undertaking urban renewal initiatives in Spencer Park and Centennial Park and by identifying residential infill opportunities that will offer a variety of housing types."*

The proposed scheme amendment fulfils those strategic aspirations, a fact acknowledged in the officers' report, which says: *"the proposed rezoning of the subject lots aligns in-principle with directions of the Planning Strategy, which identifies the precinct where the subject lots are located and the broader Centennial Park area for urban renewal, due to its proximity to the activity centre"*.

Further, the 2032 Strategic Community Plan recommended for approval at the August 24 Ordinary Meeting of Council (OCM) has as one objective: *"a compact city with diverse land, housing and development opportunities"*. The first action under that objective is to *"advocate for the State Government, private sector and non-government organisations to help meet demand for diverse housing needs, including affordable housing, social housing, short-stay accommodation, crisis accommodation, and tourist accommodation"*. The plan also says the City will *"facilitate affordable retirement accommodation in close proximity to activity centres and the CBD"*.

Again, the proposed scheme amendment fulfils all those aspirations, especially in relation to retirement accommodation close to the CBD.

A final point – concerning red tape; The Albany 2030 Community Strategic Plan (in effect until Council adopts the 2032 Strategic Community Plan as recommended in the agenda to the August 24 OCM) says the Albany community *"is keen to see a reduction in red tape when it comes to planning and building applications and a can-do attitude while meeting our regulatory obligations"*.

Given that the proponents first discussed their proposed scheme amendment with City planners in April 2021, and lodged their application in May, it is difficult to conceive of the proposal to not initiate the scheme amendment as anything but red tape.

The concern with red tape is heightened because the proposed moratorium on scheme amendments recommended at DIS271 is not scheduled to be considered until after DIS268 at the August 24 OCM. In effect, what the officer recommendation at DIS268 represents is a retrospective moratorium on the proponents' scheme amendment application before the merit of a moratorium on scheme amendments in general has been fully considered by Council. Such retrospective application of City power is neither good public administration nor good customer service.

At a time when accommodation is scarce and the building industry overheated, the City's planning process must not act, or be seen by the community to act, as a bottleneck to sustainable development.

For the above reasons, I offer the alternative recommendation for the positive consideration of Council in the interests of advancing Albany as a place where anything is possible.

Officer Comment (Executive Director Infrastructure, Development and Environment):

The initiation of Scheme Amendment 38 at this time does not align with orderly and proper planning principles for the following reasons:

- The proposed rezoning relates to a small portion of land with a new zone (Mixed Use) not currently in LPS1.
- Although the provisions of the proposed Mixed Use zone proposed by the applicant are in accordance with the model provisions of the Planning Regulations, orderly and proper planning principles warrants that the introduction of a new zone to LPS1 should involve detailed consideration where the zone should be appropriately applied across the whole municipality (in alignment with ALPS) and also the identification of land uses appropriate to the broader zone (not just specific to this site). This process is already happening through the preparation of draft LPS2.
- The preparation of draft LPS2 provides the most appropriate process to consider the introduction of a new zone in the broader context, along with other new zones under the model provisions. The LPS2 process will provide greater opportunity for community input and involvement in implementing ALPS, and more considered strategic and community based outcomes.
- As previously mentioned in DIS268, initiating the scheme amendment at a similar time to staff progressing LPS2 will impact on available resourcing dedicated to delivery of LPS2 as a priority project (Strategic Community Plan, ALPS, Planning Regulations requirements etc.).

DIS268: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR WELLINGTON
SECONDED: COUNCILLOR SHANHUN

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-2

Record of Vote:

Against the Motion: Councillor Thomson and Councillor Sleeman

DIS268: AUTHORISING OFFICER RECOMMENDATION

THAT Council RESOLVE to:

1. NOT INITIATE Standard Amendment No. 38 to amend City of Albany Local Planning Scheme No. 1, for the following reasons:
 - a) The processing of the amendment is expected to conflict with the processing of the new Local Planning Scheme No. 2.
2. ADVISE the proponent of its decision and reasons to NOT INITIATE Scheme Amendment No. 38.
3. REQUEST that the CEO, in consultation with staff, includes elements of the amendment in the new draft Local Planning Scheme No.2, relating to the rezoning of Lots 33, 35, 37 and 121 Cockburn Road and Lots 100 and 122 Prior Street, Centennial Park, from 'Light Industry' to 'Mixed Use' and allocating an R-Code density of R60 in accordance with the Scheme Amendment Map.

BACKGROUND

4. In May 2021 the City received a scheme amendment application (No. 38), proposing to rezone subject lots in Centennial Park from 'Light Industry' to 'Mixed Use'.
5. The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Planning Regulations) require local governments to undertake a review of their local planning scheme every five (5) years.
6. In accordance with the Planning Regulations, a review of LPS1 was undertaken in 2019, with the recommendation to seek formal agreement from the WAPC to repeal LPS1 and prepare a replacement LPS2.
7. Council at its Ordinary Meeting in November 2019, resolved to adopt the LPS1 review report, and also agreed to formally request the WAPC to receive the report and to agree with the recommendation of the report to repeal LPS1, and the City to prepare the replacement LPS2.
8. Staff have substantially progressed the preparation of draft Local Planning Scheme No. 2 (LPS2) and envisage reporting to Council in November seeking endorsement to advertise the new draft scheme.
9. The Election Caretaker Period Policy will limit Council's ability to make decisions on any scheme amendments and also draft LPS2 until the November 2021 Committee and Ordinary Council Meetings.
10. As preparation of draft LPS2 has reached a critical phase, it should be noted that a separate item is presented at this same meeting requesting Council to consider imposing a moratorium on considering future amendments submitted to LPS1. If Council agree to imposing the moratorium, staff are recommending it commences the day following the August OCM.
11. The requested moratorium is intended to ensure orderly and proper planning outcomes for the new LPS2, avoid additional confusion within the community by ensuring planning processes are streamlined and focused on progressing LPS2, and also to maintain adequate levels of staff resourcing to the project by ensuring the project continues to be progressed and delivered in a timely manner.
12. City and DPLH officers met with the proponent in April 2021 to discuss the proposed scheme amendment prior to formal lodgement.

13. The City and DPLH officers provided preliminary advice to the proponent at that time, indicating that due to the progress of the preparation of the draft LPS2, the City's preferred option was for imminent scheme amendments to be considered as part of draft LPS2, and not submitted and referred to Council as formal amendments to LPS1.
14. The proponent subsequently decided to proceed with lodging the scheme amendment. At that time of lodgement, City staff reiterated its position regarding processing the proposal as part of draft LPS2.
15. The proponent requested the City to proceed in accepting the formal application, indicating their concern that if the proposal were incorporated into the preparation of draft LPS2, the intended development outcomes resulting from the proposed rezoning could be significantly delayed.
16. Now that the applicant has lodged the formal scheme amendment documentation, Council must decide on whether to adopt the scheme amendment or not.

DISCUSSION

17. Scheme Amendment No. 38 proposes to rezone Lots 33, 35, 37 and 121 Cockburn Road and Lots 100 and 122 Prior Street, Centennial Park from 'Light Industry' to 'Mixed Use'.
18. The proposed rezoning of the subject lots aligns in-principle with directions of the Planning Strategy, which identifies the precinct where the subject lots are located and the broader Centennial Park area for urban renewal, due to its proximity to the activity centre.
19. Actions identified under the Planning Strategy to implement the strategic direction of the area include further investigations being undertaken and the development of a structure plan or the like to guide the transition of the locality to medium density mixed use development, that includes delivery of a diverse range of well-designed medium residential density in appropriate locations.
20. It should be noted that as the Mixed Use zone is not currently incorporated into LPS1, Scheme Amendment No. 38 also involves introduction of the new zone and associated provisions into LPS1 text and map.
21. Following lodgement of the application with the City, the proponent requested the City to seek written advice from the Department of Planning, Lands and Heritage (DPLH) on whether to progress or withdraw the scheme amendment. DPLH's response outlined that:
 - The City's comments and likely recommendation to Council on the proposal reflected previous discussions and advice between the City, DPLH and the proponent;
 - It was Council's prerogative whether to initiate the amendment or not;
 - DPLH would consider the proposal on its merits, within the applicable strategic and statutory planning context;
 - Regardless of the process undertaken to consider the proposal, the same land use planning elements would need to be addressed, with supporting documentation expected to be provided, addressing the requirements either through:
 - a) a structure plan prepared for the specific precinct; or
 - b) detailed evidence that the proposal will not prejudice future structure planning within the locality, and/or realisation of the overall objective for Centennial Park, as outlined under the Planning Strategy.

22. In response the proponent provided the following comments:

- The area has a permeable road system that can more effectively deal with land use change;
- Overall, traffic numbers are expected to be similar with land use change including that more residents living in the area will support various trips by cycling and walking. The current road network has capacity to accommodate traffic associated with land use change in the area;
- Land use change in the area will occur over decades;
- There are limited environmental issues given the area is connected to reticulated sewerage;
- Provisions can be included in the scheme to address matters such as amenity (noise). The following are examples of provisions associated with subdivision and or development applications:
 - Quiet house design requirements may be required to apply where considered appropriate by the Local Government.
 - While lawful operating industrial uses remain within a 300 metre radius of the application site, the Local Government will require, at subdivision and/or development stage, the landowner/developer to undertake and implement all noise attenuation measures necessary to ensure indoor noise levels for proposed residential or short stay development comply with the relevant 'satisfactory' design sound level specified by *AS 2107:20016 Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors* (or any updates) to ensure compliance with *Environmental Protection (Noise) Regulations 1997*.
 - Development should incorporate design elements and materials which break down the bulk of development, and provide visual interest through the articulation of the built form.
 - Building facades should be articulated to provide increased surveillance of streets, balconies and terraces will be encouraged.
 - Site access should be limited to a single driveway.
 - Prior to the issue of development approval for an application involving residential accommodation in the Mixed Use zone, Local Government may require the applicant to:
 - Provide a legal mechanism to notify the owner, their heirs and successors in title, of the possible loss of amenity from adjoining land uses;
 - Undertake a land use, acoustic and traffic analysis; and
 - Design the residential building and provide a site layout responsive to the analysis.
 - Noise attenuation measures may include but are not limited to:
 - Lodgement of an acoustic report specific to the proposed development design;
 - Detailed design guidelines and method of implementation;
 - Design and construction requirements;
 - Notification to prospective purchasers and on all Certificates of Title advising of the potential noise impacts and the requirement for appropriate noise attenuation measures.

23. Staff also propose to further liaise with DPLH as part of preparation of LPS2 to develop an approach to appropriately guide the transition of the area to mixed use, in accordance with the actions of the Planning Strategy.

24. It is acknowledged that the proposal outlined under Scheme Amendment No. 38 to rezone the subject lots to Mixed Use under LPS1:
- a) Aligns with the strategic direction identified under the Planning Strategy for the subject lots and broader Centennial Park locality;
 - b) Is generally in accordance with the Model Scheme provisions outlined under the Planning Regulations, regarding the introduction of the new zone 'Mixed Use' and insertion of associated objectives;
 - c) Identifies additional provisions to LPS1 to address and manage potential land-use conflict within the locality between existing and proposed new development whilst the area is in transition, when development and subdivision applications for land within the new Mixed Use zone are considered.
25. New planning schemes (and where relevant, amendments to current local planning schemes) are required to follow the 'Model Provisions' set out under the Planning Regulations.
26. It is noted that the Mixed Use zone is one of the zones required to be introduced to the new draft LPS2, along with relevant provisions for the zone, in accordance with the Model Provisions of the Planning Regulations.
27. As outlined above, staff have substantially progressed the preparation of draft LPS2 and anticipate reporting to Council in November seeking endorsement to advertise the new draft scheme.
28. Although Scheme Amendment No. 38 proposal to introduce the new Mixed Use zone and associated provisions is generally in accordance with the Model Provisions of the Planning Regulations, the introduction of a new zone to a current local planning scheme should also require a substantially greater level of consideration than what would be required where rezoning land from an existing zone to another under a current scheme.
29. Furthermore, consideration should be given to the broader implications of the new zone and associated provisions when applied to other areas across the municipality.
30. In addition to implementing the requirements from the Model Provisions of the Planning Regulations, consideration needs to be given to:
- a) Identifying other areas /land to be rezoned across the municipality, in accordance with the strategic directions outlined under the Planning Strategy and also any relevant state planning policy or strategic documents;
 - b) Determining appropriate permissibility of uses under the land use table, as the permissibility applies to all land identified within the zone, not just within a specific precinct;
 - c) The application of appropriate ranges of residential densities within the new zone, in accordance with identified strategic directions of the Planning Strategy, to ensure desired maximum and minimum densities provide a diverse range of well-designed housing outcomes across the municipality.
 - d) Additional development provisions applicable to all areas/land across the municipality zoned Mixed Use, as well as specific sub-precincts requiring specific provisions (such as where adjoining Centennial Park light industrial areas), and where not addressed by other scheme provisions, local planning policies or state planning policies, such as *SPP7.3 - Residential Design Codes (Volumes 1 and 2)*, including height, plot ratio, street and side setbacks; and
 - e) The implications of changes in land use and development outcomes as a result of rezoning land to the new zone, and the potential impacts on the surrounding existing and potential new zones.

31. Based on the above, where a new zone was introduced to a current local planning scheme, that only involved rezoning of a small number of lots, without due consideration being given to the broader application of the zone and associated development provisions across the municipality, would not be considered orderly and proper planning.
32. It should also be noted that a substantial extent of the work required relating to the introduction of the Mixed Use zone to LPS2 and resulting implications is already being undertaken as part of the preparation of draft LPS2.
33. If the City were to progress in considering the subject scheme amendment, staff indicate this would mostly likely result in:
 - a) A duplication of work that is already underway as part of preparation of draft LPS2,
 - b) The dilution of staff resources and time currently dedicated to progressing and delivering LPS2 in a timely manner;
 - c) Potential confusion amongst the community if/when the City consulted with the community on both the draft LPS2 and a scheme amendment to LPS1 at a similar time.
34. Council are responsible for managing its local planning scheme and subsequently are under no obligation to initiate a scheme amendment lodged for consideration.
35. Furthermore, there is no statutory requirement under the Planning and Development Act 2005 or the Planning Regulations for Council to agree to initiate a scheme amendment.
36. On this basis, there should be no expectation that Council was required to amend its scheme, if Council did not support an amendment in its current form, or considered that the scheme amendment was not warranted in that instance.
37. For these reasons, City staff have recommended that the proposal be considered through the new draft LPS2 (rather than an amendment to the current scheme).
38. Based on the above, it is recommended that the Council agree to not initiate the Scheme Amendment Application for the following reason:

The processing of the amendment is expected to conflict with the processing of the new Local Planning Scheme No.2.
39. It is also recommended that Council agree to request the CEO in consultation with staff to consider elements of Scheme Amendment No. 38 (including rezoning Lots 33, 35, 37 and 121 Cockburn Road and Lots 100 and 122 Prior Street, Centennial Park from 'Light Industry' to 'Mixed Use' and allocating an R-Code density of R60 in accordance with the Scheme Amendment Map) as part of the preparation of draft LPS2.

GOVERNMENT & PUBLIC CONSULTATION

40. The *Planning and Development (Local Planning Schemes) Regulations 2015* require that a local planning scheme amendment be adopted by a resolution of Council prior to the proposal being advertised for public comment.
41. If Council resolves under regulation 35(1) to initiate an amendment to a local planning scheme, the local government must advertise the amendment and refer to government agencies for comment, following referral and agreement by the Western Australian Planning Commission.

42. If Council resolves under regulation 35 (1) to adopt an amendment to a local planning scheme, Section 81 of the *Planning and Development Act 2005* requires a local government to refer an amendment to the Environmental Protection Authority to determine if it should be formally or informally assessed.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Email – Environmental Protection Authority	Post Council Initiation	N/A	Section 81 of the <i>Planning and Development Act 2005</i>
Consult	Mail out - Public and Government Agencies	Post Council Initiation	N/A	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i>

STATUTORY IMPLICATIONS

43. There is no statutory requirement under the *Planning and Development Act 2005* or the Planning Regulations for Council to agree to initiate a scheme amendment.
44. Council are responsible in managing its local planning scheme and subsequently are under no obligation to initiate a scheme amendment lodged for consideration.
45. Scheme amendments undergo a statutory process in accordance with the Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015.
46. Regulation 50(3) of the Planning and Development (Local Planning Schemes) Regulations 2015 allows Council to adopt a standard scheme amendment for advertising and referral to relevant public authorities.
47. The proposal is considered to be a standard scheme amendment as it is consistent with the City of Albany Local Planning Strategy.
48. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

49. The amendment is generally consistent with the *State Planning Policy 4.1 State Industrial Buffer Policy*, as development can mitigate impacts to ensure land use compatibility.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational <i>It may be perceived that the City does not support urban growth in well located areas.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>Following the due process to ensure a more strategic focus resulting in consistent and comprehensive planning outcomes. Proposed changes would be more comprehensively considered as part of LPS2.</i>
Opportunity: <i>Simplify process by assessing via development of the City's new Local Planning Scheme No.2.</i>				

FINANCIAL IMPLICATIONS

51. There are no financial implications relating to this proposal.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

53. The amendment is generally consistent with the 'EPA Guidance Statement No. 3 – Separation Distances between Industrial and Sensitive Land Uses', as development can mitigate impacts to ensure land use compatibility.

ALTERNATE OPTIONS

54. Council may resolve to proceed to initiate the scheme amendment to advertise.
55. It should be noted that DPLH have indicated the need for comprehensive structure planning within the subject area or further detailed information being provided in support of a scheme amendment, to coordinate and facilitate a transition to mixed use.

CONCLUSION

56. Scheme Amendment No. 38 is proposing to make the following fundamental change:
57. Rezoning Lots 33, 35, 37 and 121 Cockburn Road and Lots 100 and 122 Prior Street, Centennial Park from 'Light Industry' to 'Mixed Use' and allocating an R-Code density of R60 in accordance with the Scheme Amendment Map.
58. The proposed rezoning of the subject lots aligns in-principle with directions of the Planning Strategy, which identifies the precinct where the subject lots are located and the broader Centennial Park area for urban renewal, due to its proximity to the activity centre.
59. The Mixed Use zone is not currently incorporated into LPS1, and subsequently Scheme Amendment No. 38 also involves introduction of the new zone and associated provisions into LPS1 text and map, in accordance with the Model Provisions set out under the Planning Regulations.
60. The City is currently in the process of preparing draft Local Planning Scheme No. 2 (LPS2). Staff have substantially progressed the preparation of draft LPS2 and envisage reporting to Council in November seeking endorsement to advertise the new draft scheme.
61. As preparation of draft LPS2 has reached a critical phase as outlined above, a separate item is presented at this same meeting requesting Council to consider imposing a moratorium on considering future amendments submitted to LPS1.
62. If the City were to progress in considering the subject scheme amendment, staff indicate this would mostly likely result in:
- a) A duplication of work that is already underway as part of preparation of draft LPS2,
 - b) The dilution of staff resources and time currently dedicated to progressing and delivering LPS2 in a timely manner;
 - c) Potential confusion amongst the community if/when the City consulted with the community on both the draft LPS2 and a scheme amendment to LPS1 at a similar time.
63. Due to the rationale outlined above, it is recommended that Council do NOT initiate Scheme Amendment No. 38 to the current scheme for the following reason:
- The processing of the amendment is expected to conflict with the processing of the new Local Planning Scheme No.2.*
64. It is also recommended that Council request the CEO in consultation with staff to include elements of the amendment in the new scheme (e.g. Rezoning Lots 33, 35, 37 and 121 Cockburn Road and Lots 100 and 122 Prior Street, Centennial Park from 'Light Industry' to 'Mixed Use' and allocating an R-Code density of R60 in accordance with the Scheme Amendment Map).

Consulted References	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>State Planning Policy 4.1 State Industrial Buffer Policy</i> 3. <i>EPA Guidance Statement No. 3 – Separation Distances between Industrial and Sensitive Land Uses</i>
File Number (Name of Ward)	:	LAMD38 (Frederickstown Ward)
Previous Reference	:	Nil

DIS269: ANIMAL ESTABLISHMENT (DOG KENNELS)

Land Description	: Lot 201, 1387 Lower Denmark Road, Elleker 6330
Proponent / Owner	: B Whyatt
Attachments	: 1. Copy of Application 2. Copy of Acoustic Report 3. Schedule of Submissions
Supplementary Information & Councillor Workstation	: Public Submissions
Report Prepared By	: Senior Planning Officer (J Anderson)
Authorising Officer:	: Executive Director Infrastructure, Development and Environment (P Camins)

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. This item relates to the following elements of the City of Albany *Strategic Community Plan 2030*:

Theme 2: Smart, Prosperous and Growing

Objective 2.1: To strengthen and grow our region's economic base

Community Priority 2.1.1: Work with business and other stakeholders to attract investment, diversify the economy, create jobs and support small business growth.

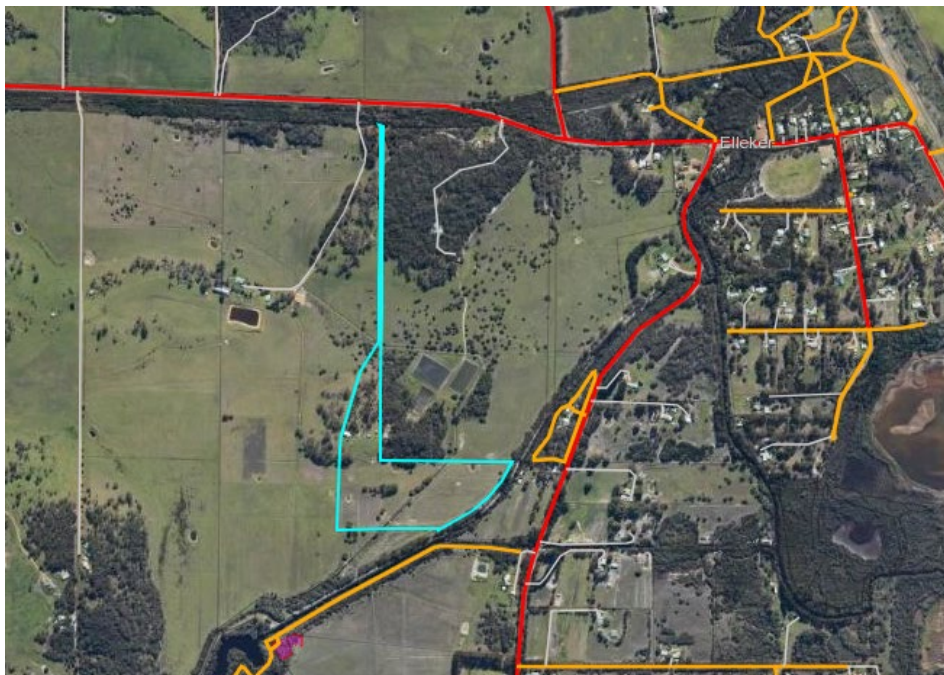
Theme 5: A connected and safe built environment.

Objective 5.1: To develop vibrant neighbourhoods which retain local character and heritage.

Community Priority 5.1.1: Develop and implement a contemporary Local Planning Strategy that reflects our identity and supports economic growth.

3. When exercising its discretion in relation to planning matters, the pertinent strategic document is the City of Albany Local Planning Strategy 2019 (the Planning Strategy).
4. The proposal is consistent with the strategic directions identified in the Planning Strategy.

Maps and Diagrams: 1387 Lower Denmark Road, Elleker 6330



In Brief:

- Council is asked to consider an application for development approval for an Animal Establishment (Dog Kennels) at 1387 (Lot 201) Lower Denmark Road, Elleker.
- The land use is considered a 'D' use within the 'Priority Agricultural' zone in accordance with City of Albany *Local Planning Scheme No. 1* (LPS1).
- The application was advertised for public comment via direct mail out to surrounding landowners within a 500 metre radius.
- Three (3) submissions were received in relation to the proposal. All 3 submissions raised concerns in relation to the proposal.
- The applicant has submitted additional information to clarify and address concerns raised during advertising. The additional information, which includes an Acoustic Report, outlines specific mitigation measures to address concerns in relation to noise generated by the operation.
- Due to the concerns raised during advertising, the application is being referred to Council for determination.
- The application was also referred to the Department of Water and Environmental Regulation (DWER). DWER indicated that it has no objections to the proposal, however, did recommend an Acoustic Report be obtained to ensure that the proposed noise mitigation measures would be sufficient in compliance with the *Environmental Protection (Noise) Regulations 1997* (EPNR).
- The revised information submitted by the applicant and proposed conditions are considered to address the concerns raised through the public advertising process.
- Staff recommend that Council approve the proposed development, subject to conditions.

RECOMMENDATION

DIS269: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR SMITH

THAT Council ISSUE a notice of determination granting development approval with conditions for Animal Establishment (Dog Kennels) at 1387 (Lot 201) Lower Denmark Road, Elleker.

Conditions:

- 1. All development shall occur in accordance with the stamped, approved plans referenced P2200615, being signed and dated by a designated Authorised Person, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.**
- 2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.**
- 3. Prior to commencement, all measures and actions identified in the Development Application and Management Plan, being implemented and maintained to the satisfaction of the City of Albany, including but not limited to the following:**
 - a) The operations of the approved Animal Establishment (Kennels) shall be contained within the area nominated on the stamped, approved plans referenced P2200207, unless otherwise agreed in writing by the City of Albany.**
 - b) Animal wash down bays to be connected to an approved onsite effluent system, to the satisfaction of the City of Albany.**
 - c) The owner/manager/operator of the Animal Establishment (Dog Kennels) shall reside on-site.**
 - d) The applicant shall prepare and provide a complaints response procedure to all adjoining landowners, to the satisfaction of the City of Albany.**

Advice:

- *The approved Management Plan shall be reviewed and updated at the time of any change of ownership or management, in consultation and to the satisfaction of the City of Albany.*
 - *The complaints response procedure shall include current contact details of the business manager/operator.*
 - *The proponent shall ensure that the complaints response procedure is updated and maintained when required and made available to current adjoining landowners for the life of the development.*
4. The approved Animal Establishment (Kennels) shall be constructed and operated in accordance with the details and recommendations within the Acoustic Report dated 11 June 2021, specifically incorporating all noise attenuation measures, including, but not limited to the following:
- a) Construction measures shall be in accordance with the recommendations specified within the Acoustic Report dated 11 June 2021, or alternative recommendations by a suitably qualified Acoustic Engineer.
 - b) Dogs shall be housed inside their kennels with no access to the external runs except between 7am and 5.30pm Monday to Saturday, and between 9am and 5.30pm on Sundays.
 - c) The external exercise area shall only be used under supervision and between the hours of 10am and 3pm, with no more than 4 dogs to occupy the exercise area at any time.
 - d) Staff shall provide activities for the dogs so they are occupied during exercise times.
 - e) Staff shall pay particular attention to anxious dogs and those that may suffer from separation anxiety.
5. No remnant vegetation shall be removed in association with the approved Animal Establishment (Kennels), without the prior approval of the Department of Water and Environment Regulation. (DWER)
6. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
7. Compliance with the relevant clauses and provisions including but not limit to the keeping of animals, limits of number of animals, waste and nuisance, management and conditions of approved kennel establishment of the City of Albany Local Laws relating the *City of Albany Dog Local Law 2017 and Animals Local Law 2001*.
8. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.

Advice:

- *Please refer to the City of Albany Local Planning Policy – Signs for further information.*

Advice Note: The level of noise emanating from the development shall not exceed that prescribed in the *Environmental Protection Act 1986*, and the *Environmental Protection (Noise) Regulations 1997*.

Advice Note: The development is required to comply with all relevant Health Regulations, in particular, regard should be paid to Noise Regulations.

CARRIED 12-0

DIS269: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR SLEEMAN

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

DIS269: AUTHORISING OFFICER RECOMMENDATION

THAT Council ISSUE a notice of determination granting development approval with conditions for Animal Establishment (Dog Kennels) at 1387 (Lot 201) Lower Denmark Road, Elleker.

Conditions:

1. All development shall occur in accordance with the stamped, approved plans referenced P2200615, being signed and dated by a designated Authorised Person, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. Prior to commencement, all measures and actions identified in the Development Application and Management Plan, being implemented and maintained to the satisfaction of the City of Albany, including but not limited to the following:
 - a) The operations of the approved Animal Establishment (Kennels) shall be contained within the area nominated on the stamped, approved plans referenced P2200207, unless otherwise agreed in writing by the City of Albany.
 - b) Animal wash down bays to be connected to an approved onsite effluent system, to the satisfaction of the City of Albany.
 - c) The owner/manager/operator of the Animal Establishment (Dog Kennels) shall reside on-site.
 - d) The applicant shall prepare and provide a complaints response procedure to all adjoining landowners, to the satisfaction of the City of Albany.

Advice:

- *The approved Management Plan shall be reviewed and updated at the time of any change of ownership or management, in consultation and to the satisfaction of the City of Albany.*
 - *The complaints response procedure shall include current contact details of the business manager/operator.*
 - *The proponent shall ensure that the complaints response procedure is updated and maintained when required and made available to current adjoining landowners for the life of the development.*
4. The approved Animal Establishment (Kennels) shall be constructed and operated in accordance with the details and recommendations within the Acoustic Report dated 11 June 2021, specifically incorporating all noise attenuation measures, including, but not limited to the following:
 - a) Construction measures shall be in accordance with the recommendations specified within the Acoustic Report dated 11 June 2021, or alternative recommendations by a suitably qualified Acoustic Engineer.
 - b) Dogs shall be housed inside their kennels with no access to the external runs except between 7am and 5.30pm Monday to Saturday, and between 9am and 5.30pm on Sundays.
 - c) The external exercise area shall only be used under supervision and between the hours of 10am and 3pm, with no more than 4 dogs to occupy the exercise area at any time.
 - d) Staff shall provide activities for the dogs so they are occupied during exercise times.
 - e) Staff shall pay particular attention to anxious dogs and those that may suffer from separation anxiety.
 5. No remnant vegetation shall be removed in association with the approved Animal Establishment (Kennels), without the prior approval of the Department of Water and Environment Regulation. (DWER)
 6. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
 7. Compliance with the relevant clauses and provisions including but not limit to the keeping of animals, limits of number of animals, waste and nuisance, management and conditions of approved kennel establishment of the City of Albany Local Laws relating the *City of Albany Dog Local Law 2017 and Animals Local Law 2001*.

8. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.

Advice:

- *Please refer to the City of Albany Local Planning Policy – Signs for further information.*

Advice Note: The level of noise emanating from the development shall not exceed that prescribed in the *Environmental Protection Act 1986*, and the *Environmental Protection (Noise) Regulations 1997*.

Advice Note: The development is required to comply with all relevant Health Regulations, in particular, regard should be paid to Noise Regulations.

BACKGROUND

5. Council is asked to consider an application for development approval for an Animal Establishment (Dog Kennels) at 1387 (Lot 201) Lower Denmark Road, Elleker.
6. The subject site lies to the southern side of Lower Denmark Road, approximately 15km west of the Albany City centre. The lot has an area of approximately 10 hectares and is zoned 'Priority Agriculture' under LPS1.
7. The topography of the area within direct proximity to the site is undulating to the north and west and consisting of low lying areas to the east and south. Unnidup Creek is located south of the site, Broke Inlet to the south west of the site and Lake Powell to the south east.
8. The existing amenity within the immediate area can be classified as having a rural landscape, defined by large open paddocks with clusters of remnant vegetation.
9. The existing dwelling and proposed development is situated at the top of a hill that is approximately 17m above Australian Height Datum (AHD). The land slopes down approximately 13m on all elevations to low lying areas located approximately between 2-3m above AHD.
10. The dwelling and proposed development is surrounded by mature remnant vegetation on the subject site and adjoining properties. The remnant vegetation on the eastern adjoining property consists of mature trees and understorey, extending north and south along the boundary fence line.
11. The remnant vegetation within the subject property directly to the north of the dwelling and proposed development and in the western adjoining property could be described as 'parkland cleared' with mature trees and minimal understorey.
12. The adjacent property to the east is an operational strawberry farm ('Agriculture – Intensive'), with the operations area of the farm located to the north-east of the proposed development. The property to the north-west consists of a dwelling and Bed and Breakfast set amongst an operating rural property ('Agriculture-Extensive').
13. The wider area can be classified as having a rural residential landscape defined by dispersed dwellings located within areas of open paddocks, areas of remnant vegetation, drainage lines, wetlands and watercourses.
14. The subject site is adjoined by 'Priority Agriculture' zoned land to the north, south, east and west.
15. Animal Establishment (Dog Kennels) is considered a 'D' use within the 'Priority Agricultural' zone, meaning that the use is not permitted unless the local government has exercised its discretion by granting development approval.
16. Although not specifically required under LPS1, the application was advertised for a period of twenty-three (23) days (between the dates of 4/01/2021 – 28/01/2021). All landowners within a 500m radius were notified directly by letter.
17. The proposal was also referred to the Department of Water and Environmental Regulation (DWER).

DISCUSSION

18. The proponent seeks to operate an Animal Establishment (Dog Kennels) for up to 30 dogs.
19. The proponent has provided the following (summarised) outline of how the proposed Animal Establishment will operate:
20. The dogs will be housed within a purpose built, fully enclosed and insulated structure. The structure also includes an on-site office, reception area and dog grooming facilities.
21. The entire structure will be insulated with acoustic insulation to mitigate noise.
22. The operation involves dogs being housed within individual lockable kennels within the structure, plus individual external runs/play areas accessed from each kennel, consisting of covered and uncovered areas.
23. The internal kennel enclosures would be separated by a solid wall (6mm fibro sheeting or brick), while the outdoor runs for each kennel would be separated by chain mesh to allow for socialising.
24. Dogs would be housed internally in their kennels with no access to the external runs between 5.30pm and 7.00am.
25. A communal dog exercise area is also proposed to be located adjacent to the kennels to the north. The dogs would be exercised daily within this area between 10am and 3pm, in small groups of no more than 4 dogs at one time.
26. The kennels would be operated by the two landowners who will permanently reside on-site.
27. The proposed kennels would be located 20 metres from the landowners' existing dwelling
28. The kennels are proposed to be located 15 metres from the eastern boundary, 370 metres from the south-east boundary, approximately 800 metres from the northern boundary, 270 metres from the southern boundary, and 35 metres from the western boundary.
29. The kennels would be cooled and heated by reverse cycle air conditioning.
30. The kennels are proposed to operate 24/7 throughout the year, however check-ins would only occur during daytime hours, between 7.30am to 9.30am and again from 3.30pm to 5.00pm.
31. The dog numbers would fluctuate during the year, with full capacity (30 dogs) only occurring during peak holiday periods.
32. Dogs will be washed on arrival, and full vaccination records will be required for all dogs before they are accepted.
33. The EPA Separation Distances between Industrial and Sensitive Land Uses 2005 Guidelines for Dog *Kennels* stipulates a buffer distance of 500 metres between this type of use and sensitive land uses, such as dwellings. This buffer is intended as providing guidance only in the absence of site specific studies.
34. The closest dwellings measured from the kennel enclosure are approximately 500 metres to the north-west, 500 metres to the east and 535 metres to the south-east. All other dwellings are in excess of 700 metres.
35. The closest dwellings measured from the outdoor exercise area are 430m to the north-west and 490m to the east.
36. The proposal was referred to nearby landowners and DWER. DWER have no objections to the proposal, however did recommend an Acoustic Report be obtained to ensure that the proposed noise mitigation measures would be sufficient in compliance with the EPNR.
37. An Acoustic Report was obtained by the applicant. The Acoustic Report confirmed that based on the proposed noise mitigation measures, that general compliance with the EPNR may be achieved.

38. It has however been predicted that there may be a marginal exceedance of the daytime level by 1 dB during daytime exercise times for receptor 1 (Bed and Breakfast) to the north-west (based on the Sunday/Public Holiday criterion).
39. It is expected that this marginal exceedance may be appropriately managed with the following proposed management measures:
 - A member from Management will be on site at all times to closely monitor the dogs. It is also noted that the proponents (Management) currently live on site.
 - Particular attention will be made by Management to:
 - Monitor the dogs during exercise times in the outdoor exercise area.
 - Providing activities for the dogs during exercise times, as active dogs are less likely to bark.
 - Monitoring anxious dogs and those that may suffer from separation anxiety, to ensure management of potential barking/noise.
40. It should be noted that receptor 1 (Bed and Breakfast) has not raised any concerns in relation to the proposal.
41. Access will be via Lower Denmark Road, using the existing access crossover.
42. Dog Kennels are controlled under the City of Albany Dog Local Law 2017 and Animals Local Law 2001.
43. Should development approval be granted, the applicant is then required to make an application under the City's Animals Local Law 2001 and Dog Local Law 2017 to obtain a license for the kennels. The proposal appears to meet the relevant requirements of the local laws.
44. The Department of Primary Industries and Regional Development have recently released for consultation the draft Health and Welfare of Dogs in Western Australia Standards & Guidelines.
45. Whilst the document is in draft format and could be subject to change, the proposal appears to comply with the relevant requirements for an Animal Establishment.
46. A total of three submissions were received in relation to the proposal, all raising concerns in relation to the proposal.
47. The concerns relate primarily to the following:
 - Amenity (noise) – excessive barking and concerns the 500m EPA buffer is not sufficient or accurate.
 - Zoning – zoned Priority Agriculture and doesn't feel domestic animals fit with the intent of the zone.
 - Environmental – concerns waste management isn't sufficient given that they are located within the Marbelup Catchment Priority Drinking Water Area.
 - Property Value.
48. As a result of the concerns raised during the submission period, the applicant has provided an Acoustic Report and further details addressing the issues raised.
49. The main concerns raised and the proposed mitigation measures are addressed in more detail in the following paragraphs.

Amenity (noise) – excessive barking and concerns the 500m buffer is not sufficient or accurate.

50. The concern regarding the operation having a negative impact on amenity was consistently raised within the submissions on the proposal, due to the proposed operation's proximity to existing dwellings and potential impacts from noise (excessive barking).
51. When assessing impacts on amenity, it is necessary to determine the level of existing amenity within the immediate area and secondly, within the wider locality.
52. As outlined in the Background section above, the existing amenity within the immediate area can be classified as having a rural landscape, defined by large open paddocks with clusters of remnant vegetation.
53. The adjacent property to the east is an operational strawberry farm ('Agriculture – Intensive'), whilst the property to the north-west consists of a dwelling and Bed and Breakfast (receptor 1). The wider area can be classified as having a rural residential landscape defined by dispersed dwellings located within areas of open paddocks and areas of remnant vegetation.
54. The closest dwellings measured from the kennel enclosure (purpose built structure) are approximately 500m to the north-west, 500m to the east and 535m to the south-east. All other dwellings are in excess of 700m.
55. The closest dwellings measured from the outdoor exercise areas are 430m (receptor 1) to the north-west and 490m (receptor 2) to the east.
56. The Environmental Protection Authority's Separation Distances between Industrial and Sensitive Land Uses guidelines (2005) set out a generic buffer of 500 metres for this type of use and sensitive land uses, in accordance with the Environmental Protection Act 1986 and Environmental Protection (Noise) Regulations 1997 (EPNR). This buffer is intended as providing advice guidance only in the absence of site specific noise modelling reports.
57. The proposal was referred to DWER for comment. DWER have no objections to the proposal, however did recommend the applicant obtained an Acoustic Report to ensure the proposed noise mitigation measures were sufficient in ensuring the proposal would meet the EPNR.
58. An Acoustic Report was subsequently submitted by the applicant. The noise assessment and scenario modelling undertaken in the report predicted that general compliance with the EPNR may be achieved. Furthermore, that marginal exceedance of 1dB at receptor 1 may be appropriately managed with mitigation measures (as outlined above).
59. The Acoustic Report further noted that compliance with EPNR does not require complete inaudibility to be achieved, but that noise levels are controlled to generally satisfactory levels for most people.
60. Staff consider that the proposed construction and management mitigation measures outlined above and detailed within the Acoustic Report, in addition to the separation distances to the neighbouring dwellings, that any impacts on adjoining landowners will be satisfactorily mitigated.
61. In addition to the above, the application of appropriate planning conditions requiring the proposed development to operate in accordance with the approved management plan and recommendations within the Acoustic Report will ensure this concern has been adequately addressed and mitigated.

Zoning – Zoned Priority Agriculture and doesn't feel domestic animals fit with the intent of the zone.

62. The subject site is zoned Priority Agriculture. City of Albany LPS1 classifies an Animal Establishment (Dog Kennels) as a use that can be considered within this zone.
63. The objectives of the Priority Agriculture zone are as follows:
- (a) Identify agricultural land resources that are considered to be of local, State and/or regional significance;
 - (b) Provide for a diversity of sustainable intensive and extensive agriculture activities or rural industries that do not impact upon agricultural activities and protect those land uses from incompatible developments;
 - (c) Manage in a sustainable manner the soil and water resources available in the zone;
 - (d) Prevent land uses and development within the zone that may adversely impact on the continued use of the zone for a diversity of agricultural purposes; and
 - (e) Provide for value-adding opportunities to agricultural and rural products on-site.
64. Staff consider the proposed Animal Establishment (Dog Kennels) to be a form of rural activity. Given that the proposed use is clustered with the existing dwelling on-site, in addition to the proposed separation distances to the neighbouring dwellings, it is considered that the proposal will not conflict with farming interests, nor the amenity of the area.
65. Given that the proposal is unlikely to hinder agricultural production, and staff are satisfied that the proposal is consistent with the objectives of the zone.

Environmental - concerns waste management isn't sufficient given that they are located within the Marbelup Catchment Priority Drinking Water Area.

66. The subject site falls outside of the Marbelup Catchment Priority Drinking Water Area, however the proposal was referred to the Department of Water and Environmental Regulation who have no objections to the proposal.
67. The applicant is proposing to provide appropriate drainage surrounding the kennels to enable the concrete floor to be cleaned/mopped daily. The applicant is proposing that all effluent is disposed of within the proposed septic system.
68. It is considered that the proposed on-site waste management plan will mitigate the concerns and the proposed use will not detrimentally affect the amenity of the area.

Value of property

69. One resident raised concerns that their property value would be affected.
70. Property value is not a matter to be considered under the Planning Regulations 2015.
71. In summary, Council is requested to consider the submissions received during the public advertising period and determine whether to grant development approval, subject to appropriate conditions.

GOVERNMENT & PUBLIC CONSULTATION

72. The proposal was advertised for public comment for a period of 23 days. Surrounding landowners within 500 metres of the proposed Animal Establishment were notified directly by letter.
73. A total of three (3) submissions were received in relation to the proposal, all raising concerns in relation to the proposal. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed in the paragraphs 45-63 above.
74. In addition to the public consultation, the proposal was also referred to DWER.

75. DWER have no objections to the proposal, however did recommend an Acoustic Report be obtained to ensure that the proposed noise mitigation measures would be sufficient in compliance with the EPNR.
76. An Acoustic Report was subsequently provided which suggests general compliance with the EPNR can be achieved.

STATUTORY IMPLICATIONS

77. Animal Establishment (Dog Kennels) is considered a “D” use within the “Priority Agricultural” zone, meaning that the use is not permitted unless the local government has exercised its discretion by granting development approval.
78. Voting requirement for this item is **Simple Majority**.

POLICY IMPLICATIONS

79. There are no specific Local Planning Policies that relate to Animal Establishments, however Dog Kennels are controlled under the City of Albany Dog Local Law 2017 and Animals Local Law 2001.
80. Should development approval be granted, the applicant is then required to make an application under the City's Animals Local Law 2001 and Dog Local Law 2017 to obtain a license for the kennels. The proposal appears to meet the relevant requirements of the local laws.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation <i>The approval may generate unacceptable impacts on the amenity on the area.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>The application has been assessed against the relevant statutory framework. The proposed use is considered a form of rural activity. Potential amenity impacts from the development can be mitigated through identified measures.</i>
Opportunity: <i>Facilitate the sustainable development of the agricultural sector and maximise opportunities for diversification of agriculture and downstream processing.</i>				

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

86. The subject lot is under pasture with a small area of scattered remnant vegetation to the north. The removal of vegetation is not proposed as part of this proposal.
87. The subject site falls outside of the Marbelup Catchment Priority Drinking Water Area, however the proposal was referred to the Department of Water and Environmental Regulation who have no objections to the proposal.
88. There is a drainage line, that runs through the lot to the south. The drainage line connects to Unnidup Creek. The proposed development is approximately 225 metres from the drainage line.
89. Wastewater and on-site effluent disposal will be managed through the provision of appropriate drainage surrounding the kennels, enabling the concrete floor to be cleaned/mopped daily and for all effluent to be disposed of within the proposed septic system.

ALTERNATE OPTIONS

90. Council has the following alternate options in relation to this item, which are:
 - a) To determine that the proposed use is unacceptable and to resolve to refuse the application; or
 - b) To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

CONCLUSION

91. The proposal is considered to be consistent with the objectives of the zone and the requirements of the City of Albany LPS1.
92. The matters raised in the public submissions have also been broadly addressed by the proponent through revised plans and mitigated through the application of appropriate planning conditions.
93. On this basis, it is considered the proposal can be approved and appropriately managed through ongoing compliance with conditions.
94. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Environmental Protection (Noise) Regulations 1997</i> 3. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses 2005</i> 4. <i>City of Albany Dog Local Law 2017</i> 5. <i>City of Albany Animal Local Law 2001</i>
File Number (Name of Ward)	:	A214368 (West Ward)
Previous Reference	:	Nil

**DIS270: MIXED USE DEVELOPMENT (MULTIPLE DWELLINGS (X6)
AND SHOP (X1)) – 1-7 FLINDERS PARADE, MIDDLETON BEACH**

Land Description	: 1-7 Flinders Parade (Lot 9001), Middleton Beach, WA 6330
Proponent / Owner	: Proponent: Taylor Burrell Barnett Owner: Western Australian Land Authority t/a DevelopmentWA (<i>Government Entity</i>)
Business Entity Name	: Taylor Burrell Barnett (<i>Planning Consultant</i>) Business Name Holder being Toddville Prospecting Pty Ltd
Attachments	: 1. Copy of Application 2. Schedule of Submissions
Supplementary Information & Councillor Workstation	: 1. Public submissions 2. Agency submissions 3. Activity Centre Precinct Landscaping Plan 4. Local Design Review Panel Minutes 5. Plans submitted to Local Design Review Panel
Report Prepared By	: Planning Officer (D Ashboth)
Authorising Officer:	: Executive Director Infrastructure, Development and Environment (P Camins)

8.28pm Councillor Smith left the Chamber after declaring a Proximity Interest in this item.

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. This item relates to the following elements of the City of Albany *Strategic Community Plan 2030*:
 - **Theme:** A connected and safe built environment.
 - **Objective:** To develop vibrant neighbourhoods which retain local character and heritage.
 - **Community Priority:** Develop and implement a contemporary Local Planning Strategy that reflects our identity and supports economic growth.
 - **Community Priority:** Provide proactive planning and building services that support sustainable growth while reflecting our local character and heritage.
3. The item relates to the following strategic objectives of the City of Albany Local Planning Strategy 2019 (the Planning Strategy):
 - a) Plan for predicted population growth to 2026.
 - b) Consolidate existing urban form and improve land use efficiency.
 - c) Deliver a diverse and affordable housing market.

Maps and Diagrams: 1-7 (Lot 9001) Flinders Parade, Middleton Beach



In Brief:

- The City of Albany has received a development application at 1-7 Flinders Parade, Middleton Beach for a mixed use development including six (6) multiple dwellings and a commercial tenancy (restaurant/café or consulting rooms).
- The site is zoned Special Use 25 (SU25) under the *City of Albany Local Planning Scheme No. 1* (LPS1) and is located within the Middleton Beach Activity Centre. The site is located within the Mixed Use (2-5 storeys) Precinct of the *Middleton Beach Activity Centre Structure Plan* (the Structure Plan) that applies to the site.
- The proposal was also required to be assessed against the *Middleton Beach Activity Centre Design Guidelines* (the Guidelines), that were prepared to guide development and built form within the Middleton Beach Activity Centre.
- The Guidelines outline requirements for preliminary development proposals to be assessed by an Estate Architect appointed by the City, and formal referral to a Local Design Review Panel (LDRP) for assessment against the provision of the Guidelines, prior to formal lodgement of the development application.
- Following assessment against the Guidelines, the proposed mixed use development has been assessed on its merits against the provisions of LPS1 and the Structure Plan. The proposal seeks to vary the following provisions the Structure Plan:
 - Minimum building height (overall).
 - Minimum building height (internal floor to floor at ground level).
 - Car parking configuration.
- Due to previous involvement in preparation of the Structure Plan, the Department of Planning, Lands and Heritage (DPLH) were involved in the pre-lodgement consultation process and provided in-principle support to the concept design. Once submitted, the formal application was referred to the DPLH for comment.
- The proposal was referred to adjoining landowners within a 100m radius, a sign was erected on site and the plans were uploaded to the City website. At the closing of the public advertising period, six responses were received, three objections, one support and two supports subject to modifications.
- The submissions received outlined the following:
 - Site would be better suited to a community use.
 - A federation style design would be more suited to the locality.
 - Greater heights should be considered.
 - Existing peppermint trees should be retained.
 - Street parking should not be used for residential purposes.
 - Concerns no visitor parking proposed.
- Due to the concerns raised and the extent of variations to the assessment framework, the application is being referred to Council for determination.

RECOMMENDATION

DIS270: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS

SECONDED: COUNCILLOR SUTTON

THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for the Two Storey Mixed Use Development (Six Multiple Dwellings and Shop) at 1-7 Flinders Parade, Middleton Beach.

Conditions:

- 1. All development shall occur in accordance with the stamped, approved plans referenced P2210221, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.**
- 2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.**
- 3. The proposal is to comply with any details and/or amendments marked in red on the stamped, approved plans.**
- 4. Prior to occupation of the development, car parking spaces and manoeuvring areas shall be designed and constructed in accordance with Australian Standard 2890, to the satisfaction of the City of Albany.**
- 5. Prior to occupation of the development, new crossovers shall be constructed to the City of Albany's specifications, levels and satisfaction.**

Advice:

- A 'Permit for Vehicle Crossover Construction' is required from the City of Albany prior to any work being carried out within the road reserve.**

- 6. All stormwater to be connected to the individual lot connections provided by the subdivision works.**
- 7. Prior to the commencement of development, satisfactory arrangements being made with the City of Albany for the provision of appropriately designed shading devices to openings on the east and western elevations, to reduce the morning / afternoon heat loads. Prior to occupation of the development, the shading devices shall be implemented and maintained in perpetuity, to the satisfaction of the City of Albany.**

Advice:

- The provision of L-shaped awnings/fins would fulfil this condition.**

- 8. Prior to the commencement of development, suitable arrangements shall be made with, and to the satisfaction of the City of Albany, for payment of a cash-in-lieu contribution or joint use of another parking facility to compensate for the shortfall of one (1) car parking bay.**

Advice:

- At current land values, staff estimate that the cash-in-lieu payment would equate to approximately \$3,300 per bay excluding GST.**

- 9. Satisfactory arrangements being made with the City of Albany prior to occupancy of use for a public art work commission to the value of 1% (or cash in lieu off) to reflect or enhance local cultural identity as part of the development hereby approved.**

Advice:

- Please refer to the City of Albany Policy - Art in the Public Domain for further information.**

- 10. The development hereby approved shall be constructed in accordance with Australian Standard 3959 'Construction of Buildings in Bushfire – Prone Areas'.**

Advice:

- *To ensure compliance with condition 10, the development hereby approved shall be constructed in accordance with the construction requirements for BAL-29, as per the recommendation of the “AS Bushfire Management Plan” dated February 2021 by Lush Fire and Planning.*

11. Prior to the commencement of development, the Applicant is to satisfactorily demonstrate to the City of Albany that the proposed development can be implemented without disturbance of known Acid Sulphate Soils material and that an Acid Sulphate Soils Management Plan is not required. Should the City not be satisfied, then prior to commencement of development, an Acid Sulphate Soils Management Plan shall be submitted to the City of Albany for approval, in consultation with the Department of Water and Environmental Regulation. The approved Acid Sulphate Soils Management Plan shall be implemented to the satisfaction of the City of Albany.
12. Prior to the commencement of development, a Landscaping Plan detailing the size, species and location of trees/shrubs shall be submitted to the City of Albany for approval. The approved Landscaping Plan shall be implemented prior to occupancy or within the next available planting season, and maintained thereafter to the satisfaction of the City of Albany.

Advice:

- *A minimum of one (1) tree shall be planted per unit.*
 - *The development shall provide a minimum 10% of each site area as deep soil area, with the deep soil area to have a minimum dimension of 1.5m.*
 - *The Landscaping Plan shall include details of proposed outdoor lighting to adjoining public spaces, including in the rear ROW. Details to include location and light shed.*
 - *The following plants are not to be used:
“Pampas Grass, Watsonia, Purple Senecio, Sydney golden wattle, Victorian tea tree, Dolichos pea, Blackberry, Bridal creeper, Taylorina, Arum lily and Gorse.”*
13. A Construction Management Plan shall be prepared and submitted to the City for approval at least 30 days prior to the commencement of works. The Construction Management Plan shall detail how the construction of the development will be managed including the following:
 - public safety and site security;
 - hours of operation,
 - noise and vibration controls;
 - air and dust management;
 - stormwater, groundwater and sediment control;
 - waste and material disposal;
 - Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;
 - Parking Management Plan prepared by an accredited personnel;
 - the parking arrangements for contractors and sub-contractors;
 - on-site delivery times and access arrangements;
 - the storage of materials and equipment on site (no storage of materials on the verge will be permitted); and
 - any other matters likely to impact upon the surrounding properties or road reserve.
 14. Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City of Albany.
 15. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.

Advice:

- *Please refer to the City of Albany Local Planning Policy Signs for further information.*

Advice: This approval is for permanent residential use only for Lots 2-6 inclusive and the upper floor of Lot 1, and Shop in the ground floor of Lot 1. Any future conversion of the ground floor units to a non-residential use will be subject to further development approval.

CARRIED 11-0

DIS270: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR SUTTON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 11-0

DIS270: AUTHORISING OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for the Two Storey Mixed Use Development (Six Multiple Dwellings and Shop) at 1-7 Flinders Parade, Middleton Beach.

Conditions:

1. All development shall occur in accordance with the stamped, approved plans referenced P2210221, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. The proposal is to comply with any details and/or amendments marked in red on the stamped, approved plans.
4. Prior to occupation of the development, car parking spaces and manoeuvring areas shall be designed and constructed in accordance with Australian Standard 2890, to the satisfaction of the City of Albany.
5. Prior to occupation of the development, new crossovers shall be constructed to the City of Albany's specifications, levels and satisfaction.
6. *Advice:*
 - A 'Permit for Vehicle Crossover Construction' is required from the City of Albany prior to any work being carried out within the road reserve.
7. All stormwater to be connected to the individual lot connections provided by the subdivision works.
8. Prior to the commencement of development, satisfactory arrangements being made with the City of Albany for the provision of appropriately designed shading devices to openings on the east and western elevations, to reduce the morning / afternoon heat loads. Prior to occupation of the development, the shading devices shall be implemented and maintained in perpetuity, to the satisfaction of the City of Albany.
Advice:
 - The provision of L-shaped awnings/fins would fulfil this condition.
9. Prior to the commencement of development, suitable arrangements shall be made with, and to the satisfaction of the City of Albany, for payment of a cash-in-lieu contribution or joint use of another parking facility to compensate for the shortfall of one (1) car parking bay.
Advice:
 - At current land values, staff estimate that the cash-in-lieu payment would equate to approximately \$3,300 per bay excluding GST.
10. Satisfactory arrangements being made with the City of Albany prior to occupancy of use for a public art work commission to the value of 1% (or cash in lieu off) to reflect or enhance local cultural identity as part of the development hereby approved.
Advice:
 - Please refer to the City of Albany Policy - Art in the Public Domain for further information.
11. The development hereby approved shall be constructed in accordance with Australian Standard 3959 'Construction of Buildings in Bushfire – Prone Areas'.

Advice:

- *To ensure compliance with condition 10, the development hereby approved shall be constructed in accordance with the construction requirements for BAL-29, as per the recommendation of the “AS Bushfire Management Plan” dated February 2021 by Lush Fire and Planning.*

12. Prior to the commencement of development, the Applicant is to satisfactorily demonstrate to the City of Albany that the proposed development can be implemented without disturbance of known Acid Sulphate Soils material and that an Acid Sulphate Soils Management Plan is not required. Should the City not be satisfied, then prior to commencement of development, an Acid Sulphate Soils Management Plan shall be submitted to the City of Albany for approval, in consultation with the Department of Water and Environmental Regulation. The approved Acid Sulphate Soils Management Plan shall be implemented to the satisfaction of the City of Albany.
13. Prior to the commencement of development, a Landscaping Plan detailing the size, species and location of trees/shrubs shall be submitted to the City of Albany for approval. The approved Landscaping Plan shall be implemented prior to occupancy or within the next available planting season, and maintained thereafter to the satisfaction of the City of Albany.

Advice:

- *A minimum of one (1) tree shall be planted per unit.*
- *The development shall provide a minimum 10% of each site area as deep soil area, with the deep soil area to have a minimum dimension of 1.5m.*
- *The Landscaping Plan shall include details of proposed outdoor lighting to adjoining public spaces, including in the rear ROW. Details to include location and light shed.*
- *The following plants are not to be used:*
“Pampas Grass, Watsonia, Purple Senecio, Sydney golden wattle, Victorian tea tree, Dolichos pea, Blackberry, Bridal creeper, Taylorina, Arum lily and Gorse.”

14. A Construction Management Plan shall be prepared and submitted to the City for approval at least 30 days prior to the commencement of works. The Construction Management Plan shall detail how the construction of the development will be managed including the following:
- public safety and site security;
 - hours of operation,
 - noise and vibration controls;
 - air and dust management;
 - stormwater, groundwater and sediment control;
 - waste and material disposal;
 - Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;
 - Parking Management Plan prepared by an accredited personnel;
 - the parking arrangements for contractors and sub-contractors;
 - on-site delivery times and access arrangements;
 - the storage of materials and equipment on site (no storage of materials on the verge will be permitted); and
 - any other matters likely to impact upon the surrounding properties or road reserve.

15. Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City of Albany.

16. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.

Advice:

- *Please refer to the City of Albany Local Planning Policy Signs for further information.*

Advice: This approval is for permanent residential use only for Lots 2-6 inclusive and the upper floor of Lot 1, and Shop in the ground floor of Lot 1. Any future conversion of the ground floor units to a non-residential use will be subject to further development approval.

BACKGROUND

4. The City of Albany has received a development application at 1-7 Flinders Parade, Middleton Beach for a two storey mixed use development including six (6) multiple dwellings and a ground floor commercial tenancy.
5. The site forms part of Lot 9001, otherwise known as the Middleton Beach Activity Centre Precinct and owned by DevelopmentWA. The site lies approximately 2.8kms to the west of the Albany CBD.
6. The subject site has an area of approximately 12,926m² (prior to subdivision) and is zoned Special Use 25 (SU25) under LPS1. The site is located within the Mixed Use (2-5 storeys) Precinct of the Structure Plan that applies to the site.
7. The proposal was also required to be assessed against the Middleton Beach Activity Centre Design Guidelines (the Guidelines), that were prepared to guide development and built form within the Middleton Beach Activity Centre.
8. Lot 9001 is intersected by Flinders Parade, which separates the subject site from the site marked for a future hotel, located adjacent to the Middleton Beach foreshore and public open space. The subject site is also bound by Marine Terrace to the west, Adelaide Crescent to the south and a proposed right of way (ROW) identified located directly to the north.
9. Each dwelling of (future) Lots 2-6 within the development are designed with dual access, with individual vehicle points accessed from the rear ROW and pedestrian access to each unit (future) Lots 1-6 provided from Adelaide Crescent.
10. Properties adjoining the subject site to the east and north are also zoned Special Use (SU25) and are located within the Middleton Beach Activity Centre, under the Structure Plan. The subject site is located opposite the base of Mount Clarence to the south across Adelaide Crescent (with Parks and Recreation Reserve R 27068, vested to the City of Albany).
11. The western side of Marine Terrace is zoned Local Centre zone, including commercial tenancies Rats Bar, Bay Merchants and Body Beam. The nearest Residential zoned property is located approximately 20m to the west of the subject site, across Marine Terrace.
12. The proposal consists of consists of five two (2) storey multiple dwellings across (future) Lots 2-6, that have been designed to allow for adaptability at ground floor, to enable conversion to other residential or non-residential land uses, at a later date and subject to further development approval and assessment against the provisions of the zone of LPS1.
13. A further multiple dwelling and commercial unit is proposed to (future) Lot 1, on the corner of Adelaide Crescent and Marine Terrace. Separate pedestrian access from Adelaide Crescent is provided to the multiple dwelling (upper floor) and commercial tenancy (ground floor) of Lot 1, with on-site vehicle parking provided only to the multiple dwelling, accessed from the ROW to the rear of the Lot.
14. The development plans demonstrate the intended adaptability of the commercial unit of (future) Lot 1, showing potential 'options' for the tenancy to operate a small scale Restaurant/Café or Consulting Rooms.
15. For the purposes of assessment, the proposal was assessed under the provisions of Shop, which is classified as a 'D' use under SU25 provisions of LPS1. Further development approval would be required to change the use of the commercial tenancy, and assessed against the provisions of the zone under LPS1.
16. As outlined above, the proposed mixed use development has been assessed on its merits against the provisions of LPS1 and the associated Middleton Beach Activity Centre Structure Plan and Design Guidelines.

17. The proposal generally complies with the relevant provisions of the above, with the exception of the Structure Plan provisions relating to the following:
 - Minimum building height (overall).
 - Minimum building height (internal floor to floor at ground level).
 - Car parking configuration.
18. The application was referred to adjoining landowners within a 100m radius, a sign was erected on site and the plans were uploaded to the City website. At the closing of the public advertising period, six responses were received, three objections, one support and two supports subject to modifications.
19. Due to previous involvement in preparation of the Structure Plan and associated subdivisions, DPLH were involved in the pre-lodgement consultation process and provided in-principle support to the concept design. Once submitted, the formal application was referred to the DPLH for further comment
20. The comments, including the proponent's and officer recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are identified and discussed later in this report.
21. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

DISCUSSION

Land use

22. The 'Multiple Dwelling' land use as a 'P' (permitted) use within the zone. It should be noted that a subdivision application for the site has been conditionally approved by the WAPC (#160524) to provide a freehold lot for each proposed unit. Following subdivision, the residential component would be considered 'Single Attached Dwellings' under LPS1 which is identified as a 'D' (discretionary) land use.
23. Despite the above, both the Multiple Dwelling and Single Attached Dwelling lands uses are prohibited within the Mixed Use Precinct where the use *'fronts the street at pedestrian level within the Primary Active Frontage Area depicted on the Precinct Plan'*. As the proposal is located away from the 'Primary Active Frontage Area, the residential component can be considered as a 'P' (permitted) use.
24. The ground floor of (future) Lots 2-6 have been designed to allow for adaptability at ground floor with potential conversion to other residential or non-residential land uses in the future. The ground and upper floor of the development of Lots 2-6 were assessed as 'Multiple Dwellings' for the purpose of this application, with any future conversion subject to further development approval.
25. The adaptable ground floor units of (future) Lots 2-6 were identified on the plans for potential 'Home Office' or 'Short Stay Accommodation' uses. As outlined above, the ground floor elements of Lots 2-6 were considered as Multiple Dwellings for the purposes of assessment of this development application, with any future conversion subject to further development approval.
26. The development plans demonstrate the intended adaptability of the commercial unit of (future) Lot 1, showing potential 'options' for the tenancy to operate a small scale Restaurant/Café or Consulting Rooms.

27. For the purposes of assessment, the proposal was assessed under the provisions of Shop, which is classified as a 'D' use under SU25 provisions of LPS1. Further development approval would be required to change the use of the commercial tenancy, and assessed against the provisions of the zone under LPS1.
28. Given the above, it is considered that all land uses proposed are considered appropriate for the site.
29. Car parking for the proposed Shop use to the ground floor commercial tenancy of (future) Lot 1 is discussed in further detail below.

Assessment Framework

30. In addition to the applicable zone provisions under LPS1, the application is also required to be assessed against the provisions of the Middleton Beach Structure Plan and the Middleton Beach Activity Centre Design Guidelines, that have been prepared to guide development and built form within the Middleton Beach Activity Centre.
31. There is no residential density coding applied to the site. However, *State Planning Policy 7.3 – Residential Design Codes (Volume 2)* (SPP7.3 Volume 2) has been referred to as a relevant informing document, when undertaking an assessment of the application.

Middleton Beach Design Guidelines

32. The Middleton Beach Design Guidelines require all proposals within the Middleton Beach Activity Centre to be submitted for preliminary assessment by an Estate Architect appointed by the City, and formal referral to a Local Design Review Panel (LDRP) for consideration, prior to formal lodgement of the development application.
33. MJA Architects were engaged by the City as the Estate Architect to review the proposal. In accordance with the design compliance process outlined under the Guidelines, the preliminary proposal was presented to a formal Local Design Review Panel (LDRP) meeting, following initial discussions and review of the preliminary proposal by the Estate Architect.
34. Members of the LDRP included representatives from the City of Albany, the Estate Architect and the State DRP.
35. At the meeting, the LDRP generally supported the preliminary proposal however, a number of minor weaknesses were identified for the architect to resolve prior to lodging the development application.
36. Following the lodgement of the formal development application, plans were referred to the LDRP panel members for follow up review and consideration.
37. Members advised that the proposal was supported, noting that the recommendations and matters requiring clarification had been adequately resolved. See identified weaknesses along with architect and LDRP comment below.

Design Review Report		
Weaknesses of proposal	Architects comments / amendments	LDRP comments
The breeze blocks to the front of the dwellings cause concern for what this area may be used for, potentially a dumping ground or rubbish trap.	The space behind the breeze blocks has been widened and changed into a paved area including a bike rack. The gap is now easier to access and maintain.	This is an improvement and is supported.
Signage needs more consideration and thought into how this can be managed and not take away from the amenity of the building.	Clearly legible street numbers are provided at the entrance to each terrace house as part of a larger signage place holder design. The place holder is to be a removable portion of the wall cladding and is defined by a 10mm negative detail. This enables the street frontage to be consistent even in the case of a mix of numbers and larger signs being installed. A space for signage to the commercial space on lot 1 is provided in the same way adjacent to the entry door. All commercial signage is to be designed by the tenant in conjunction with the City of Albany Signs Policy.	This all seems reasonable and is supported. The key will be to ensure that the City's policy and approval process will provide a good signage outcome.
Public art/shade canopy doesn't appear to meet the requirements for rain/shade protection that is required for the climate and there is potential for issues arising in the future with lack of cover for the proposed business and patrons.	Refer Development Application Plans – DA10 (East elevation) – 650mm deep L-shaped awning/fin.	This is an improvement and is supported. What now happens with the public art budget?
East and west elevations have significant glass, more consideration needs to be put into these in terms of energy efficiency and shading.	Refer Development Application Plans – DA10 for altered design to upper level windows, vertical window profile can be shaded through external vertical shading devices appropriate for east and west elevations.	These vertical windows will require vertical or preferably L-shaped shading devices to reduce the morning / afternoon heat loads.
Proposal lacks information on the elevator component, would like to see more information on this at the development application stage.	Plans provide for ageing in place through provision to retrofit domestic lift into the hallway as per the below image.	This is acceptable

38. The LDRP identified vertical window to the east and west elevation require vertical or preferably L-shaped shading devices to reduce the morning / afternoon heat loads. It is recommended this is marked in red on any approved plans and implemented as a condition of planning approval.

39. Noting the amendments to the plans and LDRP members comment, the proposal is considered to be consistent with the Middleton Beach Activity Centre Design Guidelines.

Land Use Compatibility

40. Both the provisions of LPS1 and the Structure Plan require land use conflict between residential and other uses to be minimised.

41. Whilst the adaptability of the building provides flexibility for a variety of uses, the proposed adaptable spaces are not intended for night time hospitality or entertainment use, with the main functionality limited to day time activation.

Construction to Plate Height

42. LPS1 provisions require any approved development to be constructed to plate height prior to the submission of any diagram or plan of survey. This has been implemented as a condition of the subdivision approval.

Building Height

43. The proposal is located within the 'Mixed Use' (2-5 Storeys) area of the Middleton Beach Activity Centre Precinct Plan.
44. Despite being consistent with the minimum height (storeys) established within the Precinct Plan, LPS1 provides a minimum height of 11m for development fronting Adelaide Crescent.
45. The application proposes a height of 6.7m from natural ground level, however the 11m minimum height does not appear workable for a two-storey terrace house typology.
46. It appears this minimum height was based on a ground floor ceiling height of 4.5m (discussed below), along with subterranean parking protrusion and a pitched roof.
47. The proposal includes a flat roof, a reduced ground floor ceiling height and no subterranean car parking. As the application achieves the minimum height (storeys) requirements and provides satisfactory alternative arrangements relating to car parking, roof form and ground floor adaptability, it is considered the overall height of the structures is supportable.
48. The Structure Plan requires a minimum internal floor to floor height of 4.5m at ground level to allow for adaptable building design and flexibility of use, with the application proposing a ground floor height of 3.25m.
49. However, the Structure Plan describes this provision of advice only, rather than a mandatory requirement. During the design review process (see above) the Local Design Review Panel were satisfied the ground floor has been appropriately designed to enable adaptability at ground level and facilitate non-residential uses.

Car parking

50. Clause 4.2.4 of the Structure Plan requires 'single entry car parking to be provided, with no private garages.'
51. The proposal provides rear loaded garages to each multiple dwelling, with access provided off a ROW.
52. The garages are setback from the ROW and integrated into the design of the individual units, mitigating the visual impact of the garage structures to the future ROW/streetscape and openings to living areas on the upper floor providing passive surveillance.
53. It is acknowledged that the Structure Plan provision aimed to respond to initial design concepts prepared for the Mixed Use Precinct, that considered proposals of a greater scale that encompassed the entire lot, compared to what is proposed as part of the subject development application.
54. Subsequently, the requirements aren't reflective of a functional design outcome for the smaller scale development proposed.
55. No specific car parking requirements are applicable to the site, with the provisions of LPS1 indicating resident parking rates shall be determined by the Local Government.
56. No minimum car parking provisions for permanent residential development are specified for the subject site under LPS1, the Structure Plan or Design Guidelines.
57. A total of two car parking bays have been provided for each Multiple Dwelling to (future) Lots 1-6. As there is no specific requirement under the abovementioned provisions, the proposal has been assessed against and is consistent with relevant acceptable outcomes contained under SPP 7.3 Volume 2.
58. Visitor car parking is not required to be provided for permanent residential developments within the Hotel / Mixed Use precinct in accordance with the provisions of LPS1 and the Structure Plan.

59. It is noted that the ground floor commercial unit (assessed as Shop as part of the development application) proposed in association with Lot 1, does not include on-site car parking. Separate on-site car parking is provided to the Multiple Dwelling to (future) Lot 1, however this parking is not associated with the commercial tenancy, with no shared access arrangements provided.
60. As outlined above, the commercial tenancy to the ground floor of (future) Lot 1 has been considered as a Shop for the purposes of assessment of the development application.
61. The Structure Plan provides for a 50% reduction in LPS1 car parking requirements for retail purposes, with parking requirement for 'Shop' designated as 1 car park per 20m² net lettable area (NLA).
62. No on-site car parking is proposed to be provided for the commercial tenancy. The design of the development in its current form does not provide sufficient or appropriate space for provision of car parking on-site for the commercial tenancy.
63. As the commercial unit has a NLA of 38m², the applicant will be required to organise suitable arrangements with the City of Albany for the provision of one additional car parking bay. As the proposal achieves LPS1 criteria in which cash-in-lieu of car parking may be considered, the City may accept a cash-in-lieu payment to be put towards the provision of future car parking elsewhere within the precinct.
64. At current land values, engineering staff estimate that a cash-in-lieu payment would equate to approximately \$3,300 per bay excluding GST.
65. It is also noted that the Structure Plan identifies future provision of public parking across the Activity Centre, that will be implemented as development of the broader precinct progresses.

Bicycle parking

66. LPS1 requires '1 bicycle parking space per residential dwelling and 1 bicycle parking space per 10 dwellings for residential visitors.
67. The application provides secure bicycle parking for each dwelling, along with the integration of public bicycle racks into the landscaping of the Adelaide Crescent and Marine Terrace intersection.

Setbacks

68. The provisions of LPS1 states that 'generally nil street and side setback should be provided'.
69. Nil setbacks are provided for internal side boundaries.
70. Setbacks between 2m-2.2m are proposed to the rear laneway (ROW), with minimum of 0.9m to greater than 2m setbacks provided to the western and eastern boundaries where facing Flinders Parade and Marine Terrace.
71. Primary street setbacks between 1.2m-3m are provided to the front facade of the development facing Adelaide Crescent.
72. The applicant has provided the setbacks outlined above in order to provide articulation to the building form and add interest to the public realm.
73. The proposed setbacks are therefore considered appropriate and in accordance with LPS1 requirements.

Active frontages

74. The section of Adelaide Crescent where the development is located is designated 'Secondary Active Frontage' as shown on Figure 2: MBAC Precinct Plan in accordance with the Structure Plan and Guidelines.
75. The ground floors of Units 2-6 are designed to allow future adaptability at ground level and facilitate uses such as small scale active uses such as offices or short term holiday accommodation.
76. A commercial tenancy is proposed on the corner of Adelaide Crescent and Marine Terrace. This unit has been designed to facilitate future restaurant/café or consulting room uses which offers further activation to the secondary active frontage.
77. It should also be noted that the Structure Plan states 'Secondary Active Frontages should not dilute or detract from the development of Flinders Parade as the priority zone of activation.'

Landscaping

78. A landscape masterplan encompassing the entire precinct has been submitted to the City of Albany, and will be determined separately to the development application. This plan is currently being reviewed by the City's Major Projects and Engineering teams.
79. On-site landscaping has been proposed along street frontages, in addition to tree planting within the ground floor courtyards of the Multiple Dwellings to Lots 1-6.
80. Submission and approval of a landscaping plan to ensure delivery minimum requirements of on-site landscaping the satisfaction of the City of Albany is recommended to be applied.
81. Advice for the condition outlines the requirement for inclusion of deep soil areas that are a minimum of 10% of the site area for each lot being provided for each dwelling. The minimum deep soil area reflects the contemporary approach to the provision of on-site landscaping, in alignment with Acceptable Outcomes of SPP7.3 Volume 2.

Bushfire

82. The subject site is considered bushfire prone. A BAL assessment has been provided by the applicant which indicated the BAL rating to be BAL-29.
83. Appropriate conditions for development to be constructed in accordance with relevant requirements and the Bushfire Management Plan prepared for the development are recommended to be applied in this regard.

Waste

84. A Waste Management Plan was submitted with the development application which has outlined appropriate bin store locations for each unit, as well as bin collection points along both Adelaide Crescent and Flinders Parade.
85. A number of meetings were held between the applicant and City of Albany staff regarding bin store locations and vehicle pickup locations.
86. Following formal submission of the application, the plans were referred to the City's Engineering and Sustainability Section who confirmed the proposal is workable, despite expressing some minor concern with the distance between the dwellings and bin collection points.

Other Applicable Policies

87. The subject site is also located within the Significant Tourist Accommodation Sites Policy and the Middleton Beach Tourist Precinct Policy areas.
88. The Significant Tourist Accommodation Sites Policy identifies the subject site as suitable for residential development, however contains no other provisions relevant to the assessment of this proposal.
89. The *Middleton Beach Tourist Precinct Policy* contains a number of built form outcomes applicable to the site, however these provisions are superseded by the LPS1 and Structure Plan provisions applicable to the site.

Public Advertising

90. The main concerns raised during the advertising period and officer response, including mitigation measures are outlined in the table below.

Summary of submissions	Officer comment
The site would be better suited to a community use.	The land uses are consistent with Structure Plan and LPS1 provisions.
A federation style design would be more suited to the locality	The design has been assessed against the Middleton Beach Design Guidelines by an appointed Estate Architect and a Design Review Panel who expressed support for the proposal.
Greater heights should be considered	The development is one component of a larger precinct that will contain greater height and building mass. As such the extent of this proposal is intended to provide a transitional height edge to this south western frontage.
Existing peppermint trees on the corner of Adelaide Terrace should be retained.	The existing peppermint trees in this location have been identified for retention.
Street parking should not be used for residential purposes	No specific car parking rates are identified, with the provisions of LPS1 stating car parking rates shall be determined by the Local Government. The proposal provides two car parks per residence which would be consistent with the requirements of the R-Codes. A comprehensive approach to the parking surrounding the development has been prepared which will increase the existing parking quantity and enable the bay locations to be more accessible to the public. Payment-in-lieu of parking is recommended for the commercial tenancy.
Concerns no visitor parking proposed	This application is consistent with the provision of the LPS1 which state 'No visitor car parking requirements or permanent residential development' within the Mixed Use Precinct.

91. In summary, Council is requested to consider the submissions received during the public advertising period and determine whether to grant development approval, subject to appropriate conditions.

GOVERNMENT & PUBLIC CONSULTATION

92. The application was advertised for public comment for a period of 25 days with adjoining landowners within a 100m radius directly notified by letter, a sign was erected on site and the plans were uploaded to the City website.
93. At the closing of the public advertising period, six (6) responses were received, three (3) objections, one (1) support and two (2) supported the proposal subject to modifications.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail out	30/04/2021 to 24/05/2021	Submissions Received: 6 Public 1 from DPLH	Yes
Consult	Notice on site	30/04/2021 to 24/05/2021		Yes
Consult	Public Comment – City website	30/04/2021 to 24/05/2021		Yes

94. Due to previous involvement in preparation of the Structure Plan, the Department of Planning, Lands and Heritage (DPLH) were involved in the pre-lodgement consultation process and provided in-principle support to the concept design. Once submitted, the formal application was referred to the DPLH for comment.
95. The comments, including the proponent's and staffs' recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are summarised and discussed above.
96. In response, DPLH highlighted a number of variations to the to the Structure Plan and Design Guidelines. Variations to the Structure Plan are identified above, whilst other matters raised are considered to have been addressed through the Design Review process.

STATUTORY IMPLICATIONS

97. 'Multiple Dwelling' is listed as a 'P' (permitted) use within the zone.
98. A permitted ('P') use means the use is permitted if it complies with any relevant development standards and requirements of LPS1.
99. All six dwellings, the subject of the development application have been assessed as Multiple Dwellings.
100. As part of the development application, adaptable ground floors have been identified for potential 'Office' or 'Short Stay Accommodation' use, which are considered 'D' (discretionary) and 'A' (advertising) uses respectively. However, further development approval will be required for future proposed non-residential uses of the ground floor of these dwellings.
101. The commercial tenancy of (future) Lot 1 has been assessed as 'Shop'. As part of the development application, the proposal identifies potential adaptable layouts to enable operation of a (Café/Restaurant) or Consulting Room uses, which are considered 'D' (discretionary) uses. However, further development approval will be required for uses other than a 'Shop'.
102. The proposal, as submitted is not consistent with the minimum building heights and car parking configuration provisions pertinent to the site. As these provisions are not entirely reflective of a functional design outcome for the proposal, a pragmatic approach has been undertaken for an assessment against these requirements.
103. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

104. The proposal has been assessed in the context of the *State Planning Policy 3.7 – Planning in Bushfire Prone Areas* and is compliant with the relevant provisions of the Policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Community <i>The proposed development may contribute to a lack of car parking availability within the Middleton Beach Precinct.</i>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>Mitigation of impacts to be achieved through adoption and enforcement of conditions.</i>
Reputation <i>The proposed development may appear unsympathetic to character of surrounding buildings.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>The application has been assessed against the relevant statutory framework.</i>
Opportunity: <i>Responds to the need to deliver vibrancy to the area and diversity to the housing market.</i>				

FINANCIAL IMPLICATIONS

106. The proposed relaxation to the Scheme provision for on-site car parking has as estimated cash-in-lieu value of \$3,300.
107. All costs associated with the development will be borne by the proponent.
108. However, should the proponents be aggrieved by Council's decision or any attached conditions and seek a review of that decision or conditions through the State Administrative Tribunal, the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

111. The subject lot is currently vacant and clear of all endemic vegetation. Acid Sulfate Soils (ASS) are identified across the site from 1.5m below the current groundwater surface.
112. It is recommended the applicant demonstrate to the satisfaction of the City of Albany that the proposed development can be implemented without disturbance of known Acid Sulphate Soils material and that an Acid Sulphate Soils Management Plan is not required.
113. Should the City not be satisfied, then prior to commencement of development, an Acid Sulphate Soils Management Plan shall be submitted to the City of Albany for approval, in consultation with the Department of Water and Environmental Regulation.

ALTERNATE OPTIONS

114. Council has the following alternate options in relation to this item, which are:
- To resolve to refuse the proposal subject to reasons; and
 - To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

CONCLUSION

115. The proposal is largely consistent with the LPS1, Structure Plan and Design Guidelines, with the exception of those matters relating to minimum height and car parking configuration.
116. As these provisions are not entirely reflective of a functional design outcome for the proposal, a pragmatic approach has been undertaken for an assessment against these requirements.
117. The application has been assessed by an Estate Architect appointed by the City, and formal referral to a Local Design Review Panel (LDRP) for consideration, who expressed support for the proposal.
118. The majority of matters raised in agency and public submissions received during the advertising period have been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions.
119. It is therefore recommended that Council approved the proposed development, subject to the conditions provided.

Consulted References	:	1. Local Planning Scheme No. 1 2. Middleton Beach Activity Centre Design Guidelines 3. Middleton Beach Activity Centre Structure Plan 4. State Planning Policy 3.7 – Planning in Bushfire Prone Areas 5. Middleton Beach Tourist Accommodation Sites 6. Middleton Beach Tourist Precinct Policy 7. Albany Local Planning Strategy 2019
File Number (Name of Ward)	:	A217508 (Frederickstown Ward)
Previous Reference	:	Nil

8.30pm Councillor Smith returned to the Chamber. Councillor Smith was not present during the discussion and vote for this item.

DIS271: LOCAL PLANNING SCHEME NO. 1 - MORATORIUM ON SCHEME AMENDMENTS

Attachments	: Indicative LPS2 Processing Timeline
Supplementary Information & Councillor Workstation	: 1. Draft Local Planning Scheme Text and Maps 2. Process for preparation or adoption of new local planning schemes flowchart
Report Prepared By	: Senior Planning Officer – Strategic Planning (A Nicoll)
Authorising Officer:	: Executive Director Infrastructure, Development and Environment (P Camins).

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany *Strategic Community Plan 2030*:
 - **Theme:** A connected and safe built environment.
 - **Objective:** To advocate, plan for and build friendly and connected communities.
 - **Community Priority:** Create infrastructure and connected streetscapes that are consistent and reflect our unique heritage.
2. This report aligns with the implementation of the strategic objectives and actions identified under the City of Albany *Local Planning Strategy 2019* (the Planning Strategy).

In Brief:

- At its Ordinary Meeting in November 2019, Council agreed that the City should prepare a new Local Planning Scheme No. 2 (LPS2), to replace the current Local Planning Scheme No. 1 (LPS1). In August 2020, the Western Australian Planning Commission (WAPC) formally agreed with the Council recommendation to prepare a new scheme.
- Staff have substantially progressed the preparation of draft LPS2 and anticipate reporting to Council in November seeking endorsement to advertise the new draft scheme.
- The Election Caretaker Period Policy will limit Council's ability to make decisions on any scheme amendments until the November 2021 Committee and Ordinary Council Meetings.
- As preparation of draft LPS2 has reached a critical phase, Council is requested to consider imposing a moratorium on considering future amendments submitted to LPS1. If Council agree to imposing the moratorium, staff recommend it commences the day following August OCM.
- The requested moratorium is intended to ensure orderly and proper planning outcomes for the new LPS2, avoid additional confusion within the community by ensuring planning processes are streamlined and focused on progressing LPS2, and also to maintain adequate levels of staff resourcing to the project by ensuring the project continues to be progressed and delivered in a timely manner.
- To ensure consistency and due consideration is given to proposed changes to development provisions between LPS1 and LPS2, and also avoid unintended delays in progressing LPS2, staff are of the view that any further formal amendments to LPS1 should be treated as submissions through the process of considering draft LPS2, rather than treated independently as amendments to LPS1.

RECOMMENDATION

DIS271: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR DOUGHTY

SECONDED: COUNCILLOR SHANHUN

THAT Council

1. **AGREE to a moratorium on further amendments to Local Planning Scheme No. 1.**
2. **ADVISE locally operating town planning consultancies and advertise publicly that as of 25 August 2021, the City has imposed a moratorium on considering any new scheme amendment requests and/or scheme amendments to City of Albany Local Planning Scheme No. 1 (current scheme) to allow for the processing of a draft new Local Planning Scheme No. 2.**

CARRIED 12-0

DIS271: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR THOMSON

SECONDED: COUNCILLOR SUTTON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

DIS271: AUTHORISING OFFICER RECOMMENDATION

THAT Council

1. **AGREE to a moratorium on further amendments to Local Planning Scheme No. 1.**
2. **ADVISE locally operating town planning consultancies and advertise publicly that as of 25 August 2021, the City has imposed a moratorium on considering any new scheme amendment requests and/or scheme amendments to City of Albany Local Planning Scheme No. 1 (current scheme) to allow for the processing of a draft new Local Planning Scheme No. 2.**

BACKGROUND

3. The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Planning Regulations) require local governments to undertake a review of their local planning scheme every five (5) years.
4. In accordance with the Planning Regulations, a review of LPS1 was undertaken in 2019, with the recommendation to seek formal agreement from the WAPC to repeal LPS1 and prepare a replacement LPS2.
5. Council at its Ordinary Meeting in November 2019, resolved to adopt the LPS1 review report, and also agreed to formally request the WAPC to receive the report and to agree with the recommendation of the report to repeal LPS1, and the City to prepare the replacement LPS2.
6. In August 2020, the WAPC formally agreed with Council's request to agree in the repeal of LPS1 and preparation of replacement LPS2.
7. The Council Election Caretaker Period Policy comes into effect at 4.00pm on Thursday 09 September 2021, and remains in effect until 6.00pm 16 October 2021.
8. During this time Council will not be in a position to make decisions on any scheme amendments until the November 2021 Committee and Ordinary Council Meetings
9. Staff have substantially progressed the preparation of draft LPS2 and envisage reporting to Council in November seeking endorsement to advertise the new draft scheme.

DISCUSSION

10. As preparation of draft LPS2 has reached a critical phase, Council is requested to consider imposing a moratorium on considering future amendments submitted to LPS1.
11. With the imminent advertising of the new LPS2 in late 2021 / early 2022, the City needs to consider the impact of considering any future amendments to the City's current operative planning scheme LPS1.
12. Imposing a moratorium is considered normal planning practice where a local government has been recommended to develop a new scheme. A moratorium is intended to:
 - a) Ensure orderly and proper planning outcomes, by maintaining a level of consistency between a current and the proposed amendments to the planning framework as part of the replacement scheme.
 - b) Ensure the community is provided consistent information and advice to assist in their understanding and expectations of proposed changes to the planning framework, including potential impacts zoning and provisions related to their property.
 - c) Avoid additional confusion within the community by ensuring planning processes are streamlined and focused on progressing LPS2.
 - d) Ensure staff resourcing is dedicated appropriately in progressing the project and ensuring delivery of LPS2 in a timely manner.
13. The following logistical reasons for imposing a moratorium are outlined below:
 - a) It is possible that an amendment to the current scheme, that is being considered at the same time as the advertising of a new scheme may cause confusion to the public. An example scenario would be when an amendment to LPS1 were advertised, whilst LPS2 was being advertised, and the proposed changes to LPS1 as part of the amendment were inconsistent with the proposed changes to LPS2.
 - b) Any amendments to LPS1, that are not approved/gazetted before gazettal of LPS2 would not be incorporated into the new scheme. This would effectively mean that staff time and resources dedicated to processing the amendment would be of no effect.
 - c) Staff resources can be prioritised on ensuring delivery of LPS2 in a timely manner, rather than processing amendments to LPS1. Final delivery of LPS2 is expected to occur within 12-18 months. Upcoming phases in progressing LPS2 involve advertising of the draft scheme, collating and reviewing submissions received, undertaking modifications based on submissions, and referral of updated draft LPS2 back to Council for endorsement. An increase in customer enquiries is expected over this period, with staff requiring to respond to requests for information on the new scheme process, proposed provisions, and what potential impacts proposed changes between LPS1 to LPS2 may have on private property.
14. An alternative to an amendment to the current scheme is for landowners to provide a submission on the draft new scheme during advertising, requesting the City consider their proposal under LPS2. A benefit of this alternative for the landowner is avoiding the requirement to pay scheme amendment fees.
15. In recommending the imposition of a moratorium on amendments to the current scheme, staff do not intend for this to affect any of those existing amendments listed in the table below, which have already been the subject of previous decisions of Council.

Amendment No.	Affected Property	Stage of Processing
6	Lot 105 and a portion of Lot 106 Nanarup Road, Lower King	Awaiting final gazettal
9	Lot 5 Lowanna Drive, Lots 9 & 110 George Street and Lot 16 South Coast Highway, Gledhow	Awaiting final gazettal
27	Lots 84, 85, 86 and portion of Lots 87 & 98 Home, Harding & Frenchman Bay Road, Robinson	Awaiting final gazettal
12	Lot 1879 Davies Road, Kalgan	Awaiting Bushfire Management Plan in preparation for reporting to Council for final approval
34	Lot 105 Frenchman Bay Road, Big Grove	Awaiting environmental assessment in preparation for reporting to Council for final approval
35	Lot 5780 Down Road South, Drome	Awaiting final gazettal
36	Lots 201, 202 And 203 Chester Pass Road and Lot 1004 Viastra Drive, Lange	Awaiting final gazettal
38	Cockburn Road	Refer DIS268 – subject to Council's resolution

16. Given the expected timeframe for the processing of the new scheme, including the advertising, consideration of submissions, completing modifications to text/maps and approval by the Minister is approximately between 12-18 months, this should allow time for the above affected amendments to be completed.
17. Where a scheme amendment outlined above is gazetted whilst LPS2 is progressed, the content of the amendment will be captured under draft LPS2.
18. The imposition of any moratorium is entirely for the City to determine and there is no legislative requirement to impose a moratorium. The timing of any moratorium is also entirely for the City to determine.
19. Staff also recommend that if a scheme amendment to LPS1 is received prior to the imposition of a moratorium, these are also to be considered as part of LPS2.
20. It should also be noted that in the event of a moratorium not being imposed, and a scheme amendment application was formally lodged outside of opportunities for consideration as part of draft LPS2 (following closure of advertising, review of submissions and modifications to the draft), that even if the application were initiated by Council for consideration, if LPS2 was gazetted prior to final consideration of a scheme amendment to LPS1, then the proposal and any work progressed on the application would be automatically cancelled, without the proposed changes being considered or incorporated into LPS2.
21. Based on the above, staff recommend that the moratorium commence at the earliest opportunity and at least prior to LPS2 being referred to Council in the coming months for endorsement to advertise, following approval by the WAPC.

GOVERNMENT & PUBLIC CONSULTATION

22. During preparation of LPS2, staff sought comment from DPLH on the idea of imposing a moratorium.
23. Although DPLH have no formal position or advice to offer on the matter, they are aware that local governments routinely implement them during the advertising of local planning schemes and have indicated that a moratorium is an operationally appropriate mechanism to ensure orderly and proper planning outcomes and ensure consistency between repealed (current) and replacement (new) schemes.

24. There are no statutory requirements for consultation to notify the imposition of a moratorium.
25. However, it is recommended that the community and locally operating town planning consultants are advised of the moratorium as soon as possible following resolution of Council and also made aware of upcoming advertising of draft LPS2.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Inform	Notice in local newspaper	The two weeks following OCM	n/a	n/a
Inform	Mail out – locally operating town planning consultants	Week following OCM	To be determined	n/a
Inform	Notice on City website	Following OCM and ongoing until LPS2 gazetted	n/a	n/a

STATUTORY IMPLICATIONS

26. There is no statutory requirement for a local government to impose a moratorium on accepting scheme amendments during preparation of a new replacement local planning scheme.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational. Landholders may object to a moratorium being imposed.	Likely	Low	Low	Consider incorporating landholder intentions in new Local Planning Scheme No.2 where appropriate
Opportunity: Enables staff resources to concentrate on advertising and explaining the new scheme, answering enquiries about the new scheme and its effects on land and compiling/assessing submissions. This should be a priority over dealing with amendments to the current scheme.				

FINANCIAL IMPLICATIONS

29. The City will not receive Scheme Amendment application fees due to moratorium.

LEGAL IMPLICATIONS

30. There are no expected legal implications in agreeing to a moratorium on scheme amendments for a temporary period whilst a new scheme is processed.
31. The imposition of a moratorium is not a legislative requirement; it is rather an adopted local government practice to ensure consistency in the planning framework and appropriately transition from an existing Schemes to a new Scheme.

ENVIRONMENTAL CONSIDERATIONS

32. There are no environmental considerations relating to this item.

ALTERNATE OPTIONS

33. Council has the following alternate options in relation to this item:
- To impose a moratorium following Council's endorsement to advertise LPS2 when it is presented at a later meeting; or
 - To not impose a moratorium and continue to accept scheme amendments for consideration whilst LPS2 is progressed.

CONCLUSION

34. It is recommended that Council impose a moratorium on amendments to LPS1, as staff continue to progress delivery of LPS2.
35. Imposing a moratorium on considering amendments to LPS1 will ensure orderly and proper planning outcomes between the new LPS2 and repealed (current) LPS1, avoid confusion within the community on planning process and outcomes whilst LPS2 is being progressed, and staff resourcing is dedicated to progressing the delivery of LPS2 in a timely manner.
36. Progressing delivery of LPS2 should be treated as the priority, over dealing with amendments to LPS1.
37. Staff also recommend that if a scheme amendment to LPS1 is received prior to the imposition of a moratorium, these are also to be considered as part of LPS2.
38. It is recommended that Council agree to a moratorium on further amendments to LPS1, with the moratorium in place on the day following August OCM.
39. Were Council to agree to imposing the moratorium, the City will proceed in advising locally operating planning consultancies and notifying the community that the moratorium is in place by placing a notice in the local newspaper and on the City's website.
40. This moratorium will not affect those scheme amendments already being considered.

Consulted References	:	Local Planning (Local Planning Schemes) Regulations 2015
File Number (Name of Ward)	:	DB.PLA.8 (All Wards)
Previous Reference	:	DIS184 – OCM – November 2019.

DIS272: BUDGET AMENDMENT REQUEST

Proponent	: City of Albany
Report Prepared by	: Manager, Engineering & Sustainability (R March)
Authorising Officer	: Executive Director Infrastructure, Development & Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** Clean, Green & Sustainable.
 - **Objective:** To build, maintain and renew city assets sustainably
 - **Community Priority:** Design, construct and maintain infrastructure cost effectively in a manner that maximises its life, capacity and function

In Brief:

- In early 2021, Main Roads WA completed their five yearly inspection of Lower King Bridge (4630) and Lower Kalgan Bridge (4332).
- In April 2021, the City received the Detailed (Level 2) inspection Reports for both bridges which outlined unanticipated maintenance requirements that must be undertaken in order for the City to be eligible to receive future funding for any bridge replacement works.
- There is a budget shortfall for this Bridge Maintenance of \$230,000.

RECOMMENDATION

DIS272: RESOLUTION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

Moved: Councillor Sleeman
Seconded: Councillor Smith

THAT the annual budget for Bridge Maintenance (account number 1330620) be INCREASED from \$228,609 to \$458,609 by transferring \$230,000 from the 'Roadworks and Drainage Reserve' to Budget Line 1330620.

CARRIED 12-0
ABSOLUTE MAJORITY

DIS272: COMMITTEE RECOMMENDATION

Moved: Councillor Terry
Seconded: Councillor Sutton

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 12-0

DIS272: AUTHORISING OFFICER RECOMMENDATION

THAT the annual budget for Bridge Maintenance (account number 1330620) be INCREASED from \$228,609 to \$458,609 by transferring \$230,000 from the 'Roadworks and Drainage Reserve' to Budget Line 1330620

BACKGROUND

2. In April 2021 the City received Detailed (Level 2) Inspection Reports for the Lower King Bridge (4630), the Lower Kalgan Bridge (4332) and the Wheeldon Road Bridge (4682) following the five yearly Main Roads inspection of bridges.
3. These reports included unanticipated maintenance requirements for the Lower Kalgan and Lower King Bridges, with no funding currently allocated for that maintenance. In order for the City to receive future funding for replacement of the Lower Kalgan and Lower King bridges, these maintenance requirements must be carried out by the City.
4. A budget amendment is required to re-allocate \$230,000 from the 'Roadworks and Drainage Reserve' to the 'Bridge Maintenance' budget line item 1330620.

DISCUSSION

5. The maintenance required for the Lower Kalgan and Lower King Bridges requires additional unbudgeted expenditure by the City.
6. Total Budget for the works on all three bridges is as follows:

Item	Quoted price ex-GST
Traffic management (all bridges)	\$50,000
Under bridge machine hire (all bridges)	\$75,000
Wheeldon Road maintenance works	\$27,885
Lower Kalgan maintenance works	\$119,475
Lower King maintenance works	\$76,370
Contingency 10%	\$32,270
Total:	\$370,000

7. There is sufficient funding in account number 1330620 Bridge Maintenance for the maintenance requirements for Wheeldon Road bridge (TR811 Wheeldon Road bridge 4682).
8. There is a budget shortfall in account number 1330620 Bridge Maintenance for works on TR803 (Kalgan bridge 4332) and TR805 (Lower King bridge 4630), totalling \$245,000.

Wheeldon Bridge 4682

9. This bridge is a high ten span bridge requiring routine maintenance to the timber bridge as specified in Main Roads WA document 04/6129 and in accordance with the Main Roads WA 'Timber Bridge Preventative Maintenance Standards' (Document No L6706-02-2226) including:
 - a) End-coating of Stringers, Corbels and Half-caps, Cross-braces and Whalers and any notches;
 - b) Fungal treatment to piles at above high water leave and ground zone;
 - c) Bolt tightening and greasing.The following specific maintenance is required:
 - a) Pack using steel Shims to nine Stringer and Corbel locations exhibiting gaps;
 - b) Installation of three steel bands.
10. The current budget in account number 1330620 Bridge Maintenance for TR811 (Wheeldon Bridge 4682) is \$89,942. The estimated cost for the works at this location is \$75,000 which is sufficient to cover the works required, with the remaining \$15,000 available for reallocation to the works on the Lower Kalgan and Lower King Bridges.

Lower Kalgan Bridge 4332

11. This bridge is a 27 span bridge with headroom between 1.6m – 5.5m. Routine maintenance similar to Wheeldon bridge is required on this bridge. Additionally, the following specific maintenance is also required:
 - a) Install bolts to nine Stringers and four Corbels;
 - b) Pack using galvanised steel Shims 136 Stringers, 95 Corbels and 11 Half-caps;
 - c) Installation of one steel band to Wingwall pile;
 - d) Replacement of Fabric protection to Wingwall Pile tops;
 - e) Abutment 1 sheeting repair to main face and left had Wingwall;
 - f) Abutment 2 sheeting repair to main face and left had Wingwall.
12. An amount of \$37,611 is currently budgeted for maintenance of the Lower Kalgan Bridge (line item 1330620). A total of \$170,000 is required to undertake the increased scope of maintenance work to the Lower Kalgan Bridge.

Lower King Bridge 4630

13. This bridge is a 68 metres long, 9.4 metres wide, 11 span bridge with headroom of between 1.6 metres and 3.9 metres. Routine maintenance similar to Wheeldon bridge is required. Additionally, the following specific maintenance is required:
 - a) Replacement of Fabric protection to Wingwall Pile tops;
 - b) Pack 37 Stringers, 38 Corbels and 13 Half-caps using galvanised steel Shims;
 - c) Installation of 17 steel bands to Abutment and Wingwall Piles;
 - d) Abutment 2 sheeting repair to main face capping to Wingwall.
14. An amount of \$12,405 is currently budged for the maintenance of the Lower King Bridge (line item 1330620). A total of \$125,000 is required to undertake the increased scope of maintenance to the Lower King Bridge.

General

15. To undertake the work on all three bridges would require either extensive scaffolding or the use of an underbridge, which is not available locally and will need to be sourced from interstate.
16. By undertaking these works together, the cost of mobilisation of the underbridge can be split between the bridges. The use of this underbridge is cheaper and safer than installing scaffolding.
17. Despite numerous requests to Contractors, and requests for assistance from Main Roads WA, there is only one contractor that has shown any interest or is available to undertake these works.

GOVERNMENT & PUBLIC CONSULTATION

18. Department of Local Government guidelines were followed in the preparation of this report.

STATUTORY IMPLICATIONS

19. Under the *Local Government Act 1995*, section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
 - a) Is incurred in a financial year before the adoption of the annual budget by the local government
 - b) Is authorised in advance by a resolution (absolute majority required) or;
 - c) Is authorised in advance by the Mayor in an emergency.
20. The voting requirement of Council is **Absolute Majority**.

POLICY IMPLICATIONS

21. There are no policy implications related to this report.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation & Organisation's Operations. <i>Risk: Unless the repairs to the Lower King and Lower Kalgan bridges are completed, the City will not be eligible to receive funding for replacement of those bridges when required.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Re-allocate the funds (\$230,000) from the 'Roadworks and Drainage Reserve' to the 'Bridge Maintenance' budget line and schedule and complete the repairs as required.</i>
Opportunity: Opportunity to complete the maintenance works required in order for the City to qualify for applications to Main Roads WA for assistance with future bridge replacement costs.				

LEGAL IMPLICATIONS

23. Bridges on Local Government roads and footpaths are the responsibility of Local Governments.
24. In order to be eligible for Special Project funding from the State Road Funds to Local Government Agreement (SRFLGA), Local Governments must be able to show that Level 1 inspections have been performed and that adequate routine and preventative maintenance have been undertaken to prevent undue deterioration.

ENVIRONMENTAL CONSIDERATIONS

25. Nil.

ALTERNATE OPTIONS

26. Council may:
- a) Approve the Budget Amendment as recommended; or
 - b) Approve the Budget Amendment with changes.

SUMMARY CONCLUSION

27. That the Authorising Officer Recommendation to increase the budget for account number 1330620 Bridge Maintenance by \$230,000 in order to undertake the necessary bridge maintenance on TR803 (Kalgan Bridge) and TR805 (Lower King Bridge 4630) be approved.

Consulted References	:	Adopted Budget 2021/2022 Local Government Act 1995
File Number (Name of Ward)	:	FM.BUG.12 (Kalgan Ward)
Previous Reference	:	Annual Budget – OCM 27 July 2021 Resolution CCS367

DIS273: AQUACULTURE FACILITY (STAGE 2) – 2 SWARBRICK STREET, EMU POINT

Land Description	: 2 (Reserve No. R 42964) Swarbrick Street, Emu Point, WA 6330
Proponent / Owner	: Proponent/s: Element Advisory Pty Ltd and Harvest Road Pty Ltd Owner: Crown (City of Albany under Management Order)
Business Entity Name	: <ul style="list-style-type: none">• Element Advisory Pty Ltd Directors being Andrew Howe, Gaetano Paduano, Catherine Blake-Powell, Matthew Raymond, David Read, Murray Casselton• Harvest Road Oceans Pty Ltd Directors being Stephen Daly, John Hartman & Ann Atkins
Attachments	: <ol style="list-style-type: none">1. Copy of Application2. Schedule of Submissions
Supplementary Information & Councillor Workstation	: <ol style="list-style-type: none">1. Public Submissions2. Agency Submissions3. Draft Emu Point Car Parking, Pedestrian and Vehicle Movement Plan
Report Prepared By	: Planning Officer (D Ashboth)
Authorising Officer:	: Executive Director Infrastructure, Development and Environment (P Camins)

8.32pm Councillor Stocks left the Chamber after declaring a Financial Interest in this item.

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. This item relates to the following elements of the City of Albany *Strategic Community Plan 2030*:
 - **Theme 2:** Smart, Prosperous and Growing
 - **Objective 2.1:** To strengthen and grow our region's economic base
 - **Community Priority 2.1.1:** Work with business and other stakeholders to attract investment, diversify the economy, create jobs and support small business growth.
 - **Theme 5:** A connected and safe built environment.
 - **Objective 5.1:** To develop vibrant neighbourhoods which retain local character and heritage.
 - **Community Priority 5.1.1:** Develop and implement a contemporary Local Planning Strategy that reflects our identity and supports economic growth.
3. The item relates to the following strategic objectives of the City of Albany *Local Planning Strategy* (the Planning Strategy):
 - a) *Enable tourist growth and diversification through land use planning mechanisms.*
 - b) *Facilitate the sustainable development of the agricultural sector and maximise opportunities for diversification of agriculture and downstream processing.*

Maps and Diagrams: Lease area - 2 (Reserve No. R 42964) Swarbrick Street, Emu Point



In Brief:

- The City of Albany has received a development application for 'Stage 2' of a proposed Aquaculture Facility at 2 Swarbrick Street, Emu Point.
- At its Ordinary Council Meeting on 23 March 2021, Council resolved to approve 'Stage 1' of the proposed Aquaculture Facility.
- The subject site is zoned Parks and Recreation under City of Albany *Local Planning Scheme No. 1* (LPS1). The land is allocated Crown Land and designated as a C-Class Reserve, under Management Order issued to the City of Albany with the power to lease or licence for the purpose of 'Marine and Associated Purposes' for a term not exceeding 50 years, subject to the consent of the Minister for Lands.
- The subject site is located within the RU2 Restricted Uses area outlined under Schedule 3 of LPS1. 'Aquaculture' is listed as a restricted use within the RU2 area, meaning that the use is permitted on this specific portion of land.
- An existing lease applies to the site. Stage 2 of the Aquaculture Facility involves the proposed expansion of the existing lease area, within the C Class Reserve.
- Stage 2 of the proposal was advertised to the public and was also referred to state agencies and authorities for their comment
- Twenty-three (23) responses were received, along with two requests to extend the advertising period. Of the 23 submissions, 10 supported the proposal, 11 objected to the proposal and 2 supported the proposal subject to modifications.
- Due to the number of concerns raised regarding the overall proposal for the site, the application for Stage 2 of the proposal is being referred to Council for determination.
- The proposed Aquaculture Facility (Stage 2) has been assessed on its merits and is considered to be consistent with local and state planning frameworks.
- Concerns raised during advertising and comments received from state agencies and authorities are considered to have been addressed through the submission of revised plans and the application of relevant conditions.
- Based on this and the above, the proposal is therefore recommended for approval, subject to relevant conditions.

RECOMMENDATION

**DIS273: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR SMITH**

THAT Council resolves to ISSUE a notice of determination granting Development Approval, subject to the following conditions, for Aquaculture Facility (Stage 2) at 2 (Reserve No. R 42964) Swarbrick Street, Emu Point:

Conditions:

- 1. All development shall occur in accordance with the stamped, approved plans referenced P221088, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.**
- 2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.**
- 3. The proposal is to comply with any details and/or amendments marked in red on the stamped, approved plans.**
- 4. Prior to the commencement of development, an updated Coastal Hazard Assessment, including final designs for any coastal protection measures, shall be submitted to the City of Albany for approval, in consultation with relevant state government agencies.**

Advice:

- *The updated Coastal Hazard Assessment shall include an inspection of the existing seawall by a suitably qualified expert to confirm its condition and determine its suitability to adequately protect the site.***
- 5. Prior to occupancy, the approved coastal protection measures shall be implemented and maintained thereafter to the satisfaction of the City of Albany.**

Advice:

- *All works and/or structures to be implemented as part of identified coastal protection measures are to be wholly contained within the lease boundary.***
 - *Any requirements for repairs or extension of the existing seawall shall be implemented at the lessee's cost.***
- 6. Satisfactory arrangements for the provision of landscaping being made with the City of Albany and implemented prior to occupancy of use.**

Advice:

- *The total landscaped area should reflect approximately 10% of the site area.***
 - *Landscaping is to comply with Schedule 1: Standards for Asset Protection Zones continued in the Guidelines and referenced in Appendix A of the Bushfire Management Plan.***
 - *The following plants are not to be used:
"Pampas Grass, Watsonia, Purple Senecio, Sydney golden wattle, Victorian tea tree, Dolichos pea, Blackberry, Bridal creeper, Taylorina, Arum lily and Gorse."***
- 7. Prior to the commencement of development, a Vehicular Parking, Pedestrian and Access Plan shall be submitted to the City of Albany for approval. Prior to occupancy, the approved Vehicular Parking, Pedestrian and Access Plan shall be implemented, completed and maintained thereafter to the satisfaction of the City of**

Albany.

Advice:

- *The plan should include detailed specifications of the cul-de-sac vehicle turnaround area.*
- *Car parking and access is to be designed in accordance with the Australian Standard 2890.*
- *The plan shall clearly indicate the intended use of all parking bays (eg. disabled bay, loading bay, etc), access areas, line marking, kerbing and sealing.*
- *A turnaround/reversing area shall be provided on site to allow vehicles to enter the street in forward gear.*

8. Prior to the commencement of development, a Parking Management Plan shall be submitted to the City of Albany for approval. The development shall operate in accordance with the approved Parking Management Plan, to the satisfaction of the City of Albany.

Advice:

- *The Parking Management Plan shall outline how all staff parking shall be managed and maintained on-site, including use of the tandem bays.*
- *Public car parks outside of the lease area shall not be used for Harvest Road employees.*

9. Satisfactory arrangements being made with the City of Albany for the provision of a sealed surface /informal parking area (measuring approximately 1,145m² in size) within the precinct.

Advice:

- *The proposed development results in the removal of an existing sealed area, that in its current form is being used for informal parking, and that also had the potential to be upgraded to a formal parking area. This condition is expected to deliver the provision of a similar sized area to the same standard for this purpose, elsewhere in the precinct.*
- *The calculation for construction costs is approximately \$55 per square metre. The total contribution amount is therefore \$62,975.*

10. Prior to occupancy, satisfactory arrangements being made with the City of Albany for the construction and maintenance of the pedestrian access route as shown on the approved plans.

Advice:

- *The pedestrian access route shall have a minimum width of 2 metres.*
- *Crushed limestone is considered an appropriate surface treatment for the western and northern sections.*
- *The southern and eastern sections of the path are to be sealed, drained and line marked for pedestrian safety.*
- *Unfettered access shall be provided to the City of Albany and pedestrians to the portion of the pedestrian access route within the lease area.*
- *Once constructed, the pedestrian access route shall be maintained by the City of Albany.*

11. Satisfactory arrangements being made with the Department of Transport for the provision of a 5m wide service corridor to service Jetty C, to the satisfaction of the City of Albany.

Advice:

- *The service corridor shall be levelled in order to allow vehicle and plant access as required.*

- 12. Parking areas shall be illuminated when they are in use during hours of darkness, to the satisfaction of the City of Albany.**
- 13. All heavy vehicles arrivals and departures shall be limited to 7.00am to 7.00pm Monday to Sunday, unless otherwise agreed to in writing by the City of Albany.**
- 14. The development shall comply with the *Environmental Protection (Noise) Regulations 1997* at all times, to the satisfaction of the City of Albany.**
- 15. Prior to commencement, an updated Waste Management Plan indicating the location and type of refuse storage shall be submitted to the City of Albany for approval. Prior to occupation, the approved Waste Management Plan shall be implemented, completed and thereafter maintained to the satisfaction of the City of Albany.**
- Advice:**
- *Refuse storage shall be capable of accommodating all waste produced by the development and shall be screened from the public view.*
- 16. Prior to commencement of development, a Stormwater Management Plan, consistent with the Stormwater Management Manual for Western Australia (Department of Water 2004-2007) including details and calculations shall be submitted to the City of Albany for approval. Prior to occupation the approved Stormwater Management Plan shall be implemented, completed and maintained to the satisfaction of the City of Albany.**
- Advice:**
- With respect to the Stormwater Management Plan;***
- *The stormwater management system is to be designed and certified by a practicing Civil Engineer to the satisfaction of the City of Albany.*
 - *The stormwater management approach should include a description of storm events to be managed including strategies to address water quality.*
- 17. Satisfactory arrangement being made with the City of Albany prior to occupancy of use for a public art work commission to the value of 1% (or cash in lieu off) to reflect or enhance local cultural identity as part of the development hereby approved.**
- Advice:**
- *Please refer to the City of Albany Policy - Art in the Public Domain for further information.*
- 18. Detailed drawings/specifications of the proposed new fence shall be submitted for approval in writing and implemented to the satisfaction of the City of Albany.**
- Advice:**
- *Gates shall be included at various points along the fence to allow for emergency service access in case of a fire.*
- 19. Prior to commencement of development, a written acknowledgment shall be submitted to the City of Albany, accepting the buildings and their contents may be subject to periodic flooding and/or inundation.**
- Advice:**
- *The City recommends designing structures in a way which anticipates flooding in peak periods.*
- 20. Prior to the occupation of the development, a Site Servicing and Fuel Storage Management Plan shall be submitted to the City of Albany for approval, on the advice of DWER. Prior to occupancy the approved Site Servicing and Fuel Storage Management Plan shall be implemented, completed and maintained thereafter to the satisfaction of the City of Albany.**

21. Prior to commencement of development, a revised Bushfire Management Plan and Bushfire Emergency Evacuation Plan, shall be prepared to the City's satisfaction and thereafter implemented in accordance with State Planning Policy 3.7- Planning in Bushfire Prone Areas.

Advice:

- *Compliance with the BMP does not exempt the applicant/proponent from adherence to the City's Fire Management Plan.*

22. A suitable Asset Protection Zone shall be provided and maintained around the development hereby approved in accordance with the City's Fire Management Notice, to the satisfaction of the City of Albany.

23. No goods, materials or equipment shall be stored, either temporarily or permanently, in the parking or landscape areas or in access driveways, unless otherwise agreed in writing by the City of Albany.

24. All loading and unloading of goods shall occur entirely within the site and be undertaken in a manner so as to cause minimum interference with other vehicular traffic.

Advice:

- *Boat loading/unloading required to be undertaken outside of the lease area is excluded from this requirement.*

25. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.

26. Prior to occupancy, the premises shall be connected to the Water Corporation sewerage system.

27. Prior to occupancy, the premises shall be connected to a Water Corporation reticulated water supply.

28. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.

Advice:

- *Please refer to the City of Albany Local Planning Policy Signs for further information.*

29. This development approval is granted for a limited period and shall expire upon the earliest occurrence of any one of the following events:

- a) The expiration date of the lease;**
- b) Access no longer being available to the Lot; or**
- c) When appropriate infrastructure to service the lot is no longer available as the service has been removed or decommissioned by the relevant authority due to a coastal hazard.**

30. Upon the expiry of the development approval the owner/operator shall at their cost:

- a) remove the development; and**
- b) rehabilitate the land to its predevelopment condition to the specifications of the local government.**

31. A Construction Management Plan is to be prepared by the Applicant and submitted to the City for approval at least 30 days prior to the commencement of works. The Construction Management Plan shall detail how the construction of the development will be managed including the following:

- **public safety and site security;**
- **hours of operation,**
- **noise and vibration controls;**

- air and dust management;
- stormwater, groundwater and sediment control;
- waste and material disposal;
- Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;
- Parking Management Plan prepared by an accredited personnel;
- the parking arrangements for contractors and sub-contractors;
- on-site delivery times and access arrangements;
- the storage of materials and equipment on site (no storage of materials on the verge will be permitted); and
- any other matters likely to impact upon the surrounding properties or road reserve.

Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City.

Advice Note: The proposed seawater intake and discharge activities may require an additional license. The applicant is advised to contact the Department of Water and Environmental Regulation for confirmation on this matter.

Advice Note: The applicant is advised that the subject site is at risk of coastal erosion and/or inundation over the next 100 years. The City recommends development on the lot should have a minimum finished floor level of 3.02 AHD to ensure adequate protection from inundation, in accordance with the *City of Albany Development in Flood Prone Areas Policy*.

Advice Note: The City of Albany has no obligation to protect against coastal hazards, and is not liable for any harm caused by coastal hazards.

Advice Note: The applicant is advised to contact the Department of Transport prior to the demolition of the storage shed to the south of the site, outside of the existing lease area as this may contain Department of Transport property.

Advice Note: Prior to the commencement of development, the landowner/applicant is advised to investigate whether or not approval is required pursuant to the Aboriginal Heritage Act 1972. The landowner/applicant should conduct a search of the Register of Aboriginal Sites to determine if any aboriginal sites have been recorded in the vicinity of their application, and this heritage information should be submitted to the Department of Planning Lands and Heritage (Indigenous Affairs) with a request for advice (DPLH).

Advice Note: The City has been made aware of some encroachment of previous site operations into the adjacent reserve to the north. The applicant is advised to consider re-surveying the lease area to ensure the development hereby approved does not encroach outside of lease boundaries. The existing fence and any other items/materials located within the encroachment area shall be removed.

Advice Note: The proponent securing necessary approvals and licenses to use the northernmost public jetty maintained by DoT, including making necessary arrangements to rehouse current pens that will be displaced by the proposal.

Advice Note: The proponent is to initiate negotiations with DoT for approval to gain access into the water within two years of the date of Development Approval (DoT).

Advice Note: Any seawater intake or water discharge piping infrastructure in the harbour for this project is to be approved by DoT. (DoT)

CARRIED 10-1

Record of Vote

Against the Motion: Councillor Hammond

DIS273: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY
SECONDED: MAYOR WELLINGTON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 11-0

DIS273: AUTHORISING OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting Development Approval, subject to the following conditions, for Aquaculture Facility (Stage 2) at 2 (Reserve No. R 42964) Swarbrick Street, Emu Point:

Conditions:

1. All development shall occur in accordance with the stamped, approved plans referenced P221088, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. The proposal is to comply with any details and/or amendments marked in red on the stamped, approved plans.
4. Prior to the commencement of development, an updated Coastal Hazard Assessment, including final designs for any coastal protection measures, shall be submitted to the City of Albany for approval, in consultation with relevant state government agencies.

Advice:

- *The updated Coastal Hazard Assessment shall include an inspection of the existing seawall by a suitably qualified expert to confirm its condition and determine its suitability to adequately protect the site.*
5. Prior to occupancy, the approved coastal protection measures shall be implemented and maintained thereafter to the satisfaction of the City of Albany.
- Advice:
- *All works and/or structures to be implemented as part of identified coastal protection measures are to be wholly contained within the lease boundary.*
 - *Any requirements for repairs or extension of the existing seawall shall be implemented at the lessee's cost.*
6. Satisfactory arrangements for the provision of landscaping being made with the City of Albany and implemented prior to occupancy of use.

Advice:

- *The total landscaped area should reflect approximately 10% of the site area.*
 - *Landscaping is to comply with Schedule 1: Standards for Asset Protection Zones continued in the Guidelines and referenced in Appendix A of the Bushfire Management Plan.*
 - *The following plants are not to be used:*
“Pampas Grass, Watsonia, Purple Senecio, Sydney golden wattle, Victorian tea tree, Dolichos pea, Blackberry, Bridal creeper, Taylorina, Arum lily and Gorse.”
7. Prior to the commencement of development, a Vehicular Parking, Pedestrian and Access Plan shall be submitted to the City of Albany for approval. Prior to occupancy, the approved Vehicular Parking, Pedestrian and Access Plan shall be implemented, completed and maintained thereafter to the satisfaction of the City of Albany.

Advice:

- *The plan should include detailed specifications of the cul-de-sac vehicle turnaround area.*
- *Car parking and access is to be designed in accordance with the Australian Standard 2890.*

- *The plan shall clearly indicate the intended use of all parking bays (eg. disabled bay, loading bay, etc), access areas, line marking, kerbing and sealing.*
 - *A turnaround/reversing area shall be provided on site to allow vehicles to enter the street in forward gear.*
8. Prior to the commencement of development, a Parking Management Plan shall be submitted to the City of Albany for approval. The development shall operate in accordance with the approved Parking Management Plan, to the satisfaction of the City of Albany.
- Advice:
- *The Parking Management Plan shall outline how all staff parking shall be managed and maintained on-site, including use of the tandem bays.*
 - *Public car parks outside of the lease area shall not be used for Harvest Road employees.*
9. Satisfactory arrangements being made with the City of Albany for the provision of a sealed surface /informal parking area (measuring approximately 1,145m² in size) within the precinct.
- Advice:
- *The proposed development results in the removal of an existing sealed area, that in its current form is being used for informal parking, and that also had the potential to be upgraded to a formal parking area. This condition is expected to deliver the provision of a similar sized area to the same standard for this purpose, elsewhere in the precinct.*
 - *The calculation for construction costs is approximately \$55 per square metre. The total contribution amount is therefore \$62,975.*
10. Prior to occupancy, satisfactory arrangements being made with the City of Albany for the construction and maintenance of the pedestrian access route as shown on the approved plans.
- Advice:
- *The pedestrian access route shall have a minimum width of 2 metres.*
 - *Crushed limestone is considered an appropriate surface treatment for the western and northern sections.*
 - *The southern and eastern sections of the path are to be sealed, drained and line marked for pedestrian safety.*
 - *Unfettered access shall be provided to the City of Albany and pedestrians to the portion of the pedestrian access route within the lease area.*
 - *Once constructed, the pedestrian access route shall be maintained by the City of Albany.*
11. Satisfactory arrangements being made with the Department of Transport for the provision of a 5m wide service corridor to service Jetty C, to the satisfaction of the City of Albany.
- Advice:
- *The service corridor shall be levelled in order to allow vehicle and plant access as required.*
12. Parking areas shall be illuminated when they are in use during hours of darkness, to the satisfaction of the City of Albany.
13. All heavy vehicles arrivals and departures shall be limited to 7.00am to 7.00pm Monday to Sunday, unless otherwise agreed to in writing by the City of Albany.
14. The development shall comply with the *Environmental Protection (Noise) Regulations 1997* at all times, to the satisfaction of the City of Albany.
15. Prior to commencement, an updated Waste Management Plan indicating the location and type of refuse storage shall be submitted to the City of Albany for approval. Prior to occupation, the approved Waste Management Plan shall be implemented, completed and thereafter maintained to the satisfaction of the City of Albany.
- Advice:
- *Refuse storage shall be capable of accommodating all waste produced by the development and shall be screened from the public view.*

16. Prior to commencement of development, a Stormwater Management Plan, consistent with the Stormwater Management Manual for Western Australia (Department of Water 2004-2007) including details and calculations shall be submitted to the City of Albany for approval. Prior to occupation the approved Stormwater Management Plan shall be implemented, completed and maintained to the satisfaction of the City of Albany.
- Advice:
- With respect to the Stormwater Management Plan;*
- *The stormwater management system is to be designed and certified by a practicing Civil Engineer to the satisfaction of the City of Albany.*
 - *The stormwater management approach should include a description of storm events to be managed including strategies to address water quality.*
17. Satisfactory arrangement being made with the City of Albany prior to occupancy of use for a public art work commission to the value of 1% (or cash in lieu off) to reflect or enhance local cultural identity as part of the development hereby approved.
- Advice:
- *Please refer to the City of Albany Policy - Art in the Public Domain for further information.*
18. Detailed drawings/specifications of the proposed new fence shall be submitted for approval in writing and implemented to the satisfaction of the City of Albany.
- Advice:
- *Gates shall be included at various points along the fence to allow for emergency service access in case of a fire.*
19. Prior to commencement of development, a written acknowledgment shall be submitted to the City of Albany, accepting the buildings and their contents may be subject to periodic flooding and/or inundation.
- Advice:
- *The City recommends designing structures in a way which anticipates flooding in peak periods.*
20. Prior to the occupation of the development, a Site Servicing and Fuel Storage Management Plan shall be submitted to the City of Albany for approval, on the advice of DWER. Prior to occupancy the approved Site Servicing and Fuel Storage Management Plan shall be implemented, completed and maintained thereafter to the satisfaction of the City of Albany.
21. Prior to commencement of development, a revised Bushfire Management Plan and Bushfire Emergency Evacuation Plan, shall be prepared to the City's satisfaction and thereafter implemented in accordance with State Planning Policy 3.7- Planning in Bushfire Prone Areas.
- Advice:
- *Compliance with the BMP does not exempt the applicant/proponent from adherence to the City's Fire Management Plan.*
22. A suitable Asset Protection Zone shall be provided and maintained around the development hereby approved in accordance with the City's Fire Management Notice, to the satisfaction of the City of Albany.
23. No goods, materials or equipment shall be stored, either temporarily or permanently, in the parking or landscape areas or in access driveways, unless otherwise agreed in writing by the City of Albany.
24. All loading and unloading of goods shall occur entirely within the site and be undertaken in a manner so as to cause minimum interference with other vehicular traffic.
- Advice:
- *Boat loading/unloading required to be undertaken outside of the lease area is excluded from this requirement.*
25. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
26. Prior to occupancy, the premises shall be connected to the Water Corporation sewerage system.
27. Prior to occupancy, the premises shall be connected to a Water Corporation reticulated

water supply.

28. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.

Advice:

- *Please refer to the City of Albany Local Planning Policy Signs for further information.*

29. This development approval is granted for a limited period and shall expire upon the earliest occurrence of any one of the following events:

- a) The expiration date of the lease;
- b) Access no longer being available to the Lot; or
- c) When appropriate infrastructure to service the lot is no longer available as the service has been removed or decommissioned by the relevant authority due to a coastal hazard.

30. Upon the expiry of the development approval the owner/operator shall at their cost:

- a) remove the development; and
- b) rehabilitate the land to its predevelopment condition to the specifications of the local government.

31. A Construction Management Plan is to be prepared by the Applicant and submitted to the City for approval at least 30 days prior to the commencement of works. The Construction Management Plan shall detail how the construction of the development will be managed including the following:

- public safety and site security;
- hours of operation,
- noise and vibration controls;
- air and dust management;
- stormwater, groundwater and sediment control;
- waste and material disposal;
- Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;
- Parking Management Plan prepared by an accredited personnel;
- the parking arrangements for contractors and sub-contractors;
- on-site delivery times and access arrangements;
- the storage of materials and equipment on site (no storage of materials on the verge will be permitted); and
- any other matters likely to impact upon the surrounding properties or road reserve.

Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City.

Advice Note: The proposed seawater intake and discharge activities may require an additional license. The applicant is advised to contact the Department of Water and Environmental Regulation for confirmation on this matter.

Advice Note: The applicant is advised that the subject site is at risk of coastal erosion and/or inundation over the next 100 years. The City recommends development on the lot should have a minimum finished floor level of 3.02 AHD to ensure adequate protection from inundation, in accordance with the *City of Albany Development in Flood Prone Areas Policy*.

Advice Note: The City of Albany has no obligation to protect against coastal hazards, and is not liable for any harm caused by coastal hazards.

Advice Note: The applicant is advised to contact the Department of Transport prior to the demolition of the storage shed to the south of the site, outside of the existing lease area as this may contain Department of Transport property.

Advice Note: Prior to the commencement of development, the landowner/applicant is advised to investigate whether or not approval is required pursuant to the Aboriginal Heritage Act 1972. The landowner/applicant should conduct a search of the Register of Aboriginal Sites to determine if any aboriginal sites have been recorded in the vicinity of their application, and this heritage information should be submitted to the Department of Planning Lands and Heritage (Indigenous Affairs) with a request for advice (DPLH).

Advice Note: The City has been made aware of some encroachment of previous site operations into the adjacent reserve to the north. The applicant is advised to consider re-surveying the lease area to ensure the development hereby approved does not encroach outside of lease boundaries. The existing fence and any other items/materials located within the encroachment area shall be removed.

Advice Note: The proponent securing necessary approvals and licenses to use the northernmost public jetty maintained by DoT, including making necessary arrangements to rehouse current pens that will be displaced by the proposal.

Advice Note: The proponent is to initiate negotiations with DoT for approval to gain access into the water within two years of the date of Development Approval (DoT).

Advice Note: Any seawater intake or water discharge piping infrastructure in the harbour for this project is to be approved by DoT. (DoT)

BACKGROUND

4. Harvest Road has entered into a formal agreement to acquire the 'Ocean Foods International' tenancy, and plan to utilise the site for the processing of Native Rock Oysters, Akoya Oysters and mussels.
5. In order to facilitate the above operations, Harvest Road have demolished the existing Ocean Food International infrastructure (with the exception of the office and amenities building) and are now proposing to redevelop the site to meet their requirements.
6. An application for the redevelopment of the site was originally submitted in 2020, that outlined a three stage development of the site. Substantial amendments have been undertaken since the original proposal was submitted, with a restaurant and tourism facility proposed as 'Stage 3' being deleted.
7. It was determined during assessment of the original application, that each stage should be determined separately. Subsequently, Stage 1 was determined by Council at its Ordinary Meeting in March 2021, with Stage 2 the subject of this development application. As outlined above, this report relates only to Stage 2 of the redevelopment.
8. A summary of the Stage 2 activities are as follows:
Stage 2
 - Packing building, Amenities and Office
 - Demolition of existing office and amenities building
 - Workshop
 - Loading apron
 - Hardstand
 - Car parking
 - Public access route
9. The City of Albany has received a development application for 'Stage 2' of an Aquaculture Facility at 2 Swarbrick Street, Emu Point. The City of Albany approved 'Stage 1' of the facility at the Ordinary Council Meeting of 23 March 2021.
10. The subject site lies to the north of the Swarbrick Street termination, approximately 6.5kms to the north-east of the Albany City centre.
11. The subject site has an area of approximately 3.52 hectares and is reserved as a 'C' Class Parks and Recreation Reserve for the purpose of 'Marine and Associated Purposes' (Reserve No. R 42964). The Reserve is vested to the City of Albany.
12. The subject site is bound by Crown Land designated as an A-Class Reserve (R 6862) to the north and west, extending across the salt marsh to Collingwood and Battle Roads to the north west. The A-Class Reserve is vested to the City of Albany for the purpose of Protection of Boronia.

13. To the north east on the water side of the A and C Class Reserves, the subject site is bound by Unallocated Crown Land, and subsequently the responsibility of the Lands Division of the Department of Planning, Lands and Heritage.
14. To the south east on the water side of the subject site, the site is bound by an adjoining C Class Reserve (R 49354), encompassing the marine infrastructure of Emu Point Boat Harbour, that is allocated Crown Land under Management Order issued to Department of Transport (DoT) for the purpose of *Marine and Harbours Act 1981*.
15. A number of lessees occupy the subject reserve under the Management Order of the City of Albany, which predominately consists of marine and associated businesses.
16. These include the Squid Shack, Watercraft Marine, Kalgan Queen Cruises, Albany Sea Rescue Squad, Albany Boating and Offshore Fishing Squad and Emu Point Slipway Services.
17. The lease area the subject of this application is the northern most lease area within the Reserve. The lease for this site was previously held by 'Ocean Foods International', a Singaporean company which utilised the site for the production of rock oysters.
18. The operations of Stage 2 of the Aquaculture Facility requires a proposed expansion of the existing lease area, within the C Class Reserve.
19. Although the expansion of the lease area informs the consideration of the subject development application, the process required to be undertaken by the proponent to seek approval for the expansion of the lease area is a separate process, and does form not part of the assessment or determination of the subject development application.
20. The proponent envisages future operations of the Aquaculture Facility to utilise 'Jetty C'. Access and leasing arrangements by the operation of the marine harbour infrastructure, including Jetty C for the operations of Aquaculture Facility do not form part of the subject development application.
21. It is the proponent's responsibility to liaise with the DoT to resolve any access or leasing arrangements of the marine harbour infrastructure. Comments were also provided by DoT on the subject development application, indicating that the proponent was required to obtain further approvals to gain access to the water.
22. The proposal was advertised to the public via direct mail out to landowners within the suburb of Emu Point, tenants of Emu Point Boat Harbour reserve leases and City boat pens. A planning notice was also placed on site notifying of the planning proposal and a public briefing note was placed on the City of Albany website.
23. Through this process a total of 23 responses were received; 10 support, 11 objections and 2 letters of support subject to modifications. Two requests to extend the advertising period were also received from the Friends of Emu Point. The City agreed to one of the requests, to provide further time for submission of comments outside of the closing date.
24. The comments, including the proponent's and officer recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are identified and discussed later in this report.

DISCUSSION

Assessment framework

25. The assessment and determination of the subject development application applies to the land based activities only. The development application has been assessed on its merits under the local planning framework, specifically against the relevant provisions of LPS1 and any relevant state or local planning policies.

Land use

26. The applicant has provided the following (summarised) outline of how the proposed facility will operate once complete (Stages 1 and 2):
27. Stage 2 (the subject of this application) primarily involves the packing, processing, administration and maintenance portion of the operation and includes a two storey packing building (including admin and amenities) and a workshop.
28. The proposed development comprises a marine base/aquaculture facility for the farming and processing of shellfish along with associated car parking.
29. The marine base will include a processing/packing building, nursery shed and a workshop within three separate buildings.
30. The aquaculture processing facility will be farming Native Rock Oysters, Akoya Oysters and Mussels.
31. Rock Oysters will be grown from larvae to spat size (the juvenile age of an oyster) within one of the proposed warehouses on site. Once they have grown to 5mm they are large enough to be grown in open water and are filled into oyster baskets. They remain on water for the grow-out period and are graded for size every 6-8 weeks to find the fully grown oysters, which are then transferred to the packing facility.
32. Akoya Oysters and Mussels are seeded onto ropes (offsite) and are loaded into truck booms at the berthing platform and transferred to areas to grow for 12 to 15 months. They are then stripped from the ropes and collected in 400kg bulk bins which are then stored for dispatch.
33. Product will be stored in cool rooms for up to two days before being dispatched from site. Live rock oysters are stored at 15 degrees while Akoya and Mussels are stored at 4 degrees.
34. The subject site is located within the RU2 Restricted Uses area under Schedule 3 of LPS1. 'Aquaculture' is listed as a restricted use within the RU2 area which means this use is permitted on this specific portion of land.
35. Stage 2 of the development is consistent with the 'Aquaculture' land use which is defined as per the *Fish Resource Management Act 1994* as follows:
"means the keeping, breeding, hatching, cultivating or harvesting of fish"
36. As a result of the above, the application is also consistent with the designated purpose of the subject Parks and Recreation Reserve, being 'Marine and Associated Purposes'. In this instance the designated reserve purpose is considered more pertinent to the land use assessment than the overall objective applied to 'Parks and Recreation' reserves as follows:
"Public Purposes which specifically provide for a range of public recreational facilities"
37. It is therefore considered that as the 'Aquaculture' land use is consistent with both the purpose of the Reserve, and is identified as a restricted use in the RU2 area, the land use is appropriate within the lease area.

Heritage considerations

38. The subject site is identified as a site of Aboriginal Heritage significance and is listed as an Aboriginal Heritage Site (Oyster Harbour (total)) and is included within the City of Albany Kinjarling Report (Oyster Harbour and Rivers) published in 2013.
39. The application was referred to the Aboriginal Heritage Section of the Department of Planning, Lands and Heritage who noted that the proposal abuts a registered Aboriginal site ID 636 (Oyster Harbour) but does not encroach on the area. As such no comment was made on the application.

40. The subject site is also identified as on the City's Heritage List (Oyster Harbour Reserve). However, City records indicate the identified local cultural heritage significance to be limited to Green Island (approximately 1km offshore), therefore referral to the City's local heritage advisor was not considered necessary.

Car and bicycle parking

41. The 'Aquaculture' land use is not listed under Table 6 – Car and Bicycle Parking Requirements under LPS 1. Provision 4.8.5.3 of LPS 1 states the following:

'Where a particular parking requirement for a use class is not specified in Table 6 or the Scheme provisions, the Local Government shall determine the number of car parking bays to be provided having regard to:

- a) The nature of the proposed development;*
 - b) The recommendations of the Building Code of Australia;*
 - c) The number of employees and visitors/clients to be associated with the development;*
and
 - d) The orderly and proper planning of the locality.'*
42. The applicant has confirmed that a maximum of 38 staff will occupy the site at any one time. This number represents a reduction from the 56 staff originally stated due to a reduction in the volume of oysters to be processed and improvements to workflow efficiencies.
43. The applicant has therefore proposed 38 carparks for the site (stage 1 and 2) which represents a car park for every staff member during peak periods. This also exceeds the 32 bays which would be required for the 'best fit' land use (Industry – General) under Table 6 of LPS 1. The proposed number of on-site car parking is therefore considered reasonable.
44. Of the 38 car parks, the car parking proposal includes eight (8) tandem car parking bays which are expected to require utilisation during peak periods.
45. Due to difficulties arising in the use of tandem car parks, the applicant was requested to provide a management plan to prove these bays can be used successfully. In order to ensure no net reduction in car parking bays within the Reserve, a condition is recommended requiring Harvest Road staff to park within their lease area at all times.
46. Due to a proposed southern extension of the lease area, approximately 1,145m² of sealed surface area, and associated public car parking opportunities between Jetty C and the Service Jetty will be lost. A condition requiring suitable arrangements being made for the provision of 1,145m² of sealed surfaced area to offset the loss due to the expansion of the leased area is recommended.
47. The City has prepared a draft Concept Plan to improve car parking, pedestrian and vehicle manoeuvring within the reserve. It is recommended the proponent partially contribute to the implementation of this concept.

Vehicle movement

48. Trucks delivering goods and transporting produce will require access to the site. Upon completion of Stage 1 and 2, transport frequency will vary between four total truck movements per week (arrival and departure of two trucks) during the peak period (November to May) to two total truck movements per week during the low season (June to October). An additional one to two truck movements are anticipated for delivery of consumables and other operation equipment.
49. A further 10 additional truck movements (arrival and departure) per week will result from waste collection trucks upon completion of both Stage 1 and Stage 2 of the development (see waste collection frequency table below).

Table 2: Total number & size of bins to be stored in bin compound

Waste stream	Bin size (L)	Number of bins	Collection frequency
General waste	660	2	Twice weekly
General waste (seafood processing shell waste – refer table 3)*	660	2	Twice weekly
Commingled recycling	1,100	1	Twice weekly

*Separate general waste bin for bagged, non-sterilised items from bio secure area (i.e. shells, gloves, eyewear, masks, gowns, head covers, earplugs and other personal protective equipment).

50. Given the limited number of additional traffic movements per day, traffic is not expected to adversely impact the amenity of the existing residences along Swarbrick Street and Emu Point Drive. However, a condition that all truck delivery/collections and waste collection shall occur between the hours of 7.00am and 7.00pm is recommended to be applied.
51. All loading/unloading will occur on site and vehicles are able to enter and exit the site in a forward direction as per LPS1 requirements.
52. The adjacent leaseholder, Emu Point Slipway Services, has a licenced area extending to the waterfront to provide for boat lifting and launching services as well an area to wash boats before they are moved to the hardstand area.
53. In order to reduce the impact of vehicle movements on the day to day operations of Emu Point Slipway Services, the provision of a marked vehicle and pedestrian turnaround area and associated signage prior to Emu Point Slipway Services boat lifting and launching area is recommended. The City has prepared a suitable concept for the turnaround area and the implementation of this concept at the expense of the leaseholder is recommended.
54. It is recommended that the provision and implementation of a final vehicular parking, pedestrian and access plan to the satisfaction of the City of Albany should be applied as a condition of planning consent.
55. This should include, amongst other things, detailed specifications for the cul-de-sac vehicle turnaround area and the on-site turnaround/reversing area to allow large vehicles to enter and exit the site in forward gear.

Pedestrian movement

56. Direct unfettered public pedestrian access is to be retained to existing Jetty C as part of the proposal, that will extend through a portion of the proposed expanded lease area.
57. The application also proposes to redirect pedestrian access to the mudflats from the waterfront to the rear of the site.
58. The application was referred to the City' Asset Management team for comment. Concerns were raised specifically regarding the interface between the southern portion of the pedestrian access route and Emu Point Slipway Services.
59. To address the concerns, the applicant agreed to amend the reduce the extent of the existing sublease area to the south, west and north to provide formal pedestrian access to mudflats outside of the existing lease boundary. Following construction by the applicant at their cost, the pedestrian access route will be managed by the City of Albany within the existing C Class Reserve.
60. It should also be noted that it is not considered desirable to encourage more people to be walking in the vegetation along the foreshore of the A Class Reserve, as it is a Threatened Ecological Community Coastal Saltmarsh. Given the purpose of this path is to cater for existing user levels (i.e. number of people using the track on the water side of the lease area), crushed limestone is considered an appropriate surface treatment for the portion of the path adjacent the A Class Reserve.

Coastal hazard risk management

61. The City of Albany Development in Flood Prone Areas local planning policy (the Policy) applies to the site which requires all habitable buildings within the vicinity of Oyster Harbour to be constructed with a minimum finished floor level of 3.02AHD. The buildings proposed within the Stage 1 application have a finished floor level of 2.1AHD.
62. The applicant has advised that increasing the finished floor levels of buildings to 3.02AHD would significantly impact the ability of forklifts and other machinery to access the buildings.
63. They have also advised that they have designed buildings in a way which will allow them to safely withstand a flood event, with all sensitive equipment and electrics located above the required finished floor level.
64. Provision 4.3.7.4 of LPS1 allows the Local Government to grant development approval for non-habitable buildings below the levels identified in the Policy under exceptional circumstances, which have been achieved by this proposal.
65. It is recommended that the City request the lessee provide written acknowledgement that they accept that the building and its contents may be subject to periodic flooding and/or inundation if they wish to proceed with the building at these levels.
66. It is also recommended that an advice note be attached indicating the City's preference that all buildings be built up to 3.02AHD as per the Policy requirement.
67. The proponent has previously indicated their intention to make use of the existing rock revetment wall installed to the east of the subject site, the condition of which is currently unknown. Staff, and the DPLH Coastal Planning branch recommend that existing rock revetment wall be inspected by a suitably qualified expert to confirm its condition and suitability to adequately protect the site.
68. A Coastal Hazard Assessment prepared against State Planning Policy 2.6 – State Coastal Planning Policy (SPP 2.6) was submitted with the initial application. However, due to the subsequent changes to the proposal, a condition is recommended to be imposed requiring submission of an updated Coastal Hazard Assessment for approval by the City, in consultation with DPLH.
69. The Coastal Hazard Assessment is to include consideration of the existing rock revetment wall, and identify coastal protection measures (including any requirements for repairs or extensions to the existing rock revetment wall) that will be required to be implemented by the applicant at their cost, prior to occupancy of the development.
70. Furthermore, any works or structures associated in implementing coastal protection measures identified under the Coastal Hazard Assessment would be required to be wholly contained within the subject lease area.

Waste

71. It is anticipated that the aquaculture operations will produce significant waste. A Waste Management Plan (WMP) was submitted with the initial application however, staff recommend an amended plan indicating the location and type of refuse storage shall be submitted for approval by, and implemented to the satisfaction of the City of Albany to reflect amendments to the proposal which have not been considered within the WMP.

Landscaping

72. No landscaping requirements are applicable to Reserves, however LPS1 provides the local government power to determine the amount of landscaping to be provided where no formal landscaping is indicated within Table 9 of LPS1.
73. It is considered additional landscaping should be provided along the southern portion of the site visible to the public, as well as to the west adjacent the pedestrian access route.

74. Additional landscaping is recommended as a condition of planning consent to improve the appearance of the development when viewed from the public realm. As a guide, the applicant will be advised that approximately 10% of the site area should be landscaped, which is consistent with LPS1 requirements for most zones.

Environment

75. LPS1 states that in considering a development application adjacent a conservation area (includes Class A reserves), the local government may request an environmental management plan or additional setbacks / buffer areas to the conservation area.
76. However, as the development involves the replacement and upgrading of existing infrastructure in the same location, is separated from the Class A reserve by a 5m (approx.) fire break and a 2m public access route, this was not considered necessary.
77. It should also be noted that the application was referred to the Department of Biodiversity, Conservation and Attractions, and the Department of Water and Environmental Regulation (DWER) who had no objection to the proposal, despite acknowledging the conservation values of the Class A Reserve.
78. An estuarine water body is located to the north-west of the subject site. A 100m setback is required from this water body under provision 4.3.6 – Setbacks from Watercourses of LPS 1. The application is setback over 250m from the main body of the estuary with the setback reduced to as little as 100m to the offshoots of the main estuary body.
79. It is considered that as this development involves the upgrading of existing infrastructure in the same location and will be located further from the offshoots of the main estuary body than the previous lease, the setback is considered acceptable.
80. The application was also referred to the Department of Planning, Lands and Heritage (DPLH) coastal processes branch who provided no objection to this aspect of the proposal.

Amenity

81. The Environmental Protection Authorities *Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses* recommends a buffer distance of 100-300m should be provided between Aquaculture activities and sensitive land uses depending on the size and scale, with impacts of noise and odour considered.
82. Eight (8) of the residences bound by Swarbrick, Miller and Bedwell Streets are located within the 300m buffer. The closest residence is located approximately 260m from the facility.
83. In considering the above, it is noted that the component of the proposed facility likely to generate the most significant odour impacts, the nursery and oyster and mussel shed (Stage 1), are located to the rear of the site, away from the residences and outside of the buffer area.
84. It is also noted that once Rock Oysters have grown past juvenile size, they are transferred to be grown in open water. Impacts of odour are therefore considered to be significantly reduced in comparison to Aquaculture operation propagating / rearing fauna in land based ponds or tanks.
85. Akoya Oysters and Mussels are seeded onto ropes (offsite) and are loaded into truck boats at the berthing platform and transferred to areas to grow for 12 to 15 months, therefore odour impact on this portion of the operation is also expected to be minimal.
86. Stage 2 operations are considered to be most likely to generate noise impacts. To address this, a condition is recommended to be imposed requiring the development to comply with the requirements of *Environmental Protection (Noise) Regulations 1997* (WA) at all times, to the satisfaction of the City of Albany.

87. Furthermore, to ensure the amenity of residences is protected, a condition that the development shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust is also recommended.
88. The Department of Water and Environmental Regulation (responsible agency) raised no concern with the proposed separation distance in their referral responses.

Lease area

89. The application proposed an extension to the existing lease area to facilitate the required improvements to the revetment wall and an increase in operating capacity from the previous lessee.
90. The Department of Planning, Lands and Heritage have supported a head lease /sublease land tenure model. The City will enter into a head lease with the State of WA and a sublease with Harvest Road Oceans Pty Ltd. This arrangement was supported by Council at its meeting 27 April 2021.
91. It is considered preferable that the rock revetment wall and any required improvements to the wall be entirely located within the sublease area, to address any uncertainty of responsibility or maintenance going forward. The sublease area is therefore proposed to increase seaward to the east, with pedestrian and vehicle access to Jetty C to be retained. Pedestrian access to the mudflats has been redirected to the south west of the site.
92. The extension of the sublease area to the south is required in order to provide space required for the packing building and on-site vehicle manoeuvring. It is recommended suitable arrangements be made with the City to offset the resulting loss of sealed surface area and associated parking opportunities.

Bushfire

93. The subject site is located in a bushfire prone area. A BAL contour plan was subsequently provided which indicated a large portion of the site to be subject to BAL-FZ or BAL-40 levels. As a result, a Bushfire Management Plan (BMP) was required to be prepared to accompany the development application.
94. The application was referred to DFES who were not satisfied that the BMP adequately addressed the performance principles relating to the location of the workshop and vehicular access.
95. The BAL Contour Plan provided by the applicant shows the Workshop, (Stage 2) to be located in within an area assigned BAL-FZ rating.
96. However, due to existing site constraints (adjacent Class A Reserve unable to be cleared) it is considered the workshop achieve the following definition of 'unavoidable development' under *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP 3.7): *'Development that in the opinion of the decision-maker represents exceptional circumstances where full compliance with SPP 3.7 would be unreasonable as no alternative location exists and it can be proven that it is not contrary to the public interest'*.
97. Under SPP 3.7 Element 1: Location (P1) 'Unavoidable Development' can be considered within areas where BAL-FZ or BAL-40 apply provided it can be demonstrated that the risk can be appropriately managed to the satisfaction of DFES.
98. Within the BMP it was argued that as the workshop will consolidate works into a single structure constructed in accordance with the construction requirements for BAL-40/FZ, the need for external works will be minimised and therefore, the risk of ignition to the adjacent vegetation, or fire spread from the site will be reduced.

99. The subject site fails to achieve the 'Acceptable Solution' of SPP 3.7 Element 5: Vehicle Access which requires development to have through road access or be located within 200m of a public road providing alternative destination options for evacuation outside of the site and for emergency services to be able to attend the site if necessary.
100. This is considered a legacy situation and there is no practical means of providing secondary vehicle access.
101. SPP 3.7 Element 5: Vehicle Access was addressed under the performance principles in which it was stated the single access route is located between an area of 'low threat' coast, is within a BAL-19 area and is unlikely to become closed by fallen objects such as trees.
102. The road will only be impassable for 2 minutes during the 'fire peak', in which time the coast can provide pedestrian access to a BAL-Low area for refuge and retreat.
103. In their comments, DFES recommended the Stage 2 development application be deferred to allow the BMP to be updated to reflect the staging of the development, the change in lease area and confirm the responsibilities for the establishment and maintenance for the eastern public access reserve, adjacent the existing fire break.
104. Subsequently, it is recommended that a condition be imposed requiring a revised BMP and Bushfire Emergency Evacuation Plan (BEEP) being prepared to the City's satisfaction, prior to commencement of development, to appropriately address the matters raised by DFES.
105. Conditions are recommended to be imposed to address bushfire requirements, including:
 - Gates being installed within the existing (and any proposed new) boundary fencing to allow access for emergency service vehicles.
 - Measures and actions identified in the BMP and BEEP being implemented and maintained.
 - Firebreaks, firefighting equipment and other appropriate fire management protection measures required to be maintained in accordance with the City's Fire Management Plan;
 - Asset protection zone to be provided and maintained in accordance with the City's Fire Management Notice.
106. The main concerns raised during the advertising period and officer response, including mitigation measures are outlined in the table below.

Summary of submissions	Officer comment
Concerns with environmental impact	<p>Additional approvals are required from other agencies for environmental aspects of the application including sea water discharge and intake (DWER), seabed leases and jetty licences (DoT) and an aquaculture licence will need to be obtained from Department of Primary Industries and Regional Development (DPIRD).</p> <p>The application was referred to DWER, DPLH, DoT, the Department of Biodiversity Conservation and Attractions and the Department of Primary Industry and Regional Development, none of whom identified any major environmental issues associated with the Stage 2 planning proposal.</p>
Concerns with the expansion of the facility outside of the previous lease area	<p>A larger lease area is required to facilitate improvements to the revetment wall and cater for an increase in operating capacity from the previous lessee.</p> <p>The lessee will be required to redirect public access to the mudflats to the south west of the site at their expense and ensure suitable arrangement are made with the City to offset the resulting loss of sealed surface area and associated parking opportunities.</p>

Absence of clear precinct and land use plan for Emu Point	<p>Requests for the preparation of a precinct and land use plan for the wider Emu Point area are noted, however the application must be assessed against the applicable planning framework at the time of submission.</p> <p>Land uses considered appropriate for the Reserve are identified in the 'Restricted Use 2' (R2) provisions of LPS1. The 'Aquaculture' use is consistent with R2 requirements.</p> <p>The City has prepared a draft concept plan for improvements to vehicle parking, manoeuvrability and pedestrian movement within the Reserve.</p>
Scale of development incompatible with the Reserve.	<p>No maximum size requirement applies to the R2 area or the Reserve. The height of the structures is compatible with height of other structures within the Reserve and the facility is broken up into a number of buildings in order to minimise visual impact.</p>
Congestion and impact of extra traffic on the Reserve	<p>The applicant has advised that all staff parking will be accommodated on site. This is recommended to be implemented as a condition of planning consent. The City has developed a concept plan to add additional parking bays to the Reserve and improve existing vehicle movements.</p>
Restricting of public access to the waterfront	<p>Pedestrian access to the mudflats will be formalised and redirected to the rear of the site.</p> <p>Direct unfettered public pedestrian access is to be retained to existing Jetty C as part of the proposal.</p>
Privatisation of foreshore	<p>Upgrades or additions to the seawall will be at the applicant expense and entirely located within the lease area, to address any uncertainty of responsibility or maintenance going forward.</p>
Extent of oyster production and carry capacity of Oyster Harbour	<p>The aquaculture licence, offshore lease areas and production capabilities of the operators will be determined through the aquaculture licence and offshore lease application.</p>
Land use better suited to other locations	<p>Aquaculture is listed as a restricted use within the RU2 area which means the use is permitted in this location.</p>
Waste Management Plan inadequate	<p>Staff recommend an amended Waste Management Plan (WMP) be submitted to reflect amendments to the proposal which were not considered in the WMP provided.</p>
Application should be assessed by Development Assessment Panel.	<p>The applicant may choose to have the application determined by a Development Assessment Panel (DAP) where the value is between \$2 - \$10 million, however the applicant has chosen to have the application assessed and determined by the City of Albany.</p>
Adverse impact on existing activities within the Reserve	<p>The applicant has advised that all staff parking will be accommodated on site. This is recommended to be implemented as a condition of planning consent.</p> <p>The City has developed a concept plan to add additional parking bays to the Reserve and improve existing vehicle movements.</p> <p>A condition is also recommended requiring the applicant to provide a marked vehicle turnaround area and associated signage restricting pedestrian vehicle access to the Emu Point Slipway Services boat lifting and launching area and beyond.</p> <p>Heavy vehicle movements (arrival and departure) are limited to approximately 8 per day during peak season which is not considered to be of a volume likely to adversely impact any existing activities within the Reserve.</p>
Adverse impact on public safety within Reserve	<p>Additional signage will be implemented to regulate traffic movements and to provide safe turning circles away from pedestrian orientated areas and boat lifting and launching areas.</p> <p>The City has developed a concept plan to add additional parking bays to the Reserve and improve existing vehicle movements.</p>

	A formalised pedestrian access way to the mud flats has been provided. As a result, it is considered that the development will have a positive impact on the safety of other users of the reserve.
Expanded lease are not advertised or put to tender	The sublease area is determined outside of the planning application and will be advertised to comply with the Local Government Act.
Proposed public access to the mudflats unsafe and unsightly	The public access will be formalised at the rear of the site which is considered an improvement on the existing informal access over the seawall and across the foreshore.
Impact of additional vehicle movements on Emu Point residents	The Engineering Section have confirmed the roads are capable of accommodating the vehicle movements required. Heavy vehicles arrivals and departures shall be limited to 7.00am to 7.00pm Monday to Sunday to mitigate impacts of vehicular noise on Swarbrick Street residents.
Bushfire safety	A Bushfire Management Plan has been prepared by a Level 3 BPAD practitioner. It is considered the proposal can proceed without pedestrian safety being compromised in the event of a bushfire.
Swarbrick Street unsuitable for proposed heavy vehicle movements	The Engineering Section have confirmed the roads are capable of accommodating the vehicle movements required, and the City does not have the statutory authority to restrict an 'as of right vehicle' from using public roads. Heavy vehicles arrivals and departures shall be limited to 7.00am to 7.00pm Monday to Sunday to mitigate impacts of vehicular noise on Swarbrick Street residents.
Lease of waterfront land to private/commercial entity	The sublease area is determined outside of the planning application and will be advertised to comply with the Local Government Act.
Noise and odour	Impacts of odour are likely to be minimal as shellfish are predominately propagated / reared in coastal waters rather than land based ponds or tanks. A condition is recommended to be imposed requiring the development to comply with the <i>Environmental Protection (Noise) Regulations 1997 (WA)</i> at all times.
Operating hours	As above, condition is recommended to be imposed requiring the development to comply with the <i>Environmental Protection (Noise) Regulations 1997 (WA)</i> at all times. Therefore, restrictions on opening hours are not considered necessary.

107. Based on the above, it is recommended that Council approve the proposed development, subject to the conditions recommended.

GOVERNMENT & PUBLIC CONSULTATION

108. The application was advertised for public comment for a period of 23 days with Emu Point landowners, Pen Holders, Tenants and respondents to the previous Aquaculture (Stage 1) application directly notified by letter.
109. A planning notice was also placed on site notifying of the planning proposal and a public briefing note was placed on the City of Albany website.
110. Throughout the consultation period, City officers have held numerous discussions with interest groups and members of the public before and after the lodgement of the development application. City Officers were also available to take public questions at a Community Information Session on the proposal hosted by Harvest Road.
111. The City also agreed to extend the consultation period for the 'Friends of Emu Point' by an additional seven (7) days in order to allow them to engage public support prior to lodging a submission.
112. Following the close of the extended consultation period, the Friends of Emu Point requested the advertising period be extended until 3 weeks following finalisation of a report on Aquaculture into the South Coast Aquaculture Zone (timeframe unknown).

113. This request was not accepted as the planning application relates to the land based operations only. The aquaculture licence and lease areas within Oyster Harbour waters and production capabilities of the operators are determined by DPIRD through the assessment process for the aquaculture licence and lease applications.
114. Through this process a total of 23 responses were received; 10 letters of support, 11 objections and two supported the proposal subject to modifications.
115. The comments, including the proponent's and officer's recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are summarised and discussed above.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail out	12/05/2021 to 04/06/2021	23 submissions received	No
Consult	Notice on site	12/05/2021 to 04/06/2021		No
Consult	Public Comment – City website	12/05/2021 to 04/06/2021		No
Note: Friends of Emu Point were granted a seven (7) day extension to the consultation period.				

116. The application in its original form was referred to the Department of Biodiversity, Conservation and Attractions, the Department of Water and Environmental Regulation, the Department of Planning Lands and Heritage, the Department of Transport, the Department of Primary Industries and Regional Development, the Department of Health and the Department of Fire and Emergency Services for comment.
117. The comments received as they relate to Stage 2 of the development are summarised below. Staff comments and recommendations are provided in the attached schedule, while broad issues are discussed above under the Discussion section.

Department of Biodiversity, Conservation and Attractions

118. No objection or recommended conditions to the proposal noting any potential environmental impacts will be appropriately addressed through the existing planning framework.

Department of Water and Environmental Regulation

119. No objection to the proposal with some suggestions relating to car parking and stormwater management put forward. Some key issues were also raised for consideration as below:

Acid Sulfate Soils

120. The submission advised that acid sulfate soils exist within the area and should be investigated. However, as a response to the Stage 1 referral, the Site Contamination branch of DWER advised that stockpiled hydrocarbon-impacted soil was removed from site in June 2020 and as a result the site now appears suitable for the proposed development.

Waterways Conservation Act 1976

121. DWER should be consulted regarding dredging, dewatering or construction of the boat ramp, jetties and sea wall to determine if certain activities require approval. It is recommended this is implemented as an advice note.

Mechanical servicing

122. There should be no machinery servicing at the site to avoid the risk of hydrocarbon spills. Only small quantities of fuels should be stored within bunded areas (<500 l) and refuelling restricted to a fully bunded areas where oil wastewater separation traps are installed. It is recommended this is implemented as an advice note.

Coastal risk management and adaption strategy

123. Recommendations to accommodate short term flooding and inundation through development design and management including appropriate management plans/measures for events need to be addressed to protect water quality in the estuary.

Department of Transport

124. No objections to the proposal with a number of conditions relating to water access and seawater intake and discharge piping infrastructure recommended. It is recommended that these be attached as advice noted to the decision notice.
125. DoT have also advised that no obstructions of vehicle and pedestrian access by any building, structure, fencing or retaining will be permitted within 15m from DoT's Harbour Boundary along the sea wall / revetment.
126. Further discussions with DoT revealed that a 5m wide, level service corridor from the water line would be sufficient to meet DoT requirements. This requirement is recommended to be implemented as a condition of planning consent.

Department of Primary Industries and Regional Development

127. No objection to the proposal.

Department of Fire and Emergency Services

128. Reiterated previous advice that development not be supported due to non-compliance with the performance criteria relating to Element 1: Location and Element 5: Vehicle Access of *SPP 3.7 Planning in Bushfire Prone Areas*.
129. However, due to the existing legacy situation, compliance with these elements is unable to be realistically achieved.
130. These elements have been addressed extensively by a Level 3 BPAD practitioner and it is considered the proposal can proceed without pedestrian safety being compromised in the event of a bushfire.
131. In their comments, DFES also recommended the Stage 2 development application be deferred to allow the BMP to be updated to reflect the staging of the development, the change in lease area and confirm the responsibilities for the establishment and maintenance for the eastern public access reserve, adjacent the existing fire break.
132. It is recommended that an updated BMP be provided to the satisfaction of the City of Albany to appropriately address the matters raised by DFES.
133. A number of comments were also provided on the Stage 1 conditions relating to bushfire safety. These comments have been taken into consideration when preparing conditions for the Stage 2 development.

Department of Health

134. No objection to the proposal with the requirement that the development connect to scheme water and reticulated sewer. It is recommended this requirement be implemented as a condition of planning consent.
135. Advice was also provided relating to compliance with relevant Environmental Health Legislation. This is recommended to be applied as an advice note to any planning consent.

Department of Planning Lands and Heritage (Aboriginal Heritage)

136. No comment to make on the proposal given the proposal abuts a registered Aboriginal Site ID 636 (Oyster Harbour) but does not encroach on the area.

Department of Planning Lands and Heritage

Land Use Management

137. No in principle objections to the proposal, however, it is suggested that to facilitate the proposed development, the land required may need to be excised out of Reserve 42964 to facilitate the full extent of the development application.
138. It was also recommended that the City progress an excision to ensure the seawall is captured under Reserve 42964 to address any uncertainty of responsibility of maintenance going forward.

Heritage

139. Any ground disturbing works on the site will require a prior application for consent under Section 18 of the Aboriginal Heritage Act 1972.

Land Use Planning

140. The proposal generally aligns with the strategic directions of the Western Australian Planning Commissions (WAPC) Lower Great Southern Strategy (2016) and the City's Local Planning Strategy 2019 regarding expansion and diversification of the aquaculture industry, tourism and economic growth. The Western Australian Planning Commissions suite of State Planning Policies should also be used to guide consideration of site specific matters, where relevant.

Coastal Planning

141. It was noted that the proposed development area would likely be impacted by erosion between 2045 and 2070. This existing revetment/seawall should be inspected to confirm its condition and suitability to adequately protect the site, as well as upgrading if deemed necessary, and extension.
142. The area of development between the existing finger jetty and the service jetty is not currently or proposed to be protected by a revetment/seawall and DPLH advise that satisfactory extension of the revetment/seawall to include this portion should be included as a condition of approval. As the applicant will be required to engage a suitably qualified professional to inspect the seawall and confirm its suitability protect the site, the above concern is considered to be addressed.
143. The assessments also highlight the risk of inundation over the planning timeframe and recommends taking measures through the design, construction and management of the site to acknowledge risk. It is recommended that the development should have a minimum finished floor level of 3.02AHD in accordance with the City of Albany Development in Flood Prone Areas Policy.

STATUTORY IMPLICATIONS

144. The proposal is for "Aquaculture" within a Parks and Recreation Reserve under the ownership of the Department of Planning, Lands and Heritage. Ownership of the Reserve has been vested to the City of Albany. The purpose of the Reserve is *'Marine and Associated Purposes'*.
145. The subject site is located within the RU2 Restricted Uses area under Schedule 3 of the City of Albany Local Planning Scheme No.1. 'Aquaculture' is listed as a restricted use within the RU2 area which means this use is permitted on this specific portion of land.
146. Stage 1 of the development is consistent with the 'Aquaculture' land use which is defined as per the *Fish Resource Management Act 1994* as follows:
"means the keeping, breeding, hatching, cultivating or harvesting of fish"
147. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

148. The proposal is assessed in the context of the *State Planning Policy 3.7 – Planning in Bushfire Prone Areas*, *Environmental Protection Authorities Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses*, *State Planning Policy 2.6 – State Coastal Planning Policy* and the *City of Albany Development in Flood Prone Areas Local Planning Policy*.
149. The proposal is not consistent with the 'Acceptable Solutions' relating to Element 1: Location and Element 5: Vehicle Access of *SPP 3.7 Planning in Bushfire Prone Areas*. However, due to the existing legacy situation, compliance with these elements is unable to be realistically achieved.
150. These elements have been addressed extensively by a Level 3 BPAD practitioner and it is considered the proposal can proceed without pedestrian safety being compromised in the event of a bushfire.
151. The proposal, as submitted is not consistent with the buffer distance provided within the *Environmental Protection Authorities Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses* with noise and odour identified as likely impacts.
152. As the majority of the growing and rearing process is undertaken in coastal waters rather than ponds or tanks, the impacts of odour are likely to be minimal.
153. The initial application submitted a Coastal Hazard Assessment against *State Planning Policy 2.6 – State Coastal Planning Policy*.
154. A condition is recommended that this report be updated to reflect subsequent amendments to the application before the commencement of development.
155. As the development proposes to make use of the existing rock revetment wall, it is also recommended that a conditions requiring the lessee to engage a suitably qualified expert to inspect the wall and confirm its condition to adequately protect the site.
156. Any requirements for repairs or extensions to the seawall should be implemented at the lessee's cost.
157. The City of Albany *Development in Flood Prone Areas Policy* applies to the site which requires all habitable buildings within the vicinity of Oyster Harbour to be constructed with a minimum finished floor level of 3.02AHD.
158. The buildings proposed within the Stage 2 application have a finished floor level of 2.1AHD. It is therefore recommended that the City request the lessee provide written acknowledgement that they accept that the building and its contents may be subject to periodic flooding and/or inundation, in accordance with provision 4.3.7.4 of LPS 1.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Community <i>Increased vehicular movements may disrupt the operations of existing businesses.</i>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>The application has been assessed against the relevant statutory framework.</i>
Property <i>The proposed development may be subject to inundation of flood waters during a significant flood event.</i>	<i>Rare</i>	<i>Major</i>	<i>Low</i>	<i>Mitigation of impacts to be achieved through adoption and enforcement of conditions.</i>
People Health and Safety <i>The proposed development may result in risk to human safety during a bushfire event.</i>	<i>Rare</i>	<i>Major</i>	<i>Low</i>	<i>The application has been assessed against the relevant statutory framework. The application has been referred to the relevant State Agency.</i>
Reputation <i>The approval may generate unacceptable impacts on the amenity of nearby residences.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>The application has been assessed against the relevant statutory framework.</i>
Opportunity: <i>Responds to the need to stimulate growth of the aquaculture industry to benefit the City economy.</i>				

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

164. The proposal is located adjacent a conservation area (Class A reserve). The application was referred to the Department of Biodiversity, Conservation and Attractions who had no objection to the proposal, despite acknowledging the conservation values of the Class A Reserve.
165. An estuarine water body is located to the north-west of the subject site. A 100m setback is required from this water body under provision 4.3.6 – Setbacks from Watercourses of LPS1. The application is setback over 250m from the main body of the estuary with the setback reduced to as little as 100m to the offshoots of the main estuary body.
166. It is considered that as this development involves the upgrading of existing infrastructure in the same location and will be located further from the offshoots of the main estuary body than the previous lease, the setback is acceptable.
167. The application was referred to both DWER and the DPLH coast processes branch who provided no comment/objection to this aspect of the application.

168. In 2015 investigations submitted to DWER identified hydrocarbon impacted soil on site. However, DWER now believes that the stockpiled hydrocarbon-impacted soil was removed from site in June 2020 and as a result the site now appears suitable for the proposed development.
169. The aquaculture facility will connect to the Water Corporation sewerage system, which currently terminates at the end of Swarbrick Street, prior to the completion of Stage 1 development. It is recommended that this is implemented as a condition of planning consent.

ALTERNATE OPTIONS

170. Council has the following alternate options in relation to this item, which are:
- To resolve to refuse the proposal subject to reasons; and
 - To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

CONCLUSION

171. The application is consistent with the purpose of this Parks and Recreation Reserve, being 'Marine and Associated Purposes' and is listed as a restricted use within the RU2 area which means this use is permitted on this specific portion of land.
172. The application generally complies with all site and development requirements established under Local Planning Scheme No. 1.
173. Bushfire risk is largely a result of existing site constraints. Management of the bushfire risks can be controlled through implementation of the BMP, BEEP and requirements from the City's Fire Management Notice. Conditions are recommended to ensure implementation and maintenance of these requirements.
174. Impacts of odour and noise on nearby sensitive receivers is likely to be minimal and can be mitigated through the application of appropriate planning conditions.
175. The lessee is willing to accept risk of coastal inundation and will be required to prepare an undated Coastal Hazard Assessment for the City's approval.
176. The proposal is consistent with the City of Albany *Local Planning Strategy 2019* and the *Lower Great Southern Strategy 2016*.
177. The majority of matters raised in agency and public submissions received during the advertising period have been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions.
178. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

Consulted References	:	<ol style="list-style-type: none"> 1. Local Planning Scheme No. 1 2. Albany Development in Flood Prone Areas Policy 3. State Planning Policy 3.7 – Planning in Bushfire Prone Areas 4. State Planning Policy 2.6 – Coastal Planning 5. Environmental Protection Authority: Separation Distances between Industrial and Sensitive Land Uses 6. Albany Local Planning Strategy 2019 7. Lower Great Southern Strategy 2016
File Number (Name of Ward)	:	A150506 (Breaksea Ward)
Previous Reference	:	DIS253: Aquaculture Facility (Stage 1)

8.41pm Councillor Stocks returned to the Chamber. Councillor Stocks was not present during the discussion and vote for this item.

DIS274: WASTE LOCAL LAW - DETERMINATIONS

Land Description	: City of Albany
Report Prepared By	: Manager Governance & Risk (S Jamieson) Manager Engineering and Sustainability (R March)
Authorising Officer	: Executive Director Infrastructure, Development & Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** Leadership.
 - **Objective:** To provide strong, accountable leadership supported by a skilled and professional workforce
 - **Community Priority:** Provide positive leadership that delivers community outcomes.

In Brief:

- Determination 1: Verge Collection for Commercial Purpose: The current determination to allow verge collection for non-commercial purposes is required to be given to remain in effect.
- Determination 2: Council consider the proposed determination to enforce kerbside bin lid colour coding.

RECOMMENDATION

DIS274: ADDENDUM

Following discussion at the Development and Infrastructure Services Committee meeting held on 11 August 2021, clarification was sought to ensure that the referenced Australian Standard is correct, as existing General Waste Bins have a blue base, and the City is upgrading the lids only.

The City's Waste Management Team, in consultation with WALGA and the City's Waste Contractor, determined that upgrading the bin lid colour would be sufficient to minimise waste contamination.

Therefore, the blue base colour of existing General Waste Bins is acceptable. However, any replacement General Waste Bins must be as per the Australian Standards, and have a dark green or black base.

DIS274: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR DOUGHTY

THAT Council:

- (1) ADOPT the following determination, in accordance with the City of Albany Waste Local Law 2017 (as amended):**

**Local Government Act 1995
Waste Avoidance and Resource Recovery Act 2007
CITY OF ALBANY
WASTE LOCAL LAW 2017**

DETERMINATIONS

The following determinations will come into effect 14 days after the day on which public notice is given:

Determination 1: Verge Collection for Commercial Purpose:

Clause 2.10 (2) of the City of Albany Waste Local Law 2017 is suspended to allow for the lawful collection of waste deposited on the verge for commercial purposes.

The removal of the waste must be conducted in accordance with clause 2.10(3), which states in part:

“a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.”

Determination 2: Kerbside Bin Lid Colour Coding

It is the property owner's responsibility:

- (a) to provide and maintain kerbside bins for their property.
- (b) to ensure the kerbside bin lids are colour coded in accordance with Australian Standard 4123.7–2006 Mobile Waste Containers—Colours, markings and designation requirements (Australian Standard) as follows:
 - General Waste: 140L capacity, dark green or black base with a red lid.
 - Recycling: 240L capacity, green base with a yellow lid.
 - Organics (FOGO): 240L capacity, dark green or black base with a lime-green lid.

It is the residents (owner or occupier) responsibility to make their bin available and allow the City to provide or upgrade their bin to ensure they have a LG approved receptacle.

- (2) NOTE that under Delegated Authority, City of Albany Authorised Persons are authorised to advise residents:**

- The consequence of residents (owner or occupier) not making their bin available for upgrade, may result in their receptacle (bin) not being emptied by the City's Waste Contractor; and
- An Authorised Person may determine that if efforts to facilitate compliance are not met, the City's Waste Contractor may be directed to not empty non-compliant receptacles (bins).

CARRIED 12-0

DIS274: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY

SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the Authorising Officer Recommendation be ADOPTED, subject to clarification regarding the base colour of General Waste Bins.

CARRIED 12-0

DIS274: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

- (1) ADOPT the following determination, in accordance with the City of Albany Waste Local Law 2017 (as amended):

Local Government Act 1995
Waste Avoidance and Resource Recovery Act 2007
CITY OF ALBANY
WASTE LOCAL LAW 2017

DETERMINATIONS

The following determinations will come into effect 14 days after the day on which public notice is given:

Determination 1: Verge Collection for Commercial Purpose:

Clause 2.10 (2) of the City of Albany Waste Local Law 2017 is suspended to allow for the lawful collection of waste deposited on the verge for commercial purposes.

The removal of the waste must be conducted in accordance with clause 2.10(3), which states in part:

“a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.”

Determination 2: Kerbside Bin Lid Colour Coding:

It is the property owner's responsibility:

- (a) to provide and maintain kerbside bins for their property.
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It is the residents (owner or occupier) responsibility to make their bin available and allow the City to provide or upgrade their bin to ensure they have a LG approved receptacle.

- (2) NOTE that under Delegated Authority, City of Albany Authorised Persons are authorised to advise residents:
- The consequence of residents (owner or occupier) not making their bin available for upgrade, may result in their receptacle (bin) not being emptied by the City's Waste Contractor; and
 - An Authorised Person may determine that if efforts to facilitate compliance are not met, direct the City's Waste Contractor to not empty non-compliant receptacles (bins).

BACKGROUND

2. The Waste Local Law prescribes that determinations must be reviewed and re-adopted annually.

Determination 1: Verge Collection for Commercial Purpose

3. The current determination allows for the lawful collection of waste deposited on the verge to be picked up and upcycled.

Determination 2: Kerbside Bin Lid Colour Coding

4. Determination is a new proposed determination.

DISCUSSION

Determination 1: Verge Collection for Commercial Purpose

5. It was not the intent of Council when proposing the Waste Local Law 2011 to stop residents who are seeking to re-use, recycle or upcycle items placed for collection on the roadside.

Determination 2: Kerbside Bin Lid Colour Coding

6. It was identified that it would be quite difficult and potentially cost prohibitive for the upgrade of bin lids to be borne by the individual property owners and occupiers.
7. Therefore, State Government grant funding was secured to facilitate the process.
8. A minority of community members are refusing to allow the City's nominated contractor to attach stickers, change lids, or upgrade their waste bin.
9. The City had hoped that the community would act in good faith to assist us in managing waste to the national standard by ensuring bins are colour coded to a national standard, in order to minimise waste contamination.
10. The City's approach was based on a voluntary acceptance of the bin standardisation program.
11. The City's Waste Local Law, places the waste bins are "the property owner's responsibility".
12. Residents who want to retain their existing bin lid can advise the City and the non-compliant lids can be left at the property.

GOVERNMENT & PUBLIC CONSULTATION

13. Consultation was made with the Western Australian Local Government Association (WALGA).
14. Extensive education and publication of the bin lid changeover has been communicated in both printed media (local newspapers, letters) and on the City's website and social media pages.

Residents were advised:

15. Residents who don't have a yellow lid on their recycling bin or a red lid on their general waste bin will receive a one-off free lid replacement to comply with Australian Standards.

From 17 May residents must leave their bins out from 6am to 6pm on their normal bin day to enable the City's contractor to change lids where required, and attach a new sticker to recycling bin lids.

Householders are asked to do this each week until their changeover is complete, with the entire process expected to take up to eight weeks.

At the same time households will receive a kitchen caddy, roll of compostable liners, Waste Guide and FOGO bin sticker to help residents sort their waste when the FOGO system starts.

When the new service starts the lime-green lidded green waste bin will become the FOGO bin for food scraps as well as garden prunings, pet poo, pizza boxes, meat bones and seafood.

Bin collection days will remain the same but the frequency of bin collection will change so FOGO and general waste bins will be collected one week and recycling bins the alternate week.

The FOGO bin will be collected weekly for eight weeks between mid-December and mid-February each year when the weather is warmer and seasonal celebrations take place.

The Better Bins project is funded by the State Government through the Waste Avoidance and Resource Recovery Account, and administered by the Waste Authority.

STATUTORY IMPLICATIONS

16. The Waste Local Law 2017, prescribes the determination process.

17. Local public notice of determinations:

Clause 1.6 Local public notice of determinations

Where, under this local law, the local government has a power to determine a matter—

- (a) local public notice, under section 1.7 of the LG Act, must be given of the matter determined;
- (b) the determination becomes effective only after local public notice has been given;
- (c) the determination remains in force for the period of one year after the date that local public notice has been given under paragraph (a);
- (d) after the period referred to in paragraph (c), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act; and
- (e) the determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

18. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

19. The provision of domestic waste services is not an opt-in or opt-out service.

20. Residents who refuse to upgrade bin lids to the adopted standard will be deemed Non-compliant.

21. Non-compliant receptacles will not be emptied by the City's waste contractor.

22. Residents who are non-compliant will have to arrange for their own rubbish collection.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation Risk: <i>If the need for the proposed local law determinations are not articulated and justified, negative community feedback may result.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Communicate and justify rationale..</i>

FINANCIAL IMPLICATIONS

24. The Better Bins project is funded by the State Government through the Waste Avoidance and Resource Recovery Account, and administered by the Waste Authority.

LEGAL IMPLICATIONS

25. Legal principles do not permit waste local laws to be drafted to further delegate to a specified person or body the legislative power that has been delegated to the local government under section 61(1) of the WARR Act.
26. However, if a power, function or discretion under a waste local law is granted to a third party (e.g. an authorised person), this would be valid if of an administrative nature; an important indicator is whether the discretion is circumscribed by guidelines within which that person must act.
27. The City's Waste Local Law 2017 states:
receptacle, means a receptacle—
 - a) which has been approved by the local government; and
 - b) the waste from which is collected and removed from the premises by the local government or its contractor.
28. Therefore, it is considered appropriate for the City of Albany to:
 - a) Determine the type of receptacle to be used to facilitate the waste collection.
 - b) Determine the bin lid cover that has to be used.
 - c) Authorised persons (which includes contractors) to change over the bin lids to meet the new colour coded standard.

ENVIRONMENTAL CONSIDERATIONS

29. The intention behind having a standard lid colour are to ensure that residents put the correct items in the correct receptacle.
30. Standardisation across Australia means that it is more likely that residents who move to different areas will make it easier to identify what goes in which receptacle therefore reducing contamination and increasing diversion from landfill which is better for the environment.
31. Consistent lid colours also make it easier for the collection contractor to easily identify bins for collection also reducing the risk of contamination by collecting the wrong bin.

ALTERNATE OPTIONS

32. Council may choose not to support the determination, in which case the City of Albany will receive less funding and a potential for increased contamination resulting in increased material ending up in landfill.

CONCLUSION

33. It is recommended that the Council approve the determination to allow better bin management and compliance of our bin services.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Government Act 1995</i>• <i>Waste Avoidance and Resource Recovery Act 2007</i>• <i>Waste Local Law 2017:</i> https://www.albany.wa.gov.au/documents/228/waste-local-law-2017
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	<ul style="list-style-type: none">• OCM 28/03/2017 Resolution DIS014• OCM 27/02/2018 Resolution DIS078• OCM 23/02/2021 Resolution DIS248

DIS275: C21007 - CONSTRUCTION OF SES LEVEL 3 INCIDENT CONTROL FACILITY – ALBANY, WA

Land Description	: Mercer Road, Walmsley, Albany.
Proponent / Owner	: City of Albany
Attachments	: Confidential Briefing Note
Report Prepared By	: Major Projects Officer (R Taylor)
Authorising Officer:	: Executive Director Infrastructure, Development and Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** A connected and safe built environment
 - **Objective:** To develop and support a healthy inclusive and accessible community.
 - **Community Priority:** Plan for and monitor community safety via effective ranger and emergency services.

Maps and Diagrams:



In Brief:

- Following a competitive tender process, Council approval is sought to award the tender for the Contract C21007 - Construction of SES Level 3 Incident Control Facility – Albany WA to Tenderer A.

RECOMMENDATION

DIS275: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR SHANHUN

THAT Contract C21007 Construction of SES Level 3 Incident Control Facility – Albany be AWARDED to Smith Constructions.

CARRIED 12-0

BACKGROUND

2. Tenders were called for C21007 - Construction of SES Level 3 Incident Control Facility - Albany WA.
3. It is preferable to commence works at the earliest possible time to ensure practical completion in accordance with funding requirements.

DISCUSSION

4. The standard tender process as prescribed by the Local Government Act 1995 (the Act) and Local Government (Function and General) Regulations 1996 (the Regulations).
5. Tenders were advertised both state-wide and locally from the 23 June 2021 and were closed on 22 July 2021.
6. Thirteen (13) tender documents were downloaded from the City of Albany website, resulting in the City receiving four (4) conforming tenders.

Evaluation of Tenders

7. The tender panel evaluated tenders using the weighted criteria methodology across five key areas, shown in Table 1.

Table 1 – Evaluation Criteria

Criteria	% Weighting
Relevant Experience and Key Personnel	20%
Demonstrated Understanding	20%
Tenderer's Resources	5%
Corporate Social Responsibility	5%
Cost	50%
Total	100%

8. The following Table 2 summarises the tenders and the overall evaluation scores applicable.

Table 2 – Summary of Tender Submissions

Tenderer	Total	Rank
Smith Constructions	714.02	1
Tenderer B	593.84	2
Tenderer C	590.57	3
Tenderer D	559.06	4

9. Smith Constructions ranked highest with the highest total weighted score.
10. From the evaluation scoring, clarification and financial check processes Smith Constructions are the preferred tender and consequently it is recommended that their tender be accepted and the contract be awarded.

GOVERNMENT & PUBLIC CONSULTATION

11. There is no government consultation required for the award of C21007 - Construction of SES Level 3 Incident Control Facility - Albany WA.
12. The funding body and the public will be notified with regard to the outcome of the award and timeframe for implementation.
13. Stakeholder Engagement through Design Development was undertaken directly between DFES, SES and the City.

STATUTORY IMPLICATIONS

14. Regulation 11 of the Regulations requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$250,000.
15. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
16. Regulation 19 of the Regulations requires Council to advise each tenderer in writing of Council's decision.
17. Voting Requirement: **Simple Majority**

POLICY IMPLICATIONS

18. The City of Albany Purchasing Policy (Tenders and Quotes) and Buy Local Policy (Regional Price Preference) are applicable to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
City Operations: <i>Failure to deliver project within specified timeframe</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Facilitate the timely award of tender to enable compliance with funding conditions for project completion.</i>
Business Interruption: <i>Contract is not awarded to recommended tenderer.</i>	<i>Possible</i>	<i>Major</i>	<i>Medium</i>	<i>Briefing to Council to address any concerns prior to award of tender.</i>
Opportunity: <i>Project developed and delivered on time for the benefit of the State Emergency Service.</i>				

FINANCIAL IMPLICATIONS

20. The City of Albany applied to DFES Local Government Grants Scheme (LGGS) on SES behalf for the purpose of building a new Incident Control Centre.
21. The City's application was successful, with \$3,035,900 ex GST being offered to construct the new SES Level 3 Incident Control Facility.

LEGAL IMPLICATIONS

22. Responsibility has been assigned to ensure contractual terms for all aspects of this project are applied.

ENVIRONMENTAL CONSIDERATIONS

23. The contractor's environmental sustainability policy will apply to this contract.
24. Site management controls will be enforced to mitigate adverse any possible environmental impacts.

ALTERNATE OPTIONS

25. The options are:

- Council may elect to accept the recommended tender.
- Not approve any tender. *(Please refer to the Risk Identification and Mitigation Table of this report with reference to constraints around project completion timelines and associated risks regarding funding arrangements).*

CONCLUSION

26. It is recommended, based on the evaluation scoring, clarification and financial check processes that the tender is awarded to Smith Constructions.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Government Act 1995</i>• <i>Local Government (Functions and General) Regulations 1996</i>• <i>Council Policy: Purchasing Policy (Tenders and Quotes)</i><ul style="list-style-type: none">○ <i>Tender Procedure</i>○ <i>Evaluation Procedure (Tenders and Quotes)</i>• <i>Council Policy: Buy Local Policy (Regional Price Preference)</i>
File Number (Name of Ward)	:	CP.DEC.108 / CP.COT.73 (Yakamia Ward)
Previous Reference	:	N/A

DIS276: PLANNING AND BUILDING REPORTS JULY 2021

Proponent / Owner : City of Albany.
Attachments : Planning and Building Reports July 2021
Report Prepared By : Technical Support Officer – Development Services – Ashton James
Authorising Officer: : Manager Planning and Building Services
(J Van Der Mescht)

RECOMMENDATION

DIS276: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR SLEEMAN

THAT Council NOTE the Planning and Building Reports for July 2021.

CARRIED 12-0

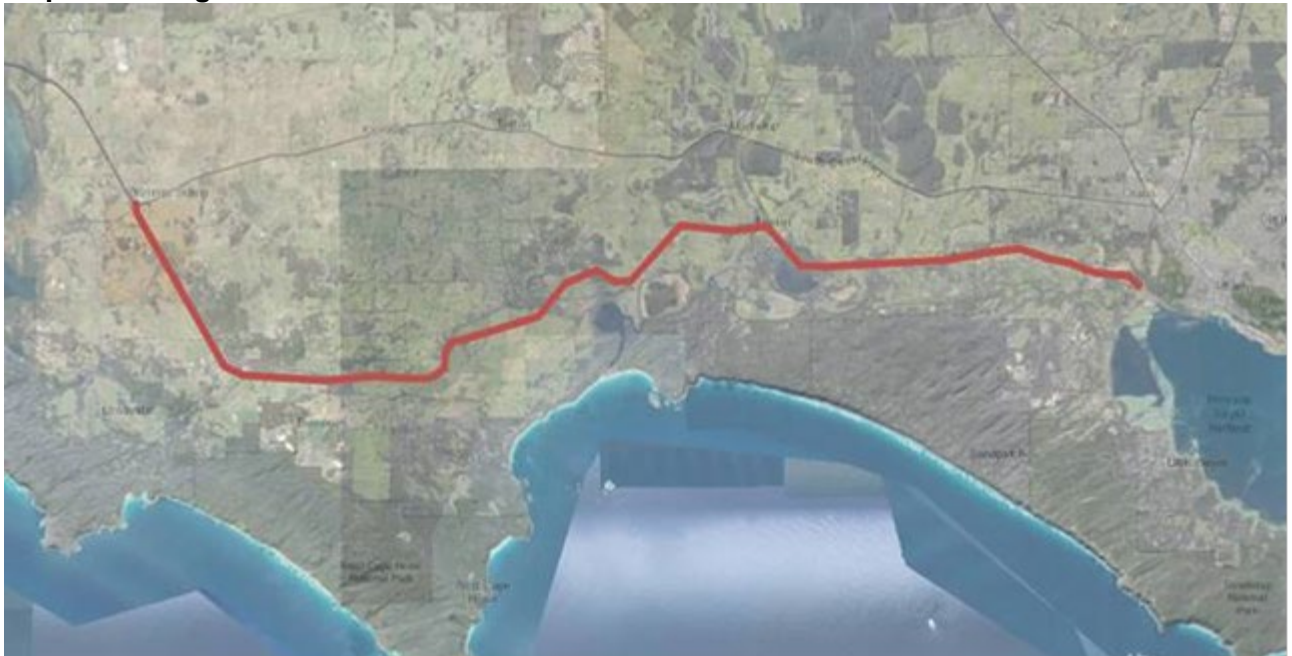
DIS277: C21009 LOWER DENMARK RD - ROAD SHOULDER - RECONDITIONING AND SEALING

Proponent / Owner	: City of Albany
Attachments	: Confidential Attachment Under Separate Cover
Report Prepared By	: Manager Operations (D Lawrence)
Authorising Officer:	: Executive Director, Infrastructure Development & Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** Clean, Green & Sustainable
 - **Objective:** To build, maintain and renew city assets sustainably
 - **Community Priority:** Design, construct and maintain infrastructure cost effectively in a manner that maximises its life, capacity and function.

Maps and Diagrams:



In Brief:

- Following a competitive tender process, Council approval is sought to award the tender for the Contract C21009 Lower Denmark Rd - Road Shoulder Reconditioning and Sealing to the preferred tenderer
- The contract is to commence on 1st September 2021 for completion by 17th December 2021.

RECOMMENDATION

DIS277: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT Contract C21009 – Lower Denmark Rd – Road Shoulder Reconditioning and Sealing be AWARDED to Bill Gibbs Excavations.

CARRIED 12-0

BACKGROUND

2. Tenders were called for C21009 – Lower Denmark Rd – Road Shoulder Reconditioning and Sealing.
3. It is preferable to commence works at the earliest possible time to ensure practical completion in accordance with funding requirements.
4. 22 tender documents were downloaded from the City of Albany website, resulting in the City receiving four conforming tenders.

DISCUSSION

Evaluation of Tenders

5. The tender panel evaluated tenders using the weighted criteria methodology across 6 key areas, shown in Table 1.

Table 1 – Evaluation Criteria

Criteria	% Weight
Cost	30
Relevant Experience	25
Key Personnel	15
Demonstrated Understanding	15
Tenderers resources	10
Corporate Social Responsibility	5
Total	100

6. The following table 2 summarises the tenders and the overall evaluation scores applicable.

Table 2 – Summary of Tender Submissions

Tenderer	Weighted Score
Bill Gibbs Excavations	738.68
Tenderer B	644.14
Tenderer C	565.93
Tenderer D	469.59

7. Bill Gibbs Excavations ranked highest with the highest total weighted score.
8. From the evaluation scoring, clarification and financial check processes Bill Gibbs Excavations are the preferred tender and it is recommended that their tender be accepted and the contract awarded.

GOVERNMENT & PUBLIC CONSULTATION

9. A request for tenders was published in the West Australian on Wednesday 14th July 2021, and the Albany Weekender on Thursday 15th July 2021.

STATUTORY IMPLICATIONS

10. Regulation 11 of the Regulations requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$250,000.
11. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
12. Regulation 19 of the Regulations requires Council to advise each tenderer in writing of Council's decision.
13. Voting Requirement: **Simple Majority**

POLICY IMPLICATIONS

14. The City of Albany Purchasing Policy (Tenders and Quotes) and Buy Local Policy (Regional Price Preference) are applicable to this item.

RISK IDENTIFICATION & MITIGATION

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

<i>Risk</i>	<i>Likelihood</i>	<i>Consequence</i>	<i>Risk Analysis</i>	<i>Mitigation</i>
Operational Risk: Non-compliance delay or failure to carry out contracted works.	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>General Conditions of contract allow for contracted termination on the basis of failure to supply services.</i>

FINANCIAL IMPLICATIONS

16. The recommended tender is within project budget.
17. The total MRWA – Regional Road Safety Program funding available for this project is \$2 million. This includes construction and project management costs.

LEGAL IMPLICATIONS

18. Nil

ENVIRONMENTAL CONSIDERATIONS

19. The contractor's environmental policy will apply to this contract.
20. Site management controls will be enforced to mitigate any possible adverse environmental impacts.

ALTERNATE OPTIONS

21. The options are:

- Council may elect to accept the recommended tender; or
- Not approve any tender.

CONCLUSION

22. It is recommended, based on the evaluation scoring, clarification and financial check processes that the tender is awarded to Bill Gibbs Excavations.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Government Act 1995</i>• <i>Local Government (Functions and General) Regulations 1996</i>• <i>Council Policy: Purchasing Policy (Tenders and Quotes)</i><ul style="list-style-type: none">○ <i>Tender Procedure</i>○ <i>Evaluation Procedure (Tenders and Quotes)</i> <i>Council Policy: Buy Local Policy (Regional Price Preference)</i>
File Number (Name of Ward)	:	C21009
Previous Reference	:	N/A

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL** Nil
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN** Nil
16. **REPORTS OF CITY OFFICERS** Nil
17. **MEETING CLOSED TO PUBLIC** Nil
18. **CLOSURE**

There being no further business the Mayor declared the meeting closed at **8.44PM**.

(Unconfirmed Minutes)

Dennis W Wellington
MAYOR

TABLED ADDRESS BY MR KIM SNOWBALL



Presentation from Friends of Emu Point to Albany City Council

DIS273 Aquaculture facility (stage 2) – 2 Swarbrick Street, Emu Point

The Friends of Emu Point represents the interests of over 90 members and during the various development applications from Harvest Road to the Council on the development of an Oyster processing facility, we have attempted to engage with the City and the Council in a constructive way.

We have held public meetings and gatherings and meetings with State government agencies over the many concerns that residents have over the development at the marina and the wider impact on Oyster Harbour and Emu Point with the introduction of large scale Shellfish Aquaculture and processing.

Our most serious concern has been the size and scale of the proposed development together with a lack of baseline information on environmental impacts both on land and water. The development will forever change the nature of Emu Point and Oyster Harbour and has the potential to cause irreparable damage.

From our engagement with the City we have little confidence that the development on the Emu Point Marina will be handled impartially by the City or with the expertise that should reasonably be expected on such a complex and large project.

We sought to convey to Councillors, the community perception that the City is conflicted in respect to this project and should refer it to a Development Assessment Panel. No councillors took up our offer to consider the source of the perceived conflict.

This option remains open to the Council and if the project were \$10m rather than the current \$9m it would have been mandatory to refer it. The Development Assessment panels were established for just such a purpose and would allow the City to be clearly impartial.

The matters that have represented a red flag to the community with this project include:

- Council Officers attended none of the community gatherings and public meetings nor sought to further engage with Friends of Emu Point on the submissions they had made. One of the methods of consultation identified by the planners was their attendance at a Harvest Road hosted community information session. This session was not designed for that purpose and none of the community representatives were even aware the planners had been invited. The session was designed for a behind the curtain look at the actual operations on site.
- The proposed development by Harvest Road has not changed in any meaningful way in response to the community input. This includes significant concerns about safety in a mixed public area, parking, vehicle traffic as well as waste management.

TABLED ADDRESS BY MR KIM SNOWBALL

- The process for addressing the developers pursuit of a 40% increase in leased area to include the foreshore has not been adequately explained. The paper refers to that matter as being outside the DA and not forming part of the City's consideration. Yet it is considered under the heading leased area (89-92). The community perspective is that this will proceed and the expanded lease will be handed to Harvest Road without being advertised for expression of interest.
- The developer is a large commercial operator and from a community perspective is an organisation that gets what it wants.
- No engagement to discuss the size and scale of the processing facility which is inconsistent with the expected harvest from the aquaculture zones and assumes all of the 150% increase in the zones in Oyster harbour will go to Harvest Road?

As a result, many in the community are fatalistic about this development going ahead just as the developer desires, regardless of the community view.

A very simple step for the Council to reassure the community that this is not the case, is to refer it to a development assessment panel and Friends of Emu Point would urge the Council to do so, accepting that the end result may well be the same.