



MINUTES

Ordinary Meeting of Council

Tuesday 24 November 2020

6.00pm
Council Chambers

CITY OF ALBANY
COMMUNITY STRATEGIC PLAN (ALBANY 2023)



ORDINARY COUNCIL MEETING
MINUTES 24/11/2020

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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	R Hammond
Breaksea Ward	P Terry
Frederickstown Ward	G Stocks (Deputy Mayor)
Kalgan Ward	E Doughty
Kalgan Ward	M Benson-Lidholm JP
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
Acting Executive Director Community Services	N Watson
Manager Planning and Building Services	J Van Der Mescht
Meeting Secretary	C Crane
Apologies:	
Vancouver Ward	T Sleeman (Leave of Absence)
Frederickstown Ward	R Stephens (Apology)

4. **DISCLOSURES OF INTEREST**

Name	Report Item Number	Nature of Interest
Nil		

5. **REPORTS OF MEMBERS**

Councillor Terry

Councillor Terry attended the Freedom of Entry to the City of Albany, and a tour of the Town Hall prior to the soft opening next week. Councillor Terry, together with Councillor Benson-Lidholm, attended a meeting in Nyabing to discuss regional road group funding.

Councillor Terry also commented on the success of the Garage Sale Trail.

Councillor Stocks

Councillor Stocks commented on Remembrance Day 2020, and the wonderful service held. Councillor Stocks requested that a copy of Mr Kevin Prince's speech be obtained and recorded for posterity by the City.

Councillor Stocks also commented on the recent ACCI Business Awards, and said that it was encouraging to see local businesses being innovative as a result of the pandemic.

Councillor Stocks also said that the WA Primary Health Strategic Plan 2023 launch was well attended. Comments from WA Public Health on the City's contribution were very complimentary, and the City of Albany are one of two local governments leading in this space.

Councillor Benson-Lidholm

Councillor Benson-Lidholm agreed with comments from Councillor Terry regarding the meeting in Nyabing. Councillor Benson-Lidholm was glowing in his praise of City staff involved in the recent Freedom of Entry Parade. Councillor Benson-Lidholm requested that the City's Events Coordinator be congratulated on her contribution to the success of the event.

Councillor Shanhun

Councillor Shanhun reported that Volunteer Bush Fire Brigades have received funding to install defibrillators in VBFB appliances, in addition to portable refrigerators. All volunteers will receive training in how to use the defibrillators.

Councillor Shanhun also praised the Containers for Change Scheme and has visited several exchange sites. The site run by Greenskills on Stead Road was highly organised, with staff who are very proud of their work in reducing waste going to land fill. Over 30 community groups will be eligible for funding as a result of the scheme.

Councillor Smith

Councillor Smith attended the Seniors Expo, and the 120th Birthday Celebrations of the King River Hall. Councillor Smith said that it was fantastic to see an amazing activation of the historic hall, with a very active committee who are very appreciative of the grant funding received from the State Government.

Councillor Thomson

Councillor Thomson attended the WALGA zone meeting, and reported that a green paper would be distributed for comment. Councillor Thomson also attended the King River Hall birthday celebrations, and the pre-opening event of the WA Museum in Perth.

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE Nil

7. PUBLIC QUESTION TIME

Mr Don Phillips, 314 Frenchman Road, Robinson

Summary of key points:

Mr Phillips addressed Council regarding DIS238: Local Structure Plan No. 12-Lot 3 Toll Place, Albany.

Ms Lynne Cronin, Manager St Ives, Lange

Summary of key points:

Ms Cronin spoke against the Responsible Officer Recommendation for DIS229: Local Planning Scheme Amendment No.36-Lots 201, 202 Chester Pass Road and Lot 1004 Viastra Drive, Lange.

Yana Appleton, 660 Lower King Road, Lower King

Summary of key points:

Ms Appleton addressed Council regarding the petition lodged by her. Ms Appleton wanted the City to increase the number of seats available at the Special Electors' Meeting to be held on 8 December 2020. Ms Appleton said the City should consider moving the meeting to a larger venue and was opposed to capping the number of attendees due to COVID-19 restrictions.

Officer comment: The City has reviewed the seating available for the Special Electors' Meeting, and following advice from the City's Manager Public Health and Safety have made additional seating available for this meeting, to take the number of participants to 80 whilst still adhering to COVID-19 social distancing requirements.

Ms Appleton was advised of this increase by email on Thursday 26 November 2020.

Mr Steve Thomson, Enanby Pty Ltd
Summary of key points:

Mr Thomson spoke on behalf of the proponent, and in support of the Responsible Officer Recommendation for DIS229: Local Planning Scheme Amendment No.36-Lots 201, 202 Chester Pass Road and Lot 1004 Viastra Drive, Lange.

Mr Tony Kinlay, 10 La Perouse Road, Goode Beach
Summary of key points:

Mr Kinlay addressed Council regarding Lot 660 Goode Beach. Mr Kinlay's address to Council and additional document tabled at the meeting are detailed at Appendix A.

Mr Kinlay asked the following questions which were taken on notice at the meeting. Responses are provided in blue:

- How and why did the planners get it so horribly wrong?
- Was there a process in place to have planners' report and recommendation prepared by one planner, and peer reviewed by another independent planner, then signed off by the head of the planners, and/or the CEO?
- Has there been a review by the CEO and relevant staff of their report?
- Why was the planners report in pre-final form prepared some weeks in advance of the FBA's formal presentation to councillors?
- Has the CEO taken responsibility in any way for the content of their report?
- Why were all the submissions from the FBA not taken into consideration?
- Did all councillors, or at least the nine who voted in support of the motion, inform themselves of the key issues, including digesting the arguments from the FBA and others in their submissions?
- Did each councillor do their own investigations, or did they rely fully on the planners' report and recommendations.

Response:

The final decision of the Statutory Planning Committee is noted.

The structure plan included a variety of very complex matters including those mentioned by Mr Kinlay. These matters were pragmatically assessed within the statutory time frame provided and against the legislation and state policies and direction available at the time of assessment.

The City recommended support for the proposal subject to a number of conditions. The SPC, as the final decision maker, made their decision based on their assessment and interpretation of their policies and information provided to them.

It is noted that the final decision was not tested in the State Administrative Tribunal which would have provided an opportunity to clarify and provide guidance on the correct interpretation of some of the current policy positions.

It is also noted that Mr Kinlay has expressed his personal views on the process undertaken in consideration of this matter, which are not necessarily the views of Council or the City of Albany.

8. APPLICATIONS FOR LEAVE OF ABSENCE Nil

9. PETITIONS AND DEPUTATIONS

RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS

SECONDED: COUNCILLOR TERRY

THAT the Petition lodged by Yana Appleton requesting that the City re-evaluate the removal of 9 Norfolk Island Pine trees in the Flinders Parade Car Park be RECEIVED.

CARRIED 11-0

Officer Comment (Manager Major Projects):

With the announcement of additional funding from WA State government this year for the Middleton Beach Foreshore Enhancement Project, the City is able to plan and implement an expansion and upgrade of the Flinders Parade carpark. As part of that project, 9 existing Norfolk Pine trees within the Flinders Parade carpark will be replaced with native tree species. The trees are in poor condition and not thriving in the car park environment, and are relatively new plantings (circa 1995).

One tree of similar age near Three Anchors will also be removed as part of this project as it is interfering with services and accessibility to the area.

Consistent with the City's Urban Tree Strategy and submissions received from the community, the proposal to replace trees with native species will encourage biodiversity, preservation of threatened fauna and flora and connect communities via green links. Diversity of tree planting and species selection is critical to ensure the sustainable health and longevity of our urban tree network.

Tree planning needs to carefully consider tree location, species, suitability and diversity. Proposed new planting will be consistent with existing planting along Flinders Parade. Tree removal and replacement programs will ensure the benefits of a diverse mix of trees are kept for future generations.

10. CONFIRMATION OF MINUTES

RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR THOMSON

SECONDED: COUNCILLOR SMITH

THAT the minutes of the Ordinary Council Meeting held on 27 October 2020, as amended on 24 November 2020, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 11-0

RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR THOMSON

THAT the minutes of the Special Council Meeting held on 11 November 2020, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 11-0

11. PRESENTATIONS Nil

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

CCS302: FINANCIAL ACTIVITY STATEMENT – SEPTEMBER 2020

Proponent	: City of Albany
Attachments	: Statement of Financial Activity
Report Prepared by	: Manager Finance (S Van Nierop)
Responsible Officer	: Executive Director Corporate & Commercial Services (D Olde)

RECOMMENDATION

CCS302: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR SHANHUN

THAT the Financial Activity Statement for the period ending 30 September 2020 be RECEIVED.

CARRIED 11-0

CCS302: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SMITH

SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS302: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Financial Activity Statement for the period ending 30 September 2020 be RECEIVED.

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).

BACKGROUND

1. The Statement of Financial Activity for the period ending 30 September 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 yearend 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 source and application of funds, 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);
 - b. budget estimates to the end of the month to which the statement relates;
 - c. actual amounts of expenditure, revenue and income to the end of the month to which the statement relate
 - 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;
 - 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;
 - 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.

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 September 2020 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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CCS303: LIST OF ACCOUNTS FOR PAYMENT – OCTOBER 2020

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

RECOMMENDATION

CCS303: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 October 2020 totalling \$6,192,525.98 be RECEIVED.

CARRIED 11-0

CCS303: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR STEPHENS
SECONDED: COUNCILLOR SMITH

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS303: RESPONSIBLE OFFICER RECOMMENDATION

THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 October 2020 totalling \$6,192,525.98 be RECEIVED.

BACKGROUND

1. 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.

DISCUSSION

2. The table below summarises the payments drawn from the municipal fund for the period ending 15 October 2020. Please refer to the Attachment to this report.

Municipal Fund	
Trust	\$0.00
Credit Cards	\$7,463.81
Payroll	\$1,350,451.37
Cheques	\$124,454.93
Electronic Funds Transfer	\$4,710,155.87
TOTAL	\$6,192,525.98

As at 15 October 2020, the total outstanding creditors stands at \$727,696.96 and is made up as follows;

Current	\$514,751.72
30 Days	\$28,914.79
60 Days	\$27,991.66
90 Days	\$156,038.79
TOTAL	\$727,696.96
Cancelled Cheques	Nil

STATUTORY IMPLICATIONS

3. 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.
4. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
5. 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

6. Expenditure for the period to 15 October 2020 has been incurred in accordance with the 2020/2021 budget parameters.

FINANCIAL IMPLICATIONS

7. Expenditure for the period to 15 October 2020 has been incurred in accordance with the 2020/2021 budget parameters.

CONCLUSION

8. That list of accounts have been authorised for payment under delegated authority.
9. 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.

File Number (Name of Ward)	:	FM.FIR.2 - All Wards
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CCS304: DELEGATED AUTHORITY REPORTS – SEPTEMBER TO OCTOBER 2020

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

BACKGROUND:

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

RECOMMENDATION

CCS304: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR THOMSON
SECONDED: COUNCILLOR SMITH

THAT the Delegated Authority Reports 16 September 2020 to 15 October 2020 be RECEIVED.

CARRIED 11-0

CCS304: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR SHANHUN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS304: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Delegated Authority Reports 16 September 2020 to 15 October 2020 be RECEIVED.

COVID-19 IMPACT

- COVID-19 has no impact on this report.

**CCS305: QUARTERLY REPORT – TENDERS AWARDED – JULY TO
SEPTEMBER 2020**

Proponent : City of Albany
Attachments : Quarterly Report – Tenders Awarded – July to September
2020
Report Prepared by : Senior Procurement Officer (H Hutchinson)
Responsible Officer : Executive Director Corporate & Commercial Services (D Olde)

RECOMMENDATION

**CCS305: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR DOUGHTY**

THAT the Quarterly Report – Tenders Awarded – April to June 2020 be RECEIVED.

CARRIED 11-0

CCS305: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR DOUGHTY
SECONDED: COUNCILLOR SMITH**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS305: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Quarterly Report – Tenders Awarded – April to June 2020 be RECEIVED.

CCS306: COMMUNICATIONS & ENGAGEMENT STRATEGY

Proponent / Owner	: City of Albany
Attachments	: City of Albany Communications & Engagement Strategy
Report Prepared By	: Acting Manager Community Development & Engagement (R Param)
Responsible Officers:	: Acting Executive Director Community Services (N Watson)

STRATEGIC IMPLICATIONS

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

- **Theme:** Leadership
- **Objective:** To engage effectively with our community.
- **Community Priority:** Improve community engagement processes and platforms to provide our community with a variety of opportunities to be involved and contribute to decisions;

This item relates to the following elements of the Corporate Business Plan:

- **Key Organisational Criteria:** Develop a Council strategy to improve communication with residents and businesses.

In Brief:

- Note the City of Albany Communications & Engagement Strategy Q1 progress report.

COVID-19 IMPACT

- COVID-19 has impacted on the City's ability to conduct face to face community engagement. In response to this the City has implemented alternate methods of engaging with the community such as telephone and digital contact.

RECOMMENDATION

**CCS306: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR SHANHUN**

THAT the City of Albany Communications & Engagement Strategy progress report ending September 2020 (Q1) and its endorsement by the Communications & Engagement Advisory Group be NOTED.

CARRIED 11-0

CCS306: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR STEPHENS
SECONDED: COUNCILLOR SMITH**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS306: RESPONSIBLE OFFICER RECOMMENDATION

THAT the City of Albany Communications & Engagement Strategy progress report ending September 2020 (Q1) and its endorsement by the Communications & Engagement Advisory Group be NOTED.

BACKGROUND

2. Council adopted the Communications & Engagement Strategy at the May 2019 OCM. The Strategy sets a clear direction for communication and engagement activities by the City. The Strategy is underpinned by an Action Plan.
3. The Strategy implementation and annual action plan is overseen by a Communications and Engagement Advisory Group comprising community representatives, Elected Members and City officers. The Advisory Group is scheduled to meet quarterly to review and endorse the progress report.

DISCUSSION

4. The Advisory Group previously met and endorsed the 2019-2020 Q4 progress report on 13 July 2020, and this was tabled and noted at the OCM of 25 August 2020.
5. Community engagement activity has slowly been reactivated in the post-COVID19 environment, and the Advisory Group endorsed new actions to the plan accordingly.
6. These include commencing early planning for engagement activity around Stirling Terrace and Sanford Road civil works, engagement with the Noongar community around Noongar place names, collaboration between Council and the Youth Advisory Council on a climate change declaration, and early engagement planning towards developing a Regional Arts and Culture Strategy.
7. Communications has continued to support the media, marketing and engagement functions of the City during a period of reduced capacity. The majority of outstanding Communications actions remain on track, with activity undertaken during the reporting period including preparatory work to develop a pre and post-Council meeting electronic newsletter.
8. It is intended to review all completed and ongoing actions and update the action plan accordingly. This will occur at the next meeting, likely to be in February 2021.
9. December 2020 represents the midway point of the Strategy and to this point of the 57 actions, 35 have been completed, 18 remain ongoing or underway, and 4 are on hold.

GOVERNMENT & PUBLIC CONSULTATION

10. Extensive community consultation was undertaken during the development of the Communications & Engagement Strategy and achieved the highest reach of any engagement project undertaken by the City.
11. The progress report has been reviewed and supported by the Advisory Group, which includes members representing community.

STATUTORY IMPLICATIONS

12. Nil

POLICY IMPLICATIONS

13. Nil

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational: If community engagement expectations are not met due to budget, viability, funding agreements, safety or legislative constraints.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Clearly define and communicate to community instances where project engagement is constrained by non-negotiable factors.</i>
<i>Reputational: If communications or engagement activity is ad-hoc, untimely, inaccurate or untargeted.</i>	<i>Unlikely</i>	<i>Major</i>	<i>Low</i>	<i>Follow best practice engagement framework and provide timely, informative and accurate communications to the community through effective channels as outlined in the Communications & Engagement Strategy.</i>
<i>Operational: Some aspirations of the Strategy may not be fully realised due to budget, funding or resource constraints.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Prioritise budget allocation where necessary and explore all options to achieve objectives.</i>
<i>Operational: A severe second wave of Covid-19 that results in re-tightening of community restrictions and impacts City operational priorities.</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Follow Federal and State public health directions as informed and re-prioritise actions as necessary to align with City’s operational priorities and capacity.</i>

FINANCIAL IMPLICATIONS

15. Nil.

LEGAL IMPLICATIONS

16. Nil.

ENVIRONMENTAL CONSIDERATIONS

17. Nil.

ALTERNATE OPTIONS

18. Nil.

CONCLUSION

19. The Communications & Engagement Strategy is overseen by an Advisory Group comprising community, Elected Member and City staff representatives.
20. Community representation on the Advisory Group ensures community needs and priorities remain central to the implementation of the Communications and Engagement Strategy.
21. A quarterly progress report of achievements against the Strategy is endorsed by the Advisory Group and submitted to Council for information. The progress report against the Strategy’s Action Plan for Q1 of 2020-2021 is submitted to Council.

Consulted References	:	City of Albany Communication and Engagement Strategy 2019
File Number (Name of Ward)	:	All Wards
Previous Reference	:	OCM August 2020, Resolution CCS281

CCS307: NATIONAL ANZAC CENTRE – Q1 2020-21 REPORT

Proponent	: City of Albany
Attachments	: National Anzac Centre (NAC) – Quarter 1 (Q1) 2020/21 Operational Report
Report Prepared By	: Manager Facilities (L Stone)
Responsible Officer	: Acting 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
 - **Key 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 Q1 2019-20 performance of the NAC.

COVID-19 IMPACT:

- Whilst there was a significant impact with the closure of the NAC due to the State of Emergency requirements, the NAC has experienced visitor numbers in excess of the same period in 2019.
- The increase in visitation to the NAC could anecdotally be attributed to the hard border closure and an increase in intrastate travel.

RECOMMENDATION

**CCS307: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR SUTTON**

THAT the NAC Operational Report for Q1 2020-21 be RECEIVED.

CARRIED 11-0

CCS307: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR STEPHENS**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS307: RESPONSIBLE OFFICER RECOMMENDATION

THAT the NAC Operational Report for Q1 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-dollar 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 April 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. Q1 2020/21 took overall total visitation numbers to the NAC to 368,808 visitors since opening in November 2014. This equates to an average annual visitation of 62,328 visitors per year.
10. Total visitation for Q1 2020/21 increased by 758 visitors compared to the same period in 2019/20.
11. The visitation in Q1 2020/21 from the Great Southern Region totalled 537 people, equating to 5% of Western Australia's overall visitation.
12. The total visitation in Q1 2020/21 originated from Western Australia (99%) and interstate (1%).
13. Of the 121 visitors from other States and Territories, these consisted of 27% from QLD, 24% from NSW, 24% from VIC, 13% from SA, followed by TAS, ACT and NT all with similar figures between 1-6%.
14. Revenue generated in Q1 2020/21 by the NAC was \$23,155 more compared to the same period in 2019/20. The Forts Store revenue of \$97,405 saw a minor decrease of \$1,447 compared to the same period in 2019/20.
15. Fort Store revenue for July alone of \$35,444 was an increase of \$8,902 from the same month in 19/20 and an increase of \$13,072 compared to 18/19.
16. As at the end of Q1 2020/21, 5,361 local residents were members of the NAC League of Local Legends program.
17. In Q1 2020/21, further progression was achieved of phase one of the NAC refresh. The Viewing Hall was completed with interpretation, photographic panels, new convoy table and showcase. Annex room carpentry works are underway, and the theatre space is on track for viewing to commence late November.

18. In Q1 2020/21, the Hidden Stories of the Fortress grant works for Princess Royal Fortress were completed and officially opened to the public on 26th September 2020.
19. During Q1 2020/21, 116 people took part in Princess Royal Fortress Tours, compared to 1013 in the same period in 19/20. This was largely due to the temporary cessation of volunteer services within the site due to COVID19. The opening of the newly renovated Barracks Building and return of the volunteer services has been embraced by visitors favourably since 26th September.

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 September 30, 2020.

- a. Full year operating expenditure budget includes:

- i. \$221,000 of costs from accounts that are “shared” across the AHP. A total of \$869,000 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 \$869,000 across the four areas. Significant shared expenses attributed to the NAC include shared employee costs (\$90,000 of the \$221,000), marketing, ground maintenance, internal service delivery, security, electricity, and insurance.

National ANZAC Centre	FY20/21 Budget	YTD Budget	YTD Actual	YTD Variance
Operating Income	\$457,500	\$83,500	\$216,520	\$133,020
Operating Expenditure	\$(529,001)	\$(128,300)	\$(88,805)	\$39,495
Net Operating Income/(Expense) before Indirect Costs	\$(71,501)	\$(44,800)	\$127,715	\$172,515
Indirect Expenses	\$(199,077)	\$(49,829)	\$(45,795)	\$4,034
Net Operating Income/(Expense)	\$(270,578)	\$(94,629)	\$81,920	\$176,550
Capital Expense	\$(415,461)	\$(100,000)	\$(84,384)	\$15,616
Total	\$(686,039)	\$(194,629)	\$2,463	\$192,166

LEGAL IMPLICATIONS

25. Nil.

ENVIRONMENTAL CONSIDERATIONS

26. Nil.

ALTERNATE OPTIONS

27. The Committee can request further development and refinement of the quarterly reporting tool including both content and frequency of reporting.

SUMMARY CONCLUSION

28. Overall, despite the impact and uncertainty of the COVID19 pandemic, Q1 2020/21 visitation to the NAC has remained strong. Q1 has shown the highest numbers for the July-Sept period since 17/18. The assumption being visitation from within our state is higher due to state border closures/restrictions.

29. Great Southern visitation to the NAC has increased from what has been a steady 1%-2% of overall WA visitation in the past, to an all-time high of 5% during July-Sept period. This significant increase in 3 months would anecdotally be due to interstate and international travel restrictions and Great Southern residents exploring their own backyards. With Albany’s busiest holiday season approaching, it is anticipated this increase in local visitation will continue.

30. Interest in the Princess Royal Fortress tours and exhibitions has only decreased during Q1 due to COVID19 and volunteer services not re-commencing until late September.

31. NAC ticket sales and Fort Store retail sales were higher than expected for Q1, with July being our highest July in retail since opening. Visitation and figures for the full period July-Sept remain relatively in-line with all previous years which is a positive outcome during this COVID19-affected period.

Consulted References	:	Nil.
File Number (Name of Ward)	:	All Wards
Previous Reference	:	Report Item: CCS279 OCM - 25/08/2020

**CCS308: NATIONAL ANZAC CENTRE – LEAGUE OF LOCAL LEGENDS
MEMBERSHIP AND PROMOTION**

Business Entity Name : City of Albany
Report Prepared By : Manager Facilities (L Stone) &
Acting Executive Director Community Services (N Watson)
Responsible Officers: : Acting 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
 - **Objective:** To strengthen our region’s economic base; and
 - To develop and promote Albany as a unique and sought after destination.
 - **Community Priority:** 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 consider a recommendation from the National Anzac Centre Advisory Group to trial free entry for Great Southern residents as a strategy to increase local visitation.

RECOMMENDATION

**CCS308: RESOLUTION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR BENSON-LIDHOLM**

THAT Council:

- (1) **APPROVE expanding membership eligibility for the National Anzac Centre’s League of Local Legends to residents living within the Great Southern geographical boundary;**
- (2) **APPROVE offering free entry to the National Anzac Centre for League of Local Legends members for a promotional period commencing 1st January 2021 and concluding 30th June 2021.**

**CARRIED 11-0
ABSOLUTE MAJORITY**

CCS308: COMMITTEE RECOMMENDATION

**MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR HAMMOND**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS308: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- (1) APPROVE expanding membership eligibility for the National Anzac Centre's League of Local Legends to residents living within the Great Southern geographical boundary;
- (2) APPROVE offering free entry to the National Anzac Centre for League of Local Legends members for a promotional period commencing 1st January 2021 and concluding 30th June 2021.

BACKGROUND

2. The NAC is the City of Albany's most significant tourism asset.
3. 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.
4. 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.
5. The National Anzac Centre League of Local Legends program aims to provide the Amazing South Coast community with discounted opportunities to access one of our community's most important and nationally significant cultural assets - the award winning National Anzac Centre.
6. Local Legends is currently free to join for residents within the municipal boundaries of the City of Albany, Shire of Plantagenet, Shire of Denmark or Shire of Jerramungup, and ratepayers of the City of Albany.

DISCUSSION

7. At the most recent meeting of the National Anzac Centre Advisory Group (NACAG) on September 18, 2020, concerns were raised about the ongoing trend of very low local visitation to the NAC and strategies to improve this.
8. Overall visitation to the NAC in 2019-2020 was 42,353, with only 970 of these – or around 2% - being residents from the Great Southern. This percentage set a new high benchmark for local visitation in a financial year.
9. 369 Local Legends members visited the NAC in 2019-2020. This represents about 7% of the total Local Legends members and less than 1% of the overall visitation to the NAC.
10. From the Local Legends visitation incentives, an additional 540 paying visitors was achieved, which is just over 1% of the overall visitation to the NAC.
11. These statistics show local visitation from the Great Southern region represents a significant market gap, despite the NAC being an award-winning museum of national significance.
12. Visitation data for the NAC from the first quarter of 2020-2021 confirms recent anecdotal evidence of a significant uplift in intrastate visitors, which has translated to an increase in local visitors but this remains a very low portion of overall visitation.
13. Of the 99% intrastate visitation achieved for the quarter, local visitation from the Great Southern represented 5%, or 537 visitors. This is the highest percentage of local visitation the NAC has recorded in a single quarter to date.
14. With Albany's two busiest holiday periods occurring in the 2nd and 4th quarters this financial year, and renewed interest in intrastate holidays due to COVID-19, there is opportunity to realise further growth in local visitation this year.
15. Local visitors are valuable, untapped ambassadors for the NAC who can leverage additional general visitation by personally recommending the experience to family and friends.

NACAG Recommendation

16. The NACAG has recommended Council trial free entry for residents from the Great Southern region for a period of 6 months from 1st January 2021 to 30th June 2021.
17. Given the ongoing low local visitation and minimal percentage of the NAC's paying visitors coming from the Local Legends incentives, it was considered that free entry would not have any material impact on entry income from the NAC across the trial period and would make the museum more accessible to residents from our region.
18. The free entry trial is recommended by NACAG to indicate whether significant growth in local visitation from the Great Southern can be achieved, and what impact this will have on paying visitation numbers from outside the region.
19. The NACAG recommendation did not consider the new visitation statistics for Q1 of 2020-21 as this data was unavailable at the time, but it is not expected it would have made a material difference to the Advisory Group's considerations.

League of Local Legends

20. The League of Local Legends program was established in 2017 and currently has 5,361 members, an increase of 1,540 members since June 2020 due to a range of promotional initiatives.
21. This has included expanding membership eligibility to residents from all South Coast Alliance local government partners, i.e. Albany, Plantagenet, Denmark and Jerramungup.
22. Joining the League of Local Legends currently entitles the member to the following benefits:
 - 50% discount on standard entry prices to the NAC;
 - Free entry to the NAC if chaperoning a paying visitor;
 - Paying visitors chaperoned by a member get a 10% discount on entry to the NAC;
 - 10% discount on purchases at the Forts Store Boutique;
 - Email updates about exciting events and programs for Local Legends members.
23. Considerable time and resources has been invested in developing and expanding the existing Local Legends program, and officers believe there would be value in adopting a promotional offer through this program that supports the aims of the NACAG recommendation.
24. It is recommended to expand the existing eligibility of the Local Legends to the 11 local government municipalities with the geographic boundary of the Great Southern region, and include Jerramungup as an Alliance partner.
25. To promote expanded membership into the whole region, it is proposed to offer free entry on standard entry prices to the NAC for members only, for the duration of the NACAG's proposed trial period, as follows:
 - Free entry to the NAC (1st January 2021 – 30th June 2021 only);
 - Paying visitors chaperoned by a member get a 10% discount on entry to the NAC;
 - 10% discount on purchases at the Forts Store Boutique;
 - Email updates about exciting events and programs for Local Legends members.
26. The existing incentive structure could be reinstated at the end of the promotional period.

GOVERNMENT & PUBLIC CONSULTATION

27. Not Applicable

STATUTORY IMPLICATIONS

28. The Local Government Act 1995:

Section 6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,
- which is owed to the local government.

*** Absolute majority required.**

(2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.

29. The delegated authority to waive fees and charges, does not extend to the writing off of admission fees, noting the condition of delegation states:

Condition of Delegation:

- (a) This authorisation:
- does not extend to statutory charges, the municipal rate or service charges incorporated within the rate notice.
 - is subject to:
 - Conditions contained in Council Policies;
 - Funding being allocated in the City's Annual Budget; and
 - Reporting:
 - Funding/Donations limited to \$10,000.
 - Funding/Donations above \$10,000 must be reported to Council.
- (b) Any waiver, reduction or refund of a fee shall be based on the following criteria:
- The proposal not being intended to be a money making venture for the benefit of the entity.
 - The cost of in-kind support and work undertaken by the City of Albany.
 - The application is on behalf of a non-profit or charitable organisation or be reflective of the benefit of the proposal to the community.

POLICY IMPLICATIONS

30. Not Applicable

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Financial: <i>6-month promotional period results in loss of ticket revenue from existing annual local visitor intake to the NAC, adversely impacting budgeted revenue.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>Continue to monitor budgeted revenue versus actuals this financial year and inform Council of any anticipated material adverse impact on budget.</i>
Financial: <i>There is expectation that free entry for Great Southern residents will continue, or be available to any visitor.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Clearly communicate the terms and timing of the free entry promotional offer.</i>
Legal and Compliance: <i>A visitor attempts to gain free entry fraudulently by providing false residential details on presentation at the NAC.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>Utilising the existing League of Local Legends program requires residents to provide their contact details – and these are retained on records – as part of the sign-up process. Officers may also request proof of ID, such as a Drivers Licence.</i>

FINANCIAL IMPLICATIONS

32. Revenue from NAC ticket sales achieved in the 2019-2020 financial year was over \$753,000, and in the first quarter of 2020-21 was \$216,520.
33. A full non-discounted or non-concession entry fee to the NAC is \$25.
34. Due to entry incentives for members, family entry packages and concession rates, it is difficult to calculate accurate figures of the amount of direct income generated from current Great Southern visitation.
35. However, given the trend for low local visitation, concessions and the free or 50% discount entry already provided to Local Legends members, the percentage of income from local visitation would be minimal.
36. Offering stand-alone free entry to all Great Southern residents as recommended by NACAG would be difficult to implement consistently. For example, it cannot be applied to a local visitor purchasing The Amazing South Coast Pass – a discounted entry ticket for 3 local attractions – given it includes existing arrangements with partner attractions, and the online point of sale for these passes does not have the capability of verifying a local purchaser.
37. The League of Local Legends membership applies to visitation of the NAC as a single attraction only and the officers’ recommendation avoids complications in administering the three-way pass and maintains existing partner relationships.

LEGAL IMPLICATIONS

38. Nil.

ENVIRONMENTAL CONSIDERATIONS

39. Nil.

ALTERNATE OPTIONS

40. Do not approve the responsible officer’s recommendation and maintain the status-quo League of Local Legends membership eligibility and incentives.
41. Approve a six month trial of free entry for Great Southern residents, monitoring growth and member visitation numbers, noting the current League of Local Legends program would be placed on hold and potentially challenging to resurrect when the trial ends.

CONCLUSION

- 42. Extending membership eligibility for the League of Local Legends to all Great Southern residents and promoting this with a 6-month free entry offer will meet the aims of the NACAG recommendation and potentially attract a new wave of local visitors who can experience the legend and advocate to friends and family to visit the site.
- 43. Visitation figures to date clearly show that local visitation is a very small portion of overall numbers visiting the NAC, despite the encouraging increase in visitation during Q1 this financial year.
- 44. It is anticipated that the free entry promotion for Local Legends will be well received by Great Southern communities and encourage more Great Southern residents to visit and enjoy the Albany Heritage Park experience.

Consulted References	:	Local Government Act 1995
File Number (Name of Ward)	:	All Wards
Previous Reference	:	OCM August 2020, National Anzac Centre – Q4 Report – Report CCS279

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

Land Description	: Lots 201, 202 and 203 Chester Pass Road and Lot 1004 Viastra Drive, Lange.
Business Entity Name	: Enanby Pty Ltd and Cloudy Beach Investment Company Pty Ltd.(Neil Crawford McGregor)
Attachments	: LAMD36 Amendment Document.
Report Prepared by	: Senior Planning Officer – Strategic Planning (A Nicoll).
Responsible 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. In making a decision on the proposed amendment, the Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2019* and its *Community Strategic Plan – Albany 2030*. The amendment complies with strategic planning for the following reasons:
 - a) The *Albany Local Planning Strategy 2019* promotes urban consolidation by making better use of existing zoned land and infrastructure through urban renewal.
 - b) The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).

Maps and Diagrams:



In Brief:

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

COVID-19 IMPACT

- No identified implications.

RECOMMENDATION

DIS229: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS

SECONDED: COUNCILLOR GOODE

1. **THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and Part 5, r.35(2) and r.37(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:**
 - a) **ADOPT AND ADVERTISE Standard Amendment No. 36 to amend City of Albany *Local Planning Scheme No. 1* by:**
 - (i) **In Schedule 4 Special Use Zones, for Special Use Zone No.23 (SU23), delete the Special Uses of "Aged Persons' Village" and "Nursing Home".**
 - (ii) **In Schedule 4 for SU23, add the Special Uses of:**
 - **Child Care Premises**
 - **Community Purpose**
 - **Recreation-Private**
 - **Veterinary Centre**
 - (iii) **In Schedule 4 for SU23, modify the "Conditions" column by:**
 - **Adding "as a 'D' use" after "Local Government" in Condition 1.**
 - **Replacing "Structure Plan and/or Local Development Plan and Design Guidelines" with "Local Development Plan" in Condition 1.**
 - **Replacing "Design Guidelines" with "Local Development Plan" in Condition 2.**
 - (iv) **Rezone a portion of Lot 1004 Viastra Drive, Lange from "Special Use (SU23)" to "Highway Commercial".**

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

- **The amendment is consistent with the Local Planning Strategy.**
 - **The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment.**
 - **The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.**
2. **Refer the amendment to the Environmental Protection Authority to determine if formal environmental assessment is required.**
 3. **Advertise the amendment for a period not less than 42 days.**
- CARRIED 6-5**

Record of Vote

Against the Motion: Councillors Sutton, Thomson, Smith, Doughty and Terry.

DIS229: PROCEDURAL MOTION BY COUNCILLOR STOCKS
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR GOODE

THAT this matter be DEFERRED for a period of two months to allow further consultation and discussion, and be re-presented for consideration by Council at the Ordinary Council Meeting to be held on 24 November 2020.

CARRIED 10-0

DIS229: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

1. THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and Part 5, r.35(2) and r.37(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:
 - a) ADOPT AND ADVERTISE Standard Amendment No. 36 to amend City of Albany *Local Planning Scheme No. 1* by:
 - (i) In Schedule 4 Special Use Zones, for Special Use Zone No.23 (SU23), delete the Special Uses of “Aged Persons’ Village” and “Nursing Home”
 - (ii) In Schedule 4 for SU23, add the Special Uses of:
 - Child Care Premises
 - Community Purpose
 - Recreation-Private
 - Veterinary Centre
 - (iii) In Schedule 4 for SU23, modify the “Conditions” column by:
 - Adding “as a ‘D’ use” after “Local Government” in Condition 1.
 - Replacing “Structure Plan and/or Local Development Plan and Design Guidelines” with “Local Development Plan” in Condition 1.
 - Replacing “Design Guidelines” with “Local Development Plan” in Condition 2.
 - (iv) Rezone a portion of Lot 1004 Viastra Drive, Lange from “Special Use (SU23)” to “Highway Commercial”.

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

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

DIS229: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR SHANHUN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 10-1

Record of Vote

Against the Motion: Councillor Thomson

DIS229: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

1. THAT Council, pursuant to section 75 of the Planning and Development Act 2005 and Part 5, r.35(2) and r.37(1) of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to:
 - a) ADOPT AND ADVERTISE Standard Amendment No. 36 to amend City of Albany *Local Planning Scheme No. 1* by:
 - i. In Schedule 4 Special Use Zones, for Special Use Zone No.23 (SU23), delete the Special Uses of “Aged Persons’ Village” and “Nursing Home”
 - ii. In Schedule 4 for SU23, add the Special Uses of:
 - Child Care Premises
 - Community Purpose
 - Recreation-Private
 - Veterinary Centre
 - iii. In Schedule 4 for SU23, modify the “Conditions” column by:
 - Adding “as a ‘D’ use” after “Local Government” in Condition 1.
 - Replacing “Structure Plan and/or Local Development Plan and Design Guidelines” with “Local Development Plan” in Condition 1.
 - Replacing “Design Guidelines” with “Local Development Plan” in Condition 2.
 - iv. Rezone a portion of Lot 1004 Viastra Drive, Lange from “Special Use (SU23)” to “Highway Commercial”.

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

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

BACKGROUND

3. In 1999, the ‘Catalina Central Planning Framework’ was adopted, to identify the subject land for a ‘Health Precinct’.
4. As per the ‘Catalina Central Planning Framework’, the following design principles apply:
 - a) Access to the subject land is limited to Viastra Drive;
 - b) The design of any development, is to address Chester Pass Road; and
 - c) A landscape buffer is to be developed adjacent to Chester Pass Road.

5. In 2017, the land was rezoned from ‘General Agriculture’ to ‘Special Use 23’, to enable a range of medical type uses, including aged persons village, consulting room, hospital, medical centre, nursing home and pharmacy.
6. All development within the Special Use Zone No.23 is to accord with a Local Development Plan and is to arrange access via Viastra Drive.
7. The landholder believes there is no market interest for the current uses set out in Special Use Zone No.23 and is therefore requesting to identify a new zone (Highway Commercial) for a portion of the site and additional land uses for a portion of the site zoned Special Use.

DISCUSSION

8. The subject land is located in the locality of Lange, adjacent to the ‘Brooks Garden’ activity centre and 4 kilometres north of the Albany town centre. The site is currently vacant and surrounded by Chester Pass Road, Mercer Road, Viastra Drive, a Harvey Norman development and an aged persons development.
9. The Amendment proposes to keep a portion of the site under the “Special Use (SU23)” zone and to rezone the remaining portion to “Highway Commercial”.
10. For the portion remaining SU23, the Amendment proposes to delete the existing uses of ‘Aged Persons Village’ and ‘Nursing Home’ and to extend the range of uses, to include:
 - a) Child Care Premises;
 - b) Community Purpose;
 - c) Recreation-Private; and
 - d) Veterinary Centre.
11. Removing the opportunity for ‘Aged Persons Village’ and ‘Nursing Home’ is thought to negate any potential land use conflict between accommodating aged persons and commercial activity.
12. The proposal to change the zoning for a portion of the site and to extend the range of uses for the SU23 portion, is expected to increase market opportunity.
13. Staff recommend that Council adopt (for advertising) the proposed amendment, which complies with the strategic direction endorsed by the Local Planning Strategy 2019.

GOVERNMENT & PUBLIC CONSULTATION

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

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

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

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

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

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

ALTERNATE OPTIONS

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

CONCLUSION

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

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

DIS237: DISPOSAL OF CITY OWNED RIGHT OF WAY TO ADJOINING LANDOWNERS – LOT 66 ROW ON DIAGRAM 26271

Land Description	: Lot 66 between David Street & Hillman Street
Proponent / Owner	: City of Albany / adjoining landowners 105 Hillman Street & 98 David Street Spencer Park
Attachments	: Diagram 26271 ROW photos
Report Prepared By	: Lands Officer (A Veld)
Responsible Officers:	: 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:** A Connected & Safe Built Environment.
 - **Objective:** To advocate, plan for and build friendly and connected communities.
 - **Community Priority:** Improve connectedness and traffic flows via a well-designed and safe transport and pathway network that connects people and services and encourages pedestrians and cyclists.

Maps and Diagrams:



In Brief:

- Council is requested to consider the disposal of a City owned Right of Way to the adjoining landowners.
- This parcel of land is in freehold title to the City of Albany and is no longer serving the purpose for which it was intended.

RECOMMENDATION

DIS237: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY
MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR TERRY
THAT Council AGREES to the disposal of Lot 66 on Diagram 26271, pursuant to section 3.58(3) of the Local Government Act 1995.
CARRIED 11-0

DIS237: COMMITTEE RECOMMENDATION
MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR TERRY
THAT the Responsible Officer Recommendation be ADOPTED.
CARRIED 12-0

DIS237: RESPONSIBLE OFFICER RECOMMENDATION
THAT Council AGREES to the disposal of Lot 66 on Diagram 26271, pursuant to section 3.58(3) of the Local Government Act 1995.

BACKGROUND

2. The City received a request from the owners of Lot 76 No.105 Hillman Street in February 2018 to consider closing the laneway adjoining their property.
3. Further investigations by City staff have determined the laneway is no longer serving the purpose for which it was intended.
4. The City has consulted with all adjoining landowners regarding to the disposal of the land. There was unanimous support for the laneway closure which included two landowners agreeing in principle to the purchase of this land for amalgamation into their properties.
5. This land is owned freehold by the City of Albany, and as such the City has undertaken the required public advertising, as required under section 3.58 of the *Local Government Act 1995*.
6. City staff have delegated authority (Delegation 2020:048) to dispose of local government property without Council resolution if no objections are received during the consultation process.
7. Four submissions were received, three in support and one against the laneway closure. City staff now seek a Council resolution on this matter.

DISCUSSION

8. The laneway was created in 1961 as part of the subdivision of a larger lot on David Street during early development of this part of Spencer Park.
9. This subdivision ceded freehold land to the Town of Albany for what would become the extension of a portion of public road, namely Hillman Street. The laneway was a balance lot on this freehold title.
10. In 1983 an adjoining landowner at 100 David Street requested the laneway be closed due to ongoing antisocial behaviour. This was not supported by Council at the time.

11. The current adjoining landowners have also had ongoing issues of antisocial behaviour including burglaries and damage to property.
12. The principle behind providing a pedestrian access way at this location is sound, however the extremely narrow width creates significant issues. The path is 1.5m wide, unsealed, unmaintained and does not meet the current planning guidelines which advocate for dual use path construction within a Right at of Way that is between 6-8m wide. There is also no feasible opportunity for passive surveillance over the ROW.

GOVERNMENT & PUBLIC CONSULTATION

13. It is a requirement under the *Local Government Act 1995*, to advertise any proposed disposal of local government owned land.
14. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Public Notice	13 August – 25 September 2020	Weekender Extra	Yes
Consult	Onsite signage	13 August – 25 September 2020	N/A	Yes
Consult	Letter to surrounding landowner & residents	5 August	122 delivered 4 responses received	Yes

15. Public Submissions

PUBLIC SUBMISSIONS		
Proposal details: Disposal of Lot 66 ROW between David Street & Hillman Street to adjoining landowners		
No.	Public summary of submissions	Officer Comment
1.	SUPPORT Excellent idea and it needed doing a long time ago. The laneway has always been a security risk and has not helped deterring theft in this area. Full support to close it. Suggests the additional closure of the laneway between Baudin St & Ulster Road	Support noted
2.	SUPPORT Firmly in favour of the closure. The right of way encourages anti-social behaviour by non-residents using is as a short cut rather than using Park Road. Suggests consideration of a footpath on west side of Park Road to provide safe transit for pedestrians walking from Spencer Park to town.	Support noted
3.	SUPPORT Antisocial behaviour including yelling, unduly agitating neighbour's dogs, riding motorbikes and destruction of fences. Theft from properties adjoining the laneway, police have suggested CCTV for ongoing surveillance. Laneway is unsealed and soil movement has exposed a Telstra pit and stormwater infrastructure causing trip hazards. Soil movement has significantly built up against adjoining fences. Soil washes out onto David Street property and onto road. Potential accident between lane users and residents of David Street property as lane and driveway converge onto shared pavement.	Support noted. Maintenance to be undertaken should closure not proceed.
5.	OBJECTION Would prefer if laneway stayed open. No access from Hillman to Ulster Road and I use this lane to walk to Ulster Road and on to ALAC.	Objection noted. No mitigation possible. Should ROW be closed, an extra 500m (6 mins) will be added onto the journey to ALAC.

STATUTORY IMPLICATIONS

16. Section 3.58 of the *Local Government Act 1995* allows for the disposal of land owned by the local government.
17. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
People Health & Safety <i>Antisocial behaviour may continue.</i>	<i>Almost Certain</i>	<i>Moderate</i>	<i>High</i>	<i>Encourage adjoining landowners to install and upgrade security options</i>
People Health & Safety <i>Injury to a laneway user may occur.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Manage existing maintenance issues</i>
Property <i>Damage to adjoining properties may continue</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Encourage landowners to upgrade fences and security</i>
Financial <i>Costs to upgrade and maintaining laneway to current City standards will outweighs cost to close and amalgamate given low community use.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Schedule laneway upgrade into long term asset maintenance budget.</i>
Opportunity: <i>Improve community safety and remove City liability for the laneway that cannot be suitably upgraded to the current dual use path standards.</i>				

FINANCIAL IMPLICATIONS

19. The City will enter into a cost sharing arrangement with the adjoining landowners for disposal of the land and any City expenditure has been allocated from the City’s Lands budget for 2019/2020.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

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

ALTERNATE OPTIONS

22. Council may:
- a. Not support the officer recommendations to dispose of this land pursuant to section 3.58(3) of the *Local Government Act 1995*;
 - b. Support the officer recommendations with modifications.

CONCLUSION

23. Council is requested to consider the disposal of a City owned Right of Way to the adjoining landowners.
24. This parcel of land is in freehold title to the City of Albany and is no longer serving the purpose for which it was intended.

25. Past and current adjoining landowners have had ongoing issues of antisocial behaviour including burglaries and damage to property.
26. The path is 1.5m wide, unsealed, unmaintained and does not meet the current planning guidelines which advocate for dual use path construction within a Right at of Way that is between 6-8m wide. There is also no feasible opportunity for passive surveillance.
27. Council is requested to consider supporting the disposal of the laneway to the adjoining landowners in the interests of public safety and to reduce the City's liability for infrastructure that cannot be suitably upgraded to current standards.

Consulted References	:	<i>Local Government Act 1995</i>
File Number (Name of Ward)	:	RD.RDC.7 (Breaksea)
Previous Reference	:	none

DIS238: LOCAL STRUCTURE PLAN NO.12 – LOT 3 TOLL PLACE, ALBANY.

Land Description	: Lot 3 Toll Place, Albany
Proponent	: Harley Dykstra
Business Entity Name	: Foreshore Investments Albany Pty Ltd (P Lionetti)
Attachments	: 1. Proposed amendments to Local Structure Plan No.12 (advertised version). 2. Proposed amendments to Local Structure Plan No.12 (updated to include new acoustic assessment – post advertising). 3. 2011 Albany Waterfront Structure Plan Map. 4. Proposed modified Structure Plan Map. 5. Schedule of Submissions and Recommendations. 6. Albany Waterfront - Memorandum of Agreement (2007). 7. Notes (1999) Albany Foreshore Redevelopment Project. 8. Minutes (2004) Albany Waterfront Reference Group.
Supplementary Information & Councillor Workstation	: 1. Submissions. 2. Transcore Traffic Assessment Report. 3. 2011 Albany Waterfront Structure Plan Report. 4. Guidelines State Planning Policy 5.4. 5. Design Guidelines Reducing noise and air impacts from road rail and mixed land use. 6. Proponent response to comments raised by Southern Ports. 7. Southern Ports response to additional work undertaken by consultant.
Report Prepared By	: Senior Planning officer – Strategic Planning (A Nicoll)
Responsible Officers:	: Executive Director Infrastructure, Development and Environment (P Camins)

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. In 2011, a structure plan was endorsed to guide land use and development at the Albany Waterfront.
3. The structure plan includes provisions to define land use types for different precincts, to ensure car parking is provided, to ensure safe vehicle movement and to ensure buildings are designed considerate of appealing facades, appropriate use of materials and colours, setbacks, height limits, resource efficiency, security, external lighting and landscaping.
4. An application has been received, proposing to modify the 2011 structure plan. Modifications apply to the 'Accommodation Precinct' at Lot 3 Toll Place (Albany Waterfront). Modifications include:
 - a) Introducing a flexible approach to the location of land uses on the subject lot;
 - b) Allowing permanent accommodation;
 - c) A Reduced building setback to Princess Royal Drive; and
 - d) Basement parking.
5. In making a decision on the proposed modified structure plan, the Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2019, Community Strategic Plan – Albany 2030* and *Albany Waterfront – Memorandum of Agreement (2007)*.

6. The structure plan complies with the Albany Community Strategic Plan.
 - The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).
7. The structure plan complies with the *Albany Local Planning Strategy 2019*, which states:
'The Strategy promotes urban consolidation by making better use of existing infrastructure and land. This will be achieved through building on the existing strengths of the regional centre and other activity centres, such as Middleton Beach and Albany Waterfront.'
8. The structure plan does not principally comply with the *Albany Waterfront – Memorandum of Agreement (2007)*. The *Albany Waterfront - Memorandum of Agreement (2007)* seeks to prohibit permanent residential activity at the subject land. Nonetheless, Council may resolve to recommend that the State of Western Australia agree to amend the *Albany Waterfront Memorandum of Agreement (2007)*, by supporting permanent accommodation at the Albany Waterfront.

Maps and Diagrams: Subject Site – Lot 3 Toll Place, Albany.



In Brief:

- The City has received a request to modify the 2011 waterfront structure plan. Seven modifications are proposed. One of the modifications seeks to allow permanent accommodation at Lot 3 Toll Place.
- The Southern Ports and Port users submitted comment asserting that permanent accommodation will lead to complaints associated with transport noise, which will ultimately lead to restrictions in freight movement.
- An acoustic assessment was undertaken to indicate that development on Lot 3 Toll Place could potentially mitigate noise to achieve an acceptable internal noise level.
- Southern Ports remains unconvinced that there are adequate protections available to mitigate the risk to an acceptable level in relation to outdoor habitable areas.

- In relation to the matter of residential development, staff believe that it would not be unreasonable for Council to consider recommending that the Commission support the proposed structure plan modifications with conditions. The conditions would need to include methods to ensure that the concerns raised by the Port and Port users are satisfactorily addressed.
- The Department of Planning, Lands and Heritage has advised that an assessment of the site's vulnerability, using current standards, must be provided prior to any modifications being considered:
 - *...the key issue from a SPP2.6 perspective will be the results of the coastal vulnerability assessments. These will be necessary to enable the local government (and subsequently, the WAPC) to make a proper and complete assessment of the merits of the proposals against the Policy.*
- The applicant/landholder has not committed to undertake a coastal assessment. Consequently, the City is unable to make a proper and complete assessment of the merits of the proposal against the State Planning Policy 2.6.
- The WAPC has requested that the City make a determination on this matter. The City recommends that the application be REFUSED as the proponent has not undertaken a coastal vulnerability assessment.

COVID-19 IMPACT

- No identified implications.

RECOMMENDATION

DIS238: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR DOUGHTY

1. **THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and Regulation 20. (2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:**
 - a) **Recommend that the Western Australian Planning Commission REFUSE Local Structure Plan No.12, for the following reason:**
 - i. **A coastal assessment has not been submitted to determine coastal vulnerability in accordance with the State Planning Policy 2.6.**
2. **Forward structure plan documentation and submissions to the Western Australian Planning Commission with a request that the Commission grant refusal to the structure plan.**
3. **Advise the applicant/owner and those who lodged a submission of the Council decision accordingly.**

CARRIED 11-0

DIS238: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

DIS238: RESPONSIBLE OFFICER RECOMMENDATION

1. THAT Council, pursuant to section 75 of the *Planning and Development Act 2005 and Regulation 20. (2)(e) of the Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:
 - a) Recommend that the Western Australian Planning Commission REFUSE Local Structure Plan No.12, for the following reason:
 - i. A coastal assessment has not been submitted to determine coastal vulnerability in accordance with the State Planning Policy 2.6.
2. Forward structure plan documentation and submissions to the Western Australian Planning Commission with a request that the Commission grant refusal to the structure plan.
3. Advise the applicant/owner and those who lodged a submission of the Council decision accordingly.

BACKGROUND

1999

9. In 1999, a briefing session was held to discuss the Albany Foreshore Redevelopment Project (Refer to attachment - Notes from Briefing Session 4 June 1999).
10. Key stakeholders were represented at the briefing session, including the Great Southern Development Commission, the Albany Port Harbours and Foreshore Preservation Group, the Foreshore Preservation Group, Department of Transport, Albany Waterways Management Authority, Accord Group, Albany Port Users Liaison Group, Albany City Heart, Albany Chamber of Commerce and Albany Port Authority.
11. The Albany Port Harbours and Foreshores Preservation Group stated at the 'briefing session' (Page 1 – last paragraph), that:
 - a) the community doesn't want port access hindered and that an 'accord' may not be enough to protect access.
12. The Albany Port Authority stated (Page 5– paragraph 2) at the briefing session, that:
 - a) It is opposed to residential development due to safety concerns over truck movements.

2004

13. In 2004 the City of Albany entered into a Memorandum of Agreement, and also decided to adopt a Waterfront Concept Plan, which supported short stay accommodation but not permanent accommodation. The Memorandum of Agreement also supported 24/7 access to the Albany Port.
14. The rationale for the inclusion of short stay accommodation was that (Page 5 of 12 – paragraph 3);
 - a) Its inclusion will improve the project's overall financial viability, add robustness to the development, and provide a corridor of activity between the Albany Waterfront and the CBD.
15. Reasons for not supporting permanent accommodation were noted as follows (Page 10 of 12 – paragraphs for and against short stay accommodation):
 - a) Truck and train noise and fumes may impact on occupants;
 - b) Permanent occupants are more likely to complain about noise, fumes and traffic safety than short stay occupants.

2006

16. In 2006 the Albany Waterfront Structure Plan was endorsed with a vision to;

Actively link the CBD to Princess Royal Harbour by providing a people-focused development with a strong sense of vibrancy and excitement with a unique combination of entertainment, accommodation and mixed-use buildings facing a wide waterside promenade overlooking an active public marina.

2009

17. In 2009 the State Planning Policy 5.4 *Road and Rail Transport Noise and Freight Considerations in Land Use Planning* was endorsed. The State Planning Policy 5.4 was introduced to protect people from transport noise via best practice design and construction standards.
18. The policy aims to promote a system in which sustainable land use and transport are mutually compatible. It seeks to minimise the adverse impact of transport noise, without placing unreasonable restrictions on noise-sensitive residential development.

2011

19. In 2011, the 2006 waterfront structure plan was amended to allow an increase in the floor area for the hotel, short stay apartments and mixed-use components of Lot 3 Toll Place.

2013

20. In 2013, an updated State Planning Policy No.2.6 *State Coastal Planning Policy* was adopted with changes to the method for calculating coastal processes.

2018

21. In 2018, the owner of Lot 3 Toll Place submitted a request to amend the 2011 waterfront structure plan. Seven modifications were proposed.
22. It should be noted that there were no changes proposed to existing building height or scale standards. Furthermore, the primary land use for the site would remain for tourist purposes, with measures proposed to permit a limited amount of permanent residential accommodation.
23. The modifications proposed to the structure plan are summarised in the below table:

Structure Planning		
	Existing Provisions	Proposed Provisions
1.	No permanent residential developments are permitted in the Albany Waterfront (c24.1).	<i>1. No permanent residential development is permitted in the Albany Waterfront Structure Plan Area, with the exception of Multiple Dwellings being a discretionary land use within the Accommodation Precinct. Multiple Dwellings are not permitted on the ground level fronting the Waterfront Promenade.</i>
2.	No provision for prioritising the location of tourism development.	<i>2. (A) The scale of any residential development is to complement the tourism component and priority is to be given to locating the tourism component(s) on those areas of the site providing the highest tourism amenity. 2. (B) Any staging of development is to occur so that the tourism development and provision of facilities occurs prior to, or concurrently with, any residential development. 2. (C) Multiple dwelling development shall not exceed a Gross Floor Area of 6,800m².</i>

Structure Planning		
	Existing Provisions	Proposed Provisions
3.	Building footprints shown on Structure Plan.	<i>3. Revising the building footprints to the Accommodation Precinct to provide improved pedestrian connectivity through the Waterfront Area via revised pedestrian access points, and enable increased flexibility of building design and siting, while maintaining key principles of the Design Guidelines.</i>
4.	No basement or part basement parking is permitted (c4.6).	<i>4. Basement parking, or part basement parking, to protrude a maximum 1.5m above the natural ground level of the Accommodation Precinct, excluding the active ground floor interface with the Waterside Promenade.</i>
5.	All buildings will be setback a minimum of 25m from the Princess Royal Drive road reserve boundary (c2.1).	<i>5. Revise the building setback to Princess Royal Drive from 25m to 19m within the Accommodation Precinct to allow increased flexibility with design and siting of buildings.</i>
6.	Nil	<i>6. All Holiday Accommodation and Multiple Dwellings located within the Accommodation Precinct are to incorporate Quiet House Design Package B.</i>
7.	Nil	<i>7. (A) Prior to development commencing a Management Statement is to be prepared in consultation with the City of Albany to ensure all Holiday Accommodation units will be let out for tourism purposes, preferably by an on-site letting agent (manager). 7. (B) Prior to development commencing a Management Statement is to be prepared in consultation with the City of Albany to address amenity and mitigation measures associated with the Port and Entertainment Precinct. 7. (C) The Local Government may consider the use of a Section 70A notification being placed on the Title(s) to advise prospective purchasers of potential impacts that may arise from activities associated with the Albany Waterfront or Port of Albany.</i>

24. The structure plan was referred to the Department of Planning, Lands and Heritage (DPLH) for 'Preliminary Comment'.
25. The DPLH advised that a coastal vulnerability assessment will be necessary to enable the local government (and subsequently, the WAPC) to make a proper and complete assessment of the merits of the proposals against the State Planning Policy 2.6.
26. The applicant was requested to undertake a coastal vulnerability assessment, with the following response to the City:
- 'I have liaised with the land owner/client in terms of this project and he is not at all committed to doing a coastal assessment.'*

27. In 2018, the proposal to amend the waterfront structure plan was advertised and comments were received in relation to:
- Potable water and sewerage;
 - Stormwater;
 - Noise assessment;
 - Noise mitigation treatment;
 - Management statements;
 - Memorandum of agreement;
 - Buffers;
 - Permanent accommodation;
 - Heavy haulage access to the Port;
 - Vehicle access;
 - Setbacks to Princess Royal Drive;
 - Financial viability;
 - Economic value;
 - Boat harbour land;
 - Section 70A notifications;
 - Building height;
 - Multiple dwellings;
 - Glazing and balconies;
 - Parking;
 - Hotel; and
 - Quiet house design principles.
28. The Southern Ports were critical of the acoustic assessment that accompanied the proposal to allow multiple dwellings (permanent accommodation) at the subject Lot 3. Southern Ports believe that bedrooms within multiple dwellings should be designed to mitigate noise to achieve a 55 L_{Amax} decibel rating and not a lower average rating.
29. Southern Ports also believe that outdoor areas should incorporate design to mitigate noise. The Southern Ports also commented that detailed building design drawings should be submitted at the structure planning stage, to prove that development can mitigate noise to achieve the 55 L_{Amax} decibel rating whilst providing an aesthetically pleasing design (e.g. use of glazing and balconies).
- Note: The L_{Amax} level represents the maximum energy during a measurement period. The proposal to use a maximum energy rating is not consistent with the State Planning Policy 5.4 standard. The SPP5.4 seeks to achieve compliance with an average energy output (L_{Aeq}). The Minister recently refused to approve a City of Cockburn scheme amendment (No.118), on the basis that the proposed noise and vibration mitigation measures are predicated on methodology not consistent with the SPP 5.4 (i.e. using maximum noise levels and not average noise levels).
30. An updated acoustic assessment was provided, attentive to Southern Port's needs. The revised acoustic assessment shows a range of mitigation treatments that can be incorporated to ensure indoor night time noise levels do not exceed 55dB L_{Amax} .

31. A meeting was held between City staff, Southern Ports, the proponent (Harley Dykstra) and acoustic engineers to determine whether or not to require compliance with maximum energy ratings and whether or not to require detailed design drawings to accompany the structure plan.
32. All parties believe that mitigating to the 55 L_{Amax} decibel rating (although inconsistent with the SPP5.4), provides a better outcome to permanent residents and that it is premature to expect detailed drawings at the structure planning stage.
33. Whilst the results of acoustic monitoring and modelling indicate that development on Lot 3 Toll Place could potentially achieve an internal noise level of 55dB L_{Amax}, Southern Ports remains unconvinced that there are adequate protections available to mitigate the risk to an acceptable level in relation to outdoor habitable areas.
34. Southern Ports remains concerned that the introduction of permanent residential (multiple dwelling) development at the Waterfront Precinct would result in an increased risk of noise complaints being made to Southern Ports and Port Users.

DISCUSSION

Proposed Modifications

35. In 2011, a structure plan was endorsed to guide land use and development at the Albany Waterfront. A new structure plan map and provisions propose to modify the 2011 structure plan for the 'Accommodation Precinct' at Lot 3 Toll Place. The following is a list of the key modifications:
 - a) The existing structure plan identifies where land uses should be located for the 'Accommodation' precinct. It is proposed that a flexible approach occur for locating land uses at the subject lot.
 - b) The existing structure plan supports short stay accommodation and not permanent accommodation. It is proposed that permanent accommodation is permitted subject to buildings being treated to mitigate noise from transport on adjacent freight routes.
 - c) The existing structure plan recommends a setback of 25m from the Princess Royal Drive Road Reserve. It is proposed to support projections beyond the primary setback, to a minimum 19m for development within the 'Accommodation' precinct to allow increased flexibility with design and siting of buildings.
 - d) The existing structure plan does not support below ground (basement) parking. It is proposed that basement parking is permitted to maximise use of the land.

Submissions

36. The proposed modifications were advertised and key comments were received. The following paragraphs provide a summary of key comments. A summary of comments is also provided in an attached schedule of submissions.

Public Car Parking

37. Members of the public voiced concern about the potential loss of parking due to on-site development. The public currently uses the private Lot 3 to park cars whilst visiting the waterfront and entertainment centre.
38. No changes are proposed to public car parking and therefore it is recommended that comments pertaining to public car parking are either noted or dismissed.
39. Public car parking has been set aside in various locations at the waterfront. Rather than parking at the private Lot 3, visitors to the Albany Entertainment Centre and foreshore may need to park adjacent to the Albany Boat Shed.
40. Some shared car parking will be available for the public as a result of private developments. For example, Lot 3 Toll Place is required to provide 38 bays for reciprocal (public) parking. Otherwise, development is required to provide parking to accommodate customers and staff, in accordance with the 2011 adopted structure plan.

Building Height

41. Some submissions raised concerns about building height and a resulting loss of views to the harbour.
42. No changes are proposed to building height already adopted via the 2011 structure plan and therefore it is recommended that comments pertaining to building heights are either noted or dismissed.

Amenity

43. Some submissions expressed a desire to ensure that future development does not impact on the amenity of the area.
44. It is recommended that comments pertaining to a quality built product, are either noted or dismissed for reasons discussed below.
45. The 2011 structure plan has an extensive list of provisions to ensure that development occurs to protect the amenity of the area. The following overall design objectives apply:
 - a) Ensure building scale, materials and colours complement the Stirling Terrace interface with the Albany CBD.
 - b) Provision of an attractive, open and consistent streetscape to Princess Royal Drive.
 - c) Provision of an active edge to the waterside Promenade.
 - d) Design quality that reflects the significance of this precinct as a key destination in Albany and the broader region.
 - e) Serviced apartments must not front the Promenade at ground level.
46. Noise mitigation treatments proposed for permanent accommodation seek to maintain amenity as follows:
 - a) Inclusion of noise screening walls that incorporate appealing design measures.
 - b) Inclusion of a noise barrier integrated with entrance statement or public art.
47. The proposed modifications seek to maintain design measures and protection of the public marina area by keeping existing provisions, as follows:

No permanent residential development is permitted in the Albany Waterfront Structure Plan Area, with the exception of Multiple Dwellings being a discretionary land use within the Accommodation Precinct. Multiple Dwellings are not permitted on the ground level fronting the Waterfront Promenade.

Revising the building footprints to the Accommodation Precinct to provide improved pedestrian connectivity through the Waterfront Area via revised pedestrian access points, and enable increased flexibility of building design and siting, while maintaining key principles of the Design Guidelines.

Noise assessment data

48. Southern Ports believe that the acoustic assessment included inaccurate assumptions in relation to traffic volumes, resulting in incorrect conclusions that could have fundamentally significant implications.

49. Southern Ports believe that further and better data collation would need to take place, during peak periods and for the freight rail marshalling yards.
50. Subsequent to the above, a second 'detailed acoustic assessment' with mitigation treatments was submitted. The detailed acoustic assessment includes:
 - Sound measurements undertaken by Hewshott (2017) and Southern Ports Authority (2016); and
 - Various noise mitigation measures available to the building design and construction to achieve a night time noise level of 55dB LAmax within all Multiple Dwellings.
51. The proponent and Southern Ports agreed that bedrooms should be designed to mitigate noise to achieve a 55 LAmax decibel rating. It was discussed that this rating will further reduce braking and horn noise occurring from trains.
52. The LAmax level represents the maximum energy during a measurement period. The proposed treatments go over and above SPP 5.4 requirements, which seeks to achieve compliance with the average energy output.
53. It has been concluded by the detailed acoustic assessment that, with appropriate attenuation measures, future development on Lot 3 Toll Place, Albany is able to comply with the provisions of State Planning Policy 5.4 and AS/NZS 2107.
54. However even though the level of noise mitigation will be higher using the LAmax measurement. The use of LAmax is not included and supported by SPP 5.4. The Department of Planning, Lands and Heritage may therefore not be in a position to support the proposed level of mitigation.
55. The Department of Water and Environmental Regulation assessed the detailed acoustic assessment and concluded that the methodology for noise and traffic modelling seems reliable and that with appropriate attenuation measures, the proposed development is able to comply with the provisions of State Planning Policy 5.4 and AS/NZS 2107.
56. The assessment incorporates Main Roads WA 2013 traffic counts on Princess Royal Drive undertaken during public holiday period (Easter Holidays), and factored up by 20% to offset a typical drop in traffic activity during holiday periods. A 2% p.a compound traffic growth was applied to the 2013 volumes in order to approximate the 2019 traffic volumes. This has resulted in robust assessment, and likely over representation of actual traffic volumes experienced and projected.
57. As required by the State Planning Policy 5.4, the assessment also took into account traffic projections to 2037. Based on the 2037 traffic projections the noise level will increase by approximately 2dB, meaning noise levels exceed noise limits by 1-5dB. As required by the State Planning Policy 5.4, mitigation treatments have been proposed to bring noise below target levels.

Detailed design / Mitigation treatments

58. Southern Ports requested that building design drawings be produced to show how mitigation against noise can be achieved (e.g. use of noise barriers or double glazing windows).
59. Southern Ports is concerned that adequate protection cannot be achieved to mitigate the risk to an acceptable noise level in relation to indoor and outdoor habitable areas.

60. City staff, the proponent and Southern Ports discussed the request for building design drawings and subsequently agreed that it is premature to expect detailed drawings at the structure planning stage.
61. It was agreed that control measures can be used to ensure buildings are designed and developed to mitigate noise. It is recommended that the following condition is included to ensure compliance with noise outputs (outdoor and indoor):
- *Any Multiple Dwelling(s) located within the Accommodation Precinct will ensure that inside noise levels to all habitable rooms does not exceed 55dB LAmax. Noise mitigation treatments proposed for permanent accommodation seek to maintain outdoor amenity as follows:*
 - *Inclusion of noise screening walls that incorporate appealing design measures (use of Glass).*
 - *Inclusion of a noise barrier integrated with entrance statement or public art.*
62. The State Planning Policy 5.4 references documents which seek to provide guidance on housing design and building techniques to reduce road traffic noise. The following document, referenced by the SPP5.4, provides examples of buildings designed with the use of glass and balconies, to mitigate against noise for transport:
- Government of South Australia Department of Planning, Transport and Infrastructure, reducing noise and air impacts from road, rail and mixed land use – A guide for builders, designers and the community (2013).*
63. The document (Pg.13) illustrates design features to help control noise quality, including ground floor podiums to shield upper floors, deep balconies with solid balustrades, closed solid balustrade with sound absorption and bi-fold glass windows enclosing balconies to reduce noise and to allow natural ventilation and sun penetration. This document is available to Councillors in the Councillors workstation.

Curtailement to freight transport

64. The Southern Ports and Port users submitted comment asserting that permanent accommodation will lead to complaints associated with transport noise, which will ultimately lead to restrictions in freight movement.
65. It is recommended that comments pertaining to complaints associated with allowing permanent accommodation, are either noted or dismissed for reasons discussed below:
- a) Noise associated with transport is exempt from compliance with the *Environmental Protection (Noise) Regulations 1997*. As long as development attenuates noise in accordance with the State Planning Policy 5.4, and as long as vehicles operate with silencing devices in accordance with Road Traffic (Vehicle Standards) Rules 2002, government authorities do not necessarily have an obligation to undertake noise compliance.
 - b) It is proposed that a Section 70A notification is placed on the title of Lot 3 Toll Place to advise prospective purchasers of potential impacts that may arise from activities associated with the Albany Waterfront, Port of Albany and Albany Waterfront Marina.
 - c) The proposed modifications do not propose to restrict 24/7 access to and from the Port. The 2007 memorandum of agreement acknowledges and respects 24 hour a day, 7 day a week haulage access to the Port of Albany.

State Coastal Planning Policy 2.6 - Coastal hazard risk management

66. Coastal hazard risk management and adaptation planning is intended to ensure an appropriate risk assessment and management planning framework for incorporating coastal hazard considerations into decision-making processes.
67. Coastal hazard risk management and adaptation planning should be undertaken by an appropriately qualified professional person and/or organisation applied at the earliest appropriate stage of any planning process.
68. Coastal hazard risk adaptation planning involves the development and implementation of a management plan (through the identification and selection of the most appropriate risk management and/or adaptation options) that includes consideration of unintended side effects, funding arrangements (initial and ongoing), maintenance requirements, ability to accommodate future uncertainties, other resources, site requirements and timeframes.
69. The landholder/applicant has indicated an unwillingness to undertake a coastal assessment, meaning the City is unable to make a proper and complete assessment of the merits of the proposal against the State Planning Policy 2.6.

Concluding Remarks

70. The proponent has specified that the modifications to the structure plan will:
 - a) Provide increased flexibility with the design and siting of development and land use;
 - b) Serve as a catalyst to promote further development within the Albany Waterfront area; and
 - c) Contribute towards providing the critical mass required to support the year round operation of other land uses such as shops, offices and restaurants.
71. Council may choose to recommend that the Commission support the proposed modifications, for the following reasons:
 - a) The proposed modifications are not expected to impact on existing structure plan objectives and provisions, which seek to ensure development occurs in an appealing manner;
 - b) Development is proposed to be designed to protect people from indoor and outdoor noise impacts;
 - c) The structure plan does not propose to modify the current Memorandum of Agreement to protect 24/7 access to the Port;
 - d) The proponent and the Southern Ports have agreed on an updated noise acoustic assessment and that conditions can be imposed to ensure development occurs to mitigate internal noise.
 - e) The *State Planning Bulletin No. 83 – Planning for Tourism* indicates that local governments may support permanent residential development as part of a tourist site subject to limiting the amount of permanent residential development. Tourism WA believe that the introduction of permanent accommodation is essential to the financial viability of the development.
72. Because a coastal assessment has not been submitted to determine coastal vulnerability in accordance with the State Planning Policy 2.6, it is recommended that Council agree to recommend that the Western Australian Planning Commission refuse the application to amend the structure plan.

GOVERNMENT & PUBLIC CONSULTATION

73. Local Structure Plan No.12 was advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. Structure Plans require advertising in accordance with Part 4, cl.18 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
74. The City advertised the structure plan in accordance with the Regulations as follows:
- a) By giving notice of the proposed structure plan to neighbouring landholders;
 - b) By giving notice of the proposed structure plan in the local newspaper;
 - c) By giving notice of the proposed structure plan via a sign on-site;
 - d) By making a copy of the structure plan available on the City’s website and as hard copy at the City of Albany offices (102 North Road).
75. Submissions were received from government agencies and members of the public. Submissions have been provided to Council as an original and as summarised in the attached Schedule of Submissions.
76. Commentary on the submissions has been provided in this report item and in the attached Schedule of Submissions.
77. The proponent has also provided a response to comments raised by Southern Ports, which is available to Council.
78. The City sought comment from the Department of Planning, Lands and Heritage on whether or not a coastal assessment was necessary in accordance with the State Planning Policy 2.6. The Department of Planning, Lands and Heritage confirmed that a coastal vulnerability assessment is necessary to enable the local government (and subsequently, the WAPC) to make a proper and complete assessment of the merits of the proposals against the Policy.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Inform	Mail out to landholders Notice in local newspaper Notice via sign on site Notice and copy of structure plan on City website	15 March – 12 April 2018	N/A	Part 4, cl.18 of the Planning and Development (Local Planning Schemes) Regulations 2015
Consult	Meeting between City staff, proponent (Harley Dykstra), acoustic engineers (Lloyd George Acoustic and Hewshott Acoustics) and Southern Ports	13 June 2019	9	N/A

STATUTORY IMPLICATIONS

79. Local Structure Plans undergo a statutory process in accordance with Schedule 2, Part 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
80. Schedule 2, Part 4, clause 19 requires the local government to consider the submissions made within the period specified in the notice advertising the structure plan.
81. Schedule 2, Part 4, clause 20 requires the local government to prepare a report to the Western Australian Planning Commission, including a recommendation on whether the proposed structure plan should be approved by the Commission.
82. Voting requirement for this item is **SIMPLE MAJORITY**
83. Following endorsement of a structure plan, a proposal to introduce new zones, rezone land and / or introduce additional provisions into a scheme, to reflect structure plan requirements, may be undertaken.

POLICY IMPLICATIONS

84. The following policies are applicable and have been considered for the assessment of the structure plan:

a) *State Planning Policy No.3 – Urban Growth and Settlement*

In accordance with SPP3, the structure plan proposes to support higher residential density within an accessible location.

b) *State Planning Bulletin No. 83 – Planning for Tourism*

In accordance with SPB83, the structure plan proposes to limit the amount of permanent residential accommodation to ensure development of tourist accommodation. Permanent residential development is to be developed incidental to tourist accommodation.

c) *State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning*

The structure plan seeks to protect occupants from transport noise via quiet house design, external design features (high amenity wall) and notifications on title.

d) *State Planning Policy No.2.6 – Coastal Planning Policy*

The SPP2.6 seeks to ensure the identification of appropriate areas and uses, for the sustainable use of the coast. A vulnerability assessment is required to identify the exposure, sensitivity and adaptive capacity of a system.

The landholder/applicant has indicated an unwillingness to undertake a coastal assessment, meaning the City is unable to make a proper and complete assessment of the merits of the proposal against the State Planning Policy 2.6.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Without the proponent undertaking a coastal vulnerability assessment, it is unknown if the site is suitable for permanent accommodation.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Recommend that the Commission not support the application due to insufficient information.</i>
Reputational <i>Council may recommend to the WAPC that the application be approved without sufficient information</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Development must comply with conditions imposed in development approval.</i>
Opportunity: <i>Increase opportunity for servicing, land use and development.</i>				

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

88. Development is required to comply with relevant regulations to ensure that the environment is protected, including groundwater and the Princess Royal Harbour.

ALTERNATE OPTIONS

89. Council may consider alternate options in relation to the structure plan, including;

- a) Recommend that the Western Australian Planning Commission approve the proposed structure plan.

CONCLUSION

90. Local Structure Plan No.12 is proposing changes to the Albany Waterfront Structure Plan (2011).

91. Modifications proposed include:

- a) A flexible approach to the location of land uses on the subject lot;
- b) Permanent accommodation;
- c) A Reduced building setback to Princess Royal Drive; and
- d) Basement parking.

92. The structure plan seeks to allow the introduction of a limited amount of permanent residential development (multiple dwellings) at the Albany Waterfront, to contribute towards providing the critical mass required to support the year round operation of other land uses such as shops, offices and restaurants.

93. The proposed structure plan modifications were advertised and comments received on a number of different matters, including car parking, building height, mitigation against noise from surrounding uses and building setbacks. The Southern Ports and Port user groups are concerned that, by allowing permanent accommodation, noise complaints will occur, which may then limit 24/7 freight access to and from the Port.

94. City staff, Southern Ports, the proponent and acoustic engineers met to discuss concerns around noise. It was decided to ensure indoor night time noise levels, within bedrooms, do not exceed a 55 decibel L_{Amax} rating. The proposed rating goes over and above State Planning Policy 5.4 requirements. The City is also recommending that development measures are introduced to reduce outdoor noise levels.

95. The use of L_{Amax} is not included or supported by SPP 5.4. The Department of Planning, Lands and Heritage may therefore still decide not support the proposed level of mitigation.

96. Proposed modifications are not expected to impact on existing structure plan objectives, including:

- a) Ensure building scale, materials and colours complement the Stirling Terrace interface with the Albany CBD.
- b) Provision of an attractive, open and consistent streetscape to Princess Royal Drive.
- c) Provision of an active edge to the waterside Promenade.
- d) Design quality that reflects the significance of this precinct as a key destination in Albany and the broader region.
- e) Serviced apartments must not front the Promenade at ground level.

97. The Waterfront is currently underutilised and operating well below its designed and intended capacity. The proposed changes will assist to activate the tourist precinct, and serve as a catalyst for development of other precincts within the Albany Waterfront in accordance with their intended use.
98. The State Planning Bulletin No. 83 – Planning for Tourism indicates that local governments may support permanent residential development as part of a tourist site subject to limiting the amount of permanent residential development.
99. Tourism WA is supportive of including permanent accommodation at the site as part of a measured development mix. Tourism WA believe that the inclusion will assist the financial viability of the development, as an essential piece of Albany accommodation infrastructure.
100. Residential dwellings currently exist adjacent to the primary road and rail freight corridors servicing the Port of Albany and other Ports throughout Australia (e.g. – Albany Highway, Leach Highway, Canning Highway, Stirling Highway, Leighton and North Coogee).
101. The structure plan acknowledges the ‘self-contained’ and ‘privileged’ characteristics that permanent accommodation may portray by:
 - a) Limiting the amount of permanent accommodation development to a Gross Floor Area of 6,800m²;
 - b) Restricting permanent accommodation from public domain areas including the ground floor area of the waterfront promenade; and
 - c) Giving priority to locating tourism components on those areas of the site providing the highest tourism amenity.
102. Notwithstanding the measures proposed to mitigate public concerns and to enable financial viability of the precinct, in accordance with the SPP2.6, a coastal vulnerability assessment has not been submitted to identify the exposure, sensitivity and adaptive capacity to coastal processes.
103. The landholder/applicant has indicated an unwillingness to undertake a coastal vulnerability assessment, meaning the City is unable to make a proper and complete assessment of the merits of the proposal.
104. The Department of Planning, Lands and Heritage has acknowledged the City’s concern relating to the need for a coastal assessment and has provided the following comment:

...the key issue from a SPP2.6 perspective will be the results of the coastal vulnerability assessments. These will be necessary to enable the local government (and subsequently, the WAPC) to make a proper and complete assessment of the merits of the proposals against the Policy.
105. Council is therefore requested to recommend that the Commission not support the proposed modifications to the 2011 Albany Waterfront Structure Plan.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy (2019)</i> 3. <i>State Planning Policy No.3 – Urban Growth and Settlement</i> 4. <i>State Planning Bulletin No. 83 – Planning for Tourism</i> 5. <i>Western Australian Planning Commission Tourism Planning Guidelines 2014.</i> 6. <i>State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning.</i> 7. <i>State Planning Policy No.2.6 – Coastal Planning Policy</i> 8. <i>Road Traffic (Vehicle Standards) Rules 2002.</i> 9. <i>Government of South Australia Department of Planning, Transport and Infrastructure, Reducing noise and air impacts from road, rail and mixed land use – A guide for builders, designers and the community (2013).</i> 10. <i>Notes (1999) Albany Foreshore Redevelopment Project.</i> 11. <i>Minutes (2004) Albany Waterfront Reference Group.</i>
File Number (Name of Ward)	:	LSP12 (Frederickstown Ward)
Previous Reference	:	OCM / 24 July 2018 / DIS105

DIS239: PLANNING AND BUILDING REPORTS OCTOBER 2020

Proponent / Owner : City of Albany.
Attachments : Planning and Building Reports October 2020
Report Prepared By : Business Support Officer – J Cobbold
Responsible Officers: : Manager Planning and Land Information Services
(J Van Der Mescht)

RECOMMENDATION

DIS239: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR THOMSON

THAT Council NOTE the Planning and Building Reports for October 2020.

CARRIED 11-0

**DIS240: C20017 – CIVIL AND ELECTRICAL CONSTRUCTION WORKS
– MIDDLETON BEACH ALBANY WA**

Land Description	: Middleton Beach
Proponent / Owner	: City of Albany
Attachments	: Confidential Attachment Under Separate Cover
Report Prepared By	: Major Projects Officer (R. Taylor)
Responsible Officers:	: Executive Director Infrastructure & Environment (P. Camins)

CONFIDENTIAL ATTACHMENT

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

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** Community Health and Participation
 - **Objective:** To create interesting places, spaces and events that reflect our community's identity, diversity and heritage.
To develop and support a healthy inclusive and accessible community.
 - **Community Priority:** Provide positive leadership that delivers community outcomes. Develop a range of activities and facilities that connect people, promote a healthy community and are appropriate for all ages.

Maps and Diagrams:



In Brief:

- Following a competitive tender process, Council approval is sought to award the tender for the Contract C20017 - Civil and Electrical Construction Works – Middleton Beach, Albany WA to Tenderer A.

COVID-19 IMPACT

2. Contractors will be required to implement an appropriate COVID 19 safety management plan as part of the contract.

RECOMMENDATION

**DIS240: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR THOMSON
SECONDED: COUNCILLOR TERRY**

THAT Council ACCEPT the tender from WCP Civil and AWARD Contract C20017 – Civil and Electrical Construction Works – Middleton Beach, Albany WA.

CARRIED 11-0

BACKGROUND

3. Tenders were called for Civil and Electrical Construction Works – Middleton Beach, Albany WA.
4. It is preferable to commence works at the earliest possible time to ensure practical completion in accordance with funding requirements and not to impede other related interface works scheduled this summer period.

DISCUSSION

5. The standard tender process as prescribed by the Local Government Act 1995 (the Act) and Local Government (Function and General) Regulations 1996 (the Regulations).
6. Tenders were advertised both state-wide and locally from the 9 September 2020 and were closed on 30 September 2020.
7. Nineteen (19) tender documents were downloaded from the City of Albany website, resulting in the City receiving one (1) conforming tender.

Evaluation of Tenders

8. 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	25%
Demonstrated Understanding and Tenderer's Resources	20%
Corporate Social Responsibility	5%
Cost	50%
Total	100%

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

Table 2 – Summary of Tender Submissions

Tenderer	Total	Rank
WCP Civil	538.33	1

10. WCP Civil ranked highest with the highest total weighted score being the only submission.
11. From the evaluation scoring, clarification and financial check processes WCP Civil are the preferred tender and consequently it is recommended that their tender be accepted and the contract be awarded.

GOVERNMENT & PUBLIC CONSULTATION

12. There is no government consultation required for the award of Civil and Electrical Construction Works at Middleton Beach, Albany WA.
13. The funding body and public will be notified with regard to the outcome of the award and timeframe for implementation.

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 Tender Policy and Regional Price Preference Policy 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: Failure to deliver project within specified timeframe	Possible	Major	High	Award construction tender as soon as possible to satisfy funding conditions for project completion.
Business Interruption: Council does not support recommendation for tender award	Possible	Major	Medium	City Officer address any issues / concern, to facilitate Council making a timely decision.
Opportunity: Project developed and delivered on time for the benefit of the community use and precinct activation.				

FINANCIAL IMPLICATIONS

20. The recommended tender is within overall project budget.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

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

ALTERNATE OPTIONS

- 24. The options are:
 - Council can elect to accept the recommended tender,
 - Not approve any tender.

CONCLUSION

- 25. It is recommended, based on the evaluation scoring, clarification and financial check processes that the tender is awarded to WCP Civil.

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/Contract Procedure</i> ○ <i>Evaluation Procedure (Tenders and Quotations)</i> • <i>Council Policy: City of Albany Buy Local Policy (Regional Price Preference)</i>
File Number (Name of Ward)	:	CP.DEC.40
Previous Reference	:	N/A

**LEMC023: RECEIVE THE MINUTES OF THE LOCAL EMERGENCY
MANAGEMENT COMMITTEE – 18 JUNE 2020**

Attachments	: Confirmed Minutes of the LEMC Meeting held 18/06/2020
Report Prepared By	: Personal Assistant to Executive Director Corporate & Commercial Services (H Bell)
Responsible Officers:	: Executive Director Corporate and 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 provide strong, accountable leadership supported by a skilled and professional workforce
 - **Community Priority:** Provider positive leadership that delivers community outcomes.

In Brief:

- Receive the minutes of the Local Emergency Management Committee meeting held on 18 June 2020.

RECOMMENDATION

**LEMC023: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SHANHUN
SECONDED: COUNCILLOR SMITH**

THAT the confirmed minutes of the Local Emergency Management Committee meeting held on 18 June 2020 be RECEIVED.

CARRIED 11-0

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 6.56pm.

(Unconfirmed Minutes)

Dennis W Wellington
MAYOR

TABLED INFORMATION BY MR TONY KINLAY

Mr Mayor,

My name is Tony Kinlay, immediate Past President of the Frenchman Bay Association.

I wish to address Council on the matter of the proposed resort at Goode Beach and the findings of the Statutory Planning Commission on the Structure Plan.

To cut a long story short, a resolution of the Statutory Planning Commission does not support the developer's proposal, and that LSP9 should be refused.

I have a copy of the resolution in my hand. I will table it for the minutes, as well as my presentation this evening.

The resolution lists seven reasons why the structure plan 'should be refused'.

They are

- a) The scale of the development proposed in LSP 9 significantly exceeds the development intention of Special Use Zone SU1 of City of Albany Local Planning Scheme No.1.
- b) The scale of development proposed in LSP 9 is inconsistent with the City of Albany Tourism Accommodation Planning Strategy.
- c) LSP 9 is inconsistent with the objectives and policy measures of State Planning Policy 2.6 - State Coastal Planning Policy and associated ... Policy Guidelines in that the structure plan proposes development within the coastal processes setback area etc etc.
- d) LSP 9 is inconsistent with State Planning Policy 2 - Environmental Resources Policy and Guidance Statement 33 - Environmental Guidance for Planning and Development in that proposed development will not achieve sufficient buffer to Lake Vancouver etc etc.
- e) LSP 9 is inconsistent with the Government Sewerage Policy, State Planning Policy 2 – Environment and Natural Resources, State Planning Policy 2.9 – Water Resources and Better Water Management Guidelines in that development is proposed in a sewerage sensitive area etc etc.
- f) LSP 9 is inconsistent with State Planning Policy 3.7 – Planning in Bushfire Prone Areas and associated Guidelines for Planning in Bushfire Prone Areas and Position Statement – Tourism land uses in Bushfire prone areas etc etc.
- g) LSP 9 does not adequately address the potential Aboriginal Heritage values of the site.

I would like to focus on two of the seven items.

Firstly Item (d) which states that the proposed development will not achieve sufficient buffer to Lake Vancouver etc etc.

With the exception of Councillors Benson-Lidholm and Thomsson, you will recall the meeting of 24 July 2018 at which Councillor Stocks, and supported by Councillor Sutton, led the charge encouraging councillors to support the motion. I had prepared and presented a copy for all councillors of a diagram of the site, showing the buffer zones, properly using the

TABLED INFORMATION BY MR TONY KINLAY cont.

State's Guidelines for wetlands. The proponent had shown no buffer at all, in fact the footprint of the resort was well within the buffer zone.

Councillor Stocks put the planning staff on the spot by asking about the applicable policies they had adopted in support of a no-buffer outcome. The planners got into a huddle, then gave an incorrect response by referencing the State's guidelines to waterway buffers, which is entirely different to wetland buffers.

Councillor Stocks asked the right question, but received the wrong and totally irrelevant/unrelated response. However, Councillor Stocks declared he trusted the planners to have provided the correct answer, implying they got it right, and therefore I must have got it wrong.

Did Councillor Stocks do his own fact checking on this matter? If he did, he would have found that my diagram was correct.

Councillors, this is one of many examples where mistakes or misinformation by planning staff were made.

Secondly, Item (c) which states that the proposed development is well within the coastal setback area etc etc.

Again, the developers referred to coastal setbacks in their report, but did not apply the State's guidelines correctly.

My sketch showed the required 100-year coastal setback to overlap the required 100-year wetland buffer zone, meaning that there was or is no room to accommodate any resort.

Some councillors expressed their opinions about coastal erosion, storm surges, and the like, but their opinions simply do not count. The setbacks are determined by the guidelines, not by the opinions of laymen.

The resolution of both these issues was fundamental to the planning of the resort, and should have been evident from the start. They were showstoppers to the development. For these two reasons, the planners should have at the outset advised the developer that the resort could not be accommodated on the site.

I wish to raise a few questions, and make a few points:

- How and why did the planners get it so horribly wrong?
- Was there a process in place to have the planners' report and recommendation prepared by one planner, and peer-reviewed by another independent planner, then signed off by the head of the planners, and/or the CEO?
- Has there been a review by the CEO and relevant staff of their report?
- Why was the planners report in pre-final form prepared some weeks in advance of the FBA's formal presentation to councillors? (Surely they could have had an open mind about what the FBA would present, before finalising their report?)
- Has the CEO taken responsibility in any way for the content of their report?
- Why were all submissions from the FBA not taken into consideration?
- Did all councillors, or at least the nine who voted in support of the motion, inform themselves of the key issues, including digesting the arguments from the FBA and others in their submissions.
- Did each councillor do their own investigations, or did they rely fully on the planners' report and recommendations.

TABLED INFORMATION BY MR TONY KINLAY cont.

DECISION SHEET

Statutory Planning Committee

Title: Local Structure Plan No. 9 - Lot 660 La Perouse Road, Goode Beach (Albany)
Date: Tuesday, 4 February, 2020

That the Statutory Planning Committee resolves to:

1. *Inform the SAT that the proposed Local Structure Plan No 9 (LSP 9) Lot 660 La Perouse Road Goode Beach, Albany, dated 4 September 2017 is not supported and should be refused for the following reasons:*
 - a. *The scale of the development proposed in LSP 9 significantly exceeds the development intention of Special Use Zone SU1 of City of Albany Local Planning Scheme No.1.*
 - b. *The scale of development proposed in LSP 9 is inconsistent with the City of Albany Tourism Accommodation Planning Strategy.*
 - c. *LSP 9 is inconsistent with the objectives and policy measures of State Planning Policy 2.6 - State Coastal Planning Policy and associated State Coastal Planning Policy Guidelines in that the structure plan proposes development within the coastal processes setback area and is not supported by appropriate statutory mechanisms for the proposed managed retreat adaptation proposal and furthermore, there is no implementation guidance on the proposed approach, roles, responsibilities, monitoring and review processes as required by policy.*
 - d. *LSP 9 is inconsistent with State Planning Policy 2 - Environmental Resources Policy and Guidance Statement 33 - Environmental Guidance for Planning and Development in that proposed development will not achieve sufficient buffer to Lake Vancouver, (a Conservation Category Wetland) and may result in adverse impacts to wetland functions, values and attributes.*
 - e. *LSP 9 is inconsistent with the Government Sewerage Policy, State Planning Policy 2 – Environment and Natural Resources, State Planning Policy 2.9 – Water Resources and Better Water Management Guidelines in that development is proposed in a sewerage sensitive area and does not adequately demonstrate that the land is capable of development to the intensity proposed nor does the proposal address how effluent*

TABLED ADDRESS BY MR TONY KINLAY cont.

disposal and stormwater would be managed on site.

- f. LSP 9 is inconsistent with State Planning Policy 3.7 – Planning in Bushfire Prone Areas and associated Guidelines for Planning in Bushfire Prone Areas and Position Statement – Tourism land uses in Bushfire prone areas in that the structure plan does not adequately identify bushfire risk or propose the appropriate management of that risk in an area subject to extreme bushfire risk and where significant intensification of development is proposed, increasing the risk to people, property and infrastructure.*
 - g. LSP 9 does not adequately address the potential Aboriginal Heritage values of the site.*
- 2. note the submissions received on the proposed local structure plan and WAPC response as per Attachment 6 - Schedule of submissions.*