



AGENDA

Ordinary Meeting of Council

Tuesday 15 December 2015

6.00pm

City of Albany Council Chambers

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

VISION

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

VALUES

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

Focused: on community outcomes

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

United: by working and learning together

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

Accountable: for our actions

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

Proud: of our people and our community

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

NOTICE OF AN ORDINARY COUNCIL MEETING

Mayor and Councillors

The next Ordinary Meeting of the City of Albany will be held on Tuesday 15 December 2015 in the Council Chambers, 102 North Road, Yakamia commencing at 6.00pm.



Andrew Sharpe
CHIEF EXECUTIVE OFFICER

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ORDINARY COUNCIL MEETING
AGENDA 15/12/2015

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1. DECLARATION OF OPENING

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

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

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

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor

D Wellington

Councillors:

Breaksea Ward
Breaksea Ward
Frederickstown Ward
Vancouver Ward
Vancouver Ward
West Ward
West Ward
Yakamia Ward
Yakamia Ward

R Hammond
P Terry
G Stocks
J Shanhun
N Mulcahy
A Goode JP
S Smith
A Moir
R Sutton

Staff:

Chief Executive Officer
Executive Director Corporate Services
Executive Director Planning and
Development
Executive Director Economic
Development and Commercial Services
Executive Director Works and
Services
Executive Director Community Services

A Sharpe
D Olde
D Putland
C Woods
M Thomson
A Cousins

Meeting Secretary

J Williamson

Apologies:

Frederickstown Ward
Kalgan Ward
Kalgan Ward

C Dowling (Leave of Absence)
J Price (Leave of Absence)
B Hollingworth (Leave of Absence)

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest
Executive Director Planning and Development D Putland	PD110	Impartiality. The nature of the interest being that Mr Putland's relative owns the adjoining property.
Councillor Terry	CSF211	Impartiality. The nature of the interest being that Councillor Terry is a member of the Princess Royal Sailing Club.
Councillor Stocks	CSF211	Impartiality. The nature of the interest being that Councillor Stocks is a member of a club listed as being a recipient of the current rating subsidy.
Councillor Mulcahy	CSF211	Impartiality. The nature of the interest being that Councillor Mulcahy's son is a member of the Scouts Association of WA.
Councillor Smith	CSF211	Impartiality. The nature of the interest being that Councillor Smith's spouse is a member of the Albany Golf Club.
Councillor Price	CSF214	Impartiality. The nature of the interest being that Councillor Price is an ordinary member of the Albany Agricultural Society with membership valid until 30 June 2016.
Executive Director Corporate Services D Olde	CSF214	Impartiality. The nature of the interest being that Mr Olde is a member of the Albany Agricultural Society.
Councillor Hammond	CSF214	Impartiality. The nature of the interest being that Councillor Hammond is a financial member of the Albany Agricultural Society.

5. REPORTS OF MEMBERS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE Nil.

7. PUBLIC QUESTION TIME

8. APPLICATIONS FOR LEAVE OF ABSENCE

9. PETITIONS AND DEPUTATIONS Nil.

10. CONFIRMATION OF MINUTES

DRAFT MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the minutes of the Ordinary Council Meeting held on 24 November 2015, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

11. PRESENTATIONS Nil.

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil.

**ED028: CAMPERVAN AND MOTORHOME CLUB OF AUSTRALIA
(CMCA) – POST EVENT EVALUATION REPORT**

Proponent : City of Albany
Report Prepared By : Manager Tourism Development Services (M Bird)
Responsible Officer(s) : Executive Director Community Services (C Woods)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This strategy directly relates to the following elements from the Community Strategic Plan – Albany 2023 and the Corporate Business Plan 2014-2018.
 - a. **Key Theme: 1.** Smart Prosperous and Growing.
 - b. **Strategic Objective: 1.2** To strengthen our region's economic base.
Strategic Objective 1.3 To develop and promote Albany as a unique and sought after destination.
 - c. **Strategic Initiative 1.2.2.** Economic Diversity
Strategic Initiative 1.3.1. Events Management
Strategic Initiative 1.3.2. Tourism Destination

In Brief:

- Accept the City of Albany Officer post activity report.

RECOMMENDATIONS

ED028: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the City of Albany Post Event Evaluation Report for the destination hosting of the Campervan and Motorhome Club of Australia be RECEIVED.

ED028: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR SMITH

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

ED028: RESPONSIBLE OFFICER RECOMMENDATION

THAT the City of Albany Post Event Evaluation Report for the destination hosting of the Campervan and Motorhome Club of Australia be RECEIVED.

BACKGROUND

2. Albany Council approved entering into the host venue contract with the Campervan and Motorhome Club of Australia (CMCA) at the October 2013 OCM to the value of up to \$100,000 of in kind support and \$60,000 in cash sponsorship.
3. Albany Council provided exclusive use of Centennial Park ovals, contracted local community groups to supply existing sporting and community buildings, and coordinated a range of infrastructure improvements to the precinct for use by the CMCA. The City also implemented a marketing and communications program to encourage CMCA member attendance.
4. The CMCA is a not for profit member based organisation and the largest recreational vehicle (RV) club in Australia. As at October 2015 the Club has some 66,000 members across Australia and overseas.

DISCUSSION

5. The official CMCA Event Program ran over the 26 October-1 November 2015 period with CMCA having exclusive access to the venue and buildings from 15 October to 4 November. Some 150 volunteer CMCA members were on site during this 3 week period.
6. The CMCA is a member only event and the Albany event attracted 602 RVs registrations and some 1,144 participants. CMCA estimate that at least another 50 vehicles came to the Albany region but did not register at the rally preferring to stay at staging points or camp grounds/parks.
7. Public access was via a CMCA Open Day on the Saturday 31 October 2015 (source: CMCA registration data).



Image 1 – aerial view of CMCA event on Centennial Park eastern precinct.

8. The City also implemented a local communication program to inform local business and community pre event. This included media releases to local media, local radio segments, promotion via the City's regular newspaper community information pages, inclusion in Visitor Centre "What's On" newsletter distributed to industry database, inclusion in ACCI newsletter and Amazing Albany social media platforms. Advertising and communication of extended temporary retail trading hours for the Sunday were also implemented as per normal procedures.
9. The City has prepared a post event evaluation report. The report scored the event across 7 variables. The City conducted post event surveys of local Albany businesses in order to measure these variables.
10. The event assessment methodology used by the City has been custom developed in-house to measure an event's impact across economic value, job creation, destination promotion, strategic fit with City objectives, social and community benefits.
11. A summary of these results is included below and only covers the 7 day period 26 October to 1 November period;
 - 1) Total Number of Visitors; 1,188
 - a. 1,144 CMCA members
 - b. 16 event administration and officials
 - c. 28 exhibitors
 - 2) Economic Value; \$ total direct visitor spend
 - d. Total direct expenditure for the event is estimated at \$1,283,193 made up from \$874,368 attendee spend (1,188 visitors multiplied by 8 nights multiplied by \$92 per day) plus \$408,825 from CMCA organisers for the 26 October to 2 November Rally period. This spend is estimated from post event surveys and CMCA attendee data and excludes travel to and from Albany. CMCA estimate total event expenditure into Albany is in the vicinity of \$2m however the \$1.28m estimate is more conservative and believed to reflect the true economic impact.
 - e. In addition CMCA visitor expenditure in the region pre and post outside of the main rally dates is estimated to be significant but unmeasured. Approximately 100 CMCA volunteers arrived into Albany from 15 October adding some 2 weeks additional daily expenditure into the destination.
 - f. City business units direct measurable benefit received was \$13,477 (National Anzac Centre entrance fees \$9,350 and Albany Visitor Centre \$4,127 tour booking commission and retail sales).
 - g. ROI assessment of 8:1; \$160,000 City investment generated an estimated \$1,283,193 on direct visitor and event spend.
 - 3) Jobs Created; The following is estimated using the City of Albany "economy.id" event impact calculator tool
 - h. Using the economy.id event impact calculator tool the event was assessed as delivering significant employment to the destination.
 - 4) Media/PR Value;
 - i. Event assessed as medium media/PR value for the Albany destination. The CMCA boasts a 66,000 strong membership and marketing efforts have been strong to this group. Longer term flow-on benefits are anticipated from these promotional activities.

- 5) Strategic Fit:
 - j. Event assessed as medium against City of Albany "smart prosperous and growing" and events strategy objectives.
- 6) Timing:
 - k. Good timing as Event was staged in a typically shoulder month visitor period and outside of school holidays.
- 7) Social Value:
 - l. Event assessed as low to medium in terms of level of social value, level of local community engagement although some community and sporting groups were highly involved and received direct economic benefit.
12. The event was assessed as being economically successful delivering a good ROI on the initial \$160,000 host city investment and generating an estimated \$1,283,193 into the local economy in a typically quiet visitor period.
13. The net financial contribution by the City of Albany to host the event was \$104,844 due to the strong partner support secured from successful funding applications. ROI in real terms then is 12 to 1.
14. The major beneficiaries of the CMCA event were local hospitality, visitor attractions, shopping, supermarkets and retail businesses. As the CMCA members used their own accommodation commercial operators did not receive significant increases to their business. Other non tourism based beneficiaries included medical services, fuel stations, vehicle repairs, battery, caravan and camping service providers.
15. The City also surveyed local Albany businesses post the event (52 respondents). A summary of results include;
 - a. 52% of respondents were from Albany city centre, 34% from rest of Albany, 9.6% from Plantagenet, 2% from Denmark and 2% from other Great Southern.
 - b. When asked to describe the primary focus of their business, 28.9% identified as commercial accommodation (not caravan parks), 19.6% as restaurant/cafe/bar, 15.4% as caravan park/campground, 11.5% as a visitor attraction, 10.7% shopping /retail/supermarkets, 9.8% other, and 3.9% tour operators.
 - c. Overall 29.4% of businesses reported an increase in normal turnover over the period, 62.8% reported no change, and 7.8% were unsure. The large no change result can be explained by the high percentage of respondents from the commercial accommodation sector. Of the 23 commercial accommodation respondents only 2 indicated an increase to their business, 1 was unsure and the remaining 20 indicated no benefit received. 67% of visitor attractions that responded indicated extra business received with the remainder unsure, half of the restaurants/cafe/bar indicated increases with 11% unsure, retail and shopping only 25% indicated increased business.
 - d. When asked to rate how the Albany business community benefitted from hosting the event, 34.0% replied "somewhat", 30.0% replied "to a great or very great extent", 26% said to a "small or very small extent", and 10% said "none at all".
 - e. Although some businesses did not receive direct benefit some 65.7% of respondents supported the City hosting events such as the CMCA, 15.7% did not support, and 17.6% were unsure.

- f. Local businesses were asked to provide suggestions for improvement and these have been included in the full report attachments. These comments will be reviewed and integrated into future event attraction and delivery as part of the City's continuous improvement model.
16. Overall, 64% of comments received were positive with examples of local business feedback as follows;
- a) *"More than \$20k in sales to date, most we would not have got otherwise and more to come. 10 nights accommodation plus meals and fuel for reps on site, plus one of those reps is bringing his family of four back next year. All in all a pretty pleasant crowd to deal with and most that I spoke to will be back" – retailer.*
 - b) *"Although good for the town business in providing the participants needs there were a few who came out to us. There were some that came via the Kalgan Queen Cruise. I hope this helps as we believe that people went away positive of Albany" - winery.*
 - c) *"The City should be commended on providing this event to Albany. We benefited greatly from their support in the tune of \$400.00 to \$500.00 a day for the period" – cafe.*
 - d) *We are at the Albany Farmers Market and we definitely had more visitors. They probably didn't spend up big because they were all living in caravans with miniscule fridges and freezers, but the odd jar of jam etc and all the talking has got to be good for Albany and the region" – farm producer.*
 - e) *"Great success. Well attended events/tours and venue. Increased income from donations and tours. Received great feedback which we know will become positive word of mouth into the future" – attraction.*
17. Some negative local feedback was received with the principal source being the commercial caravan park operators. A summary of the negative feedback as follows;
- a) *A 10-15% downturn on sites impacted from the CMCA rally doesn't sound like much but when you work it out it's between 110 – 150 site nights. We ask ourselves why the downturn in Business over this period, the problem is when you have a major event in the town that's marketed to attract 800 or more caravans and campervans, the Genuine Tourist/Traveller that we market for think that the 8 or 9 caravan parks in town will be full and overcrowded, meaning we won't go to Albany in this period or bypass the town completely. I can't see what CMCA has to offer in the region that will be beneficial to local Business growth and future in the region" – caravan park operator.*
 - b) *"We feel the CMCA organisation do not like to engage with the local business, they rather there (sic) own events which are beneficial to there (sic) group and not the community they Rally in" – caravan park operator.*
 - c) *"CMCA members are renowned by spending no/as little as possible money wherever they travel" – caravan park operator.*

GOVERNMENT & PUBLIC CONSULTATION

18. The Albany Chamber of Commerce and Industry Inc (ACCI) was a strong proponent for Albany hosting the CMCA event. ACCI representatives have previously attended CMCA events and met with CMCA event organisers.
19. The City initially investigated the host city opportunity with the WA State Government via Tourism WA and Perth Convention Bureau. Following this the City negotiated directly with CMCA to secure the event host rights.
20. The Community Strategic Plan involved widespread community consultation in late 2012 and early 2013. The community identified a number of economic priorities under the theme of Smart Prosperous and Growing including the attraction of iconic major events.
21. The City conducted a survey of local businesses post event with results included in this report. Neighbouring Great Southern local government authorities have also reported strong increase in self drive RV visitors as a result of Albany hosting the CMCA event.

STATUTORY IMPLICATIONS

22. Nil.

POLICY IMPLICATIONS

23. Nil

RISK IDENTIFICATION & MITIGATION

24. The risk identification and categorisation relies on the City's [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational: <i>Suggestions for improvement were received from local businesses via the post event survey. If these are not reviewed and adopted where appropriate then potential reputational risk exists for the City.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>City officers to review local business feedback and suggestions for improvement and integrate into event attraction, management and promotion processes.</i>

FINANCIAL IMPLICATIONS

25. Council endorsed the hosting of the CMCA 2015 National Rally with a net investment of up to \$160,000. The City was successful in securing partner funding for hosting the event in the order of \$70,000 comprising \$40,000 from Perth Convention bureau, \$20,000 from Tourism WA (Events), and \$10,000 from the Great Southern Development Commission. The net financial contribution by the City of Albany to host the event was \$104,844 due to the strong partner support secured.

26. Actual budgets as at 23 November 2015 were as follows;

CMCA Albany Host Destination 26 October - 1 November 2015

INCOME

Description	Actuals - Nov2015
<u>Partner Contributions</u>	
Perth Convention Bureau	\$40,000.00
Tourism WA (Events)	\$20,000.00
Great Southern Development Commission	\$10,000.00
<u>Other Income</u>	
Albany Visitor Centre tour booking commissions	\$2,461.00
Income Totals	\$72,461.00

EXPENSES

Description	Total
<u>Host destination requirements</u>	
Major events attraction - job number 3325 CMCA	\$159,399.00
CoA Salaries & Wages	\$11,702.00
Materials & Consumables	\$13,869.00
Contract works	\$53,421.00
Hosting fee	\$60,000.00
Internal plant hire depreciation	\$1,338.00
Plant operating costs	\$1,282.00
Labour overhead	\$17,787.00
Amazing Albany destination marketing activities	\$14,346.00
Visitor Centre information desk and staffing	\$3,560.00
Totals	\$177,305.00
City of Albany net contribution	\$104,844.00

27. Management and oversight of funding and event contractual deliverables was undertaken using existing staff resources within the Economic Development and Commercial Services Directorate, within existing allocated budgets.

LEGAL IMPLICATIONS

28. Nil.

ENVIRONMENTAL CONSIDERATIONS

29. Nil.

ALTERNATE OPTIONS

30. If the committee does not support the evaluation tool developed for assessing the economic impact of this event other methods can be explored.

SUMMARY CONCLUSION

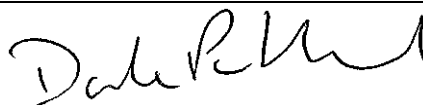
31. Securing the 2015 CMCA National Rally event achieved a City strategic deliverable to identify iconic events that provide community and economic benefits.
32. Local businesses surveyed believed the Albany business community benefitted from hosting the event with nearly two thirds supporting the City hosting events such as the CMCA.
33. The event was assessed as being economically successful delivering a good ROI on the \$160,000 host city investment and generating an estimated \$1.28m of direct event spend (travel to and from Albany excluded) in a typical shoulder visitor period.

Consulted References	:	Council Policy Community Funding and Event Sponsorship (2013) City of Albany Major and Regional Events Strategy 2014-17
File Number (Name of Ward)	:	Not applicable.
Previous Reference	:	Nil.

PD093: YAKAMIA/LANGE STRUCTURE PLAN

- Land Description** : Various lots in the Yakamia and Lange localities.
Proponent : City of Albany
Owners : Various owners
Business Entity Name : Various business entities
Attachments : 1. Schedule of Submissions
2. *Yakamia/Lange Structure Plan*
Supplementary Information & Councillor Workstation: : 1. List of landowners and business entities
2. Copy of submissions
3. Appendices
a) Local Water Management Strategy
b) Environment Opportunities and Constraints Plan
c) Road Contribution Plan
d) Issues Background Paper
Report Prepared by : Senior Planning Officer, Strategic Planning (A Nicoll)
Responsible Officer : Executive Director Planning and Development
(D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

In Brief:

- A Draft *Yakamia/Lange Structure Plan* was developed by the City of Albany to guide the future subdivision and development of land in the Yakamia and Lange localities.
- The City advertised the draft *Yakamia/Lange Structure Plan* from December 2014 to January 2015.
- Following advertising, the City reviewed submissions and recommended modifications.
- At the September 2015 Planning Committee meeting, the Structure Plan was deferred to allow the further consideration of issues through a Councillor workshop.
- In November 2015, a workshop was held with Councillors, the Department of Water and the Department of Parks and Wildlife. Attention was given to:
 - The procedure for defining flood boundaries (LIDAR); and
 - An overview of the City's Local Planning Strategy, which requires fully serviced urban development for the localities of Yakamia and Lange.

- Council is now requested to consider submissions and recommended modifications to the Structure Plan and to resolve to agree to provide a report to the Western Australian Planning Commission (WAPC), recommending that the WAPC approve the Structure Plan.

RECOMMENDATION

**PD093:COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council, pursuant to Schedule 2, Part 4, cl. 20 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to recommend to the Western Australian Planning Commission that the proposed Yakamia/Lange Structure Plan (as modified) should be approved, including the following supporting appendices:

- **Local Water Management Strategy;**
- **Environmental Opportunities and Constraints Plan;**
- **Road Contribution Plan; and**
- **Issues Background Paper.**

AND

Advise all landowners:

- **That they should consult the Department of Planning regarding its requirements for scheme amendments to normalise the zones and densities nominated in the Structure plan; and**
- **That the City of Albany will not be the applicant on their behalf for any further local planning scheme amendments.**

PD093: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HAMOND
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 6-1

Record of Vote

Against the Motion: Councillor Sutton

PD093: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, pursuant to Schedule 2, Part 4, cl. 20 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to recommend to the Western Australian Planning Commission that the proposed Yakamia/Lange Structure Plan (as modified) should be approved, including the following supporting appendices:

- Local Water Management Strategy;
- Environmental Opportunities and Constraints Plan;
- Road Contribution Plan; and
- Issues Background Paper.

AND

Advise all landowners:

- That they should consult the Department of Planning regarding its requirements for scheme amendments to normalise the zones and densities nominated in the Structure plan; and
- That the City of Albany will not be the applicant on their behalf for any further local planning scheme amendments.

BACKGROUND

4. Various properties within the localities of Yakamia and Lange are zoned 'Future Urban' in accordance with the City's *Local Planning Scheme No. 1*.
5. Development and subdivision on land zoned 'Future Urban' under *Local Planning Scheme No. 1* is restricted, unless a Structure Plan has been prepared.
6. Due to requests from a number of landowners wishing to subdivide their land in the Yakamia and Lange localities and the Department of Parks and Wildlife indicating support for the alignment of a planned north-south local distributor road (Range Road) over vegetated land (Lot 4743 North Road), the City decided to develop a draft Structure Plan for the localities of Yakamia and Lange.
7. Prior to developing a draft Structure Plan, the City undertook extensive research of Environmental and Water Management issues pertaining to the localities. Key findings included:
 - No threatened flora identified (noting that detailed environmental investigations have not been undertaken for some areas);
 - Vegetated communities with *Banksia Coccinea* are possibly threatened;
 - There are remnant stands of vegetation (Jarrah/Mari) in excellent condition, which form natural corridors;
 - There are areas subject to flooding and erosion.
8. Following consideration of environmental and water issues, the City developed a draft *Yakamia/Lange Structure Plan*.
9. Council resolved at its November 2014 Council meeting to advertise the draft Structure Plan.

10. At the close of advertising, submissions were reviewed and modifications recommended.
11. Submissions included:
 - Reducing the width of foreshores to arterial drains;
 - Modifying the location of flood boundaries;
 - Enabling development for some degraded vegetated areas;
 - Reducing fire risk;
 - Modification of the location of public open space areas; and
 - Supporting unsewered rural residential development.
12. Recommended modifications included:
 - Changing foreshore boundaries to reflect land topography;
 - After consulting with environmental authorities, changing some degraded vegetation protection areas to residential;
 - After site visits and consultation with landholders, relocated some public open space areas;
 - Incorporating fire mitigation measures, including ensuring dwellings are constructed in accordance with *Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas*.
13. Recommended modifications did not include:
 - Changing location of flood boundaries; or
 - Supporting unsewered Rural Residential development.
14. At the September Planning Committee meeting it was resolved to defer making a decision on the Structure Plan to enable further consideration at a workshop.
15. In November 2015, a workshop was held with Councillors, the Department of Water and the Department of Parks and Wildlife. The Department of Water explained the rationale behind flood boundaries, advising the flood boundaries are an accurate reflection of LIDAR data modelling. LIDAR is an accurate measure of distance, accomplished by illuminating a target with a laser and analysing the reflected light.
16. Councillors were also advised that the City of Albany Local Planning Strategy (ALPS) advocates fully serviced urban development for land within the Structure Plan area. Furthermore, ALPS recommends that future rural living lots within the City of Albany only be located within areas designated on the ALPS maps, or within existing rural town sites. The Yakamia Structure Plan area does not meet the aforementioned criteria.
17. It should be noted that under the Schedule 2, Part 4, clause 27 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which came into effect on 19 October 2015, structure plans are no longer binding statutory documents:

“27. Effect of a structure plan approved by Commission

(1) *A decision-maker for an application for development approval or subdivision approval in an area that is covered by a structure plan that has been approved by the Commission is to have due regard to, but is not bound by, the structure plan when deciding the application.*

- (2) *A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 15 as being an area for which a structure plan may be prepared, but for which no structure plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that—*
- (a) *the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and*
 - (b) *the proposed development or subdivision would not prejudice the overall development potential of the area.”*
18. Furthermore, under Schedule 2, Part 4, clause 28 of the Regulations, the approval of a structure plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan.
19. Other regulatory changes include a requirement to rezone the land following approval of a structure plan to normalise the zones and R-Code densities nominated on the plan, within the Local Planning Scheme.
20. It is currently unclear, due to conflicting advice being given by Officers at the Department of Planning, whether this rezoning process will have to be completed prior to, at the time of, or post subdivision.
21. Therefore, City Staff recommend that applicants consult directly with the Department of planning to clarify this matter.

DISCUSSION

22. The subject land is divided into two precincts, with the largest extending from approximately 1.3km to 3.9km north of Albany town centre and covering an area of approximately 355ha. The second, smaller precinct lies approximately 2.4km north-north-west of Albany town centre and covers an area of approximately 10ha. The larger precinct includes land within the 'Future Urban', 'General Agriculture', 'Residential' and 'Yakamia Creek' zones and the 'Parks and Recreation' and 'Public Use' local scheme reserves. The land within the smaller precinct is included within the 'Future Urban' zone and 'Parks and Recreation' Local Scheme reserve.
23. The *Yakamia/Lange Structure Plan* is consistent with the current strategic direction set by the *Albany Local Planning Strategy* and *State Planning Policy 3*.
24. A portion of the land identified for 'Future Urban' development in the *Albany Local Planning Strategy* is currently zoned 'General Agriculture' under *Local Planning Scheme No. 1*. This land will have to be rezoned to the 'Future Urban' zone via a local planning scheme amendment, prior to being developed in accordance with the *Yakamia/Lange Structure Plan*.
25. The Structure Plan designates different uses for different areas based on characteristics of the land. For example, in environmentally sensitive areas such as those adjacent to creeks, the Structure Plan recommends that the land is reserved as 'Parks and Recreation' for a combination of purposes, including water management, recreation and environmental enhancement. In flat areas with no environmental constraints and in close proximity to the Brooks Garden shopping centre, the Structure Plan recommends that the land is used for medium-high density residential development.

26. Areas identified for 'Residential' development are divided into three types:
- 'Residential (Yakamia Creek)' – areas adjacent to the Yakamia Creek, where the minimum lot size shall be 3000m²;
 - 'Residential R25' – areas not within easy walking distance of a neighbourhood shop, where the average lot size shall be 350m²; and
 - 'Residential R30' – areas within easy walking distance to Brooks Garden shopping centre, where the average lot size shall be 300m².
27. 'Private Conservation' lots have been identified over land that is covered by remnant vegetation, worthy of protection because of the quality and extent of that vegetation. Development of these lots will be permitted on the condition that vegetation is protected.
28. 'Public Use' designations have been applied in locations suitable for public utilities, including for City of Albany administration, Western Power substations and Water Corporation pumping stations.
29. 'Public Parkland' has been identified to provide active recreation within walking distance to future development areas.
30. Strategic infrastructure requirements, including key roads, paths, intersection treatments and reticulated sewer lines and pump stations have been identified on the Structure Plan map. The Structure Plan specifically recommends the development of two major link roads between North Road and Mercer Road (Range Road) and North Road and Chester Pass Road (extension of Barnesby Drive).
31. The Structure Plan also requires subsequent applications to subdivide and develop land to be supported by information to address a variety of matters including fire risk, urban water management, acid sulphate soils, Aboriginal Heritage and access.
32. A substantial number of submissions were received from service providers, Government agencies, landowners and members of the public during the public advertising and referral process.
33. The Department of Planning advised that the subdivision and development of all land for residential purposes, other than the 'Residential (Yakamia Creek)' area, should be dependent on connection to reticulated sewer. Western Power and the Water Corporation both reiterated a need to designate areas for substations to facilitate power distribution and effluent disposal. Modifications to the Structure Plan have been completed to reflect this advice.
34. To allay concerns about financial contributions, a comprehensive *Road Contribution Plan* has been developed and is appended to the Structure Plan. It clarifies the methodology used in determining the contributions and the amounts that will be required.

GOVERNMENT & PUBLIC CONSULTATION

35. In 2012, the City undertook informal consultation with landowners within the structure plan area and received the following comments, as summarised:
- *The land should be planned to accommodate residential living.*
 - *Creek areas should be turned into public parkland.*
 - *A north-south transport link is greatly recommended.*
 - *Vegetation in designated wetland and public open space areas should be protected.*
 - *Valley areas should be reserved for recreation.*
 - *The area should be developed into a mixture of smaller and 'special rural' lots.*

- *The creeks should be regenerated and a cycle-way developed to connect to the Brooks Garden shopping precinct.*
 - *We would like to see an area flooded and lakeside lots created.*
36. Additionally, most of those who responded to the consultation exercise indicated that they would support the creation of smaller lots and were in full support of future development in the locality.
37. Due to the presence of potential environmental impediments, the draft Structure Plan was specifically referred to the Office of the Environmental Protection Authority and property developers for appraisal, prior to formal advertising.
38. Ongoing informal dialogue and on-site meetings have also taken place between the City and landowners to inform the planning process.
39. The draft Structure Plan was formally advertised in accordance with the requirements of *Local Planning Scheme No. 1* from 4 December 2014 to 30 January 2015 by direct referral to affected landowners, service providers and State Government agencies, and advertisement in the local newspaper.
40. Forty (40) submissions were received from service providers, State Government agencies and members of the public and are summarised and responded to in the attached Schedule of Submissions.

STATUTORY IMPLICATIONS

41. Structure Plans undergo a statutory process in accordance with Section 5.9 of *Local Planning Scheme No. 1* and Schedule 2 of the *Planning and development Regulations 2015*.
42. *Part 4 cl. 19* of the *Planning and Development Regulations 2015* states:
- *The local government must prepare a report on the proposed structure plan and provide it to the Commission. The report on the proposed structure plan must include the following:*
 - *a list of the submissions...*
 - *any comments by the local government in respect of those submissions;*
 - *a schedule of any proposed modifications...*
 - *the local government's assessment of the proposal based on appropriate planning principles;*
 - *a recommendation by the local government on whether the proposed structure plan should be approved by the Commission.*

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

POLICY IMPLICATIONS

44. The Western Australian Planning Commission's *Liveable Neighbourhoods* policy has been used to guide the development of the *Yakamia/Lange Structure Plan*. The following principles from *Liveable Neighbourhoods* are of particular relevance to the Structure Plan:
- The ceding of a foreshore reserve will generally not be included in the calculation of a 10% contribution to the provision of public open space;
 - Increased integration of urban water management elements into the urban form will be promoted; and
 - A variety of lot sizes will be provided.

45. *State Planning Policy 2 – Environment and Natural Resources* has also been used to guide the development of the Structure Plan, particularly the following key policy measures:
- Avoid development that may result in unacceptable environmental damage;
 - Actively seek opportunities for improved environmental outcomes including support for development which provides for environmental restoration and enhancement; and
 - Protect significant natural, Indigenous and cultural features, including sites and features significant as habitats and for their floral, cultural, built, archaeological, ethnographic, geological, geomorphological, visual or wilderness values.
46. *State Planning Policy 2.9 – Water Resources* has also been considered in the preparation of the Structure Plan. The objectives of *State Planning Policy 2.9* are as follows:
- Protect, conserve and enhance water resources that are identified as having significant economic, social, cultural and/or environmental values;
 - Assist in ensuring the availability of suitable water resources to maintain essential requirements for human and all other biological life with attention to maintaining or improving the quality and quantity of water resources; and
 - Promote and assist in the management and sustainable use of water resources.
47. The Structure Plan has been prepared in accordance with *State Planning Policy 3 – Urban Growth and Settlement*. The objectives of *State Planning Policy 3* are as follows:
- To promote a sustainable and well planned pattern of settlement across the State, with sufficient and suitable land to provide for a wide variety of housing, employment, recreation facilities and open space.
 - To build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities.
 - To manage the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community values and constraints.
 - To promote the development of a sustainable and liveable neighbourhood form which reduces energy, water and travel demand whilst ensuring safe and convenient access to employment and services by all modes, provides choice and affordability of housing and creates an identified sense of place for each community.
 - To coordinate new development with the efficient, economic and timely provision of infrastructure and services.
48. *State Planning Policy 3.6 – Development Contributions for Infrastructure* states sets the following principles for the levy of development contributions:
- “1. Need and the nexus**
The need for the infrastructure included in the development contribution plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).
- 2. Transparency**
Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.

3. Equity

Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.

4. Certainty

All development contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of a development.

5. Efficiency

Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.

6. Consistency

Development contributions should be applied uniformly across a Development Contribution Area and the methodology for applying contributions should be consistent.

7. Right of consultation and arbitration

Land owners and developers have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe that the calculation of the contributions is not reasonable in accordance with the procedures set out in the draft Model Scheme Text in appendix 2.

8. Accountable

There must be accountability in the manner in which development contributions are determined and expended.”

Part 5.3.2 of the Policy makes provision for development contributions to be calculated and applied:

“Development contributions are generally calculated and applied by way of conditions of subdivision, strata subdivision or development, particularly in greenfield areas. Development contributions may also be sought in infill and redevelopment areas at the time of subdivision, strata subdivision or development.

They may be calculated and applied as –

- *Standard conditions of subdivision or strata subdivision;*
- *Conditions of development.”*

The Policy states that it should be implemented through:

“...the day-to-day consideration of zoning, subdivision, strata subdivision and development proposals and applications, together with the actions and advice of agencies in carrying out their responsibilities.”

The WAPC and Local Government are required to have regard to *State Planning Policy 3.6* when seeking developer contributions for infrastructure.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation</p> <p><i>The aspirations of some landowners may not have been met.</i></p>	Likely	Insignificant	Low	<p><i>The City of Albany, in developing the Yakamia/Lange Structure Plan followed procedures as set out in Section 5.9 of Local Planning Scheme No. 1.</i></p> <p><i>The City has undertaken extensive consultation with service providers, Government agencies, landowners and members of the public, which exceeded the basic statutory requirements set out in Section 5.9 of the Scheme.</i></p>
<p>Community, Organisational Operations and Reputation</p> <p><i>Landowners may object to the recommendations made by the Structure Plan.</i></p>	Likely	Minor	Medium	<p><i>The City consulted widely in developing the Yakamia/Lange Structure Plan.</i></p> <p><i>The City understands that landowners expect to be able to use and develop their land as desired.</i></p> <p><i>However, there are instances where legislative requirements override landowners' expectations. Remnant vegetation and waterways exist throughout the Structure Plan area. The City of Albany and State Government Departments require development to be considerate of protecting the integrity of waterways and remnant vegetation.</i></p> <p><i>The Structure Plan seeks to find a balanced approach between landowner aspirations and conservation of the environment.</i></p>

FINANCIAL IMPLICATIONS

50. Two new local distributor roads (Range Road and Barnesby Drive) and six major intersections will ultimately be required within the structure plan area. The Structure Plan makes provision for the City to obtain a financial contribution from developers towards the construction of these roads and intersections.

51. A comprehensive *Road Contribution Plan* has been developed and appended to the Structure Plan. Western Australian Planning Commission *State Planning Policy 3.6 – Development Contributions for Infrastructure* allows the City to implement the Road Contribution Plan, which has calculated the developer contribution on a per lot basis for each new lot created, as a condition of subdivision in accordance with *State Planning Policy 3.6*.

52. The 'Public Parkland' areas identified for public open space and foreshore reserves are to be ceded to the Crown and vested with the City for management purposes, at the time of subdivision. The City will incur costs associated with the ongoing maintenance of the 'Public Parkland' areas.

LEGAL IMPLICATIONS

53. There are no legal implications in relation to this item.

ENVIRONMENTAL CONSIDERATIONS

54. The Structure Plan has been informed by the Office of the Environmental Protection Authority, and seeks to provide a balanced approach to protect environmentally sensitive areas and to accommodate development.

55. The Structure Plan has clarified that:

If a developer proposes to take an action in a designated 'Private Conservation' area that is likely to have a significant impact on a matter of national environmental significance. For instance, clearing of vegetation that would affect the habitat of Carnaby's Black Cockatoo, the developer may need to obtain approval from the Commonwealth Environment Minister, prior to taking that action.

ALTERNATE OPTIONS

56. Council may resolve to advise the Commission to support the Structure Plan with a modification to allow rural residential living areas (large unsewered lots). Such a resolution would be contrary to the City's Local Planning Strategy, which recommends fully serviced urban development and is unlikely to be supported by the Commission. The Department of Planning has previously advised the following on behalf of the Commission:

A statement should...be included in the statutory section that all new lots must be connected to reticulated sewer.

SUMMARY CONCLUSION

57. Council is requested to agree to provide a recommendation to the commission to approve the Yakamia/Lange Structure Plan, as it is consistent with the current strategic direction set by the *Albany Local Planning Strategy* and *State Planning Policy 3* and has been developed with consideration of economic, environmental and social criteria.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Planning and Development Regulations 2015</i> 2. <i>Local Planning Scheme No. 1</i> 3. <i>Albany Local Planning Strategy 2010</i> 4. <i>City of Albany Strategic Community Plan 2023</i> 5. <i>City of Albany Corporate Business Plan 2013-2017</i> 6. Western Australian Planning Commission <i>Structure Plan Preparation Guidelines 2012</i> 7. Western Australian Planning Commission <i>Liveable Neighbourhoods 2009</i> 8. Western Australian Planning Commission <i>State Planning Policy 2 – Environment and Natural Resources</i> 9. Western Australian Planning Commission <i>State Planning Policy 2.9 – Water Resources</i> 10. Western Australian Planning Commission <i>State Planning Policy 3 – Urban Growth and Settlement</i> 11. Western Australian Planning Commission <i>State Planning Policy 3.6 – Development Contributions for Infrastructure</i>
File Number (Name of Ward)	:	LP.PLA.1
Previous Reference	:	<p>O.C.M. 25/11/2014 – Item PD060 O.C.M. 22/09/2015 – Item PD093</p>

**PD104: INDUSTRY – EXTRACTIVE (GRAVEL AND SAND), LOT 110, 105
BON ACCORD ROAD, KING RIVER**

Land Description : Lot 110, 105 Bon Accord Road, King River.
Proponent : Palmer Earthmoving
Owner : David Palmer
Business Entity Name : Palmer Earthmoving Australia Pty Ltd
Directors : David Palmer
Attachments : 1. Area Plan
2. Schedule of Submissions
3. Proposed Extractive Area Map
Supplementary Information & Councillor Workstation: : Copy of submissions
Report Prepared by : Senior Planning Officer (A Bott)
Responsible Officer : Executive Director Planning & Development (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the strategic directions identified in the *Albany Local Planning Strategy*.

Maps and Diagrams:



In Brief:

- Council is asked to consider an application for development approval for an Industry – Extractive (Gravel and Sand), which would extend the existing extractive industry operations on Lot 110, 105 Bon Accord Road, King River.
- The application was advertised for public comment and referred to surrounding residents.
- Fourteen letters of objection have been received from nearby residents. The objections primary relate to concerns over traffic, amenity impacts and environmental impacts.
- Due to the objections, the application is being referred to Council for determination.
- At the November 2015 Planning Committee Meeting, the matter was deferred to allow a site visit to be undertaken.
- Two Councillor site visits were undertaken to the property.
- Staff recommend that Council approve the proposed development, subject to conditions, which are considered to mitigate the concerns raised through the public advertising process.

RECOMMENDATION

**PD104: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council resolves to ISSUE a notice of determination granting development approval with conditions for Industry – Extractive (Gravel and Sand) at Lot 110, 105 Bon Accord Road, King River.

Conditions:

- (1) Unless varied by written agreement with the City of Albany, all development shall occur in accordance with the stamped, approved plans dated XX XXXX 2015.
- (2) The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans dated XX XXXX 2015.
- (3) A revised plan shall be submitted for approval in writing by the City of Albany, identifying a 30 metre setback from all boundaries.
- (4) Weed management measures shall be incorporated into the Rehabilitation Management Plan, to the satisfaction of the City of Albany.
- (5) All Management Plans shall be implemented to the satisfaction of the City of Albany.
- (6) Operation of the extraction areas shall be restricted to the hours of 7.00am – 6.00pm Monday to Friday, 8.00am – 5.00pm Saturday, with no operation permitted on Sundays or Public Holidays.
- (7) Only one hectare of the extraction area identified on the stamped, approved plans dated XX XXXX 2015 shall be opened at any one time.
- (8) Top soil to a depth of 150mm, unless otherwise approved by the Director Works and Services, shall be removed from the extraction areas and stored on-site for use in later rehabilitation works.
- (9) A minimum of 150mm of top soil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the Director Works and Services.
- (10) A refundable bond/bank guarantee of \$1550.00 per hectare shall be lodged with the

City of Albany for remediation work if required.

- (11) The site shall be suitably rehabilitated and re-contoured on a per hectare basis, including re-battering of banks and reseeded and stabilising of former extraction areas.**
- (12) Surface water management shall be undertaken to ensure that extraction areas are suitably drained, with no direct discharge from the extraction area to any watercourse, without the prior approval of the Department of Water.**
- (13) No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Environment Regulation.**
- (14) Details of screen planting between the extraction areas and Chester Pass Road, Bon Accord Road and the surrounding lots shall be submitted for approval in writing by, and implemented to the satisfaction of the City of Albany.**
- (15) No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.**
- (16) The developer shall liaise with school bus operators to establish a traffic schedule to avoid potential conflict with school bus operations, to the satisfaction of the City of Albany.**
- (17) The developer shall be responsible for the repair of any undue damage to Bon Accord Road caused by the extraction operations.**

PD104: COMMITTEE RECOMMENDATION

**MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR SUTTON**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

PD104: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting development approval with conditions for Industry – Extractive (Gravel and Sand) at Lot 110, 105 Bon Accord Road, King River.

Conditions:

- (1) Unless varied by written agreement with the City of Albany, all development shall occur in accordance with the stamped, approved plans dated XX XXXX 2015.
- (2) The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans dated XX XXXX 2015.
- (3) A revised plan shall be submitted for approval in writing by the City of Albany, identifying a 30 metre setback from all boundaries.
- (4) Weed management measures shall be incorporated into the Rehabilitation Management Plan, to the satisfaction of the City of Albany.
- (5) All Management Plans shall be implemented to the satisfaction of the City of Albany.
- (6) Operation of the extraction areas shall be restricted to the hours of 7.00am – 6.00pm Monday to Friday, 8.00am – 5.00pm Saturday, with no operation permitted on Sundays or Public Holidays.
- (7) Only one hectare of the extraction area identified on the stamped, approved plans dated XX XXXX 2015 shall be opened at any one time.
- (8) Top soil to a depth of 150mm, unless otherwise approved by the Director Works and Services, shall be removed from the extraction areas and stored on-site for use in later rehabilitation works.
- (9) A minimum of 150mm of top soil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the Director Works and Services.
- (10) A refundable bond/bank guarantee of \$1550.00 per hectare shall be lodged with the City of Albany for remediation work if required.
- (11) The site shall be suitably rehabilitated and re-contoured on a per hectare basis, including re-battering of banks and reseeded and stabilising of former extraction areas.
- (12) Surface water management shall be undertaken to ensure that extraction areas are suitably drained, with no direct discharge from the extraction area to any watercourse, without the prior approval of the Department of Water.
- (13) No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Environment Regulation.
- (14) Details of screen planting between the extraction areas and Chester Pass Road, Bon Accord Road and the surrounding lots shall be submitted for approval in writing by, and implemented to the satisfaction of the City of Albany.
- (15) No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.
- (16) The developer shall liaise with school bus operators to establish a traffic schedule to avoid potential conflict with school bus operations, to the satisfaction of the City of Albany.
- (17) The developer shall be responsible for the repair of any undue damage to Bon Accord Road caused by the extraction operations.

BACKGROUND

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. The proponent has previously held a Planning Scheme Consent for an extractive industry (gravel) on the subject lot. This Planning Scheme Consent was issued on 21 September 2004; however, in 2010 the proponent chose not to renew their annual Extractive Industry License.
6. The approval was subsequently renewed and extended following approval by Council at its Ordinary Meeting on 24 June 2014.
7. The subject lot lies to the northern side of Bon Accord Road, approximately 11km north-east of the Albany City centre. The lot has an area of approximately 28.6 hectares and is zoned 'General Agriculture' under City of Albany *Local Planning Scheme No. 1*.
8. A 'Rural Residential' area lies to the south-east and the large lot to the west is currently zoned for 'Rural Residential' lots; however, this lot is yet to be subdivided in accordance with the approved Subdivision Guide Plan.
9. The application was advertised for public comment for a period of 21 days. Nearby landowners were directly notified by letter, a site notice was placed on site and an advertisement was published in a local newspaper. A total of fourteen submissions were received, all of which raise objections to the proposal.
10. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

DISCUSSION

11. The subject lot is currently under pasture, with an area utilised for extractive industry purposes.
12. The proponents have provided the following (summarised) outline of how the proposed expansion of the extractive industry will operate:
 - The topsoil will be stripped by a bulldozer to a depth of approximately 100-150 millimetres and stockpiled along the edge of the extraction areas to create a bund that will screen the extraction area from sight. This topsoil re-laid once extraction is complete.
 - The total area open at any time would not exceed one hectare.
 - It is proposed to progressively rehabilitate the site back to the original pasture, upon completion of the extraction operations.
13. The proponents have submitted Dieback, Drainage, Rehabilitation and Noise Management Plans in support of the application.
14. The application is generally consistent with the City of Albany *Extractive Industry and Mining* local planning policy. Compliance with the policy is discussed in paragraph 48 below.
15. A total of fourteen submissions were received from members of the public during the advertising period, all of which objected to the proposal.
16. The objections relate primarily to the potential impacts on amenity, environment, and traffic from the proposed operations.

17. The main concerns raised and the proposed mitigation measures will be addressed via the headings below.

Traffic

18. A number of submissions have raised concerns regarding the anticipated number of truck movements and the use of Bon Accord Road as a haulage route.
19. The proponents have stated that the estimated number of truck movements would be eight per day. They have also stated that this figure represents the average number of truck movements per day over the previous 12 months, based on recorded data. In terms of vehicle numbers, it is often that case with extractive industries that vehicle movements are seasonal and vary according to construction demand.
20. The proposal states that the majority of vehicles movements would travel towards Chester Pass Road. Chester Pass Road is a designated Priority Heavy Freight Route under the Main Roads WA road hierarchy and is used daily by heavy vehicles, up to and including 36.5 metre long road trains. Bon Accord Road may be used by the proponents as a haulage route if a client requires a product to be delivered to Lower King or one of the surrounding localities.
21. A number of submissions have requested that the City of Albany apply a planning condition to any approval to prohibit trucks from using Bon Accord Road to travel east towards the Lower King and Kalgan localities.
22. In terms of restricting the use of Bon Accord Road, the City of Albany does not have the statutory authority to control the direction of vehicles which are classified as 'as of right' vehicles by Main Roads WA. An 'as of right' vehicle is defined as any vehicle that is not a Restricted Access Vehicle. Rigid trucks and semi-trailers are not classed as Restricted Access Vehicles and do not require any permits or exemptions from regulatory requirements.
23. If the proponent intends to use vehicles in excess of 'as of right' specifications they will be obligated to apply for permission from the City of Albany and Main Roads WA.
24. The potential for conflict between trucks and school buses was also raised as a concern. In order to mitigate the issue, it is common practice to apply a condition requiring extractive industry operators to liaise with school bus operators to commence a dialogue and establish a schedule to avoid potential conflict.
25. Officers recommend that a standard condition requiring the proponent to rectify any damage to Bon Accord road should also be applied.

Amenity

26. Impact on amenity is a concern consistently raised in the submissions. Concerns primarily relate to noise generated from the proposed development and impacts on visual amenity.
27. With regard to noise issues, the proponents have submitted a Noise Management Plan. The Plan contains a number of provisions to control noise impacts, including;
- Use of topsoil on the perimeter of the pit area to act as a noise attenuation bund;
 - A noise complaint system will be established, whereby any complaints relating to noise will be reported to the site manager. Details of the site manager will be erected at the site gate; and
 - A commitment to respond to noise control instructions issued by the City of Albany.
28. It should also be noted that the nearest dwelling is located 500 metres from the extraction area and any operations would be subject to ongoing compliance with the *Environmental Protection (Noise) Regulations 1997*.

29. It is recommended that the implementation and ongoing compliance with the Noise Management Plan be applied as a condition of approval.
30. In terms visual amenity, the staging and rehabilitation of areas will serve to reduce the overall visual impact of the proposed works. Extractive industries are subject to an annual licence renewal inspection to ensure that rehabilitation work is correctly carried out.
31. Further to the above, the closest section of the proposed extraction area would be approximately 180 metres from Chester Pass Road. In terms of visual impact, it should be noted that a number of rural industries have been developed adjacent to the preceding section of Chester Pass Road.
32. There is also a 180 metre section of screening vegetation which runs north along Chester Pass Road from the intersection with Bon Accord Road. The scattered vegetation on the lot boundary adjoining Bon Accord Road will also reduce the visual impact from public vantage points.
33. It is recommended that a planning condition is applied to require the implementation of screen planting along sections of Bon Accord road that do not have existing vegetation.
34. Further planning conditions would be applied in accordance with the *Extractive Industry and Mining* local planning policy to ensure ongoing compliance with the required setback distances from boundaries and watercourses (30 metres and 50 metres respectively).
35. In terms of amenity, concerns were also raised over potential dust issues.
36. In response to these concerns, the proponents have submitted a Dust and Particle Management Plan. The plan incorporates a number of dust mitigation measures, including;
 - Limiting stockpiles to anticipated output for the following days;
 - Locating stockpiles away from prominent ridges or seasonal prevailing winds and limiting their heights no more than three metres;
 - Crushing equipment and conveyors will utilise spray bars as required;
 - Timing of earthworks will coincide with low wind conditions; and
 - A dust complaint system will be established, any complaints will be forwarded to the site manager. Site manager details will be displayed on the gate.
37. It is recommended that the implementation and compliance with the Dust Management Plan is applied as a condition of approval.
38. It is considered that the Dust Management Plan, in conjunction with the distance to nearby dwellings, will mitigate any potential amenity issues resulting from dust.

Environment

39. Concerns regarding environmental impacts were raised consistently in the submissions.
40. A number of concerns were raised in relation to water runoff from the extraction area and the detrimental impacts that this could have on waterways.
41. The Department of Water was consulted and has advised the City that standard water control conditions are applicable to the proposal, which includes surface water management being undertaken by the developer.
42. The proponents have also submitted a Drainage Management Plan. While it is likely that surface water collecting in the excavation area will soak into the ground in-situ, it is also advised that cut off drains are installed as required, to guide any run off into the existing approved dams on the lot.

43. The proponents have indicated an intention to remove sections of vegetation, in order to extract the underlying material, and will be required to apply for a clearing permit from the Department of Environment Regulation if they wish to pursue this course of action.
44. Approval of an extractive industry by the City of Albany does not grant approval to clear the vegetation identified on the plan for removal. The Department of Environment Regulation does not generally consider applications for clearing permits until local government has made a determination on the development proposal.
45. A number of submissions raised concerns regarding weed management on the lot. In order to specifically manage this issue through the rehabilitation process, it is recommended a condition is applied requiring the inclusion of weed management measures within the Rehabilitation Management Plan.
46. The proponents have submitted a Dieback Management Plan in order to reduce the risk of Dieback Disease being spread. Among other controls, the plan states that equipment will be washed down upon entering/exiting the site and that the trucks carrying material from the site will be covered to ensure there is no spillage. It is recommended that implementation of, and compliance with, the Dieback Management Plan is required as a condition of approval.

GOVERNMENT & PUBLIC CONSULTATION

47. The proposal was advertised for public comment for a period of 21 days, in accordance with clause 9.4 – *Advertising of Applications of Local Planning Scheme No. 1*. A sign was placed on site, an advert was published in a local newspaper and surrounding landowners were directly notified in writing.
48. A total of fourteen submissions were received during the advertising period. All fourteen submissions objected to the proposal. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed in paragraphs 13 – 43 above.

STATUTORY IMPLICATIONS

49. Extractive Industry is classified as an 'A' use within the 'General Agriculture' zone under *Local Planning Scheme No. 1*, meaning that the use is not permitted, unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the Scheme.
50. Voting requirement is a **Simple Majority**.

POLICY IMPLICATIONS

51. The primary assessment criteria for the application are set out in the City of Albany *Extractive Industry and Mining* local planning policy.
 - a. The proposal is classified as a class 2 extractive industry under the policy. Class 2 extractive industries have site extraction areas of between 0.75 and 3 hectares with a maximum depth of 3 metres.
 - b. The Policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The Environmental Protection Authority's *Separation Distances between Industrial and Sensitive Land Uses* guidelines set out a buffer of between 300-500 metres for these activities. Although this buffer is not contained within the lot boundaries, the closest dwelling is over 500 metres from both of the nominated extraction areas, and is therefore compliant with the intent of the *Separation Distances between Industrial and Sensitive Land Uses* guidelines.
 - c. A condition will be recommended in accordance with the policy which requires pits to be located 30 metres from any public road.
 - d. The proposed pit area complies with the requirement of being set back a minimum of 50 metres from a watercourse or body.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation <i>The proposed use could give rise to unacceptable detrimental impacts on the amenity of the area.</i></p>	Possible	Moderate	Medium	<i>Mitigation of impacts to be achieved through adoption and enforcement of conditions.</i>

FINANCIAL IMPLICATIONS

53. All costs associated with the development will be borne by the proponent.

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

LEGAL IMPLICATIONS

55. Council is at liberty to use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the State Administrative Tribunal, in accordance with Section 252 of the *Planning and Development Act 2005*.

56. The proponent has the right to seek a review of the Council's decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

ENVIRONMENTAL CONSIDERATIONS

57. The subject lot is under pasture and slopes downward from north to south. There is a large stand of trees in the western half of the lot and scattered vegetation across the southern extent of the lot, adjacent to Bon Accord Road. The existing extraction sites lie to the east of the large stand of trees. A seasonal creekline runs across the western extent of the lot, approximately 140 metres from the proposed extraction area.

ALTERNATE OPTIONS

58. Council has the following alternate options in relation to this item, which are:

- To determine that the proposed use is unacceptable and to resolve to refuse the application; or
- To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

SUMMARY CONCLUSION

59. The proposal is considered to be consistent with the objectives of the zone and the requirements of the City of Albany's *Extractive Industry and Mining* local planning policy. The matters raised in the public submissions received during the advertising period have also been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions. On this basis, it is considered the proposal can be appropriately managed through ongoing conditions and the yearly licence renewal process.

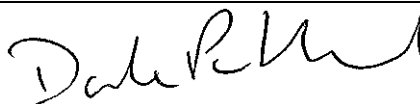
60. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Extractive Industries and Mining local planning policy</i> 4. <i>Environmental Protection (Noise) Regulations 1997</i> 5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses</i>
File Number (Name of Ward)	:	A69488 (Kalgan Ward)
Previous Reference	:	OCM – 24/06/2014 – PD036

PD106: INDUSTRY – EXTRACTIVE INDUSTRY - ADDITION (ASPHALT PLANT), LOT 102, MINDIJUP ROAD, PALMDALE

Land Description : Lot 102, Mindijup Road, Palmdale.
Proponent : Spinifex Crushing and Screening Services Pty Ltd
Owner : Martin Shuttleworth
Business Entity Name : Spinifex Crushing and Screening Services Pty Ltd
Directors : Martin James Shuttleworth
Attachments : 1. Area Plan
2. Copy of the application
3. Schedule of Submissions
Supplementary Information & Councillor Workstation: Copy of submissions
Fact Sheet
Plan showing all approved uses
Traffic Log
Report Prepared by : Planning Officer (J Anderson)
Responsible Officer : Executive Director Planning and Development (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the strategic directions identified in the *Albany Local Planning Strategy*.

Maps and Diagrams:



In Brief:

- Council is asked to consider an application for development approval for an Industry – Extractive (Addition) - Processing (Mobile Asphalt Plant), at Lot 102, Mindijup Road, Palmdale.
- The application was advertised for public comment and referred to surrounding residents.
- Seven submissions were received in relation to the proposal. Five submissions objected to the proposal whilst two had no objections.
- The objections relate primarily to the cumulative impact from the proposed and existing non-agricultural activities onsite:
 - proximity to the Kalgan River
 - flora and fauna
 - increase in traffic
 - impact on the unsealed portion of Mindijup Road
 - visual amenity
 - emissions
 - increased risk of fire
 - not in line with the intent of the Community Strategic Plan (Clean Green and Sustainable)
 - lack of scrutiny by the City of Albany and claims that the proposal is being wrongly classified as an extractive industry.
- A number of existing uses currently occur on the lot. These include Tyre Disposal (P985168), Compost Manufacturing (P295102), Extractive Industry – Sand (P2115193), Extractive Industry – Granite (P2140482) and Charcoal Plant (P2150274).
- Due to the objections received and the cumulative nature of activities onsite, the application is being referred to Council for determination.
- Staff recommend that Council approve the proposed development, subject to conditions, to mitigate the concerns raised through the public advertising process.

RECOMMENDATION

**PD106: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council resolves to ISSUE a notice of determination granting development approval with conditions for Industry – Extractive - Addition (Asphalt Plant) at Lot 102 Mindijup Road, Palmdale.

Conditions:

- (1) The applicant will be responsible for the repair of any undue damage to any road within the City of Albany, caused by the operations.**
- (2) The unsealed section of Mindijup Road, from the sand mine entrance to the north of the GSS Operations entrance (approximately 550m), is to be upgraded and drained at the full cost to the developer, to the specifications and satisfaction of the City of Albany.**

Advice: A typical cross section shall detail a gravel overlay, establish small v-drains and 2 coat seal to a width of 6.2m and shall tie seamlessly into the existing seal.
- (3) Surface water management shall be undertaken to ensure that the operation area is suitably drained, with no direct discharge from the operation to any watercourse, without the prior approval of the Department of Water.**
- (4) Surface water shall be directed away from the operation area into a contained area. Cut off drains shall be installed around the operation area to contain and direct flow into the dam.**
- (5) Operation shall be restricted to the hours of 7.00am – 6.00pm Monday to Friday, 8.00am – 5.00pm Saturday, with no operation permitted on Sundays or Public Holidays.**
- (6) The operation area shall be contained within the area nominated on the stamped, approved plans.**
- (7) Firebreaks, fire fighting equipment and other appropriate fire protection measures shall be maintained in accordance with the Fire Management Plan approved 31 July 2015 (approved as part of the Charcoal Plant), to the satisfaction of the City of Albany.**
- (8) All on-site operators shall be provided with fire fighting training.**
- (9) No clearing or covering of overburden of any native vegetation is permitted without the prior approval from the Department of Environment and Conservation.**
- (10) The Development is required to comply with all relevant Health regulations; in particular, regards should be paid to dust management and noise regulations.**
- (11) Prevention of dust and sand blowing causing a nuisance to adjoining landowners, in accordance with the Department of Environmental Protection's Dust Control Guidelines and the City of Albany Prevention and Abatement of Sand Drift Local Law 2000.**
- (12) The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.**
- (13) Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating the Extractive Industries.**

PD106: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

PD106: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting development approval with conditions for Industry – Extractive - Addition (Asphalt Plant) at Lot 102 Mindijup Road, Palmdale.

Conditions:

- (1) The applicant will be responsible for the repair of any undue damage to any road within the City of Albany, caused by the operations.
- (2) The unsealed section of Mindijup Road, from the sand mine entrance to the north of the GSS Operations entrance (approximately 550m), is to be upgraded and drained at the full cost to the developer, to the specifications and satisfaction of the City of Albany.

Advice: A typical cross section shall detail a gravel overlay, establish small v-drains and 2 coat seal to a width of 6.2m and shall tie seamlessly into the existing seal.
- (3) Surface water management shall be undertaken to ensure that the operation area is suitably drained, with no direct discharge from the operation to any watercourse, without the prior approval of the Department of Water.
- (4) Surface water shall be directed away from the operation area into a contained area. Cut off drains shall be installed around the operation area to contain and direct flow into the dam.
- (5) Operation shall be restricted to the hours of 7.00am – 6.00pm Monday to Friday, 8.00am – 5.00pm Saturday, with no operation permitted on Sundays or Public Holidays.
- (6) The operation area shall be contained within the area nominated on the stamped, approved plans.
- (7) Firebreaks, fire fighting equipment and other appropriate fire protection measures shall be maintained in accordance with the Fire Management Plan approved 31 July 2015 (approved as part of the Charcoal Plant), to the satisfaction of the City of Albany.
- (8) All on-site operators shall be provided with fire fighting training.
- (9) No clearing or covering of overburden of any native vegetation is permitted without the prior approval from the Department of Environment and Conservation.
- (10) The Development is required to comply with all relevant Health regulations; in particular, regards should be paid to dust management and noise regulations.
- (11) Prevention of dust and sand blowing causing a nuisance to adjoining landowners, in accordance with the Department of Environmental Protection's Dust Control Guidelines and the City of Albany Prevention and Abatement of Sand Drift Local Law 2000.
- (12) The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
- (13) Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating the Extractive Industries.

BACKGROUND

1. The City has received an application from the proponent for approval for an additional use to the approved Granite Extractive Industry (P2140482) operation, for the purpose of processing the extracted material (granite) onsite to manufacture asphalt. The asphalt is produced by processing the extracted granite through a mobile asphalt plant.
2. The subject lot lies to the northern side of Mindijup Road, approximately 35km north-east of the Albany City centre. Lot 102 has an area of approximately 584 hectares and is zoned 'Priority Agriculture' under City of Albany *Local Planning Scheme No. 1*.
3. The subject lot is bounded by 'Priority Agriculture' zoned land to the north, east and south and a portion of the west. The west also adjoins 'Parks and Recreation' Reserve, being the Kalgan River.
4. A number of existing uses are currently undertaken on the lot. These include;
 - Tyre Disposal (P985168);
 - Compost Manufacturing (P295102);
 - Extractive Industry – Sand (P2115193);
 - Extractive Industry – Granite (P2140482) and
 - Charcoal Plant (P2150274).
5. The application was initially advertised for public comment for a period of 21 days (15 September 2015 till 6 October 2015). Nearby landowners were directly notified by letter, a site notice was placed on site and an advertisement was published in a local newspaper.
6. In response to concerns raised regarding the cumulative impact of activities on the site, staff prepared and distributed a fact sheet on the proposal and circulated to landowners within a 3 kilometre radius. The submission period was consequently extended to 6 November, 2015.
7. A total of seven submissions were received, five of which raised objections to the proposal, and two which had no objections.
8. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

DISCUSSION

9. The subject lot is bounded by 'Priority Agriculture' zoned land to the north, east, south and a portion of the west. The west also adjoins 'Parks and Recreation' reserve, being the Kalgan River.
10. The subject lot (Lot 102) adjoins Lot 3 to the west which is also under ownership by the proponent.
11. The site is situated on the edge of a plateau element sloping towards the north and west where the Kalgan River is situated. The Kalgan River is located approximately 690m from the proposed operation area (to the west).
12. The proponent seeks approval for an additional use to the approved Granite Extractive Industry (P2140482) operation, for the purpose of processing the extracted material (granite) onsite to manufacture asphalt. The asphalt is produced by processing the extracted granite through a mobile asphalt plant.
13. The addition of an asphalt plant is covered by the definition of Industry – Extractive, as defined within *Local Planning Scheme No. 1* as follows:

'means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry – mining.'

14. The application is generally consistent with the City of Albany Extractive Industry and Mining local planning policy. Compliance with the policy is discussed in paragraph 79 below
15. The proposed operation area is situated to the west of the lot within a previously cleared portion of land which formed part of a blue gum plantation.
16. The total proposed area required for this operation is 400m² which includes the aggregate bunkers, control room, mixing barrel, baghouse and finished product bins.
17. The mobile asphalt plant is 23 meters long with a height of approximately 7.1 meters.
18. The proposed (approximate) setbacks are as follows:
 - 750 metres from the southern boundary
 - 2000 metres from the northern boundary
 - 110 metres from the western boundary (adjoining lot 3 also under ownership of Martin Shuttleworth).
 - 1200 metres from the eastern boundary
19. The mobile asphalt plant will be situated 100 meters from the nearest vegetation.
20. The closest residence is located to the south-west, approximately 1.36 kilometres away from the proposed operation area.
21. Hotmix asphalt is a mixture of aggregates, crushed rock fines, additives and bitumen which is blended together for use as pavement surfacing.
22. The proponents have provided the following (summarised) outline of how the proposed asphalt plant will operate:
 - Asphalt will be manufactured in a batch mix process in which an enclosed conveyor feeds aggregate from a cold feed unit into a sealed, insulated and clad rotary dryer. The aggregates are stockpiled in three-sided, concrete bays (which are equipped with sprinklers for dust suppression) and are transferred to the feed unit via a loader.
 - In the diesel-fired dryer, aggregate is heated to approximately 160 degrees centigrade and is transferred to the pug mill. The remainder of the process occurs within the pug mill, which is fully insulated and enclosed to retain heat and minimise dust and odour emissions.
 - Bitumen is injected hot into the pug mill and is mixed into the hot aggregate with any other required materials (e.g. filler, colouring agents etc) via a twin-shaft paddle mixer. Bitumen is stored onsite in a sealed 40,000 litre tank which is kept heated to prevent the bitumen from solidifying. The mixture is deposited to an elevated heated storage vessel for discharge to asphalt trucks for transport.'
 - The combusted air is exhausted through a baghouse filter. The filter is self-cleaning and contains 224 bags, with a filter area of 240m². Total capacity of the baghouse filter is 27,000 cubic meters per hour. The bag house incorporates an automatic reverse-pulse cleaning system with fines returned to the mixer via a screw conveyor. The manufacturer's specifications for the baghouse state that the dust concentration of the filtered air will be less than or equal to 20 milligrams per cubic metre.

- All aspects of the process are computer-controlled from a central control station.
 - With the exception of 1000 litres of diesel which would be stored in a fully bunded pod, no fuel or hydrocarbons associated with the mobile equipment will be stored onsite. A fuel/service truck will provide all fuel and servicing requirements for the site.
23. Other than bitumen, no other materials are required to be imported into the site.
24. Access to and from the site will be from the existing crossover which is located on the unsealed section of Mindijup Road.
25. All surface runoff will be contained onsite via the use of drains surrounding the operation area and directing all surface runoff to the holding dam to the north-west.
26. A total of seven submissions were received from members of the public during the advertising period, five of which objected to the proposal, and two which raised no objections.
27. The objections relate primarily to the following;
- Proximity to the Kalgan River, flora and fauna;
 - Impact on Flora and Fauna
 - The cumulative impact from the proposed and existing non-agricultural activities onsite;
 - Emissions from the plant (odour, dust, noise);
 - Increase in traffic, impact on the unsealed portion of Mindijup Road, visual amenity, emissions;
 - Impact on Visual amenity;
 - Operation times;
 - Lack of scrutiny on compliance;
 - Proposal is wrongly defined as an 'Extractive Industry';
 - Increased risk of fire;
 - Inconsistency with the intent of the Community Strategic Plan (Clean Green and Sustainable);
 - Risk Reduction; and
 - Not consistent with the objectives of the zone.
28. The main concerns raised and the proposed mitigation measures will be addressed via the headings below.

Proximity to the Kalgan River

29. Four submissions were received in relation to the proximity of the application to the Kalgan River and concerns that the river will become contaminated as a result of the operation.
30. The proposal was referred to the Department of Water. Department of Water provided no objections to the proposal on the basis that cut off drains are installed around the operation area to direct all surface runoff to the existing dam.
31. It is considered that the implementation of the Department of Water advice as a condition will mitigate any potential impact or risk to the Kalgan River.

Flora and Fauna

32. Two submissions were received raising concerns in relation to the potential detrimental impact on flora and fauna, particularly on the adjoining nature reserve.
33. In addition to the above, another submission requested that the City undertake a Strategic Assessment to identify the cumulative impacts of the proposed activities in relation to the landscape, flora, fauna, public amenity, soil, water, resources, wastes, noise, transport, and road safety.
34. The proposal was referred to all the relevant agencies, including Department of Environment Protection, and the Department of Water. No objections were received.
35. In terms of environmental assessment, the proposal requires a separate Works Approval from the Department of Environmental Regulation (DER). DER will assess the environmental acceptability of the all aspects of the application against standards and policies.
36. The Department of Environment Regulation does not consider applications for Works Approval until the local government has made a determination on the development proposal. Therefore, if approval is granted by the City of Albany, the asphalt plant is unable commence use until a separate DER works approval is granted.
37. It is considered that the proposed conditions, setback distances and operational guidelines, in conjunction with the DER Works Approval process, will mitigate and manage the environmental concerns raised.

Cumulative Impact

38. Two submissions were received raising concerns in regards to cumulative impact of non-agricultural activities on the site and that the City should be looking at the activities on the site as a whole, rather than in a piecemeal fashion.
39. The existing approved uses include –
 - Tyre Disposal (P985168)
 - Compost Manufacturing (P295102)
 - Extractive Industry – Sand (P2115193)
 - Extractive Industry – Granite (P2140482) and
 - Charcoal Plant (P2150274).
40. Previous or expired uses include Asbestos Disposal and Extractive Industry (Sand).
41. The lot to the immediate north and east are currently used for Blue Gum Plantations, with the exception of a portion of the eastern boundary which is mostly pasture.
42. The lot to the immediate south of the subject lot is the Mineral Sands (Exploration) Mine.
43. All existing and proposed uses are permissible within this zone and can therefore be considered.
44. In addition to the substantial separation distances between adjoining properties, the current and proposed activities on the site are well screened from Mindijup Road meet all DER buffer distances and will be subject to the additional controls and assessment required via a DER Works Approvals.
45. Given the above information, it considered that the biggest cumulative impact would be in relation to the traffic resulting from the multiple approvals on the property.

46. In consultation with the City of Albany Engineering Department, officers recommend that the unsealed portion of Mindijup Road be widened and sealed at the developers cost. A condition for this requirement has been applied as a condition of approval.
47. In addition to the above, it is recommended that a standard condition be applied requiring the proponent to rectify any damage to local roads.

Emissions from the plant (odour, dust, noise)

48. Concerns were also raised regarding the potential for odour, dust and noise to be generated from the proposed asphalt plant.
49. The applicant has advised that with this new type of plant, as the process is fully contained within a sealed unit, the extent of the odours is restricted to the smell from the diesel heating burner which is equivalent to a running truck. In addition to this, the smell of asphalt is generally present within 20 – 30 metres of the plant, but would not exceed the amount you would experience being present when asphalt is being laid on a road.
50. The proposal was referred to Department of Environment Regulation who are the responsible body for assessing the environmental acceptability of the proposal. DER advised have no objections to the proposal and have confirmed they will assess the environmental acceptability of emissions and discharges against their policies and standards once planning approval is granted as part of the Works Approval process.
51. The applicant has advised that dust can be generated by the storage and transport of raw materials (sand and aggregate), and from the site along internal gravel roads. The closest dwelling to the access roads is 680m.
52. The asphalt plant area will be watered regularly for the comfort of workers and to prevent dust escaping the immediate area and therefore a water truck remains onsite for the purpose of dust suppression.
53. In terms of dust from the plant itself, the bag house collects all dust and then places it back into the mix.
54. The applicant has stated that the machine is itself does not exceed the sound typical of farm machinery. It should also be noted that the nearest dwelling is located 1.16 kilometres from the operation area and any operations would be subject to ongoing compliance with the *Environmental Protection (Noise) Regulations 1997*.
55. Officers recommend that the following standard conditions should be applied should the application be supported to mitigate any concerns:
 - *The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.*
 - *Development is required to comply with all relevant Health regulations, in particular, regards should be paid to dust management and noise regulations.*
 - *Prevention of dust and sand blowing causing a nuisance to adjoining landowners, by the installation of sprinklers, utilisation of water tankers, mulching, or by the adoption and implementation of any other suitable land management system in accordance with the Department of Environmental Protection's Dust Control Guidelines and the City of Albany Prevention and Abatement of Sand Drift Local Law 2000.*
56. It is considered that the proposed mitigation measures (with the site being watered down) in conjunction with the distance to the closest dwelling will mitigate any potential amenity issues resulting from dust.

Increased Traffic, the Impact on Infrastructure and the Unsealed Portion of Mindijup Road

57. Four submissions indicated that the unsealed section of Mindijup Road was not adequately constructed to cater for heavy traffic. The submissions also claimed that the unsealed section of Mindijup Road is in a poor state as a result from current activities onsite. Concerns that this road will further deteriorate with frequent additional use by heavy vehicles.
58. The proponents have stated that the estimated number of truck movements associated with this use would be an average of 5 trucks (or 10 movements) per day. vehicle movements associated with extractive industries are in most cases seasonal and vary according to construction demand.
59. The vehicles would exit the site and travel south onto Mindijup Road then south-west along Palmdale Road to reach Chester Pass Road.
60. These vehicle movements would be undertaken by six wheel trucks and semi tippers. These vehicles are permitted on public roads without special permits and are referred to 'as of right' vehicles.
61. An 'as of right' vehicle is defined as any vehicle that is not a Restricted Access Vehicle. Rigid trucks and semi-trailers are not classed as Restricted Access Vehicles and do not require any permits or exemptions from regulatory requirements.
62. In terms of restricting the use of Mindijup Road and Palmdale Road, the City of Albany does not have the statutory authority to control the direction of vehicles which are classified as 'as of right' vehicles by Main Roads WA.
63. The applicant has provided a traffic log generated from the GPS which shows all traffic movements within the last 3 months for all operations. The full log is attached to the report however is summarized below:
 - 674 total vehicle movements within the last three months (or 337 vehicles)
 - When broken down, this works out to be 11.2 vehicle movements per day (excluding Saturday and Sunday's as there are generally no operations apart from the occasional Saturday).
 - If you remove the service truck which is not a heavy vehicle and Site Supervisors movements, then the average vehicle movements are 7.6 per day.
64. The applicant has however advised that the proposal will not affect the daily vehicle movements as due to the restricted number of trucks available by the company, they will not occupy all the uses at the same time.
65. In consultation with the City of Albany Engineering Department, officers recommend as a condition of approval that the unsealed portion of Mindijup Road be widened and sealed at the developers cost.

Visual amenity

66. One submission raised concerns that the plant will be visually obtrusive.
67. Aerial Mapping, in conjunction with a site visit undertaken on 9 November, 2015, confirmed that the subject area is not visible from any other sites due to the location of vegetation.

Operation times

68. One submission raised concerns that the current and proposed activities resemble 24 hour a day operations.
69. this concern mitigated through the following standard condition that will control the hours of operation:

'The operation times would be restricted to that of an Extractive Industry, being Monday to Friday between the hours of 7.00am – 6.00pm and 8.00am – 5.00pm on Saturdays. No operation is permitted on Sundays or Public Holidays.'

Lack of scrutiny and concerns that the existing operations are not run in accordance with the approvals – requests that stakeholders are given the annual inspection reports and advised of any breaches.

70. Extractive Industries are subject to an annual inspection prior to the licence renewal. This process ensures work is being undertaken in accordance with planning conditions and that rehabilitation work is correctly carried out. In addition to this, a rehabilitation bond is held for all extractive industries.
71. A site visit on 9 November 2015 by City staff confirmed that all approvals were in accordance with the planning approvals and no breaches were found.
72. The Department of Environment Regulation has confirmed that they have an inspection schedule for this type of activity, however do not make their reports public.
73. The City of Albany Extractive Industry Inspection reports can be requested through the Freedom of Information Act.

The proposal is wrongly defined as an 'Extractive Industry' and it should be 'General Industry'

74. One submission suggests that the proposal has been wrongly classified as an 'Extractive Industry' and it should be assessed as a 'General Industry', which is a land use not permitted within this zone.
75. The definition of Extractive Industry includes the manufacturing of materials extracted as part of the extractive industry.

Industry – Extractive is defined within the *Local Planning Scheme No. 1* as follows:

'means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry – mining.'

76. As the definition of an Extractive Industry includes the manufacture of products from the materials on, or adjacent to, the land from which the materials are extracted from, the Asphalt Plant can be considered as an ancillary use to the existing extractive industry (Granite).

Risk of fire

77. One submission raised concerns that the proposed use increases the risk of fire. It also stated that if there was a fire, the contaminated runoff would result in the river being contaminated. Within the submission they requested a Fire Management Report.
78. The proposal was referred to the City of Albany's Emergency Management team for comment. As the proposal is adjacent to the existing Charcoal Plant, they were satisfied that the existing Fire Management Plan approved 31 July, 2015, was sufficient. In addition to this, they requested that all operators on site are trained to some extent in fire-fighting and that there should be no operation during restricted/prohibited times.

Community Strategic Plan (Clean, Green and Sustainable)

79. One submission raised concerns that the proposal does not comply with the Community Strategic Plan on the basis that the plan states that we need to protect and enhance our natural environment by protecting and enhancing the health of our catchments and waterways.

80. Clean Green and Sustainable is one factor of the Community Strategic Plan. The pertinent document for the assessment of the statutory matters is Local Planning Scheme No.1. As outlined throughout this report, officers consider that that the large separation distances between adjoining properties, compliant buffer distances, proposed conditions and DER Works Approval obligations, mitigate and manage any environmental concerns.

Risk Reduction

81. One submission raised concerns that the instead of applying conditions to mitigate the risk, the proposal should be relocated where there is no risk.
82. Risk Mitigation forms a separate component to this report.

Not consistent with the objectives of the zone

83. The objectives of the Priority Agriculture zone is as follows;
- a) Identify agricultural land resources that are considered to be of local, State and/or regional significance.
 - b) Provide for a diversity of sustainable intensive and extensive agricultural activities or rural industries that do no impact upon the agricultural activities and protect those land uses from incompatible developments;
 - c) Manage in a sustainable manner the soil and water resources available in the zone;
 - d) Prevent land uses and development within the zone that may adversely impact on the continues use of the zone for a diversity of agricultural purposes; and
 - e) Provide for value-adding opportunities to agricultural and rural products on-site.
84. It is in the Officers opinion that the proposed use will not impact on agricultural activities.
85. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

GOVERNMENT & PUBLIC CONSULTATION

86. The proposal was advertised for public comment for a period of 21 days, in accordance with clause 9.4 – *Advertising of Applications of Local Planning Scheme No. 1*. A sign was placed on site, an advert was published in a local newspaper and surrounding landowners were directly notified in writing.
87. In addition to this, the City prepared a fact sheet on the proposal and distributed it to all landowners within a 3 kilometre radius of the site. The submission period was extended to the 6 November, 2015.
88. A total of seven submissions were received during the advertising period. Five submissions objected to the proposal and two had no objections. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed in **paragraphs 28 – 83 above**.
89. In addition to the public consultation, the proposal was also referred to the Department of Water due to the proximity to the Kalgan River.
90. Advice was received from the Department of Water stating that they had no objections to the proposal. However, it was advised that surface runoff should be contained onsite and directed to the holding dam. Cut off drains around the proposed area should also be implemented to ensure that natural runoff is directed to the dam.

91. The proposal was also referred to the Department of Environment Protection who are the responsible body for assessing the environmental acceptability of the proposal. A response was received advising that they had no objections and would assess the environmental acceptability of the proposal against their policies and standards as part of the Works Approval process.

STATUTORY IMPLICATIONS

92. Extractive Industry is classified as an ‘A’ use within the ‘Priority Agriculture’ zone under *Local Planning Scheme No. 1*, meaning that the use is not permitted, unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the Scheme.

93. Voting requirement is a **Simple Majority**.

POLICY IMPLICATIONS

94. The primary assessment criteria for the application are set out in the City of Albany *Extractive Industry and Mining* local planning policy.

- a. The Policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The Environmental Protection Authority’s *Separation Distances between Industrial and Sensitive Land Uses* guidelines set out a buffer of 1000 metres for these activity. The buffer is contained within the lot boundaries and the closest dwelling is 1.16 kilometres from the operation area, therefore the proposal is compliant with the intent of the *Separation Distances between Industrial and Sensitive Land Uses* guidelines.
- b. The proposal is compliant with the provision of the policy that requires a 30 metre setback from any road.
- c. The proposal is compliant with the requirement of being set back a minimum of 50 metres from a watercourse or body. The proposed setback from the Kalgan River is 690 metres.
- d. The operation will not result in the removal of remnant vegetation.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Organisational Operations and Reputation <i>The proposed use could give rise to unacceptable detrimental impacts on the amenity of the area.</i>	Possible	Moderate	Medium	<i>Mitigation of impacts to be achieved through adoption and enforcement of conditions.</i>

FINANCIAL IMPLICATIONS

96. All costs associated with the development will be borne by the proponent.

97. However, should the proponents be aggrieved by Council’s decision or any attached conditions and seek a review of that decision or conditions through the State Administrative Tribunal, the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

- 100. The operation area is situated on the edge of a plateau element sloping towards the north and west where the Kalgan River is situated. The Kalgan River is located approximately 690m from the proposed site (to the west). There is a large cluster of native vegetation to the west and south and a blue gum plantation to the north.
- 101. The Department of Environment Regulation are the responsible body for assessing the environment acceptability of emissions and discharges, whilst the Department of Water are the responsible body for determining the risk to the Kalgan River.

ALTERNATE OPTIONS

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

SUMMARY CONCLUSION

- 103. The proposal is considered to be consistent with the objectives of the zone and the requirements of the City of Albany’s *Extractive Industry and Mining* local planning policy. The matters raised in the public submissions received during the advertising period have also been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions. On this basis, it is considered the proposal can be appropriately managed through ongoing conditions and the annual licence renewal process.
- 104. It is therefore recommended that Council approve the proposed development, subject to the conditions listed.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Extractive Industries and Mining local planning policy</i> 4. <i>Environmental Protection (Noise) Regulations 1997</i> 5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses</i>
File Number (Name of Ward)	:	A215306 (Kalgan Ward)
Previous Reference	:	

PD107: INDUSTRY – EXTRACTIVE (GRAVEL AND CLAY), LOT 102, MINDIJUP ROAD, PALMDALE

Land Description : Lot 102, Mindijup Road, Palmdale.
Proponent : Great Southern Sands
Owner : Martin Shuttleworth
Business Entity Name : Great Southern Sands
Directors : Martin James Shuttleworth
Attachments : 1. Area Plan
2. Schedule of Submissions
Supplementary Information & Councillor Workstation: Copy of submissions
Fact Sheet
Site plant showing all approved uses
Traffic log
Report Prepared by : Planning Officer (J Anderson)
Responsible Officer : Executive Director Planning and Development (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the strategic directions identified in the *Albany Local Planning Strategy*.

Maps and Diagrams:



In Brief:

- Council is asked to consider an application for development approval for an Industry – Extractive (Gravel and Clay), at Lot 102, Mindijup Road, Palmdale.
- The application was advertised for public comment and referred to surrounding residents.
- Six submissions were received in relation to the proposal. Three submissions raised concerns, 2 submissions had no objections but provided comment, and one submission had no objections.
- The submissions primarily relate to concerns over the cumulative impact of activities on the site, increased heavy haulage traffic, impact on infrastructure, and the condition of the unsealed section of Mindijup Road due to the existing operations. One submission also questioned the lack of scrutiny by the City of Albany and raised concerns that the operations are not run in accordance with the approvals.
- Two submissions received from the adjoining landowners had no objections to the proposal, however requested that Council consider widening and sealing the unsealed section of Mindijup Road given its poor state of repair caused by existing operations in the area.
- A number of existing uses already occur on the lot. These include a Tyre Disposal, Compost Manufacturing, Sand Extractive Industry, Granite Extractive Industry and a Charcoal Plant.
- Due to the cumulative nature of activities onsite, the application is being referred to Council for determination.
- Staff recommend that Council approve the proposed development, subject to conditions, which are considered to mitigate the concerns raised through the public advertising process.

RECOMMENDATION

PD107: COMMITTEE RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to ISSUE a notice of determination granting development approval with conditions for Industry – Extractive (Gravel and Clay) at Lot 102 Mindijup Road, Palmdale.

Conditions:

- (1) **Top soil to a depth of 150mm, unless otherwise approved by the Director Works and Services, shall be removed from the extraction areas and stored on-site for use in later rehabilitation works.**
- (2) **A minimum of 150mm of top soil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the Director Works and Services.**
- (3) **The applicant will be responsible for the repair of any undue damage to any road within the City of Albany, caused by the extraction operations.**
- (4) **The unsealed section of Mindijup Road, from the sand mine entrance to the north of the GSS Operations entrance (approximately 550m), is to be upgraded and drained at the full cost to the developer, to the specifications and satisfaction of the City of Albany.**
A typical cross section shall detail a gravel overlay, establish small v-drains and 2 coat seal to a width of 6.2m and shall tie seamlessly into the existing seal.
- (5) **Surface water management shall be undertaken to ensure that extraction areas are suitably drained, with no direct discharge from the extraction area to any watercourse, without the prior approval of the Department of Water.**
- (6) **A refundable bond/bank guarantee of \$1550.00 per hectare shall be lodged with the City of Albany for remediation work if required.**

- (7) Operation of the extraction areas shall be restricted to the hours of 7.00am – 6.00pm Monday to Friday, 8.00am – 5.00pm Saturday, with no operation permitted on Sundays or Public Holidays.
- (8) The site shall be suitably rehabilitated and re-contoured on a per hectare basis, including re-battering of banks and reseeded and stabilising of former extraction areas.
- (9) Any off site fill must be clean soil, free of weed material or of non contaminated inert type 1 waste (as defined by Landfill Waste Classification and Waste Definition 2009).
- (10) The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans.
- (11) No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Environment Regulation.
- (12) No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.
- (13) Only one hectare of the extraction area identified on the stamped, approved plans shall be opened at any one time.
- (14) Development is required to comply with all relevant Health regulations, in particular, regards should be paid to dust management and noise regulations.
- (15) Prevention of dust and sand blowing causing a nuisance to adjoining landowners, in accordance with the Department of Environmental Protection's Dust Control Guidelines and the City of Albany Prevention and Abatement of Sand Drift Local Law 2000.
- (16) The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
- (17) Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating the Extractive Industries.

PD107: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

PD107: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting development approval with conditions for Industry – Extractive (Gravel and Clay) at Lot 102 Mindijup Road, Palmdale.

Conditions:

- (1) Top soil to a depth of 150mm, unless otherwise approved by the Director Works and Services, shall be removed from the extraction areas and stored on-site for use in later rehabilitation works.
- (2) A minimum of 150mm of top soil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the Director Works and Services.

- (3) The applicant will be responsible for the repair of any undue damage to any road within the City of Albany, caused by the extraction operations.
- (4) The unsealed section of Mindijup Road, from the sand mine entrance to the north of the GSS Operations entrance (approximately 550m), is to be upgraded and drained at the full cost to the developer, to the specifications and satisfaction of the City of Albany.

A typical cross section shall detail a gravel overlay, establish small v-drains and 2 coat seal to a width of 6.2m and shall tie seamlessly into the existing seal.
- (5) Surface water management shall be undertaken to ensure that extraction areas are suitably drained, with no direct discharge from the extraction area to any watercourse, without the prior approval of the Department of Water.
- (6) A refundable bond/bank guarantee of \$1550.00 per hectare shall be lodged with the City of Albany for remediation work if required.
- (7) Operation of the extraction areas shall be restricted to the hours of 7.00am – 6.00pm Monday to Friday, 8.00am – 5.00pm Saturday, with no operation permitted on Sundays or Public Holidays.
- (8) The site shall be suitably rehabilitated and re-contoured on a per hectare basis, including re-battering of banks and reseeded and stabilising of former extraction areas.
- (9) Any off site fill must be clean soil, free of weed material or of non contaminated inert type 1 waste (as defined by Landfill Waste Classification and Waste Definition 2009).
- (10) The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans.
- (11) No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Environment Regulation.
- (12) No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.
- (13) Only one hectare of the extraction area identified on the stamped, approved plans shall be opened at any one time.
- (14) Development is required to comply with all relevant Health regulations, in particular, regards should be paid to dust management and noise regulations.
- (15) Prevention of dust and sand blowing causing a nuisance to adjoining landowners, in accordance with the Department of Environmental Protection's Dust Control Guidelines and the City of Albany Prevention and Abatement of Sand Drift Local Law 2000.
- (16) The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
- (17) Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating the Extractive Industries.

CARRIED 7:0

BACKGROUND

1. The City has received an application for development approval for an Industry – Extractive (Gravel and Clay), at Lot 102, Mindijup Road, Palmdale.
2. The subject lot lies to the northern side of Mindijup Road, approximately 35km north-east of the Albany City centre. The lot has an area of approximately 584 hectares and is zoned 'Priority Agriculture' under City of Albany *Local Planning Scheme No. 1*.

3. The subject lot is bounded by 'Priority Agriculture' zoned land to the north, east and south. The west adjoins 'Parks and Recreation' reserve, being the Kalgan River.
4. A number of existing uses are currently being undertaken on the lot. These include Tyre Disposal (P985168), Compost Manufacturing (P295102), Extractive Industry – Sand (P2115193), Extractive Industry – Granite (P2140482) and Charcoal Plant (P2150274).
5. The application was advertised for public comment for a period of 21 days (17 September 2015 till 08 October 2015). Nearby landowners were directly notified by letter, a site notice was placed on site and an advertisement was published in a local newspaper.
6. The submission period was later extended to the 06 November 2015 after staff prepared and distributed a fact sheet on the proposal and circulated it to landowners within a 3 kilometre radius after concerns were raised about the cumulative impact of existing and proposed activities. A total of six submissions were received, three of which raised concerns to the proposal, and three which had no objections.

DISCUSSION

7. The proposal seeks to extract gravel and clay from the subject site and truck the material off site for use within the Albany area.
8. The application is generally consistent with the City of Albany Extractive Industry and Mining local planning policy. Compliance with the policy is discussed in paragraph 48 below.
9. The total proposed extraction area is 3.5ha in area. The total area open at any time would not exceed one hectare.
10. It is estimated that the total resource available is 50,000m³ of gravel and 15,000m³ of clay, estimating the lifespan of the pit to be 3-5 years.
11. Surface runoff will be directed to the dam to the east, away from the river.
12. The proposed extraction area is situated to the east of the lot within a previously cleared portion of land which formed part of a blue gum plantation.
13. The proposed (approximate) setbacks are as follows:
 - 35m from the eastern boundary
 - 1100m from the northern boundary and
 - 1500m from both the southern and western boundaries.
14. The proposed extraction area is located approximately 1500m from the Kalgan River (situated to the west).
15. The closest residence is located to the east, approximately 2.1km away, which exceeds the required 200 meters specified within the Extractive Industry and Mining Policy.
16. Access to and from the site will be from the existing crossover which is located on the unsealed section of Mindijup Road.
17. The proponents have provided the following (summarised) outline of how the proposed extractive industry will operate:
 - Strip topsoil and store to the sides of the pit
 - Rip and push the lateritic gravel with a large bulldozer
 - Load out the resulting gravel with semi-trailers and road trains
 - Progressively rehabilitate the pit as stockpiled material is removed

18. A total of six submissions were received from members of the public during the advertising period, three of which objected to the proposal, and three which did not object, however requested that the City consider widening and sealing the unsealed portion of Mindijup Road.
19. The submissions primarily relate to concerns over the cumulative impact of activities on the site, increased heavy haulage traffic, impact on infrastructure, and the condition of the unsealed section of Mindijup Road due to the existing operations. One submission also questioned the lack of scrutiny by the City of Albany and raised concerns that the operations are not run in accordance with the approvals.
20. The main concerns raised and the proposed mitigation measures will be addressed via the headings below.

Increased Traffic, the Impact on Infrastructure and the Unsealed Portion of Mindijup Road

21. Three submissions indicated that the unsealed section of Mindijup Road was not adequately constructed to cater for heavy traffic. The submissions also states that the unsealed section of Mindijup Road is in a poor state as a result of current activities onsite. There is also a further concern that this road will deteriorate further with frequent additional use by heavy vehicles as a result of further uses being applied for.
22. One submission suggested that the impact of additional traffic and the suitability of the existing road system in the area were also of concern.
23. The proponents have stated that the estimated number of truck movements associated with this use would be an average of 5 trucks (or 10 movements) per day. It should also be noted that the number of vehicle movements associated with extractive industries is seasonal and vary according to construction demand.
24. The vehicles would exit the site and travel south onto Mindijup Road then south-west along Palmdale Road to reach Chester Pass Road.
25. These vehicle movements would be undertaken by six wheel trucks and semi tippers. These vehicles are permitted on public roads without special permits and are referred to 'as of right' vehicles.
26. An 'as of right' vehicle is defined as any vehicle that is not a Restricted Access Vehicle. Rigid trucks and semi-trailers are not classed as Restricted Access Vehicles and do not require any permits or exemptions from regulatory requirements.
27. In terms of restricting the use of Mindijup Road and Palmdale Road, the City of Albany does not have the statutory authority to control the direction of vehicles which are classified as 'as of right' vehicles by Main Roads WA.
28. The applicant has provided a traffic log generated from the GPS which shows all traffic movements within the last 3 months for all operations. The full log is attached to the report however is summarized below:
 - 674 total vehicle movements within the last three months (or 337 vehicles) or 11.2 vehicle movements per day (excluding Saturday and Sunday's as there are generally no operations apart from the occasional Saturday).
 - If the service truck which is not a heavy vehicle and Site Supervisors movements are excluded, the average vehicle movements are reduced to 7.6 movements a day.
29. The applicant has advised that the two proposals will not affect the daily vehicle movements due to the restricted number of trucks available by the company. It is also not the intention or likely for all the uses to be operational on the same day.
30. Officers recommend that a standard condition requiring the proponent to rectify any damage to Mindijup Road should be applied.

31. In consultation with the City of Albany Engineering Department, officers recommend as a condition of approval that the unsealed portion of Mindijup Road be widened and sealed at the developers cost.

Cumulative Impact

32. A number of existing uses already occur on the lot. The uses include; a Tyre Disposal, Compost Manufacturing, Sand Extractive Industry, Granite Extractive Industry and a Charcoal Plant.
33. Previous or expired uses include Asbestos Disposal and Extractive Industry (Sand).
34. The lot to the immediate north and east are currently used as blue gum plantations, with the exception of a portion of the eastern boundary which is mostly pasture.
35. The lot to the immediate south of the subject lot is the Mineral Sands (Exploration) Mine.
36. As the activities are well screened from Mindijup Road and adjoining properties, it is considered that the biggest cumulative impact would be in relation to the traffic. This impact can be dealt with through conditions as discussed in point 30 and 31.

Lack of scrutiny and concerns that the operations are not run in accordance with the approvals

37. Extractive industries are subject to an annual inspection prior to the licence renewal. This process ensures work is being undertaken in accordance with the approved plan and planning conditions and that rehabilitation work is correctly carried out. If a breach is found, the licence is not renewed until such a time as the breach has been rectified.
38. A site visit on 09 November 2015 by City staff confirmed that all approvals were in accordance with the planning approvals and no breaches were found.
39. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

GOVERNMENT & PUBLIC CONSULTATION

40. The proposal was advertised for public comment for a period of 21 days, in accordance with clause 9.4 – *Advertising of Applications of Local Planning Scheme No. 1*. A sign was placed on site, an advert was published in a local newspaper and surrounding landowners were directly notified in writing.
41. In addition to the above, the City prepared and distributed a fact sheet for the proposal to all landowners within a 3 kilometre radius of the site. The submission period was extended to the 6 November 2015.
42. A total of six submissions were received during the advertising period. Three submissions objected to the proposal and three did not object, but requested that the City seal the unsealed portion of Mindijup Road. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed in paragraphs 20 – 40 above.
43. In addition to the public consultation, the proposal was also referred to the Department of Water due to the proximity to the Kalgan River.
44. Advice was received from the Department of Water stating that they had no objections to the proposal, however surface runoff should be contained onsite and directed to the holding dam through using cut off drains around the pit.

STATUTORY IMPLICATIONS

45. Extractive Industry is classified as an 'A' use within the 'Priority Agriculture' zone under *Local Planning Scheme No. 1*, meaning that the use is not permitted, unless the local government

has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the Scheme.

46. Voting requirement is a **Simple Majority**.

POLICY IMPLICATIONS

47. The primary assessment criteria for the application are set out in the City of Albany *Extractive Industry and Mining* local planning policy.

- a. The proposal is classified as a class 2 extractive industry under the policy. Class 2 extractive industries have site extraction areas of between 0.75 and 3 hectares with a maximum depth of 3 metres.
- b. The Policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The Environmental Protection Authority's *Separation Distances between Industrial and Sensitive Land Uses* guidelines do not set out a specific buffer for this type of extraction, however the policy states 200 meters should be achieved between dwellings not on the subject property. Although this buffer is not contained within the lot boundaries, the closest dwelling is approximately 2.1 kilometres from the nominated extraction area, and is therefore compliant with the intent of the *Separation Distances between Industrial and Sensitive Land Uses* guidelines and Policy.
- c. The proposed pit is compliant with the provision of the policy that requires pits be located 30m from any public road.
- d. The proposed pit area complies with the requirement of being set back a minimum of 50 meters from a watercourse or body. The proposed setback from the Kalgan River is approximately 1500 meters.
- e. The operations will not result in the removal of remnant vegetation

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation The proposed use could give rise to unacceptable detrimental impacts on the amenity of the area.</p>	Possible	Moderate	Medium	Mitigation of impacts to be achieved through adoption and enforcement of conditions.

FINANCIAL IMPLICATIONS

49. All costs associated with the development will be borne by the proponent.

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

LEGAL IMPLICATIONS

51. Council can use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the State Administrative Tribunal, in accordance with Section 252 of the *Planning and Development Act 2005*.

52. The proponent has the right to seek a review of the Council’s decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

ENVIRONMENTAL CONSIDERATIONS

53. The extraction area is situated to the west of the subject lot. The Kalgan River is located approximately 1500 metres from the proposed site (to the west). There proposed extraction area is located in a cleared portion of land which was previously used as a blue gum plantation.

ALTERNATE OPTIONS

54. Council has the following alternate options in relation to this item, which are:

- To determine that the proposed use is unacceptable and to resolve to refuse the application; or
- To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

SUMMARY CONCLUSION

55. The proposal is considered to be consistent with the objectives of the zone and the requirements of the City of Albany’s *Extractive Industry and Mining* local planning policy.

56. The matters raised in the public submissions received during the advertising period have also been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions and the yearly licence renewal process.

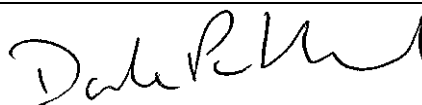
57. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Extractive Industries and Mining local planning policy</i> 4. <i>Environmental Protection (Noise) Regulations 1997</i> 5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses</i>
File Number (Name of Ward)	:	A215306(Kalgan Ward)
Previous Reference	:	

PD108: APPROVAL OF LOCAL DEVELOPMENT PLAN NO. 2, LOT 1005, 35 CATALINA ROAD, LANGE

Land Description : Lot 1005, 35 Catalina Road, Lange 6330
Proponent : Edge Planning
Owner : Nigel and Leah Ryde
Attachments : 1. Location plan
 2. Local Development Plan No. 2 report
Supplementary Information & Councillor Workstation: : Nil
Report Prepared by : Senior Planning Officer (A Bott)
Responsible Officer : Executive Director Planning and Development (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

Maps and Diagrams:



In Brief:

- A Local Development Plan (LDP) has been prepared to guide the development of Lot 1005, 35 Catalina Road, Lange 6330.

- The LDP proposes 35 Residential Lots.
- The draft Local Development Plan was advertised for public comment. A total of one submission was received.
- Council is requested to approve the Local Development Plan, without modification.

RECOMMENDATION

**PD108: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council resolves to APPROVE Local Development Plan No.2 without modification.

PD108: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

PD108: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to APPROVE Local Development Plan No.2 without modification.

BACKGROUND

4. The City of Albany has received an application for a Local Development Plan to provide development guidance and standards for the development of Lot 1005, 35 Catalina Road, Lange 6330.
5. The subject lot is located at 350m to the east of Chester Pass Road, approximately 4km north of the Albany town centre.
6. The surrounding land is zoned Neighbourhood Centre, Residential and Future Urban. The area has a developed shopping centre on the adjoining property to the east.
7. Council previously approved 86 Grouped dwellings on the site at the October, 2011 Ordinary Council Meeting.

DISCUSSION

8. The subject Lot is 1.62 hectares in size and zoned Future Urban under *Local Planning Scheme No.1*.
9. The LDP will enable the creation of 35 Residential Lots, with a prevailing average lots size of 400m².
10. The application was advertised for public comment, with one submission received. The submission is discussed and addressed within the Public comment and Government Consultation section of this report.
11. The property is also subject to the *Catalina Central Planning Framework (CCPF)* and associated Structure Plan. The CCPF identifies the site as medium density residential development. In addition to this designation, the CCPF also identifies the site as a Special Development Area.

12. One of the primary aims of the Special Development Area is to ensure compatibility with the nearby Shopping Centre. The Special Control area provides multiple options for managing noise impacts from the shopping centre on the residential development area. The proponent has elected to develop a solid noise wall along the length of the western boundary of the subject property to mitigate noise issues. The design criteria for the site identify this as a suitable mitigation measure.
13. In addition to the above, it is of note that as part of the 2011 grouped dwelling development, an acoustic assessment of the nearby shopping centre was undertaken. It was determined that the noise output of the Shopping Centre was in accordance with the *Environmental Protection (Noise Regulations) 1997*. The proposed noise wall will therefore reduce the noise impact from the shopping centre on the proposed residential area further.
14. It is necessary to note that under the recently introduced Planning and Development (Local Planning Schemes) Regulations 2015 Local Development plans are no longer binding statutory documents, as detailed within clause 56(1) below;

“A decision-maker for an application for development approval in an area that is covered by a local development plan that has been approved by the local government must have due regard to, but is not bound by, the local development plan when deciding the application.”
15. Therefore, the LDP has the function of providing a number of Residential Design Codes (R codes) guidance statements to vary ‘deemed to comply’ provisions and also provide development standards to be used and applied during the assessment and determination of planning applications for the site.
16. Future development of the site will require the lodgement of a development application. The development application would be assessed against the City of Albany Planning framework and the LDP adopted on the site.
17. The City planning Staff support the Local Development Plan, as it is consistent with the current strategic direction set in the *Albany Local Planning Strategy* and the relevant provisions of *Local Planning Scheme No. 1* and the City of Albany’s Catalina Central Planning Framework.

GOVERNMENT & PUBLIC CONSULTATION

18. The Local Development Plan was advertised from 3 November 2015 to 18 November 2015 by direct referral to adjoining landowners.
19. One submission was received during the consultation process.
20. The submission raised the following concerns;
 - Deficit in parking of nearby dwellings;
 - Request for sand dust be kept to a minimum during construction; and
 - Requesting uniform fencing for the development.
 - Request the possibility of having no homes west rental housing within the Brooks garden area.

Deficit in parking of nearby dwellings

21. The dwellings mentioned within the submission are subject to the R Codes and require two bays to be provided per dwelling. If there is parking issues occurring, the City of Albany has the ability to enforce parking infringements to ensure all parking occurs on property boundaries and does not affect the safety or amenity of the area. The LDP before Council does not impact on the parking requirements or compliance of adjoining properties.

Request for sand dust be kept to a minimum during construction

22. The planning/building and subsequent subdivision process provides the opportunity for dust suppression measures to be applied to development and dust suppression conditions are applied on all of the aforementioned stages. The responsibility lies with developers to ensure that appropriate dust mitigation measures are implemented in response to site conditions and weather.

Requesting uniform fencing for the development

23. The LDP discourages fencing within the front setback area. If fencing is proposed by a landowner, the general R Codes provisions apply. Generally uniform fencing is only applied to properties which directly adjoin public open space areas. Uniform fencing will be constructed by the developer along the proposed Public Access Way.

Request the possibility that there be no Homes west rental housing within the Brooks Garden area.

24. The City of Albany does not have the ability to control the location of Government housing.

STATUTORY IMPLICATIONS

25. Local Development Plans undergo a statutory process in accordance with Part 6 of *Planning and Development (Local Planning Schemes) Regulations 2015*
26. Clause 52 (1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to approve the Local Development Plan with or without conditions.
27. The approval of a local development plan has effect for a period of 10 years commencing on the day on which the local government approves the plan
28. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

29. There are no policy implications pertaining to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation Noting that Local Development Plans are no longer binding, the LDP may not be given due regard by developers during the development application process.</p>	Likely	Moderate	Medium	<p>The Local Development plan is based on sound planning principles with logical variations to the Residential Design codes and associated development standards. Any further variation or request to deviate from the LDP would be assessed against intentions of the LDP and also the full statutory framework pertaining to the site, including the CCPF and Local Planning Scheme No.1.</p>

FINANCIAL IMPLICATIONS

31. There are no financial implications related to the item.

LEGAL IMPLICATIONS

32. There are no legal implications related to the item.

ENVIRONMENTAL CONSIDERATIONS

33. There are no additional environmental controls on the property other than those contained within *Local Planning Scheme No. 1*.

ALTERNATE OPTIONS

34. Council has the following alternate option in relation to this item, which are:

- To resolve to approve the Local Development Plan subject to further conditions; or
- Not to approve the Local Development Plan.

SUMMARY CONCLUSION

35. The matters raised in the submission can be adequately addressed through the Local Development Plan, or can be controlled through the application of planning conditions at the subdivision stage.

36. It is recommended that Council approve Local Development Plan No.1, subject to conditions.

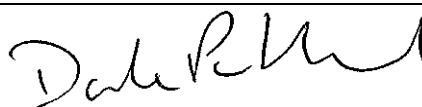
Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>SPP 3.1 - Residential Design Codes</i> 4. <i>City of Albany Strategic Community Plan 2023</i> 5. <i>City of Corporate Business Plan 2013-2017</i> 6. <i>Catalina Central Planning Framework</i>
File Number (Name of Ward)	:	LDP2 (Yakamia Ward)
Previous Reference	:	

**PD109: SUPPORT OF SCHEME AMENDMENT – LOTS 1 AND 973
NANARUP ROAD, LOWER KING**

Land Description : Lots 1 and 973 Nanarup Road, Lower King
Proponent : Ayton Baesjou Planning
Owner : S C Lucas, G A & P M Clark
Business Entity Name : Nil
Attachments : 1. Schedule of Submissions and Modifications
: 2. Albany Local Planning Strategy Excerpts
: 3. Local Planning Scheme Amendment No. 7 report

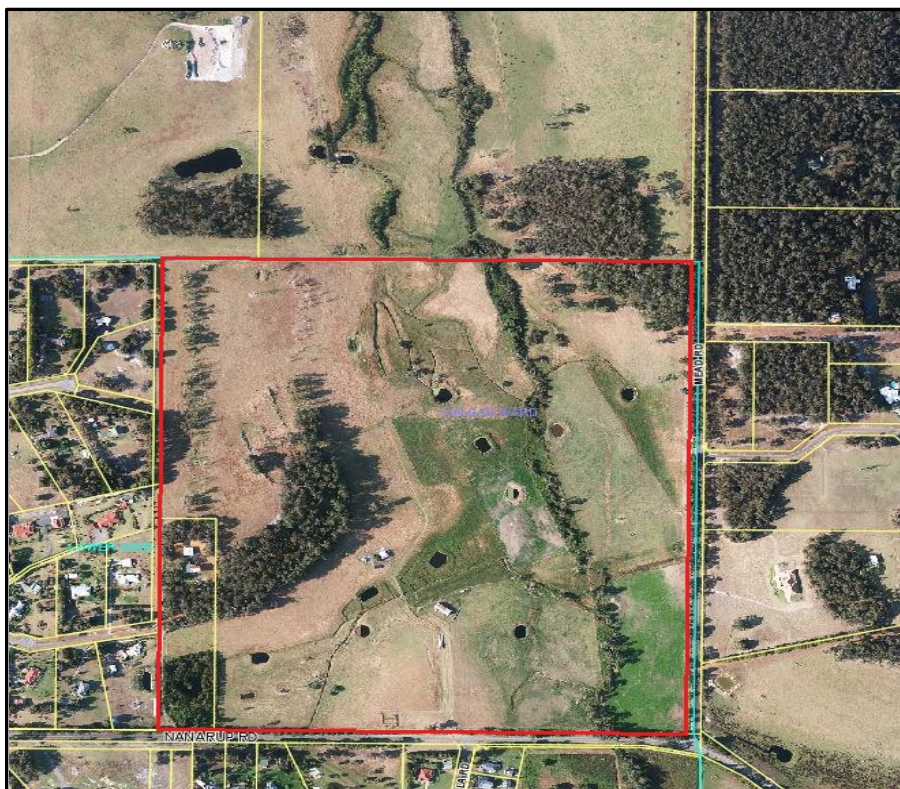
Supplementary Information & Councillor Workstation: : Copy of submissions
Report Prepared by : Planning Officer (C McMurtrie)
Responsible Officer : Executive Director Planning and Development
(D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.
4. Maps and Diagrams:



In Brief:

- A request has been submitted for Council to initiate a Local Planning Scheme Amendment to rezone Lots 1 and 973 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Rural Residential' zone and designating a portion of Lot 973 as an 'Additional Use Site' for the purpose of holiday accommodation.
- The local planning scheme amendment has been advertised for public comment and referred to public authorities in accordance with the requirements of the *Town Planning Regulations 1967*.
- City planning Staff support the proposal, as it is consistent with the current strategic direction set by the *Albany Local Planning Strategy* and State Planning Policy 2.5.
- Council is requested to consider the submissions received following public advertising and referral and to support the local planning scheme amendment.

RECOMMENDATION

**PD109: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005*, resolves to support, with modifications, Amendment No. 7 to City of Albany Local Planning Scheme No. 1 for the purposes of:

- (1) Rezoning Lots 1 and 973 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Rural Residential' zone and incorporating them within area No. RR11, as set out in Schedule 14 – Rural Residential Zone of the Scheme text;**
- (2) Designating a portion of Lot 973 as an Additional Use Site and incorporating it within Schedule 2 – Additional Uses of the Scheme Text; and**
- (3) Amending the Scheme Maps accordingly.**

AND

That Council, pursuant to Schedule 2, Part 4, cl. 20 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to recommend to the Western Australian Planning Commission that the proposed structure plan for Lots 1 and 973 Nanarup Road, Lower King should be approved, subject to modification to:

- (1) Identify a '10-20-10' buffer on proposed lots 1, 2, 3, 4, 5, 24 and 29; and**
- (2) Identify an 'Additional Use' site for 'Aquaculture' over Lot 1 Nanarup Road.**

PD109: COMMITTEE RECOMMENDATION

**MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR STOCKS**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 6-1

Record of Vote

Against the Motion: Councillor Hammond

PD109: RESPONSIBLE OFFICERS RECOMMENDATION

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005*, resolves to support, with modifications, Amendment No. 7 to *City of Albany Local Planning Scheme No. 1* for the purposes of:

- (1) Rezoning Lots 1 and 973 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Rural Residential' zone and incorporating them within area No. RR11, as set out in Schedule 14 – Rural Residential Zone of the Scheme text;
- (2) Designating a portion of Lot 973 as an Additional Use Site and incorporating it within Schedule 2 – Additional Uses of the Scheme Text; and
- (3) Amending the Scheme Maps accordingly.

AND

That Council, pursuant to Schedule 2, Part 4, cl. 20 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to recommend to the Western Australian Planning Commission that the proposed structure plan for Lots 1 and 973 Nanarup Road, Lower King should be approved, subject to modification to:

- (1) Identify a '10-20-10' buffer on proposed lots 1, 2, 3, 4, 5, 24 and 29; and
- (2) Identify an 'Additional Use' site for 'Aquaculture' over Lot 1 Nanarup Road.

BACKGROUND

5. Local Planning Scheme No. 1 was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
6. Amendment No. 7 has been prepared to seek the rezoning of Lots 1 and 973 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Rural Residential' zone and the designation of an additional use site over a portion of Lot 973.
7. Council has currently imposed a moratorium on the initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land. However, this proposal does not conflict with the moratorium, as it was initiated by Council at its Ordinary Meeting on 24 February 2015, for the purpose of public advertising and referral to public authorities, prior to the introduction of the moratorium.
8. The 'Rural Residential' zone is intended to provide for large residential lots of between 2000m² and one hectare in area and is considered a form of rural living.
9. The subject lots are located approximately 11.1 kilometres north-east of Albany town centre and have an area of approximately 60.7 hectares.
10. The land to the east and west of the subject lots is zoned 'Rural Residential', while the land to the south, on the opposite side of Nanarup Road, is zoned 'Special Residential' and 'General Agriculture'. The land to the north is also zoned 'General Agriculture'.

11. The amendment document states that:

"In accordance with ALPS, it is proposed to rezone Lot 973 Nanarup Road from the 'General Agriculture' zone to 'Rural Residential' zone. As the adjoining lots in the south-west corner, Lot 1, is a defacto rural residential lot, it has also been included in the rezoning proposal at the request of the City."

"A 4 ha lot is proposed in the north east corner of the property for short stay tourist accommodation. The elevated land, attractive views over Johnson Creek and trough to Oyster Harbour, together with the remnant vegetation, provide an opportunity to provide an alternative land use to rural residential development. It is noted that Nanarup Road is a significant tourist route, providing access to attractions around King River, Oyster Harbour, the Kalgan River, Nanarup and Two Peoples Bay. It is recommended that up to twelve chalets could comfortably be accommodated on the site with appropriate setback from the remnant vegetation."

DISCUSSION

12. The City planning Staff support the rezoning of Lots 1 and 973 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Rural Residential' zone and the designation of a portion of Lot 973 as an 'Additional Use Site' for holiday accommodation, as it is consistent with the current strategic direction set by the *Albany Local Planning Strategy* (see Attachment 1) and State Planning Policy 2.5.
13. The western portion of the land, where the majority of the proposed lots would be located, is identified in the *Albany Local Planning Strategy* as suitable for Rural Residential Development. The lower-lying land adjacent to Johnston Creek is not identified in the *Albany Local Planning Strategy* for development and has been designated as a development exclusion area. This is proposed due to poor land capability to support development, protection of the creekline with adequate development setbacks and to protect a view corridor across Lot 973.
14. Similarly, the proposed lots on the eastern extent of Lot 973 are not identified in the *Albany Local Planning Strategy* for development. However, the remaining land would not be large enough to host a productive agricultural use. Its development for Rural Residential purposes would also be consistent with the adjacent land to the eastern side of Mead Road.
15. It is proposed to designate the largest of the proposed lots, at four hectares, as an Additional Use site for holiday accommodation. It is recognised that potential exists for the development of short-stay accommodation in this location due to its amenity, rural setting and proximity to a primary tourist route that connects Albany to Gull Rock National Park, Nanarup Beach, Two People's Bay and South Coast Highway.
16. The Department of Agriculture and Food WA have stated that they do not support the proposed amendment, as a proportion of the land is classed as Priority Agricultural Land under the Lower Great Southern Strategy, which infers that it is of good to high quality for intensive agriculture. The Department has also noted that the proposal includes a detailed land use capability assessment, which states that the overall analysis of the agricultural capacity for Lot 1 and 973 is generally fair to poor, with risk for nutrient export from the pale sands. However, the Department considers that the semi-detailed paddock scale mapping does not contradict the regional scale Priority Agricultural Land identification and that the land at present provides good quality grazing and agistment, because of a combination of good and stable soils together with access to consistently available high quality water, which presents excellent conditions for a range of agricultural pursuits including good pasture growth and production.

17. The Department does acknowledge that irrespective of the quality of the land, there are likely to be challenging issues for intensive agriculture on Lots 1 and 973, due to the risks of nutrient export and the 'sandwiched' location of the property. However, the Department considers that the subject land presents a 'unique situation' for the Albany area, in that it has the combination of consistently available and good quality water in association with generally good quality soils, which is a rare and shrinking resource in the Albany area and would be suitable for strawberry product and/or other forms of perennial horticulture.
18. The Department also notes that there is an excess of small rural land holdings currently available in Albany, and that rezoning the subject land to allow for further subdivision would add to that oversupply. The Department believes that much infilling could be done within the immediate city area without claiming more good quality agricultural land.
19. While the Department of Agriculture and Food WA's comments are acknowledged, the majority of the subject land has been identified within the Albany Local Planning Strategy for 'Rural Residential' development. Furthermore, the Priority Agriculture Land identified by the Department extends to two bands across the subject land, extending from 100 to 200 metres in width, which is relatively insignificant in the context of the wider area. Any intensive agricultural use would also risk nutrient export into Johnston Creek.
20. The Department of Health has indicated that existing and potential agricultural activities on surrounding land may impact on the proposed development, particularly where spray drift may result from chemical applications. The Department has recommended that the amendment acknowledge and adhere to the necessary buffer separation distances between agricultural and sensitive land uses.
21. City Staff support the Department of Health's advice and recommend that a '10-20-10' buffer (a 10 metre cleared fire break either side of a 20 metre band of vegetation) is accommodated on each of the proposed lots bounding the 'General Agriculture' zoned land to the north of Lot 973. This will mitigate the potential impact of any spray drift resulting from agricultural activities on the adjoining land. It is recommended that a new provision No. 6 is added under Rural Residential zone RR11 within Schedule 14 – Rural Residential Zone of *Local Planning Scheme No. 1*, requiring that a notification, pursuant to section 165 of the *Planning and Development Act 2005* is to be placed on the certificates of title of proposed lots 1, 2, 3, 4, 5, 24 and 29 advising of the existence of existing agricultural activity.
22. The Department of Mines and Petroleum have noted that there is a current extractive industry licence on Lot 3, to the north of the subject land. The current extraction area lies about 300 metres to the north of the subject land and the Department has expressed concerns that their relative proximity may lead to issues associated with noise, dust and road traffic. The Department has highlighted that the Environmental Protection Authority guidelines recommend a 300 to 500 metre separation distance between sand extraction and sensitive land uses, depending on size, and has requested that the City takes the staging plans in the extractive industry proposal and the Environmental Protection Authority guidelines into account when assessing this amendment.
23. City Staff have noted the presence of the current extractive industry on the adjoining lot to the north and are mindful of potential land use conflict. The extractive industry approval indicates that the extraction area will not extend within 300 metres of the subject lots. The 300 metre separation, combined with the '10-20-10' buffer to mitigate impact from agricultural activity will also mitigate impacts from the extractive industry. It is also recommended that a new provision No. 7 is added under Rural Residential zone RR11 within Schedule 14 – Rural Residential Zone of *Local Planning Scheme No. 1*, requiring that a notification, pursuant to section 165 of the *Planning and*

Development Act 2005 is to be placed on the certificates of title of the proposed lots within 500 metres of the existing extractive industry, advising of its existence.

24. The Department of Water has recommended that a suitable foreshore reserve is provided to Johnston Creek. The Department advises that the foreshore reserve should be determined through a biophysical assessment of the site and should be ceded to the Crown and managed as public open space.
25. The Department acknowledges that there is typically no requirement to give up public open space as a condition of rural residential development; however, they considers that the management of the waterway by the local government would provide better environmental outcomes for Johnston Creek and improved recreational and amenity outcomes for the local community. The Department also considers that there is an opportunity to create a green corridor to the harbour that can be completed when the downstream property is developed.
26. The Department has stated that the foreshore reserve will require the preparation of a foreshore management plan at the time of subdivision, which should identify restoration, public access and the on-going management requirements of the site.
27. City Staff acknowledge the Department of Water's concerns. However, the ceding of foreshore reserves to the Crown typically results in their vesting with the City of Albany, creating a significant maintenance burden. City Staff would support the Department's recommendation that a foreshore management plan be prepared at the time of subdivision and implemented by the two landholders who will assume responsibility for the management of the foreshore.
28. The owner of Lot 1 Nanarup Road has objected to the proposal, stating that he has no intention of rezoning his lot from 'General Agriculture', as he has plans to set up a small aquaponics/aquaculture business on the lot. He has also advised that he may wish to build a larger shed or extend the existing shed on the lot and does not want to be precluded from doing this. He has also stated that he considers the adjoining Lot 973 to be suitable for a fish hatchery or aquaculture, owing to the abundance of water on the lot and that to subdivide the lot would be a wasted opportunity. He notes that the lot could also continue being used for livestock grazing, as it has a high livestock carrying capacity, and that the proposed Additional Use site for tourist accommodation could compliment ongoing agricultural use, while being further supplemented by a café or restaurant. He also states that he considers that only "*infertile, sandy/rock properties should be considered for subdivision, for example at Bon Accord Road*" and raises concern that traffic congestion on Nanarup Road is becoming more significant due to ongoing subdivision within the area.
29. While City Staff acknowledge this position, the exclusion of Lot 1 Nanarup Road from the proposed rezoning would create an isolated 'General Agriculture' zoned lot, completely surrounded by 'Rural Residential' and 'Special Residential' zoned land, which is considered to be a poor planning outcome that could lead to land use conflict. It is also noted that under the provisions of the City's *Non-habitable Structures* local planning policy, the same restrictions on the size of non-habitable structures would apply to Lot 1 Nanarup Road, regardless of whether it is zoned 'General Agriculture' or 'Rural Residential'. In view of these factors, City Staff would recommend that the proposal is modified to include an Additional Use site 'AU32' within Schedule 2 – Additional Uses of *Local Planning Scheme No. 1*, to designate Lot 1 Nanarup Road with the additional use of 'aquaculture' and a condition requiring that development shall be generally in accordance with the structure plan endorsed by the Western Australian Planning Commission, clause 5.5.13 and Schedule 14 – Rural Residential Zone RR11 of *Local Planning Scheme No. 1*.

30. The comments regarding the rezoning and subdivision of Lot 973 are noted; however, this land has been mostly identified within the Albany Local Planning Strategy for rural residential development, while the land along Bon Accord road is identified for general agriculture. It should also be highlighted that there are identified mineral deposits along Bon Accord Road and that extractive industries in the locality have led to land use conflicts with nearby residents.
31. In terms of land use on Lot 973, the provisions of Rural Residential area RR11 already list 'Restaurant' as a discretionary land use, which presents an opportunity for precisely the type of enterprise mentioned in the submission.
32. It is acknowledged that subdivision does lead to increased traffic; however, the level of traffic generated by the proposal is not considered sufficient enough to warrant significant road upgrades.
33. Great Southern Grammar has indicated support for the proposal in principle and has indicated that its School Master Plan anticipates a ring road through the school site with an intersection adjacent to the intersection of Nananup and Mead Roads. It has been suggested that consideration is given to the installation of a roundabout at this location. However, in the absence of any firm proposal from the Great Southern Grammar, the City cannot impose such a requirement at this time.
34. The remaining public submissions raise objection due to a perception that the rezoning of land only financially benefits the landholder and the City of Albany, the proposed road linkages to the rural residential area to the west (Sheringa Park), the likely increase in traffic and noise and the potential for effluent disposal systems to impact on the creek and its environs.
35. While it is certainly true that the landowner will benefit financially from the subdivision of land, the City of Albany will only see a modest rates rise, while simultaneously becoming responsible for waste collection and the maintenance of additional roads and drainage infrastructure.
36. The proposed road linkages to Sheringa Park are for permeability and to provide a secondary means of access/egress in the event of a bushfire emergency. It is unlikely that these road connections would lead to a significant increase in traffic passing through Sheringa Park, as they would most likely carry local traffic between Chester Pass and Bon Accord Roads and the proposed development. The proposed development will not create any noise in excess of that normally experienced in a rural lifestyle development.
37. Regarding the potential impact of effluent disposal systems on the creek and its environs, *Local Planning Scheme No. 1* requires *"the use of alternative treatment effluent disposal systems, in the following situations:*
 - (a) *Where the setback requirements of clause 5.3.6 cannot be achieved;*
 - (b) *Where soil conditions are not conducive to the retention of nutrients on site;*
 - (c) *In low lying areas; and*
 - (d) *In areas where there is a perched winter water table."*
38. The Lower Kalgan Progress Association has objected to the proposal, highlighting that *"with over 50 years' supply (at our current growth rate) of lots currently available for development, there is no demonstrated demand for permitting this development and extending the existing development front"*. The Progress Association have also expressed concern that the lower lying portion of the lot would be split between nine lots and how the management of these lots may impact on the creek and its environs.

39. While it is acknowledged that there is a significant supply of land available for housing within the City of Albany, the majority of the subject land has been identified for rural residential development within the *Albany Local Planning Strategy* and can be considered an infill development between the existing 'Rural Residential' zoned land at Sheringa Park and that to the east along Mead Road.
40. In terms of the fragmentation of the lower lying part of the lot, it must be noted that only two lots encompass the creekline, reducing the number of landowners responsible for the management of the foreshore. The implementation of a foreshore management plan, in accordance with the recommendation of the Department of Water, should ensure effective foreshore management on an ongoing basis.
41. Overall, it is considered that the proposed development represents a final 'Rural Residential' zoned infill in the established rural residential precinct that covers much of the locality and that the various concerns and objections raised can be managed by appropriate planning mechanisms.

GOVERNMENT & PUBLIC CONSULTATION

42. The amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 30 March 2015 to 18 June 2015 by placement of a sign on-site, direct referral to affected and adjoining/nearby landowners and public authorities, and advertisement in the local newspaper.
43. Sixteen (16) submissions were received from public authorities and adjoining landowners and are summarised in the attached Schedule of Submissions. Staff comments and recommendations are also provided in the schedule and the broad issues are discussed in paragraphs 15 and 40 above.

STATUTORY IMPLICATIONS

44. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*, which superseded the *Town Planning Regulations 1967* on 19 October 2015.
45. Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning.
46. Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to support a standard amendment, with or without modification.
47. Regulations 79(2) and 80 of the *Planning and Development (Local Planning Schemes) Regulations 2015* require that any subdivision guide plan already in preparation is to be taken to be a structure plan under these regulations, and that any step taken under the Act and in accordance with the repealed regulations or a State planning policy before commencement day in the preparation of a planning instrument is to be taken to be a step taken in the preparation of a planning instrument of that type under these regulations.
48. In view of this change, it would be necessary for the subdivision guide plan included as a part of this scheme amendment to be referred to the Western Australian Planning Commission for consideration as a structure plan. Provision is made in the Officer's recommendation for this process to continue.
49. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

50. The proposal is considered to be consistent with the key policy measures identified in Western Australian Planning Commission State Planning Policy 2.5 – *Agriculture and Land Use Planning*.
51. State Planning Policy 2.5 was gazetted in 2012 and has provided a comprehensive review and refinement of the previous Development Control Policy 3.4 – *Rural Land Use Planning* (1989). The Western Australian Planning Commission and Local Government are required to have regard to State Planning Policy 2.5 in planning for the development of rural areas.
52. The key objectives of State Planning Policy 2.5 are summarised as follows:
 - a) To protect rural land from incompatible uses by:
 - i) Requiring comprehensive planning for rural areas;
 - ii) making land use decisions for rural land that support existing and future primary production and protection of priority agricultural land, particularly for the production of food; and
 - iii) Providing investment security for the existing and future primary production sector.
 - b) To promote regional development through provision of ongoing economic opportunities on rural land.
 - c) To promote sustainable settlement in, and adjacent to, existing urban areas.
 - d) To protect and improve environmental and landscape assets.
 - e) To minimise land use conflicts.
53. The overarching policy requirements are:
 - a) land use change from rural to all other uses is to be planned and provided for in a planning strategy or scheme;
 - b) land identified as priority agricultural land in a planning strategy or scheme is to be retained for that purpose;
 - c) beyond its principle function for primary production, rural land is also required for public purposes, natural resource management, biodiversity conservation and protection of landscapes and views;
 - d) the use of rural land for intensive or emerging primary production land uses does not warrant creation of new or smaller rural lots on an unplanned, ad hoc basis; and
 - e) Creation of new rural lots will be by exception and in accordance with Development Control Policy 3.4 – *Subdivision of Rural Land*, or planned in a strategy or scheme.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Organisational Operations and Reputation <i>Supporting this proposal could lead to other landowners seeking to rezone agricultural land for rural residential purposes.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>The ALPS, as the principal land use planning strategy for the City, would guide Council's decision-making in other instances.</i>
Organisational Operations and Reputation <i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i>	<i>Possible</i>	<i>Minor</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>

FINANCIAL IMPLICATIONS

55. There are no financial implications directly relating to this item.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

57. Lot 1 and the western extent of Lot 973 cover a hillside that falls in a moderate slope to the east and south. Much of this hillside is covered by vegetation and a small house stands on the cleared lower slopes just to the south-west of the centre of Lot 973. A house and large shed stand near the top of the slope on Lot 1, amongst the trees.
58. Lot 1 levels out at approximately 120 metres north of Nanarup Road, with only a slight fall to the east. The lower reaches of the lot are vegetated and partly occupied by a pond, set back approximately 55 metres from Nanarup Road. Access to the lot is by means of two driveways; one from Milne Close to the west and the other from Nanarup Road.
59. Lot 973 levels out around its central axis, with only a slight fall to Johnson Creek, which traverses the lot in a north-north-west to south-south-east direction, approximately 170 metres from the eastern lot boundary. The creekline is edged by a thin band of trees, while most of the lot is cleared. The land in the north-east corner of Lot 973, slopes upward to a stand of trees. The remainder of the lot is dotted with dams, mostly on the lower-lying land around the creek. Access is by means of a track from Nanarup Road at the centre of the lot frontage, which runs to the north, before curving in a north-westerly direction to the house. A shed stands to the north of the curve in the access track.

ALTERNATE OPTIONS

60. Council has the following alternate options in relation to this item, which are:
- To resolve to support the scheme amendment without modification; or
 - To resolve not to support the scheme amendment and advise the Western Australian Planning Commission, in writing, of the reasons for doing so.

SUMMARY CONCLUSION

61. It is recommended that Council support Local Planning Scheme Amendment No. 7, as the proposal is consistent with the strategic direction currently set within the *Albany Local Planning Strategy* and State Planning Policy 2.5.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Corporate Business Plan 2013-2017</i> 5. Western Australian Planning Commission State Planning Policy 1 – <i>State Planning Framework Policy (Variation No. 2)</i> 6. Western Australian Planning Commission State Planning Policy 2.5 – <i>Land Use Planning in Rural Areas</i>
File Number (Name of Ward)	:	LAMD7 (Kalgan Ward)
Previous Reference	:	OCM – 24/02/2015 – Item PD067

**PD110: CONSIDERATION OF SCHEME AMENDMENT – LOT 104
ROCKY CROSSING ROAD, WILLYUNG**

Land Description : Lot 104 Rocky Crossing Road, Willyung
Proponent : Harley Dykstra Pty Ltd
Owner : Achillies Pty Ltd
Business Entity Name : Shuttleworth & Associates; Great Southern Sands;
Spinifex Crushing & Screening Pty Ltd
Directors : Martin James Shuttleworth
Attachments : 1. Schedule of Submissions and Modifications
: 2. Proponent's response to submissions
: 3. Local Planning Scheme Amendment No. 4 report
Supplementary Information & Councillor Workstation: : Copy of submissions
Report Prepared by : Planning Officer (C McMurtrie)
Responsible Officer : Manager Planning Services (J van der Mescht)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is broadly consistent with the strategic direction set in the *Albany Local Planning Strategy* and State Planning Policies 2.5 and 4.1.

Maps and Diagrams:



In Brief:

- At its Ordinary Meeting on 24 February 2015, Council initiated a local planning scheme amendment to designate an Additional Use site over Lot 104 Rocky Crossing Road, Willyung, to permit the additional uses of plant and equipment storage and maintenance; office (incidental); crushing; and storage of building/construction materials/products, over and above those uses normally permissible in the 'General Agriculture' zone, and amend the Scheme Maps accordingly.
- The local planning scheme amendment was advertised from 30 March 2015 to 11 June 2015 for public comment and referred to public authorities in accordance with the requirements of the *Town Planning Regulations 1967*.
- As the proposal will retain the base zoning over the lot, it will not preclude the future use of the land for agricultural purposes. However, it will allow the relocation of the Great Southern Sands (GSS) group of companies from their current site at John Street, Milpara.
- City planning staff support the proposal, as it is broadly consistent with the current strategic direction set within the *Albany Local Planning Strategy* and State Planning Policies 2.5 and 4.1.
- Council is requested to consider the submissions received following public advertising and referral and to support the local planning scheme amendment.

RECOMMENDATION

**PD110: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005*, resolves to support, with modifications, Amendment No. 4 to City of Albany Local Planning Scheme No. 1 for the purposes of:

- (1) Designating an Additional Use Site over Lot 104 Rocky Crossing Road, Willyung including additional uses of Plant and Equipment Storage and Maintenance, Office (Incidental), Crushing, Mobile Asphalt Plant, and Storage of Building/Construction Materials/Products and amending the Scheme Maps accordingly; and**
- (2) Amending Schedule 2 – Additional Uses within the Scheme Text to incorporate provisions relating to Lot 104 Rocky Crossing Road, Willyung (AU31).**

PD110: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

PD110: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005*, resolves to support, with modifications, Amendment No. 4 to City of Albany Local Planning Scheme No. 1 for the purposes of:

- (1) Designating an Additional Use Site over Lot 104 Rocky Crossing Road, Willyung including additional uses of Plant and Equipment Storage and Maintenance, Office (Incidental), Crushing, Mobile Asphalt Plant, and Storage of Building/Construction Materials/Products and amending the Scheme Maps accordingly; and
- (2) Amending Schedule 2 – Additional Uses within the Scheme Text to incorporate provisions relating to Lot 104 Rocky Crossing Road, Willyung (AU31).

BACKGROUND

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. Amendment No. 4 has been prepared to seek the designation of an Additional Use site over Lot 104 Rocky Crossing Road, Willyung to permit a number of additional uses, over and above those uses that are normally permissible in the 'General Agriculture' zone.
6. Council has currently imposed a moratorium on the initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land. However, this proposal does not conflict with the moratorium, as it was initiated by Council at its Ordinary Meeting on 24 February 2015, for the purpose of public advertising and referral to public authorities, prior to the introduction of the moratorium.
7. The subject lot is located approximately 7.2 kilometres north-north-west of Albany town centre and has an area of 46.8 hectares. The land slopes gently upward from Rocky Crossing Road for approximately 360 metres, before starting to rise more steeply into a hillock toward the western extent of the lot. This hillock dips into a valley, approximately 475 metres north of Menang Drive, before the land rises steeply again toward the base of Willyung Hill, which stands approximately one kilometre to the north-north-west of the lot.
8. All of the land surrounding the subject lot is zoned 'General Agriculture' or is occupied by the Menang Drive road reserve. Rural Residential area no. 12 lies approximately 185 metres to the south of the subject lot. The closest house to the subject lot is on Lot 3 Rocky Crossing Road, approximately 50 metres from the common boundary; however, this is approximately 320 metres from the proposed development area.

9. The amendment document states that:

“The primary purpose of the proposed amendment is to allow the GSS group of companies to expand the activities on the site to include the storage and maintenance of all its own plant and equipment. Secondly, it will allow the occasional crushing and recycling of construction materials to create useable road/building products (subject to approval from the Department of Environment Regulation). The operations proposed to be undertaken on the subject site include:

Workshop;

Office (incidental);

Machine Washdown Bay;

Receipt Point for Non-Asbestos Containing Materials (Non-ACM);

Proposed Crushing Area and Mobile Asphalt Plant; and

Laydown/Hardstand Area.”

DISCUSSION

10. The City’s planning Staff support the designation of an Additional Use site over Lot 104 Rocky Crossing Road, Willyung, to permit the additional uses of plant and equipment storage and maintenance; office (incidental); crushing; and storage of building/construction materials/products, as it is broadly consistent with the current strategic direction set by the *Albany Local Planning Strategy* and State Planning Policies 2.5 and 4.1.
11. The *Albany Local Planning Strategy* indicates potential for the future expansion of the Pendeen Industrial Area to the west, along the north side of Menang Drive. Although the subject land is approximately 2.6 kilometres west of the existing Pendeen Industrial Area, it is envisaged that development will gradually expand into this area in the future.
12. It is also significant that the proposal does not seek to rezone the land to the ‘General Industry’ zone, but rather it seeks to create an Additional Use site for a number of specific land uses, which build on the existing extractive industry on the site. The Additional Use site will retain the base zoning of ‘General Agriculture’ and so will not preclude the use of the land for agricultural purposes in future. This is seen as a more appropriate solution to GSS’ needs for a larger site where it can consolidate its operations and undertake particular activities, such as screening and crushing, without undertaking a spot rezoning.
13. The location of the subject land is well-suited to GSS’ operations, as it is adjacent the Menang Drive heavy freight route and is partly within the Willyung Hill hard rock quarry noise buffer area, which is identified in the *Albany Local Planning Strategy*. GSS’ activities are not sensitive land uses and are considered to be compatible with this buffer area.
14. The proposal is considered to be consistent with the objectives of State Planning Policy 2.5, as it designates an Additional Use Site for uses allied to the existing extractive industry on the subject land, thereby providing an ongoing economic opportunity on the land. It will also help to minimise land use conflict, by allowing the GSS group to relocate from their present John Street premises, which are within 300 metres of a residential area. Furthermore, it will place the land uses most likely to create nuisance through noise and dust emissions within the existing Willyung Hill hard rock quarry noise buffer area.

15. The proposed land uses of crushing, screening and asphalt production are all listed in *Part 1 of Schedule 1 of the Environmental Protection Regulations 1987 as Prescribed Premises* for the purposes of *Part V of the Environmental Protection Act 1986*. These activities are all subject to a works approval and licence from the Environmental Protection Authority.
16. The submissions received during the advertising process highlighted a number of concerns around the proposal, which can be grouped by the following broad themes.
17. **Site suitability**

The proposed use of the subject lot for industrial purposes has been criticised, as the developers of the Pendeen industrial area have invested heavily in providing serviced industrial lots for industries of this nature and it is considered that industrial land uses should be steered towards established industrial areas.

However, the proponent is at liberty to apply to rezone the lot and have that proposal assessed against the relevant planning strategies and policies. In this instance, the proposal is considered to be broadly consistent with the strategic direction set by the *Albany Local Planning Strategy* and the objectives of State Planning Policies 2.5 and 4.1. Matters relating to commercial competition are not valid planning considerations and cannot be taken into account.

18. **Traffic**

Nearby residents, primarily to the south of Menang Drive, have objected to the proposal on the grounds of noise generated by additional heavy vehicles travelling to and from the site, the poor condition of Rocky Crossing Road, and the potential for dust to be generated by vehicles travelling on the internal access roads.

19. Menang Drive is designated as a priority heavy freight route within the Main Roads WA road hierarchy and was constructed as stage one of the proposed Albany Ring Road. While it is acknowledged that the proposal will lead to an increase in heavy vehicle numbers, this is consistent with the intended purpose of Menang Drive.
20. The City of Albany will consider the condition of Rocky Crossing Road and, if it is deemed necessary, seek the upgrade of this section of road as a condition of any future development approval on the site.
21. Since the time of public advertising, the proponent has confirmed the landowner's intention to seal the internal access road to minimise any dust generated by vehicle movements within the site. This can be further mitigated by wetting down access tracks and laydown areas with a water cart to suppress dust. City Staff recommend that the conditions of the Additional Use site are expanded to include the preparation of a dust management plan to accompany any future development application for the site.

22. **Noise**

Numerous objections have been raised about the noise levels that may be generated by the proposed concrete crushing and asphalt plant uses. City Staff have undertaken preliminary research into noise from crushing plant and have found that a typical crushing plant is likely to operate at approximately 110 dB (A) at the source. dB (A) refers to a measure of loudness in decibels with an 'A-weighting', which is applied arithmetically to instrument-measured sound levels in an effort to account for the relative loudness perceived by the human ear, as the ear is less sensitive to low audio frequencies.

23. The landowner has provided a report on the asphalt plant in support of their current application for its location at Lot 2 Mindijup Road, Palmdale, which states that it will operate at ~ 85 dB (A) at the source. The report also states that the loader used to feed the plant will operate at 105 dB (A) at the source, while at full revs, or with its backup alarm operating.
24. For comparative purposes, 40 dB (A) would be considered a quiet environment, such as a living room, while 60 dB (A) would be typical of a busy office environment. A rock concert would generate approximately 110 dB (A), while a jet aircraft taking off would generate around 120 dB (A). However, these are volumes measured close to the source, which will diminish over distance to varying degrees, dependant on tonality and frequency.
25. The Environmental Protection Authority's *Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses* prescribes a generic 1000 metre buffer to sensitive land uses for crushing and screening and the production of asphalt. This distance is based on scientific evidence, but anticipates a 'worst case scenario'. There are two dwellings located close to the proposed crushing area, one at 360 metres from the site and another at 450 metres. The remaining houses in the vicinity are located at between 800 and 860 metres from the crushing area. Although these houses are located within the 1000 metre buffer recommended by *Separation Distances between Industrial and Sensitive Land Uses*, it is unlikely that the noise levels at these locations would be considered high enough to detrimentally affect their amenity. However, the development of these uses will be subject to development approval from the City of Albany and a Works Approval from the Department of Environment Regulation, which would only be granted where emissions and discharges from the site can be regulated.
26. To further ensure that there will be no impact on nearby homes from noise emissions, it is recommended that the conditions of the Additional Use site are expanded to include the preparation of a noise assessment and a requirement to provide a noise management plan with any future development application for the site. It will be required that the noise management plan contains recommendations on noise mitigation measures to be implemented on-site, in order to minimise the potential for noise nuisance.
27. **Dust**
- Similarly, a number of submissions raised objections based on the possible emission of dust from the site, as a result of the proposed concrete crushing and asphalt plant uses. Dust emissions from the crushing plant can be managed using spray bars, while the proposed asphalt plant utilises a 'baghouse' filter with a self-cleaning function, which returns captured fines back into the process. The specification for the proposed plant states that the dust concentration in the filtered air emitted will be no more than 20 milligrams per cubic metre. Dust generated by vehicles moving around the site can be controlled by wetting down any gravel surfaces using a water cart. As outlined above, the development of these uses will be subject to development approval from the City of Albany and a Works Approval from the Department of Environment Regulation, which would only be granted where emissions and discharges from the site can be regulated.
28. To further ensure that there will be no impact on nearby homes from dust emissions, it is recommended that the conditions of the Additional Use site are expanded to include a requirement to provide a dust management plan with any future development application for the site. It will be required that the dust management plan contains recommendations on dust mitigation measures to be implemented on-site, in order to minimise the potential for dust nuisance.

29. Odour

Several submissions have expressed objections to the proposal due to the potential for emission of unpleasant odours from the proposed asphalt plant. The proponent has clarified that the proposed plant utilises the latest technology to minimise emission of dust and odour, especially when compared with the asphalt plant currently operating within the nearby Willyung Hill hard rock quarry. The landowner has advised that the operation of the proposed plant is a fully sealed process, which is computer controlled from a central control cabin, while the baghouse filter system significantly reduces the emission of dust and particulate, which causes odour.

30. The landowner has also advised that an identical plant is currently in operation within the Narngulu general industrial area near Geraldton. The Department of Environment Regulation issued a works approval for this operation in 2013 and has subsequently granted licence renewals, the most recent of which was issued on 5 February 2015. The licence contains various conditions governing the operation and monitoring of the plant, including the following condition relating to odour:

“The Licensee shall ensure that odour emitted from the Premises does not unreasonably interfere with the health, welfare, convenience, comfort or amenity of any person who is not on the Premises.”

31. While it is acknowledged that the surrounding land uses at Narngulu are also of an industrial nature and are not classified as ‘sensitive’ under the provisions of the Environmental Protection Authority’s *Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses*, the plant is located on a relatively small lot of 3373m². The application of this condition by the Department of Environment Regulation indicates that it is possible to manage the emission of odour at this level.
32. To ensure that there will be no impact on nearby homes from odour emissions, it is recommended that the conditions of the Additional Use site are expanded to include the preparation of a odour modelling and a requirement to provide an odour management plan with any future development application for the site. It will be required that the odour management plan contains recommendations on odour mitigation measures to be implemented on-site, in order to minimise the potential for odour nuisance.

33. Site operations

Concern was raised over the potential for the use of the site to expand into a haulage depot and/or landscape supplies and the potential for the premises to be open on weekends. The proposed land uses and conditions to be applied to the Additional Use site specifically limit the permissible uses to restrict the use of the site to the Great Southern Sands group of companies, specifically to avoid any expansion into these areas, or sub-letting of the premises to other commercial operators. The operating hours of the proposed crushing activity are also restricted by the conditions to be applied to the Additional Use site, while general hours of operation would be controlled via a planning condition on any future development approval for the site.

34. Lighting

Concern has also been raised about light pollution from security floodlighting. However, the landowner has advised that permanent floodlighting will not be used when the premises is closed, only sensor-operated security lights around the workshop and office buildings. It is also standard practice for the City to implement the following planning condition on development approvals where external floodlighting may be used:

Lighting devices are to be positioned and shielded so as not to cause any direct, reflected or incidental light to encroach beyond the property boundaries, in accordance with Australian Standard AS4282/1997.

35. Stormwater management

Concerns have been raised over the potential for contaminated stormwater to run off into overland drainage lines or seep into the ground. However, the amendment document details the provision of a sealed machinery washdown bay, fitted with appropriate oil separators to capture contaminants.

36. Visual amenity

Some submissions have indicated concern over the visual impact of the land uses that may be permitted as part of the proposed Additional Use site. The subject land is largely hidden from view from the surrounding dwellings, with one or two exceptions, owing to topography and existing vegetation cover. However, much of the lot is clearly visible from Menang Drive. The conditions that will apply to the Additional Use site include the planting of screening vegetation to minimise the visual impact of any future development.

37. Fencing

The adjoining landowner to the north of the subject lot has raised concern over the lack of a boundary fence and the potential for encroachment. The proponent has committed to contributing to the erection of a new boundary fence to clearly delineate the boundary.

38. Overall, it is considered that the objections and concerns raised during the public advertising process can be adequately addressed by way of additional conditions that will apply to the Additional Use site. All development on the site will require development approval from the City of Albany, which will be subject to detailed conditions relating to the works or use, while the activities that have drawn the most objection will also require a Works Approval from the Department of Environment Regulation and will be subject to further operating conditions as a part of any subsequent licence.

39. Since the commencement of this scheme amendment process, changes to the *Planning and Development (Local Planning Schemes) Regulations 2015* mean that it would be necessary for the development guide plan to be referred to the Western Australian Planning Commission for consideration as a structure plan. However, given the fact that the development guide plan covers a single lot and contains limited information, it is considered more appropriate to modify the conditions that will apply to the Additional Use site to remove references to the development guide plan and implement these conditions at the time of any future development application.

GOVERNMENT & PUBLIC CONSULTATION

40. The amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 30 March 2015 to 11 June 2015 by placement of a sign on-site, direct referral to affected and adjoining/nearby landowners and public authorities, and advertisement in the local newspaper.

41. Twenty (20) submissions were received from public authorities and adjoining landowners and are summarised in the attached Schedule of Submissions. Staff comments and recommendations are also provided in the schedule and the broad issues are discussed in paragraphs 16 to 39 above.

STATUTORY IMPLICATIONS

42. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*, which superseded the *Town Planning Regulations 1967* on 19 October 2015.
43. Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning.
44. Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to support a standard amendment, with or without modification.
45. Regulations 79(2) and 80 of the *Planning and Development (Local Planning Schemes) Regulations 2015* require that any development plan already in preparation is to be taken to be a structure plan under these regulations, and that any step taken under the Act and in accordance with the repealed regulations or a State planning policy before commencement day in the preparation of a planning instrument is to be taken to be a step taken in the preparation of a planning instrument of that type under these regulations.
46. In view of this change, it would be necessary for the development guide plan included as a part of this scheme amendment to be referred to the Western Australian Planning Commission for consideration as a structure plan. However, given the fact that the development guide plan covers a single lot and contains limited information, it is considered more appropriate to modify the conditions that will apply to the Additional Use site to remove references to the development guide plan.
47. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

48. The proposal is considered to be consistent with the key policy measures identified in Western Australian Planning Commission State of Planning Policy 2.5 – *Agriculture and Land Use Planning*. It is also considered to be consistent with the objectives of State Planning Policy 4.1 – *State Industrial Buffer Policy*.
49. State Planning Policy 2.5 was gazetted in 2012 and has provided a comprehensive review and refinement of the previous Development Control Policy 3.4 – *Rural Land Use Planning* (1989). The Western Australian Planning Commission and Local Government are required to have regard to State Planning Policy 2.5 in planning for the development of rural areas.
50. The key objectives of State Planning Policy 2.5 are summarised as follows:
 - a) To protect rural land from incompatible uses by:
 - i) Requiring comprehensive planning for rural areas;
 - ii) making land use decisions for rural land that support existing and future primary production and protection of priority agricultural land, particularly for the production of food; and
 - iii) Providing investment security for the existing and future primary production sector.
 - b) To promote regional development through provision of ongoing economic opportunities on rural land.
 - c) To promote sustainable settlement in, and adjacent to, existing urban areas.
 - d) To protect and improve environmental and landscape assets.
 - e) To minimise land use conflicts.

51. The relevant overarching policy requirements are:
- a) land use change from rural to all other uses is to be planned and provided for in a planning strategy or scheme;
 - b) land identified as priority agricultural land in a planning strategy or scheme is to be retained for that purpose; and
 - c) beyond its principle function for primary production, rural land is also required for public purposes, natural resource management, biodiversity conservation and protection of landscapes and views.
52. State Planning Policy 4.1 was gazetted in 1997 and its key objectives are summarised as follows:
- a) To provide a consistent State-wide approach for the definition and securing of buffer areas around industry, infrastructure and some special uses.
 - b) To protect industry, infrastructure and special uses from the encroachment of incompatible land uses.
 - c) To provide for the safety and amenity of land use surrounding industry, infrastructure and special uses.
 - d) To recognise the interests of existing landowners within buffer areas who may be affected by residual emissions and risk, as well as the interests, needs and economic benefits of existing industry and infrastructure which may be affected by encroaching incompatible land uses.
53. The Environmental Protection Authority's *Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses* prescribes a generic 1000 metre buffer to sensitive land uses for crushing and screening and the production of asphalt. Although the proponent has not provided any specific studies to justify a lesser buffer distance and the nearest house is approximately 350 metres from the proposed crushing area, the land uses of crushing, screening and asphalt production are all listed in Part 1 of Schedule 1 of the *Environmental Protection Regulations 1987* as "Prescribed Premises" for the purposes of Part V of the *Environmental Protection Act 1986*. As such, these activities are all subject to a works approval and licence from the Environmental Protection Authority.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation Supporting this proposal could set an undesirable precedent and lead to other landowners seeking to rezone or develop agricultural land for industrial purposes.</p>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>The proposal does not seek to rezone land, but rather designate an additional use site limited to a number of specific land uses allied to the existing extractive industry on the subject lot. The land is also identified in the ALPS as having potential for future industrial development. The ALPS, as the principal land use planning strategy for the City, would guide Council's decision-making in other instances.</i>
<p>Organisational Operations and Reputation The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	<i>Possible</i>	<i>Minor</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>
<p>Community, Environment and Reputation This proposal could generate impacts on the amenity of adjoining properties through emissions of noise, dust and/or odour.</p>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Consulting with the relevant environmental agencies and ensuring that necessary safeguards are put in place will mitigate any risk of unwanted impacts on amenity.</i>

FINANCIAL IMPLICATIONS

55. There are no financial implications directly relating to this item.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

57. The lot is largely cleared, with stands of parkland cleared trees remaining only in the north-eastern corner and on the hillock to the west. There are also a number of individual trees dispersed across the central and southern parts of the lot. A wetland, containing a pond and edged by paperbark trees, lies at the end of the valley to the north-western extent of the lot.

58. An access track from Rocky Crossing Road traverses the lot in a westerly direction, before turning 90 degrees to the north across the hillside. It then follows the hillock around to the west, to an operational gravel pit near the northern lot boundary and areas to the north and west that have previously been used for gravel extraction.

59. These areas have not been rehabilitated and have been used for turning vehicles, stockpiling gravel and the open-air storage of used earthmover tyres. There is a dam on each side of the extraction area and a third in the north-west corner of the lot. An older and now partly overgrown sand extraction area lies to the eastern side of the lot, adjacent to the south-west corner of Lot 3 Rocky Crossing Road. This area is accessed by a narrow track that runs to the north from the main access track.

ALTERNATE OPTIONS

60. Council has the following alternate options in relation to this item, which are:
- To resolve to support the scheme amendment without modification; or
 - To resolve not to support the scheme amendment and advise the Western Australian Planning Commission, in writing, of the reasons for doing so.

SUMMARY CONCLUSION

61. It is recommended that Council support Local Planning Scheme Amendment No. 4, as it is broadly consistent with the current strategic direction set within the *Albany Local Planning Strategy* and State Planning Policies 2.5 and 4.1.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Corporate Business Plan 2013-2017</i> 5. Western Australian Planning Commission State Planning Policy 1 – <i>State Planning Framework Policy (Variation No. 2)</i> 6. Western Australian Planning Commission State Planning Policy 2.5 – <i>Land Use Planning in Rural Areas</i> 7. Western Australian Planning Commission State Planning Policy 4.1 – <i>State Industrial Buffer Policy</i>
File Number (Name of Ward)	:	LAMD4 (Kalgan Ward)
Previous Reference	:	OCM – 24/02/2015 – Item PD066

PD111: PLANNING AND BUILDING REPORTS NOVEMBER 2015

Proponent : City of Albany
Attachment : Planning and Building Reports November 2015
Report Prepared By : Administration Officer-Planning (K Smith)
Information Officer-Development Services (R Sutton)
Responsible Officer(s): : Executive Director Planning & Development (D Putland)

Responsible Officer's Signature:



RECOMMENDATION

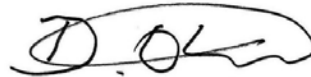
PD111: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council NOTE the Planning and Building Reports for November 2015.

CSF206: FINANCIAL ACTIVITY STATEMENT – OCTOBER 2015

Attachment : Financial Activity Statement
Responsible Officer : Acting Executive Director Corporate Services (D Olde)

Responsible Officer's Signature:



**CSF206: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council RECEIVE the Financial Activity Statement for the period ending 31 October 2015.

CSF206: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR PRICE
SECONDED: COUNCILLOR TERRY**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

CSF206: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Financial Activity Statement for the period ending 31 October 2015.

BACKGROUND

1. The Statement of Financial Activity for the period ending 31 October 2015 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 \$50,000 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.

FINANCIAL IMPLICATIONS

8. Expenditure for the period ending 30 October 2015 has been incurred in accordance with the 2015/16 proposed budget parameters. Details of any budget variation in excess of \$50,000 (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.

POLICY IMPLICATIONS

9. The City's 2015/16 Annual Budget provides a set of parameters that guides the City's financial practices.

10. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

File Number (Name of Ward)	FM.FIR.2 - All Wards
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CSF207: LIST OF ACCOUNTS FOR PAYMENT – NOVEMBER 2015

Proponent : City of Albany
Attachments : List of Accounts for Payment
Report Prepared by : Financial Accountant (S Beech)
Responsible Officer : Executive Director Corporate Services (D Olde)

Responsible Officer’s Signature:	
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RECOMMENDATION

CSF207: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

That Council receive the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 November 2015 totalling \$5,922,232.36.

CSF207: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
 SECONDED: COUNCILLOR PRICE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

CSF207: RESPONSIBLE OFFICER RECOMMENDATION

That Council receive the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 November 2015 totalling \$5,922,232.36.

BACKGROUND

- 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

- The table below summarises the payments drawn from the municipal fund for the period ending 15 November 2015. Please refer to the Attachment to this report.

Municipal Fund	
Trust	\$1,280.00
Credit Cards	\$16,822.17
Payroll	\$1,203,109.38
Cheques	\$78,439.25
Electronic Funds Transfer	\$4,622,581.56
TOTAL	<u>\$5,922,232.36</u>

3. As at 15 November 2015, the total outstanding creditors, stands at \$629,874.10 and made up as follows:-

Current	\$187,022.10
30 Days	\$444,979.11
60 Days	\$43.43
90 Days	-\$2,170.54
TOTAL	<u>\$629,874.10</u>

Cancelled cheques: 30889 – cheque reissued on cheque numbers 30895 and 30896.
30893 – incorrect creditor used, cancelled and reprocessed to correct creditor.

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

7. Expenditure for the period to 15 November 2015 has been incurred in accordance with the 2015/2016 budget parameters.

FINANCIAL IMPLICATIONS

8. Expenditure for the period to 15 November 2015 has been incurred in accordance with the 2015/2016 budget parameters.

SUMMARY CONCLUSION

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

File Number (Name of Ward)	:	FM.FIR.2 - All Wards
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CSF208: DELEGATED AUTHORITY REPORTS

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

Responsible Officer's Signature:



RECOMMENDATION

CSF208: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the Delegated Authority Reports up until 15 November 2015.

CSF208: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR MULCAHY
SECONDED: COUNCILLOR TERRY

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

CSF208: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Delegated Authority Reports up until 15 November 2015.

**CSF209: APPOINT THE WAEC TO CONDUCT ORDINARY AND EXTRA
ORDINARY ELECTIONS**

Proponent : City of Albany
Attachments : ICR15203849-Letter from Electoral Commissioner
Report Prepared By: : Manager Governance & Risk Management (S Jamieson)
Responsible Officer : Chief Executive Officer (A Sharpe)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership.
 - b. **Strategic Objectives:**
 - 5.1. To establish and maintain sound business and governance structures.
 - 5.3 To engage effectively with our community.
 - c. **Strategic Initiative:** 5.3.2. Improve community engagement processes and platforms

In Brief:

- Agree to conduct ordinary and extraordinary elections by postal vote.
- Declare that the WA Electoral Commissioner be responsible for the conduct of all elections until the end of 2017.

RECOMMENDATION

**CSF209: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT Council:

- **DECLARE** in accordance with section 4.20(4) of the Local Government Act 1995 (the Act), that the Electoral Commissioner be responsible for the conduct of all elections until the end of 2017.
- **DECIDE**, in accordance with section 4.61(2) of the Act, that the method of conducting the elections during this period will be postal.

CSF209: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR PRICE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

CSF209: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- DECLARE in accordance with section 4.20(4) of the Local Government Act 1995 (the Act), that the Electoral Commissioner be responsible for the conduct of all elections until the end of 2017.
- DECIDE, in accordance with section 4.61(2) of the Act, that the method of conducting the elections during this period will be postal.

BACKGROUND

2. The current agreement between the City of Albany and the Electoral Commissioner to conduct postal elections for the City expires at the end of 2015.

DISCUSSION

3. The Electoral Commissioner is responsible for conducting postal elections in Western Australia and conducts elections on request under the Local Government Act 1995 (the Act).
4. By making the Western Australian Electoral Commission (WAEC) responsible for the extraordinary and future elections, the City of Albany can ensure that the election is conducted by professional, experienced staff that are independent and impartial.
5. Other advantages for the City of Albany having the election conducted by the WAEC:
 - a. Ensures that all statutory requirements are fulfilled, noting that it is not the core business of the CEO to run elections;
 - b. A full election report (including statistics) is prepared by the WAEC for presentation to Council;
 - c. The vast majority of elector and candidate enquiries are received and resolved by either the Returning Officer or the appointed election Project Manager; and
 - d. Processes, materials and equipment used meet contemporary electoral standards.
6. Declaring the Electoral Commissioner to be responsible for the conduct of all elections until the end of 2017 is appropriate to ensure that Council does not need to go through this process again should a vacancy arise prior to the 2017 Ordinary Election.

GOVERNMENT & PUBLIC CONSULTATION

7. There is no requirement to conduct public consultation for this item.
8. Noting section 4.20(4) of the Act (see Statutory Implications), approval was sought from the WA Electoral Commissioner, with approval being received on 23 November 2015.

STATUTORY IMPLICATIONS

9. Section 4.20(4) of the Act states: *A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.*

****Absolute majority required.***

POLICY IMPLICATIONS

10. There are no policy implications related to this item.

RISK IDENTIFICATION & MITIGATION

11. The risk identification and categorisation relies on the City’s [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Legal and Compliance <i>Appointment of the WAEC to conduct the elections is not supported</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>The Election would be run by City of Albany staff.</i>

FINANCIAL IMPLICATIONS

12. The cost for the WAEC to conduct the ordinary election is approximately \$90,000, and extra ordinary elections being approximately \$18,000.
13. Costs not incorporated in the estimate include (approximately \$2,000):
- a. non-statutory (i.e. additional advertisements in community newspapers and promotional advertising);
 - b. any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns; and
 - c. one local government staff member to work in the polling place on election day.

LEGAL IMPLICATIONS

14. There are no legal implications related to this report except for compliance with specific provisions of the *Local Government Act 1995*.

ENVIRONMENTAL CONSIDERATIONS

15. There are no direct environmental considerations related to this report.

ALTERNATE OPTIONS

16. **Option One.** “postal election” which is an election in which the method of casting votes is to be posting or delivering them to an electoral officer on or before election day; or
17. **Option Two.** “voting in person election” which is an election in which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with the regulations.

SUMMARY CONCLUSION

18. That the WA Electoral Commissioner be appointed to conduct ordinary and extraordinary elections by postal vote until the end of 2017.

Consulted References	:	<i>Local Government Act 1995</i>
File Number (Name of Ward)	:	All Wards
Previous Reference	:	OCM 18/12/2012 Item 1.3 OCM 6/12/2011 Item 6.2 SCM 27 November 2013 Item SCM004

CSF210: NEW LEASES – WAYNE CORNELL BIRSS – ANDREW GORDON CRUICKSHANK – DAVID KEVAN WHEATCROFT – CHEYNE ROAD, CHEYNE BEACH

Land Description : Portion of Crown Reserve 878 Lot 7442 on Deposited Plan 214689, the subject of Head Certificate of Title Volume LR3082 Folio 959, Cheyne Beach

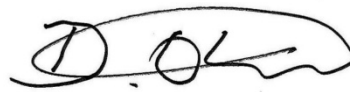
Proponent : Wayne Cornell Birss
Andrew Gordon Cruickshank
David Kevan Wheatcroft

Owner : Crown

Report Prepared by : Team Leader Property and Leasing (T Catherall)

Responsible Officer : Executive Director Corporate Services (D Olde)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** Civic Leadership
 - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations.

Maps and Diagrams:



IN BRIEF

- Council is requested to consider the renewal of the following three leases in order to continue the existing use of accommodation associated with the commercial fishing industry at Cheyne Beach:
 - a. Wayne Cornell Birss over lot 8 Cheyne Road for a term of 10 years with an option for a further 10 year term.
 - b. Andrew Gordon Cruickshank over lot 9 Cheyne Road for a term of 10 years with an option for a further 10 year term.
 - c. David Kevan Wheatcroft over lot 11 Cheyne Road for a 10 year term with an option for a further 10 year term.
- All structures and buildings are the liability of the lessee and the Lease is for the land only.
- The recommendation proposes that Council approve the three new leases.

RECOMMENDATION

**CSF210: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVE the following leases on portion of Reserve 878 to:

- 1. Wayne Cornell Birss over Lot 8 Cheyne Road, Cheyne Beach.**
- 2. Andrew Gordon Cruickshank over Lot 9 Cheyne Road, Cheyne Beach.**
- 3. David Kevan Wheatcroft over Lot 11 Cheyne Road, Cheyne Beach.**

Subject to:

- a) Lease purpose being “Accommodation associated with the Commercial Fishing Industry” in accordance with the Management Order for the reserve.**
- b) Lease is conditional upon the lessee continuing to operate under a commercial fisherman’s licence for the Cheyne Beach area issued by the Department of Fisheries Western Australia.**
- c) Lease areas being approximately 1826m² to be confirmed by survey.**
- d) Lease rent being \$2,500 plus GST per annum as determined by market valuation provided by a licensed Valuer.**
- e) Rent reviews by market valuation every three years with Consumer Price Index applied for intervening years.**
- f) Lease term being 10 years with an option for a further 10 years.**
- g) Lease commencement date being 1 February 2016.**
- h) All costs associated with the ongoing operations of the lease property being payable by the lessee.**
- i) All costs associated with the preparation, execution and completion of the lease documentation being payable by the lessee.**
- j) Pursuant to Section 18 of the *Lands Administration Act 1997*, the Minister for Lands consent being obtained.**
- k) The proposed leases being advertised to comply with Section 3.58 of the *Local Government Act 1995* requirements.**
- l) Cheyne Beach Planning Policy will apply to future development approvals.**
- m) Lease being consistent with Council Policy – Property Management (Leases and Licences).**

CSF210: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR HAMMOND

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

CSF210: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE the following leases on portion of Reserve 878 to:

1. Wayne Cornell Birss over Lot 8 Cheyne Road, Cheyne Beach.
2. Andrew Gordon Cruickshank over Lot 9 Cheyne Road, Cheyne Beach.
3. David Kevan Wheatcroft over Lot 11 Cheyne Road, Cheyne Beach.

Subject to:

- a) Lease purpose being “Accommodation associated with the Commercial Fishing Industry” in accordance with the Management Order for the reserve.
- b) Lease is conditional upon the lessee continuing to operate under a commercial fisherman’s licence for the Cheyne Beach area issued by the Department of Fisheries Western Australia.
- c) Lease areas being approximately 1826m² to be confirmed by survey.
- d) Lease rent being \$2,500 plus GST per annum as determined by market valuation provided by a licensed Valuer.
- e) Rent reviews by market valuation every three years with Consumer Price Index applied for intervening years.
- f) Lease term being 10 years with an option for a further 10 years.
- g) Lease commencement date being 1 February 2016.
- h) All costs associated with the ongoing operations of the lease property being payable by the lessee.
- i) All costs associated with the preparation, execution and completion of the lease documentation being payable by the lessee.
- j) Pursuant to Section 18 of the Lands Administration Act 1997, the Minister for Lands consent being obtained.
- k) The proposed leases being advertised to comply with Section 3.58 of the Local Government Act 1995 requirements.
- l) Cheyne Beach Planning Policy will apply to future development approvals.
- m) Lease being consistent with Council Policy – Property Management (Leases and Licences).

BACKGROUND

2. Crown Reserve 878 is under management order H359478 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Recreation, Camping, Holiday Accommodation, Accommodation Associated with the Fishing Industry and Fire Station” for any term not exceeding 21 years subject to the consent of the Minister for Lands.
3. Crown Reserve 878, with an area of approximately 115 hectares, is located at Cheyne Beach. The reserve is surrounded by approximately 3,500 hectares of National Park under the management of the Department of Parks and Wildlife.
4. The reserve currently hosts 29 Holiday Accommodation leases, seven accommodation associated with the Fishing Industry leases and one associated Fishing licence for access to the waterfront for fish loading operations.
5. In total there are 16 surveyed lots within Reserve 878 along Cheyne Road that are gazetted for the purpose of accommodation associated with the Cheyne Beach fishing industry. The City of Albany fire shed is situated on Lot 15 within this gazetted area. Only lots 2 and 3 are located on waterfront land.
6. Cheyne Beach Holiday Accommodation leases are located along Baxteri Road, Cheynes.
7. The Cheyne Beach Caravan Park was originally part of Reserve 878 but this has been excised and is now freehold land adjacent to the 16 surveyed lots reserved for fishing accommodation land.
8. In February 1996 the former Shire of Albany entered into lease agreements with Wayne Cornell Birss, Andrew Gordon Cruickshank (Snr) and David Kevan Wheatcroft enabling the commercial fishermen to formalise their fishing accommodation needs at Cheyne Beach.
9. Commercial fishermen have been fishing the Cheyne Beach area in excess of 60 years and it is understood the families of the three proponents have a long term association with the Cheyne Beach fishing industry.
10. The leases for a term of 10 years, commenced 1 February 1996, with a 10 year further term option exercised, are due to expire 31 January 2016. Current lease rental payable to the City, reviewed every second year by market valuation is \$2,350.00 plus GST per annum.
11. The lease for Lot 9 was assigned to the current lessee, Andrew Gordon Cruickshank (Jnr) from the Estate of Andrew Gordon Cruickshank (Snr) in August 2008.
12. The leases granted to the commercial fishermen allowed them to construct buildings and infrastructure on the land to support them in their commercial fishing activities. The lessees are responsible for providing adequate electricity supply, adequate potable water supply, an effluent disposal system and parking.
13. The three lease sites have been developed by each lessee with dwellings to accommodate their needs during the fishing season.

14. Council has recently renewed lease and licence over waterfront lots 2 and 3 Cheyne Road to Westerberg Bros for accommodation associated with the fishing industry and fish loading operations for term of 10 years. The term was based on waterfront land with special lease conditions around erosion on foreshore boundaries demising the useable lease area and potential damage to existing lessee infrastructure.
15. It is noted the proposed three leases for lots 8, 9 and 11 Cheyne Road are not located on waterfront land.

DISCUSSION

16. The three lessees have requested approval to a renewal of their leases for a 10 year term with an option for a further 10 year term to allow them continue their commercial fishing activities from Cheyne Beach.
17. A term of 10 years with an option for a further 10 year term is consistent with existing Cheyne Beach commercial fishing leases not located on waterfront land and Council Policy – Property Management (Leases and Licences).
18. A lease can be considered with commercial fishermen seeking accommodation at Cheyne Beach, provided they are actively engaged in the fishing industry at Cheyne Beach and hold a current commercial fishing licence issued by the Department of Fisheries Western Australia.
19. The lessee may also be required to provide evidence of submitted catch information each year. Evidence should be capable of independent verification by production of licences and submitted catch information. Should any of these requirements not be met in any year holding the lease, the lease may be terminated.
20. It is noted that each lessee has provided a current commercial fishing licence.
21. The lessee will be required to use the location for own or direct employee accommodation only.
22. The three lessees have met the obligations of their previous lease including payment of rent and outgoings and holding required licences.
23. The proposed leases will be developed in line with Council Policy – Property Management (Leases and Licences).

GOVERNMENT & PUBLIC CONSULTATION

24. The Department of Lands will be consulted, as it is a requirement of Section 18 of the *Land Administration Act 1997* that the Minister for Land's consent is obtained.
25. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased/licensed land and buildings. The Act requires the following:
 - a. A local government must give local public notice of the proposed lease/licence inviting submissions from the public, for a period of two weeks.
 - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.

- c. A local government can then proceed with the lease/licence.
26. The new leases will be advertised to comply with the requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

27. Section 18 the *Land Administration Act 1997* states that a person shall not assign, sell, transfer or otherwise deal with interests on Crown land or create or grant an interest in Crown land without the prior approval in writing of the Minister for Lands.
28. As this is Crown land, under Management Order held by the City, the Minister's consent will be sought.
29. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased land and buildings including advertising requirements. The proposed leases will be advertised.
30. The *Aboriginal Heritage Act 1972* applies to any place or object of importance to persons of Aboriginal descent and Section 17 of this Act makes it an offence to destroy, damage or alter in any way an Aboriginal site or object. This Act applies to known and unknown sites.
31. In past discussions with the local Noongar community regarding the Cheyne Beach area, including visits on site, it is known to staff that there are areas in this locality of significance to the Noongar community. A full Aboriginal Heritage Survey was recently undertaken to consider a range of future proposals in the Cheynes locality to manage any risk of disturbing Aboriginal cultural heritage.
32. Any future development needs to be considered in the context of the recommendation of the Heritage Survey.

POLICY IMPLICATIONS

33. Council adopted a revised Property Management (Leases and Licences) Policy in July 2015.
34. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
35. The recommendation is consistent with Council Policy – Property Management (Leases and Licences).

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Rating	Mitigation
Reputation: <i>Renewal of leases not approved.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
Reputation: <i>If new leases are not approved – accommodation for the Cheynes fishing industry will be limited.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
Reputation: <i>New leases not approved – lessees to remove buildings and make good the land – may lead to closure of fishing operations</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>City to manage lessee's reaction in a measured way and ensure open communication with lessees.</i>

FINANCIAL IMPLICATIONS

37. All costs associated with the development, execution and completion of the lease documentation will be met by the lessees.
38. Lease rental being \$2,500 plus GST per annum as determined by market valuation provided by a licensed Valuer.
39. The new lease rental will be placed into the Cheyne Beach Improvement Reserve for the purpose of facilitating community maintenance and enhancement projects in the Cheyne Beach locality.

LEGAL IMPLICATIONS

40. The Deed will be prepared by City's lawyers, at the lessee's expense.

ENVIRONMENTAL CONSIDERATIONS

41. There are no environment considerations.

ALTERNATE OPTIONS

42. Council may:
- a. Approve the proposed new leases; or
 - b. Decline the leases.
43. Should Council decline the leases, alternate accommodation may be sought by the lessees should they wish to reside at Cheyne Beach to undertake commercial fishing operations. This may prove difficult given limited land available for development within the reserve.
44. Should Council decline the leases, lessees may be required to vacate the property, demolish and remove all buildings and improvements and make good the land.

SUMMARY CONCLUSION

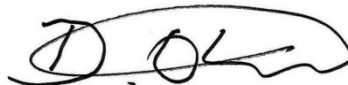
- 45. The current Cheyne Beach Commercial Fishermans Accommodation leases for Wayne Cornell Birss, Andrew Gordon Cruickshank and David Kevan Wheatcroft over lots 8, 9 and 11 Cheyne Road, Cheyne Beach are due to expire on 31 January 2016.
- 46. The three lessees have requested to renew their leases for a term of 10 years with an option for a further 10 year term so they may continue their commercial fishing activities at Cheyne Beach.
- 47. All three lessees hold current commercial fishing licences.
- 48. It is understood all three lessees have long term family connections with the Cheyne Beach fishing industry.
- 49. It is recommended that the proposed renewal of leases be supported.

Consulted References	:	<ul style="list-style-type: none"> • Council Policy – Property Management (Leases and Licences) • <i>Local Government Act 1995</i> • <i>Land Administration Act 1997</i>
File Number (Name of Ward)	:	PRO196, A225795 (Kalgan Ward) PRO198, A52441 (Kalgan Ward) PRO210, A52455 (Kalgan Ward)
Previous Reference	:	OCM 14.07.2015 Item CSF181 OCM 11.07.2015 Item CSF188

CSF211: RATING SUBSIDY POLICY – SPORTING & COMMUNITY GROUPS

Business Entity Name : City of Albany
Attachments : Draft Council Policy: Rating Subsidy – Sporting and Community Organisations
Report Prepared by : Executive Director Corporate Services (D. Olde)
Responsible Officer : Executive Director Corporate Services (D. Olde)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership
 - b. **Strategic Objective:** 5.1. To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** Nil

In Brief:

- Consider adoption of the Rating Subsidy – Sporting and Community Organisations policy position.

RECOMMENDATION

**CSF211: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT this item be deferred for consideration at the February 2016 Corporate Services and Finance Committee meeting.

CSF211: PROCEDURAL MOTION BY COUNCILLOR GOODE

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR PRICE

THAT this item be deferred for consideration at the February 2016 Corporate Services and Finance Committee meeting.

CARRIED 9-0

Reason: To allow staff to conduct further research, and the findings be presented to the February 2016 Corporate Services and Finance Committee meeting.

CSF211: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ADOPT the Rating Subsidy – Sporting and Community Organisations Policy.

BACKGROUND

2. For a number of years, the City has offered a subsidy on rates for a select group of sporting and community organisations.
3. No legislative requirement exists requiring any subsidy to be offered, unlike the exemption claimed by charitable organisations.

DISCUSSION

4. No policy or formal program currently exists for the allocation of rating subsidies.
5. A program has existed for a number of years giving rating subsidies to community and sporting groups. The origins of this program are unclear. In the past, this subsidy has been part of various community financial assistance programs. Regardless of the precise nature of any program, a rating subsidy has been given to various organisations since 1999.
6. A draft Council policy position has been drafted for Council consideration for the purpose of:
 - a. transparency and accountability; and
 - b. for providing an opportunity to eligible organisations to receive the subsidy.
7. The policy outlines the type of organisations that would be considered eligible to receive a rates subsidy; and the evidence that may be required to make an informed and transparent assessment.
8. To ensure that Council is fully informed on the total cost of the subsidy an estimate of the subsidy and the list of recipients will be presented for endorsement and approval as part of the budget approval process.
9. This policy will be effective from 1 July 2016.
10. For the 2015/16 subsidy, item CSF195 was endorsed at the Ordinary Council meeting held on 22 September 2015.
11. The following table lists the organisations currently receiving a rating subsidy.

Table 1

Assess No.	Community / Sporting Group Name
A133873	ALBANY ATHLETICS GROUP
A179378	ALBANY BOATING & OFFSHORE FISHING CLUB
A161280	ALBANY BOWLING CLUB
A161537	ALBANY BRIDGE CLUB INC
A149179	ALBANY CLUB INC (1932)
A204735	ALBANY ENTERPRISE GROUP
A174427	ALBANY EQUESTRIAN CENTRE
A124369	ALBANY GIRL GUIDES ASSN
A136770	ALBANY GOLF CLUB
A14758	ALBANY HARNESS RACING CLUB INC
A14780	ALBANY ITALIAN CLUB
A82145	ALBANY KINDERGARTEN
A156611	ALBANY LIGHT OPERA & THEATRE COMPANY
A130471	ALBANY MARITIME FOUNDATION
A204721	ALBANY MODEL AERO CLUB
A140446	ALBANY MODEL RAILWAY
A79732	ALBANY PLAY GROUP INCORPORATED
A6791	ALBANY RACING CLUB INC
A64947	ALBANY ROWING CLUB
A187399	ALBANY SPEEDWAY CLUB
A171336	ALBANY SPRINT KART CLUB

A185660	ALBANY TAOIST TAI CHI SOCIETY
A97368	ALBANY WOMEN'S' INSTITUTE
A30213	CITY OF ALBANY BAND INC
A155029	EMU POINT SPORTING CLUB
A96087	GREAT SOUTHERN SOCCER ASSOCIATION
A65539	GREEN RANGE COUNTRY CLUB
A162430	JAYCEES WHALEWORLD (DISCOVERY BAY)
A65999	KING RIVER HORSE & PONY CLUB
A6037	KING RIVER RECREATION CENTRE
A74368	LAWLEY PARK TENNIS CLUB
A136225	LOWER GREAT SOUTHERN HOCKEY ASSOC
A227280	LOWER KING COMMUNITY KINDERGARTEN
A50479	MERRIFIELD PARK TENNIS CLUB
A84446	MIDDLETON BEACH BOWLING CLUB
A116479	NORTH ALBANY FOOTBALL CLUB
A64820	PRINCESS ROYAL SAILING CLUB
A92223	RAILWAYS FOOTBALL CLUB
A64799	RIVERVIEW COUNTRY CLUB
A92354	ROYALS FOOTBALL CLUB
A74354	SCOUT ASSOC OF WA
A104446	SENIOR CITIZENS CENTRE
A64785	SOUTH COAST COUNTRY MUSIC CLUB INC
A157843	SPECTRUM THEATRE INC
A176287	STIRLING CLUB INC
A96429	TS VANCOUVER NAVAL CADETS
A64866	WA VETERAN CAR CLUB

12. All organisations currently receiving a rating subsidy will be requested to submit information as detailed in the policy. This will allow an assessment to be made on the eligibility to receive the subsidy.
13. If an organisation that is currently receiving the subsidy is found to not satisfy the criteria, a phasing in period will apply until no subsidy is allowed. This phasing in will be over a number of years, as detailed in the table below:

Table 2

Financial Year	Subsidy offered
2016/17	75%
2017/18	50%
2018/19	25%
2019/20	Nil

14. By phasing out the subsidy over a number of years, any impacted organisation will have time to adjust budgets and financial impact.

GOVERNMENT & PUBLIC CONSULTATION

15. All of the organisations currently receiving the subsidy will be contacted upon policy endorsement. Rates for the 2016/17 year will not be raised until August 2016, and not due until mid to late September 2016. By adopting this policy in 2015, City officers will have at least six months to contact and work with the various organisations to address the eligibility criteria.

STATUTORY IMPLICATIONS

16. The *Local Government Act 1995* does not provide a definition of what constitutes a charitable purpose, or for a public purpose.
17. Using case law precedence, each local government has the responsibility to assess and decide on applications from organisations seeking an exemption from paying rates. No application has been found from these organisations requesting exemption, and the case law precedence would indicate that the organisations listed would not be eligible for this exemption.

POLICY IMPLICATIONS

18. No policy currently exists. Adoption of this policy will ensure transparency and accountability is established.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Community & Organisational Operations. Failure to adopt the policy leaves some uncertainty amongst community organisations and City officers regarding eligibility and amount of subsidy.	Possible	Minor	Medium	Support the officer’s recommendation and adopt the policy.
Reputation. Failure to adopt the policy may result in some dissatisfaction within sporting & community groups not currently receiving any subsidy.	Possible	Minor	Medium	Support the officer’s recommendation and adopt the policy.

FINANCIAL IMPLICATIONS

20. The total value of the subsidy for 2015/16 was \$202,190.26. It is anticipated that this amount will change in line with the annual change in rates.
21. A number of these groups lease land from the City, and pay a lease or licence fee for the use of City owned or managed assets. Any lease or licence fee is covered by *Council Policy: Property Management (Leases and Licences)*.

ALTERNATE OPTIONS

22. That no rating subsidy policy for sporting and community organisations is adopted.

SUMMARY CONCLUSION

23. For a number of years, a number of sporting and community groups have been receiving a rating subsidy with no policy framework in place.
24. To address this, it is recommended that Council resolve to adopt the proposed policy position attached.

Consulted References	:	<ul style="list-style-type: none"> • <i>Local Government Act 1995</i> • Council Property: Property Management (Leases and Licences)
File Number (Name of Ward)	:	Nil (All wards)
Previous Reference	:	OCM 22/09/2015 Resolution CSF195

**CSF212: ORDINARY COUNCIL MEETING DATES AND COMMITTEE
PLANNING MEETING CALENDAR**

Proponent : City of Albany
Attachments : Council and Committee Meeting Schedule 2015-16
Report Prepared By : Manager Governance and Risk Management (S Jamieson)
Responsible Officer : Chief Executive Officer (A Sharpe)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership.
 - b. **Strategic Objectives:**
 - 5.1. To establish and maintain sound business and governance structures.
 - 5.3 To engage effectively with our community.
 - c. **Strategic Initiative:** 5.3.2. Improve community engagement processes and platforms

In Brief:

- Council is requested to review the Ordinary Council Meeting and Committee meeting dates and timings set by Council at the Ordinary Council Meeting held on 28 April 2015; and
- Adopt the proposed meeting schedule for the following 12 months (up to December 2016).

RECOMMENDATION

**CSF212: COMMITTEE RECOMMENDATION (AMENDED RESPONSIBLE OFFICER
RECOMMENDATION}
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council, for the purpose of public notice:

- (1) **REAFFIRM** the Council decision of 28 April 2015 that fixed the following Council Committee days and times:
 - (a) **First week of the month**
 - **Tuesday:** Community Services Committee (6.00pm)
 - **Tuesday:** Economic Development Committee (6.45pm)
 - **Wednesday:** Planning & Development Committee (6.00pm)
 - (b) **Second week of the month**
 - **Tuesday:** Corporate Services & Finance Committee (6.00pm)
 - **Wednesday:** Works & Services Committee (6.00pm)
 - (c) **Third week of the month**
 - **No meetings**
 - (d) **Fourth week of month**
 - **Tuesday:** Ordinary Council Meeting (6.00pm)

(Note: The exception being the months of January and December)

(2) APPROVE the proposed meeting dates for ordinary meetings of Council, for the next 12 months:

- **January 2016 (No meetings scheduled)**
- **23 February 2016**
- **22 March 2016**
- **26 April 2016**
- **24 May 2016**
- **28 June 2016**
- **26 July 2016**
- **23 August 2016**
- **27 September 2016**
- **25 October 2016**
- **22 November 2016**
- **14 December 2016 (third Tuesday)**

(3) APPROVE the attached Council Committee Meetings Calendar, amended accordingly.

CSF212: AMENDMENT BY COUNCILLOR MULCAHY

**MOVED: COUNCILLOR MULCAHY
SECONDED: COUNCILLOR PRICE**

THAT the Responsible Officer Recommendation be AMENDED to state that:

- 1. The Community Services Committee, Planning and Development Committee, Corporate Services and Finance Committee and Works and Services Committee meetings commence at 6.00pm.**
- 2. The Economic Development Committee meeting commence at 6.45pm.**

CARRIED 8-1

Record of Vote

Against the Motion: Councillor Shanhun

Councillor Reason:

The change of the start time for committee meetings is in line with community feedback to enable attendance by Councillors and interested members of the public.

CSF212: AMENDMENT BY COUNCILLOR MULCAHY

MOVED: COUNCILLOR MULCAHY
SECONDED: COUNCILLOR STOCKS

THAT the Responsible Officer Recommendation be AMENDED to include an Ordinary Council Meeting to be held on 19 January 2016.

LOST 1-8

Record of Vote

For the Motion: Councillor Mulcahy

Councillor's Reason:

To avoid the requirement to call Special Council Meetings and late items being presented straight to the December Ordinary Council Meeting with going through committees.

CSF212: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, for the purpose of public notice:

(1) REAFFIRM THE Council decision of 28 April 2015 that fixed the following Council Committee days and times:

(a) First week of the month

- Tuesday: Community Services Committee (5.30pm)
- Tuesday: Economic Development Committee (6.15pm)
- Wednesday: Planning & Development Committee (5.30pm)

(b) Second week of the month

- Tuesday: Corporate Services & Finance Committee (5.30pm)
- Wednesday: Works & Services Committee (5.30pm)

(c) Third week of the month

- No meetings

(d) Fourth week of month

- Tuesday: Ordinary Council Meeting (6.00pm)

(Note: The exception being the months of January and December)

(2) APPROVE the proposed meeting dates for ordinary meetings of Council, for the next 12 months:

- January 2016 (No meetings scheduled)
- 23 February 2016
- 22 March 2016
- 26 April 2016
- 24 May 2016
- 28 June 2016
- 26 July 2016
- 23 August 2016
- 27 September 2016
- 25 October 2016
- 22 November 2016
- 14 December 2016 (third Tuesday)

(3)APPROVE the attached Council Committee Meetings Calendar.

BACKGROUND

2. At the Ordinary Council Meeting held on 29 October 2013, Council established a new Council Committee Structure (Standing Committees) to act as a conduit for proposed and reviewed strategy and policy positions.
3. At the Ordinary Council Meeting held on 24 February 2015, Council resolved to cease holding Agenda Briefing Sessions effective March 2015.
4. The current City of Albany Ordinary Council and Committee Meeting Calendar was approved at the Ordinary Council meeting held on 28 April 2015; However, Council resolved to ratify the dates and timings after October 2015 Ordinary Local Government Elections.

DISCUSSION

5. The Agenda for the Ordinary Council Meetings are comprised of reports presented to Council Committees. In order to facilitate the timely presentation of these reports to Council for decision making, Council Committee meetings are scheduled to be held prior to the ordinary council meeting.
6. This scheduling enables all Council Committee report items to be presented to Council in the same month as the Committee meetings have occurred.
7. Currently ordinary meetings of Council are scheduled at 6.00pm on the basis that all meetings should be held outside of normal working hours to enable attendance by all Councillors and interested members of the public, however, Council may consider this is an appropriate time to review these timings, noting that Council Committee meetings generally start at 5.30pm, with the exception of the Economic Development Committee that start at 6.15pm.

GOVERNMENT & PUBLIC CONSULTATION

8. The proposed meeting dates and times are based on current practice.
9. Feedback from the Community has requested that meetings that are open to the public are not held prior to 6.00pm.
10. The proposed date for the Ordinary Council Meeting for the month of October has been scheduled to not conflict with local government elections that are historically held on the third weekend of October and state and national public holidays.

STATUTORY IMPLICATIONS

11. It is a statutory requirement for Council to give Local Public Notice at least once each year of when Council plans to hold Council and Committee meetings that are open to public attendance.
12. *Local Government Act 1995, s 5.25(1)(g) and as prescribed by the Local Government (Administration) Regulations 1996, Regulation 12:*

(1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which —
(a) the ordinary council meetings; and

(b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.

(2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in sub-regulation (1).

13. Voting requirement for this item is **Simple Majority**.

POLICY IMPLICATIONS

14. There are no policy implications related to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Legal and Compliance. Local Public Notice is not given of the dates and times at which the Ordinary Council Meetings will be held.	Unlikely	Moderate	Medium	Reaffirm current meeting day and dates, prior to giving local public notice. Noting and times are subject to change.

FINANCIAL IMPLICATIONS

16. A budget line exists for the cost of giving public notice and advertising.

LEGAL IMPLICATIONS

17. Local public notice must be given to ensure legislative compliance, detailing changes to the forecast ordinary meeting schedule.

ENVIRONMENTAL CONSIDERATIONS

18. There are no direct environmental considerations related to this item; however an efficient meeting schedule will reduce wasted resources (time, travel, and office consumables).

ALTERNATE OPTIONS

19. Council may consider alternate days, dates, committee meeting order and timings.

SUMMARY CONCLUSION

20. It is recommended that the proposed amended 2015-16 Meeting Calendar be approved.

Consulted References	:	Local Government Act 1995
File Number (Name of Ward)	:	(All Wards) <ul style="list-style-type: none"> • Airport Emergency Committee – ES.MEE.5 • Audit and Risk Committee - FM.MEE.3 • Bush Fire Advisory Committee – ES.MEE.1 • Community Services Committee – CS.MEE.9 • Corporate Services & Finance Committee – CM.MEE.9 • Economic Development Committee – ED.MEE.10 • Local Emergency Management Committee – ES.MEE.5 • Ordinary Council Meeting - GO.COM.3 • Planning & Development Committee – LP.MEE.1 • Works & Services Committee – RD.MEE.6
Previous References	:	OCM 19/02/2013 Report Item 1.3 OCM 27/08/13 Report Item CSF003 OCM 24/02/2015 Report Item CSF142 OCM 28/04/2015 Report Item CSF160

CSF213: FEE FOR MICROCHIPPING OF DOGS AND CATS

Proponent : City of Albany
Report Prepared by : Manager Ranger & Emergency Services (T Ward)
Responsible Officer : Executive Director Planning & Development (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** Civic Leadership
 - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations.

In Brief:

- State legislation requires dogs and cats to be microchipped unless exempt.
- Local governments are empowered to insert microchips in impounded dogs and cats and recover reasonable charges.
- Penalties apply for transfer of ownership on non-microchipped dogs and cats.
- A fee is proposed to recoup reasonable costs.

RECOMMENDATION

CSF213: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council:

1. **Adopt a fee of \$60.00 to recover costs incurred from microchipping impounded dogs and cats prior to their release**
2. **Advertise the proposed fee by public notice; and**
3. **Introduce the new fee as from 1 February 2016**

CSF213: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR MULCAHY

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

CSF213: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

4. Adopt a fee of \$60.00 to recover costs incurred from microchipping impounded dogs and cats prior to their release
5. Advertise the proposed fee by public notice; and
6. Introduce the new fee as from 1 February 2016

BACKGROUND

2. Current practice has been to allow owners of impounded non-microchipped animals, within 14 days from the release date of their animal from the pound, to arrange microchipping. This involved the owner signing a declaration and Ranger staff following up to ensure compliance.
3. Changes to the *Dog Act 1976* which came into effect on 1 November 2015 mean that this arrangement is no longer an option, as all dogs must now be microchipped in order to be registered.

DISCUSSION

4. Both the *Dog Act 1976* and the *Cat Act 2011* allow local governments to have non-microchipped animals that enter the pound microchipped at the owner's expense prior to release.
5. The qualifications required to become a microchip implanter are defined in the *Dog Regulations 2013* and the *Cat Regulations 2012*. The City of Albany currently employs one Ranger who holds the required qualifications and is in the process of having a second Ranger trained.
6. The proposed fee would cover the expenses incurred by the City of Albany associated with the microchipping procedure and be comparable to the lower end of fees charged by this procedure by the local veterinary clinics.
7. The introduction of a fee would allow the City of Albany to charge the animal owner for the cost of microchipping at the time of release (along with other associated fees).
8. The alternative action would involve a Ranger transferring a dog to a veterinary clinic for the procedure to be carried out by a vet and the City on-billing the costs of the procedure to the animal owner through the issue of a creditor invoice.

STATUTORY IMPLICATIONS

9. Under the *Dog Act 1976*, it is a requirement that as at 1 November 2015 all dogs are microchipped (unless under the age of three months or a veterinary surgeon has provided a certificate of exemption).
10. The Act allows for the operator of a dog management facility to do anything necessary to ensure that a dog kept at the facility is microchipped before the dog is reclaimed or otherwise transferred from the facility and to charge the owner of the dog reasonable costs associated with the implantation of a microchip.
11. Under the *Cat Act 2011*, it is a requirement that all cats are microchipped (unless under the age of three months or a veterinary surgeon has provided a certificate of exemption).
12. The Act allows for the operator of a cat management facility to have cat microchipped and sterilised before the cat is reclaimed or otherwise transferred from that facility and to charge the owner the reasonable costs associated with the implantation of the microchip.

13. The City of Albany currently employs a Ranger who currently holds the qualifications required under the *Cat Regulations 2012* and *Dog Regulations 2013* to implant microchips in cats.
14. The setting of the level of fees and charges is governed by s.6.17 of the Local Government Act. The recoverable costs for the implantation of a microchip is estimated to be \$60 which is comparable to the lower end of the price range for this service provided by local veterinary services.
15. Local Government Act 1995, section 6.19, section states: “Local government to give notice of fees and charges.

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

(a) its intention to do so; and

(b) the date from which it is proposed the fees or charges will be impose.

Fees and charges are to be imposed when adopting the annual budget but may be —

(a) imposed during a financial year; and*

(b) amended from time to time during a financial year.*

** Absolute majority required.*

POLICY IMPLICATIONS

16. Nil.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Legal & Compliance. <i>Dog or cat released from pound without a microchip in breach of the Dog Act 1976 or Cat Act 2011</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Suitably qualified Ranger to insert microchip prior to releasing any non-microchipped animal from the Pound.</i>

FINANCIAL IMPLICATIONS

18. The following costs have been used to calculate the \$60.00 fee for the microchipping of an animal:
 - a. Microchip device \$12.50
 - b. Ranger time (1 hour @ \$36.17per hour – inc overheads) \$36.17
 - c. Administration (0.5 hour @ \$33.34 per hour – inc overheads) \$16.67

LEGAL IMPLICATIONS

19. The City of Albany risks contravening the *Dog Act 1976* and the *Cat Act 2011* if it releases non-microchipped animals to owners.

ALTERNATE OPTIONS

- 20. Option 1 - Rangers insert the microchip at the pound (preferred option); or
- 21. Option 2 - Rangers transfer the animal to a vet clinic, wait for the animal to have the chip implanted and return the animal to the pound for release to the owner.

SUMMARY CONCLUSION

- 22. That the Responsible Officer Recommendation be adopted, noting that the introduction of a fee for microchipping dogs and cats prior to release from the Animal Management Facility (Pound) would allow the City of Albany to recover the associated costs incurred in the compliance with state legislation requiring dogs and cats to be microchipped.

Consulted References	:	<i>Dog Act 1976, Cat Act 2011, Local Government Act 1995, Dog Regulations 2013, Cat Regulations 2012</i>
File Number (Name of Ward)	:	All Wards
Previous Reference	:	2015/2016 Budget Adoption

CSF214: ALBANY AGRICULTURAL SOCIETY – FUTURE USE AND TENURE IN CENTENNIAL PARK

- Land Description** : **Eastern Precinct**
Reserve 405 Lot 1359 Lockyer Avenue, Centennial Park
Lot 305 Lockyer Avenue, Centennial Park
Lot 32 North Road, Centennial Park
Central Precinct
Lot 5 North Road, Centennial Park
Lot 6 and Lot 1003 North Road, Centennial Park
Lot 115 North Road, Centennial Park
- Proponent** : Albany Agricultural Society
- Owner** : City of Albany (as freehold, through Crown Grant in Trust or as Management Body of Crown Reserve)
- Attachments** : OCM 22 July 2014 Item CSF177
Items Attached under CONFIDENTIAL cover: The Deed of Agreement in accordance with section 5.23(2)(c) of the Local Government Act 1995, being a contract which may be entered into.
- **Draft Deed of Agreement**
- Supplementary Information & Councillor Workstation:** : Albany Agricultural Society: Centennial Park Infrastructure Proposal
- Report Prepared by** : Senior Land Officer (N Crook)
Executive Director Works & Services (M Thomson)
- Responsible Officer** : Chief Executive Officer (A Sharpe)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:**
 3. A Connected Built Environment
 4. A Sense of Community.
 - b. **Strategic Objective:**
 - 3.2 To develop community amenities that support people of all ages and backgrounds.
 - 4.2 To create interesting places, spaces and events that reflect our community's identity, diversity and heritage.
 - 4.3 To develop and support a healthy inclusive and accessible community.
 - c. **Strategic Initiative:**
 - 3.2.2 By developing facilities and activities that enable active and passive recreation.
 - 3.2.3 By developing an integrated approach to planning and development.
 - 4.2.2 By improving the amenity of community spaces to promote participation and wellbeing.
 - 4.3.1 Develop a range of activities and facilities that are appropriate for all ages.
 - 4.3.2 Encourage and support volunteers and community groups.

Maps and Diagrams:



In Brief:

- In recent months, City officers have undertaken extensive negotiations with the Albany Agricultural Society regarding their future use and tenure within the Centennial Park Sporting Precinct.
- The Society has submitted an Infrastructure Proposal outlining their terms for the final agreement.
- These terms have been reviewed and the City's acceptable position has then been detailed in a draft Deed of Agreement.
- Council is requested to endorse the Deed of Agreement and the terms therein as the basis for the Albany Agricultural Society's continued use, tenure and operations within the Centennial Park Sporting Precinct.

RECOMMENDATION

**CSF214: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT Council:

- 1. ENDORSE the Deed of Agreement (as attached) and the terms therein as the basis for the Albany Agricultural Society's continued use, tenure and operations within the Centennial Park Sporting Precinct;**
- 2. REQUEST that the Deed of Agreement is forwarded as a priority to the Albany Agricultural Society for their endorsement and ask that this Deed is signed on or before Tuesday 22 December 2015;**
- 3. AUTHORISE the Chief Executive Officer to:**
 - a. Finalise any matters with the Albany Agricultural Society that may arise so as to permit the commencement of works in the Centennial Park Sporting Precinct (Eastern Precinct) in January 2016;**
 - b. Authorise minor administrative changes to the Deed of Agreement document, though any substantial changes must be presented to Council for further consideration; and**
 - c. Execute the new lease documents, as detailed in the Deed of Agreement;**
- 4. REQUEST that the Minister of Lands approve the revestment of Lot 1135 on Deposited Plan 208775 as contained on Certificate of Title Volume 546 Folio 156A (Hanrahan Landfill Facility) as a Crown Reserve and issue the management order for this reserve to the City of Albany for waste management purposes.**

CSF214: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR MULCAHY
SECONDED: COUNCILLOR SMITH**

THAT Council:

- 1. ENDORSE the Deed of Agreement (as attached) and the terms therein as the basis for the Albany Agricultural Society's continued use, tenure and operations within the Centennial Park Sporting Precinct;**
- 2. REQUEST that the Deed of Agreement is forwarded as a priority to the Albany Agricultural Society for their endorsement and ask that this Deed is signed on or before Tuesday 22 December 2015;**
- 3. AUTHORISE the Chief Executive Officer to:**
 - a. Finalise any matters with the Albany Agricultural Society that may arise so as to permit the commencement of works in the Centennial Park Sporting Precinct (Eastern Precinct) in January 2016;**
 - b. Authorise minor administrative changes to the Deed of Agreement document, though any substantial changes must be presented to Council for further consideration; and**
 - c. Execute the new lease documents, as detailed in the Deed of Agreement;**
- 4. REQUEST that the Minister of Lands approve the revestment of Lot 1135 on Deposited Plan 208775 as contained on Certificate of Title Volume 546 Folio 156A (Hanrahan Landfill Facility) as a Crown Reserve and issue the management order for this reserve to the City of Albany for waste management purposes.**

CARRIED 9-0

CSF214: AMENDMENT BY COUNCILLOR MULCAHY

MOVED: COUNCILLOR MULCAHY
SECONDED: COUNCILLOR PRICE

THAT Point 2 of the Responsible Officer Recommendation be AMENDED to read:

REQUEST that the Deed of Agreement is forwarded as a priority to the Albany Agricultural Society for their endorsement and ask that this Deed is signed on or before Tuesday 22 December 2015;

CARRIED 9-0

Reason: The Albany Agricultural Society will not meet until Monday 21 December 2015. Amending the response date to Tuesday 22 December will allow the Agricultural Society to meet prior to signing the Deed of Agreement.

CSF214: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. ENDORSE the Deed of Agreement (as attached) and the terms therein as the basis for the Albany Agricultural Society's continued use, tenure and operations within the Centennial Park Sporting Precinct;
2. REQUEST that the Deed of Agreement is forwarded as a priority to the Albany Agricultural Society for their endorsement and ask that this Deed is signed on or before Friday 18 December 2015;
3. AUTHORISE the Chief Executive Officer to:
 - a. Finalise any matters with the Albany Agricultural Society that may arise so as to permit the commencement of works in the Centennial Park Sporting Precinct (Eastern Precinct) in January 2016;
 - b. Authorise minor administrative changes to the Deed of Agreement document, though any substantial changes must be presented to Council for further consideration; and
 - c. Execute the new lease documents, as detailed in the Deed of Agreement;
4. REQUEST that the Minister of Lands approve the revestment of Lot 1135 on Deposited Plan 208775 as contained on Certificate of Title Volume 546 Folio 156A (Hanrahan Landfill Facility) as a Crown Reserve and issue the management order for this reserve to the City of Albany for waste management purposes.

BACKGROUND

2. The Albany Agricultural Society (AAS) has used Centennial Park East since the 1900's, however a formal licence agreement was only put in place in 1980. The latest licence expired on 31 December 2010 and AAS have continued to occupy the site under holding-over on the same conditions.
3. On 26 November 2014, the City has issued a termination notice to the AAS and their occupation of the site will terminate on 27 November 2015. Under the terms of the licence and termination notice, AAS must:
 - a. Remove from the Showgrounds all furniture on or before the termination date and reinstate the Showgrounds to the same state and condition as at the commencement of the licence;

- b. Within 6 months following the termination date, remove AAS buildings as set out on the licence. Following this time, the buildings become the property of the City;
 - c. Given good faith negotiations continue, the City provided written correspondence allowing the AAS to use the McCormick and Goat Pavilions on the same terms as the existing licence. If no agreement is reached, all other matters of the previous Notice of Termination will apply.
4. The AAS was issued a Crown Grant in Trust over Lot 1135 Hanrahan Road in 1966 for the purpose of “Greater Sports Ground and Showground”. In February 1971, the City then entered into a lease with the AAS to use this land as a refuse site.
5. The original lease of Lot 1135 Hanrahan Road, commencing on 3 February 1971, had a peppercorn rental amount of \$1 per year, though this was varied in 2002 to be the equivalent of the minimum rate. This lease arrangement will expire on 31 January 2022.
6. Council, at its meeting held on 25 February 2014, resolved:
“THAT City staff investigate targeted solutions for the Albany Agricultural Society’s current and future needs, and these options be presented at a future Council meeting”.
7. Council, at its meeting held on 22 July 2014, considered an item which detailed the current status of negotiations with the AAS regarding its ongoing tenure and use within Centennial Park relative to the redevelopment of this sporting precinct. This item considered the impact of these negotiations on the funding milestones associated with the State and Federal grants secured for the redevelopment project. From this meeting, it was resolved:
“THAT Council:
 - *RECEIVE the Officer’s Report;*
 - *ACKNOWLEDGE the Albany Agricultural Society presentation;*
 - *RECOMMEND to Council:*
 - *City Staff continue to work with the design team to develop a design for the Annual Agricultural Show to remain at Centennial Park;*
 - *City staff to work with the community groups and sporting and recreational clubs that currently conduct activities in the existing Albany Agricultural Society structures to find suitable alternative venues; and*
 - *City staff to work with Albany Agricultural Society current Centennial Park facility users that conduct agricultural related activities/events throughout the year to source suitable alternate locations.”*
8. In April 2015, the AAS responded to the offers made by the City and stating their requirements, as follows:
 - a. Sufficient funds should be provided by the City to construct a 3600m² building on an east-west alignment, from design stage through to final completion;
 - b. This building shall be leased to the AAS for 30 years with a 30 year option;
 - c. A 4000m² covered car park in the vicinity of the soccer clubhouse, with 2.8m drop sides and gable roof should be constructed to house livestock exhibitions during the Show;
 - d. The City shall refurbish (at the City’s full expense) the Royals clubhouse for the AAS use as an office space and meeting room;
 - e. Use of the Railways football oval for horse arenas during the Show;

- f. Use of the full Eastern Precinct including stadium and facilities during the Show period;
 - g. Temporary marquees and fencing to be provided by the City as an in-kind contribution;
 - h. No demolition or exclusion of use of the existing buildings shall occur until all new and refurbished buildings are completed and handed to the AAS under the AAS management;
 - i. Lockyer Avenue shall be closed on Show days; and
 - j. Retention of the existing cattle complex.
9. On 8 May 2015 and in response to this position, the City advised the AAS that this position was far greater than what the City has proposed or what could be considered and a revised offer was put forward for consideration. This offer included:
- a. A cash payment of \$750,000 will be made in exchange for the voluntary surrender of the Crown Grant in Trust over Lot 1135 Hanrahan Road;
 - b. These funds would enable the construction of a 3,600m² building in the vicinity of Knight Street. It is intended that this building would house the AAS administrative functions and the Royals building was excluded from this revised offer;
 - c. The City would undertake or fund site works to a value of \$220,000, including the construction and sealing of an access road and parking spaces, connection to sewer and water and site works for the proposed building;
 - d. The site of the building will be leased to the AAS for a term of 30 years;
 - e. In-kind support up to a value of \$25,000 during the Show period, including use and assembly of temporary fencing and marquees; and
 - f. Negotiated use of the central and eastern precincts for the operation of the Show. In this respect, the City will consider the use of all facilities (not otherwise permanently occupied) subject to the approval of a Show layout plan and cost recovery options. This includes the temporary closure and use of Lockyer Avenue.
10. In June 2015, an item was presented to Council (attached) to seek endorsement of this offer. This item noted that no response had been received from the AAS prior to presenting the matter to Council for consideration. Following consideration of the offers made and the position of the AAS, Council resolved as follows:

Council:

- (1) *NOTE that, Council has exhausted all reasonable avenues of consultation with the Albany Agricultural Society in an attempt to resolve this matter.*
- (2) *ENDORSE and APPROVE the following final offer being made to the Albany Agricultural Society for its continued use and operation within the Centennial Park Sporting Precinct:*
 - (a) *A cash payment of \$750,000 will be made in exchange for the voluntary surrender of the Crown Grant in Trust over Lot 1135 Hanrahan Road (tip site);*
 - (b) *At no cost, the City will make available Albany Leisure and Aquatic Centre and surrounds for the annual Albany Agricultural Show;*
 - (c) *At no cost, the City will make available Railways Football Oval for the duration of equestrian events associated with the Albany Agricultural Show; and*
 - (d) *The City will continue to offer in-kind support up to a value of \$25,000 during the Show period.*

- (3) *NOTIFY the Albany Agricultural Society that, in the event the above offer is not accepted by 31 July 2015, the following position will apply:*
- (a) *In order to meet funding deadlines for the Centennial Park redevelopment, Albany Agricultural Society must vacate the Centennial Oval licence area as per the termination notice issued on 26 November 2014;*
 - (b) *The City will no longer pursue the voluntary surrender of the Crown Grant in Trust over Lot 1135 Hanrahan Road;*
 - (c) *The City will negotiate with the Albany Agricultural Society, an agreed rental of the Hanrahan Landfill Facility situated at Lot 1135 Hanrahan Road, in line with the requirement and intent of the current lease over this land;*
 - (d) *The City will make available the Centennial Park land area to the Society (at no cost) for the annual Albany Agricultural Show;*
 - (e) *The City will allow the use of the new Centennial Park buildings during the Annual Show subject to cost recovery;*
 - (f) *At no cost, the City will make available Albany Leisure and Aquatic Centre and surrounds for the 2016 annual Albany Agricultural Show; and*
 - (g) *The City will continue to offer in-kind support up to a value of \$25,000 during the Show period.*

This resolution was carried by Absolute Majority.

DISCUSSION

Response to June 2015 Resolution

11. Council's June 2015 resolution made a time dependent offer, requiring a response from the AAS by 31 July 2015.
12. On 30 July 2015, the City received correspondence from a solicitor, Kott Gunning, acting on behalf of the AAS and seeking an extension to the time period to consider this offer. The City's solicitor, Albany Legal, responded to this letter advising that as the time period was set by a resolution of Council, it could not be varied, however the City remains committed to resolving the matter with the AAS and invited the AAS to provide a response as soon as possible. However, no written response was provided by the AAS at this time.

Recent Negotiations

13. Given the impasse that was reached in negotiations, staff and Council entered into further discussions with the AAS to determine if a resolution could be reached that was agreeable to both parties. A number of meetings have been held over the last few months to negotiate a resolution.
14. In October 2015, the City provided correspondence to AAS that suggested a list of terms that the AAS might like to consider in their response to the City, based on the discussions that had occurred. While a reply letter was provided by AAS on 4 November, this document remains stamped as a draft and is unsigned.
15. The AAS made a presentation to Council at an informal meeting held on 23 November, which included a written Infrastructure Proposal. The proposal is attached to this report and outlines the terms the AAS would like Council to consider. It has been assumed that this document supersedes the draft letter previously submitted.

Deed of Agreement

16. These terms have been reviewed by staff and the recommended position is reflected in a Deed of Agreement. The intent is that the Deed will act as an over-arching document for all future dealings with the AAS. The Deed has been provided as a confidential attachment

to this item, as it contains commercial in confidence matters. However, the Deed sets the terms for the following matters:

- a. The AAS obligations to vacate the Centennial premises and the rights for occupation during the construction period;
- b. The AAS rights to salvage materials and the obligations the City makes in this regard;
- c. The surrender of the Crown Grant in Trust over the Hanrahan Landfill Facility and the termination of the City's lease over this land;
- d. The future lease terms over the Royals building and the obligations by both parties to make improvements to this building;
- e. The future lease terms over the new buildings lease area and the obligations by both parties over the proposed works in this new lease area. This includes details on the financial commitments by both parties; and
- f. Other general requirements that are consistent with a standard commercial land dealing.

Future Lease Terms

17. In regard to the terms of the proposed new leases over portion of the Royals Building and the new land area at the corner of Cockburn Road and Symers Street, any term greater than 20 years will be subject to the approval of the Western Australian Planning Commission.
18. The City has maintained in all dealings that a 30 year term would be considered, as any term greater than 21 years is inconsistent with current lease practices. However, it is noted the City has granted two other leases on 30 year terms based on the significant infrastructure involved with those leases, so some precedent exists.
19. The Western Australian Planning Commission has advised the City on the future leases to the AAS, stating that they may not support leases terms (including any option to extend) of greater than 40 years unless there are particular circumstances that warrant a longer term. An application of greater than 40 years is likely to be subject to much greater assessment processes.
20. In view of this advice and the AAS request for a longer lease term, a term of 30 years plus a 10 year option has been generally agreed. The exercise of the option is conditional upon meeting certain requirements, which have been expressed in the Deed of Agreement and if these renewal conditions are not met, the option may not be exercisable.

Hanrahan Landfill Facility

21. Throughout all discussions with the AAS, the City has maintained that it would be best if the Hanrahan Landfill Facility was under the City's management on a more permanent basis.
22. The City has had detailed discussions with the Department of Lands regarding how this might be achieved. As early as December 2013, the Department noted that alternative tenure for this site under City management is the best long term outcome. Though it has been their advice that this would be best achieved if the AAS voluntary surrenders their Crown Grant in Trust over Lot 1135 Hanrahan Road.
23. If the Crown Grant in Trust was surrendered, the City would then have the option of seeking the revestment of Lot 1135 Hanrahan Road under the provisions of the *Land Administration Act 1997* and the issue of the Management Order for the newly created Crown reserve to the City. The Department has advised, in writing, that it is prepared to

work with the City and the AAS with the aim that Lot 1135 Hanrahan Road is placed under the management of the City for the following reasons:

- a. While the current lease arrangements are acknowledged, the use of the site as a waste management facility is not consistent with the purpose for which the land was transferred to the AAS;
 - b. Due to the current use and future remediation requirements, the land will not be able to be used for the purpose of the Crown Grant, being “Greater Sports Ground and Showground”;
 - c. Responsibility for waste management rests with the City and it is appropriate that the City has primary responsibility for the land on which this activity occurs; and
 - d. In view of the above, the Department would support the future reservation of Lot 1135 for the purpose of “Waste Management Facility” or similar and the grant of a management order to the City for this purpose. This action would be dependent on the resolution of current tenure situation with AAS.
24. If the tenure of Lot 1135 Hanrahan Road is not transferred to the City, the City’s lease of the land will remain until 2022. This lease states that the rent of the land shall be an amount equivalent to the Gross Rental Value of the Centennial Oval and in the event that AAS does not lease Centennial Oval from the City, then the rent shall be such amount as shall be agreed between the City and AAS from year to year, set annually and subject to GST. The City would need to negotiate with AAS to determine this rental value, though it is understood that the AAS has received a valuation indicating a market rental of \$60,000 per annum.
25. Irrespective of the future tenure of Lot 1135 Hanrahan Road, the City will be responsible for ensuring that the landfill facility is closed and made good in line with a landfill closure plan to be approved by the Department of Environment Regulation. There may also be requirements for ongoing monitoring of groundwater.

GOVERNMENT & PUBLIC CONSULTATION

26. Extensive consultation with the AAS has occurred to date. The City has also discussed options for relocation with various community and sporting groups currently using the AAS buildings and secured new locations for many of these groups, with their full support.
27. All other stakeholder and sporting clubs within the Centennial Park Sporting Precinct have provided written endorsement of the Master Plan and concept design for the precinct redevelopment.
28. The City has also maintained close consultation with the Department of Lands throughout the negotiation process and sought their advice where required.

STATUTORY IMPLICATIONS

29. Section 11 of the *Land Administration Act 1997* allows the Minister, on behalf of the State, to acquire an estate, interest or other right of land in the public interest by accepting the surrender of land from any person.
30. Section 41 of the *Land Administration Act 1997* allows the Minister to reserve Crown land for one or more purposes in the public interest.
31. Section 46 of the *Land Administration Act 1997* allows the Minister to place the care, control and management of a reserve in a person or agency.

32. Section 136 of the *Planning and Development Act 2005* requires the Western Australian Planning Commission grant approval for any lease term exceeding 20 years on part of a freehold lot.

POLICY IMPLICATIONS

33. The options to accommodate the AAS may impact on the Centennial Park Sporting Precinct Master Plan previously adopted by Council and could be considered a departure from this plan.
34. Council Policy – Property Management (Leases and Licences) states that the term on City freehold land is at the discretion of Council, with 21 years being the current lease practice. Any decision to grant a lease for longer than this period will be a departure from current practices.
35. Council Policy – Property Management (Leases and Licences) states that community groups who lease City managed buildings shall pay the equivalent to annual minimum rate as their rental. However, it has been agreed that AAS lease for Royals building will be a peppercorn rent.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Financial. Funding of development lost due to not meeting grant funding conditions and milestones.</i>	<i>Likely</i>	<i>Severe</i>	<i>High</i>	<i>Council adopts a position that will secure the AAS use, tenure and operations within Centennial Park, thereby removing any obstacle to meeting grant funding conditions.</i>
<i>Reputation. If agreement is not reached on a suitable option for AAS occupation within Centennial Park, the termination of current arrangements with AAS will likely attract significant negative attention.</i>	<i>Likely</i>	<i>Major</i>	<i>High</i>	<i>City to manage public reaction in a measured way and make clear the risks of allowing negotiations to remain unresolved.</i>

FINANCIAL IMPLICATIONS

37. This matter has significant financial implications, which are detailed in the attached Deed of Agreement. It is intended the funds required to execute the Deed commitments will be drawn from both the Waste Reserve and future budget considerations. It is noted that the demolition costs are already covered by the Centennial Park Sporting Precinct project.
38. There is an allocation in the current budget to this project and it is intended any additional funds required will be addressed during the March quarterly budget review.

LEGAL IMPLICATIONS

39. The City has maintained legal counsel, both generally and on specific matters, throughout the negotiation process to ensure legal compliance. Specific legal advice regarding the termination of the AAS Licence over the Centennial Oval site and on the rental arrangements for Lot 1135 Hanrahan Road has been obtained.
40. The draft Deed of Agreement attached to this item has been prepared by the City’s legal counsel.

ENVIRONMENTAL CONSIDERATIONS

- 41. The City is responsible for the management of the Hanrahan Landfill Facility under the terms and conditions of the licence granted by the Department of Environment Regulation. Any closure of this facility will be similarly regulated by this agency via an approved closure plan.
- 42. The *Contaminated Sites Act 2003* will place serious restrictions on the future use of Lot 1135 Hanrahan Road and it is considered unlikely that more sensitive uses (such as recreational uses) will be permitted on the site.

ALTERNATE OPTIONS

- 43. Council may:
 - a. Endorse the Deed of Agreement and the terms therein as the basis for the AAS’s continued use, tenure and operations within the Centennial Park Sporting Precinct; or
 - b. Make alternate recommendations on the terms contained in the Deed of Agreement document, though resolving to proceed with modification; or
 - c. Resolve not to support the Deed of Agreement as the basis for the AAS’s continued use, tenure and operations within the Centennial Park Sporting Precinct and ask that further negotiations occur. This will have significant impacts on the Centennial Park Sporting Precinct project schedule and the commencement of the Eastern Precinct works may not be able to commence in January 2016.

SUMMARY CONCLUSION

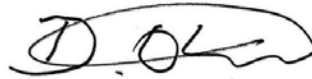
- 44. The City has been in negotiations with the AAS for some time and while there has been much debate, it is considered that the terms detailed in the Deed of Agreement present a position that is more likely to be agreeable to the AAS.
- 45. This Deed provides a suitable basis for the AAS’s continued use, tenure and operations within the Centennial Park Sporting Precinct, while securing the tenure of the Hanrahan Landfill Facility.
- 46. It is recommended that Council endorse the Deed of Agreement and the terms therein as the basis for the AAS’s continued occupation of Centennial Park and as the guideline for all future dealings on this matter.
- 47. It is also recommended that Council provide its support for the issue of the management order for the future reserve over the Hanrahan Landfill Facility at this time, as the Deed requires that the AAS surrender this land to the State.

Consulted References	:	Past documentation, correspondence & items to Council Land Administration Act 1997
File Number (Name of Ward)	:	CP.DEC.1; PRO024; PRO025
Previous Reference	:	OCM 22/07/2014 Item CS011 OCM 25/02/2014 Item CS008 OCM 16/07/2013 Item 3.1 OCM 23/07/2015 Item CSF1777

CSF215: FINANCIAL ACTIVITY STATEMENT – NOVEMBER 2015

Attachment : Financial Activity Statement
Responsible Officer : Acting Executive Director Corporate Services (D Olde)

Responsible Officer's Signature:



RECOMMENDATION

CSF215: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the Financial Activity Statement for the period ending 30 November 2015.

CSF215: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR PRICE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

CSF215: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Financial Activity Statement for the period ending 30 November 2015.

BACKGROUND

1. The Statement of Financial Activity for the period ending 30 November 2015 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 \$50,000 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.

FINANCIAL IMPLICATIONS

8. Expenditure for the period ending 30 November 2015 has been incurred in accordance with the 2015/16 proposed budget parameters. Details of any budget variation in excess of \$50,000 (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.

POLICY IMPLICATIONS

9. The City's 2015/16 Annual Budget provides a set of parameters that guides the City's financial practices.
10. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

File Number (Name of Ward)	FM.FIR.2 - All Wards
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CSF216: REQUEST FOR NOMINATIONS TO THE GREAT SOUTHERN DEVELOPMENT COMMISSION BOARD

Proponent : City of Albany
Attachments : Nomination Form – For the GSDC Board Position
Report Prepared By : Manager Governance, Risk & IT Services (S Jamieson)
Responsible Officers: : Chief Executive Officer (A Sharpe)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership.
 - b. **Strategic Objectives:**
 - 5.1. To establish and maintain sound business and governance structures.
 - 5.3 To engage effectively with our community.
 - c. **Strategic Initiative:** 5.3.2. Councillor Forums

In Brief:

- A vacancy exists on the Great Southern Development Commission (GSDC) Board.
- Nominations must be endorsed by Council and submitted to the GSDC by close of business 18 December 2015.

RECOMMENDATION

**CSF216: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council propose the following nominees to be considered for appointment to the Great Southern Development Commission Board:

- | |
|--|
| 1.Councillor Price |
| 2.Councillor Hollingworth (subject to Councillor Hollingworth's agreement) |

CSF216: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR PRICE
SECONDED: COUNCILLOR MULCAHY**

THAT Council propose the following nominees to be considered for appointment to the Great Southern Development Commission Board:

- | |
|--|
| 1.Councillor Price |
| 2.Councillor Hollingworth (subject to Councillor Hollingworth's agreement) |

CARRIED 9-0

CSF216: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council propose the following nominees to be considered for appointment to the Great Southern Development Commission Board:

1
2.

BACKGROUND

2. On 10 November 2015, Council was advised by the Great Southern Development Commission (GSDC), that a vacancy exists on their Board of Management for an elected representative from local government in the region.
3. The Board of Management is the governing body of the Commission and meets regularly to set policy direction, make decisions on major budget and expenditure matters and provide advice to the Minister of Regional Development on regional issues. A formal meeting is held every second month.

DISCUSSION

4. The GSDC is seeking two nominations from the City of Albany, and others, to fill a vacant position on the GSDC Board, reserved for local government representation.
5. Council must approve the City of Albany nominees.
6. The following information will be required to be supplied by the nominees:
 - a. Current curriculum vitae, CV to include full name and date of birth;
 - b. Nominee statement of how he/she would like the Great Southern Regional to Develop;
 - c. Nominee statement of how he/she could contribute to the Development of the Great Southern Region through appointment to the board of the GSDC; and
 - d. Nominee statement of what he/she considers to be the key issues impacting on economic & social development in regional WA.
7. The Hon Terry Redman MLA, Minister for Regional Development will make the appointment to the GSDC Board, following consultation with Cabinet.

GOVERNMENT & PUBLIC CONSULTATION

8. Not applicable.

STATUTORY IMPLICATIONS

9. As the GSDC Board is not a committee of Council, there are no statutory implications.

POLICY IMPLICATIONS

10. There are no policy implications related to this item, unless the Terms of Reference to a Committee is amended. (For example: The number of Committee Members).

RISK IDENTIFICATION & MITIGATION

11. The risk identification and categorisation relies on the City’s [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation: Council does not receive nominations and/or nominees do not supply the requested information.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>City Officers are available to assist nominees administer the required documentation.</i>

FINANCIAL IMPLICATIONS

12. GSDC are responsible for sitting fees and travel reimbursement.

LEGAL IMPLICATIONS

13. There are no legal implications related to report.

ENVIRONMENTAL CONSIDERATIONS

14. There are no direct environmental considerations related to this item.

ALTERNATE OPTIONS

15. Nil.

Consulted References	:	<ul style="list-style-type: none"> • <i>Local Government Act 1995</i> • <i>Regional Development Commissions Regulations 1994</i>
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	<ul style="list-style-type: none"> • April 2013 OCM, Report 16.1

WS094: CONTRACT C15026 – PROVISION OF ELECTRICAL SERVICES

Proponent : City of Albany
Owner : City of Albany
Report Prepared by : Depot Administration Coordinator (T Sudran)
Responsible Officer : Executive Director Works & Services (M Thomson)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 2. Clean, Green & Sustainable
 - b. **Strategic Objective:** 2.2 To maintain a renew city assets in a sustainable manner
 - c. **Strategic Initiative:** 2.2.2 Deliver effective asset maintenance programs

In Brief:

- Council approval is sought to appoint the preferred tenderer to provide electrical services for the City of Albany
- The contract is to commence from 1st January 2016 for an initial one (1) year period with an option to extend for a further one (1) year.

RECOMMENDATION

WS094: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ACCEPT the tender from J & S Castlehow Electrical Services and AWARD Contract C15026 – Provision of Electrical Services.

WS094: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR SMITH

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 6-0

WS094: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ACCEPT the tender from J & S Castlehow Electrical Services and AWARD Contract C15026 – Provision of Electrical Services.

BACKGROUND

2. Tenders were called for the Provision of Electrical Services for a period of up to two years (including options). The tender is seeking to engage an experienced and licensed Electrical Contractor to provide maintenance, repairs and minor works to the value of \$10,000.00 (for any single project). The service shall be on an “as and when required” basis and only when requested by a method approved by the City.
3. The electrical services are required for all facilities within the City of Albany, controlled by the Principal (City of Albany), excluding the following:-
 - a. Albany Leisure and Aquatic Centre;
 - b. Synthetic Hockey Pitch; and
 - c. All maintenance and installation of reticulation pumps and switching gear.
4. The current contract expires 31st December 2015.

DISCUSSION

5. A request for tender was published in the West Australian 28th October 2015 and the Albany Weekender on 29th October 2015.
6. Tender documents were evaluated using the weighted attribute method. This method scored the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria are tabled below:-

Criteria	% Weight
Cost	40
Relevant Experience	15
Key Personnel skills and experience	15
Tenderer’s Resources	15
Corporate Social Responsibility	5
Occupational Health & Safety	10
Total	100

7. A total number of seventeen (17) tender documents were issued with one (1) completed tender document submitted on or before the stipulated closing date and time.
8. The following table summarises the tenderer and the overall evaluation score applicable.

Tenderer	Weighted Score
J & S Castlehow Electrical Services	598.33

9. J & S Castlehow Electrical Services is the City’s incumbent contractor and has provided a reliable service during the term of the current contract.

GOVERNMENT & PUBLIC CONSULTATION

10. Not applicable.

STATUTORY IMPLICATIONS

11. Regulation 11 of the Local Government (Functions and General) Regulations 1996 (Regulations) requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$150,000.00 (recently amended).
12. 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.

13. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council’s decision.

POLICY IMPLICATIONS

14. The City of Albany Tender Policy and Regional Price Preferences Policy are applicable to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Property <i>Contract personnel have access to facilities after hours and could access confidential information, cause damage or steal items.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Importance is given to the experience and reliability of the tenderer in the evaluation process</i>
Financial & Organisational Operations <i>Non compliance, delays or failure to carry out contracted works or business failure.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>General conditions of contract allow for contract termination on the basis of breach of contract (ie. Failure to deliver services).</i>
Reputation <i>Community dissatisfied with the standard of behaviour demonstrated by the contractor.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>General conditions of contract allow for contract termination on the basis of breach of contract (ie. Failure to deliver services).</i>
People Health & Safety <i>Failure to report potential hazards within the community.</i>	<i>Unlikely</i>	<i>Major</i>	<i>Medium</i>	<i>Specific contract performance compliance clauses have been included in the contract</i>

FINANCIAL IMPLICATIONS

16. Each facility maintains individual budgets for electrical serves with the tendered price being shared across the organisation. Each directorate and facility manager has provided for electrical services in their respective budgets as required.
17. The City of Albany spends in the order of \$910,000 per annum on this service although requirements can vary from year to year.
18. As the value of this tender is in excess of \$500,000.00 which exceeds officer delegation and therefore the approval is referred to Council for consideration.

LEGAL IMPLICATIONS

19. Nil.

ENVIRONMENTAL CONSIDERATIONS

20. Nil.

ALTERNATE OPTIONS

21. Council can accept or reject the tender as submitted.

SUMMARY CONCLUSION

22. As only one submission was received from the incumbent electrical contractor, the evaluation team assessed J & S Castlehow Electrical Services as being the most suitable tenderer across the evaluation criteria for the provision of the City’s electrical services. It is recommended that the nominated tenderer be accepted.

Consulted References	:	<i>Local Government (Functions and General) Regulations 1995</i> <i>Council Policy – Purchasing (Tenders & Quotes)</i> <i>Council Policy – Buy Local (Regional Price Preference)</i>
File Number (Name of Ward)	:	<i>C15026</i>
Previous Reference	:	<i>C12026</i>

WS095: 60 REGENT STREET DRAINAGE UPGRADE

Proponent : City of Albany
Owner : C and B NELSON
Location : 60 Regent Street, Gledhow
Report Prepared by : Senior Civil Engineering Officer - Drainage (A Rogerson)
Responsible Officer : Executive Director Works & Services (M Thomson)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme: 2.** Clean, Green and Sustainable
 - b. **Strategic Objective: 2.2.** To maintain and renew city assets in a sustainable manner
 - c. **Strategic Initiative: 2.2.1.** deliver effective asset planning and delivery

In Brief

- 60 Regent Street Gledhow (the Land) was formerly a city road reserve sold by Public Auction in December 2004.
- The land is subject to stormwater flow from a road culvert crossing Balston Road causing erosion and is an impedance to development of the site.
- City Staff recommend that Council approve capital expenditure to extend stormwater infrastructure and seek application for a drainage easement to benefit the City of Albany.

Map and Diagrams



RECOMMENDATION

**WS095: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT Council AMEND the 2015/2016 budget by reallocating \$13,000 from job 3772 - Pioneer Health Easement to a new budget line – Lot 106(60) Regent Street Drainage Outfall and Easement.

WS095: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SHANHUN
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 6-0

WS095: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council AMEND the 2015/2016 budget by reallocating \$13,000 from job 3772 - Pioneer Health Easement to a new budget line – Lot 106(60) Regent Street Drainage Outfall and Easement.

BACKGROUND

2. 60 Regent Street (the Land) was formerly a city road reserve that was sold by Public Auction in December 2004.
3. Stormwater is directed to the Land from a stormwater pipe culvert that is placed under adjoining Balston Road. Water from the catchment above is conveyed through the culvert and subsequently flows across the Land giving rise to soil erosion.
4. Minor stormwater works such as a stormwater catchpit, buried stormwater pipe and discharge headwall is required to convey Balston Road stormwater to a natural drain line that traverses the land. This stormwater infrastructure should only be installed if the owner grants an easement permitting the City to construct and maintain any such infrastructure.
5. Current owners have sought building approval to build a house on the land. Currently City Health and Building approval cannot be granted as the stormwater entering the land disallows the placement of a required aerobic treatment unit (ATU) to treat and manage residential sewage. There is no sewer connection available and the site requires the placement of an approved ATU.
6. The creation of a drainage easement and installation of the forementioned infrastructure will manage the stormwater from Balston Road through the Land and will allow the City to approve the placement of an ATU.

DISCUSSION

7. City Staff (Works and Services) have undertaken restorative and preventative minor works to the land following water erosion damage to the land in 2013.
8. City staff have recommended that stormwater pipes and catchpits are installed to manage ongoing water conveyance issues.
9. Any City asset installed within private land holdings should be within an easement granting the City rights to install and maintain city infrastructure.
10. The Pioneer Health Easement project cannot proceed as the landowners are not prepared to provide an easement enabling City of Albany access for maintenance purposes.

GOVERNMENT & PUBLIC CONSULTATION

11. The City Works and Service Executive Director and other engineering staff have met with the owners of the land.
12. No formal consultation with other Government agencies or the wider public has been undertaken or is required.

STATUTORY IMPLICATIONS

13. Section 3.21 of the *Local Government Act* states *'In performing its executive functions, a local government, so far as is reasonable and practicable, is toensure that....any physical damage done to any land, premise or thing, is immediately made good unless compensation has been or is to be paid'*.

POLICY IMPLICATIONS

14. There are no policy implications.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Legal and Compliance <i>Claims against the City as a result of stormwater damage.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Undertake works to an agreed standard with owner. Any works need to be sufficient to mitigate further damage to land to satisfy obligation under Local Government Act.(S3.21)</i>
Financial <i>Stormwater damage potentially resulting in costly repairs</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Undertake works to reduce the likelihood of damage and consult with the landowner in respect to the works.</i>

FINANCIAL IMPLICATIONS

16. The value of the capital expenditure is estimated at \$13,000. This cost could be accommodated in the drainage capital works budget, as the Pioneer Health Easement project has been cancelled for the reason that the owners of Pioneer Health prefer to attend to the proposed drainage works themselves.
17. The works have been subject to previous and current owners development plans, design and approval and as such capital expenditure for these works could not have been programmed until owner application was received and understood.

LEGAL IMPLICATIONS

18. The request for the amendment to the 2015/16 budget is to accommodate a minor adjustment that will ensure there is no unauthorised expenditure and the project is approved by the Council, prior to any works commencing.

ENVIRONMENTAL CONSIDERATIONS

19. The land is steeply sloped to Balston Road and subject to soil erosion from stormwater entering from road drainage. Restorative works by the City were undertaken in 2013 following heavy rains cause damage to the land.
20. Any irrigation field required by a septic or ATU domestic sewage treatment system requires 30 metre setback from a waterway to mitigate pathogens and nutrients entering the catchment and harbours. Water entering the land from Balston Road would be considered a waterway, therefore without piping this water the placement of an irrigation field and the approval of any sewage system is not possible.

ALTERNATE OPTIONS

21. There are no alternatives associated with this item.

SUMMARY CONCLUSION

22. The approval of this capital infrastructure will satisfy City obligations under the *Local Government Act Section 3.21* and provide the affected landholder the opportunity for developmental approval.

Consulted References	:	<i>n/a</i>
File Number (Name of Ward)	:	<i>SD.DEC.1 (Vancouver Ward)</i>
Previous Reference	:	<i>n/a</i>

WS096: ADOPTION OF YORK STREET CONCEPT PLAN

Proponent	: City of Albany
Owner	: City of Albany
Attachments	: Concept Plan – York Street, Serpentine Road to Grey Street Community Consultation Report
Report Prepared by	: Executive Director Works & Services (M Thomson) Major Projects Officer (N Walker)
Responsible Officer	: Executive Director Works & Services (M Thomson)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 1. Smart, Prosperous and Growing
 - b. **Strategic Objective:** 1.2 To strengthen our region's economic base
 - c. **Key Theme:** 1.2.1 Revitalise and promote the central City area.
 - d. **Key Theme:** 3. A Connected Built Environment
 - e. **Strategic Objective:** 3.1 To advocate, plan and build friendly connected communities.
 - f. **Strategic Initiative:** 3.1.1 Improve connectedness and traffic flows

In Brief:

- Council consideration is sought in respect to the concept plans for York Street between Serpentine Road and Grey Street;
- The concept plans are consistent with an adopted set of strategic guiding principles for York Street and the surrounding City Centre civic precinct, including improved pedestrian and cycle amenity, improved public safety through reduced traffic speeds, enhanced streetscape character and amenity, and an increase in on street parking capacity.
- It is recommended that the concept plan be adopted in its current format with amendments.

Maps and Diagrams



RECOMMENDATION

**WS096: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council in recognition of the Strategic Guiding Principles, ADOPT the York Street draft concept plan with the following amendments being integrated into final detailed design:

- a) Designate the verge path on the Western side of York Street as “shared use” to link to Albany Highway dual use path;**
- b) Give consideration to provision of a flush kerb on the Western side of York Street to enable ease of cyclist refuge onto the shared use path;**
- c) Provide additional road markings (such as bicycle symbols) on York Street to highlight its “share use” function;**
- d) Make provision for a dedicated cycle route to include Aberdeen Street and Grey Street in accordance with the Albany Cycle City Strategy; and**
- e) Where possible make provision for additional tree planting and pedestrian space within median areas to reduce the focus on parking and improve the general appearance and vibrancy of the streetscape.**

WS096: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR STOCKS
SECONDED: MAYOR WELLINGTON**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 6-0

WS096: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council in recognition of the Strategic Guiding Principles, ADOPT the York Street draft concept plan with the following amendments being integrated into final detailed design:

- a) Designate the verge path on the Western side of York Street as “shared use” to link to Albany Highway dual use path;**
- b) Give consideration to provision of a flush kerb on the Western side of York Street to enable ease of cyclist refuge onto the shared use path;**
- c) Provide additional road markings (such as bicycle symbols) on York Street to highlight its “share use” function;**
- d) Make provision for a dedicated cycle route to include Aberdeen Street and Grey Street in accordance with the Albany Cycle City Strategy; and**
- e) Where possible make provision for additional tree planting and pedestrian space within median areas to reduce the focus on parking and improve the general appearance and vibrancy of the streetscape.**

BACKGROUND

2. Planning in the Albany City Centre is currently guided by three main strategic documents. These are:
 - a. The Albany Central Area Master Plan;
 - b. The Albany City Centre Parking Strategy; and
 - c. The Albany Cycle City Strategy.
3. In its budget for 2015/2016 the City of Albany allocated \$700,000 to upgrade York Street from Serpentine Road to Grey Street to include the following elements:
 - a. Improved street lighting (LED) with improved banner systems to overcome safety issues and alleviate structural fatigue concerns on existing infrastructure;
 - b. Traffic calming/management to reduce speeds by reducing traffic lanes from four to two (Grey-Serpentine) and installing a new roundabout at the intersection of Serpentine Road;
 - c. Additional street tree planting, street furniture (including seating, interpretive signage and roadside planters) to improve the character and amenity of the streetscape;
 - d. Renewal of existing road seal/surface; and
 - e. Provision of central median parking.
4. City staff in developing the concept has adhered to nine (9) **Strategic Guiding Principles**. These principles were adopted by Council in the Albany City Centre Parking Strategy (2013), itself based on previous masterplans, consultation and strategic planning. They are:
 - a. Background work: *there has been a significant body of quality work undertaken in respect to precinct planning in the Albany City Centre - any new work will align to and enhance existing work.*
 - b. Cyclists and pedestrians: *any amendments will be designed for consideration of pedestrian and cyclist access and networks and promote the use of alternative travel modes.*
 - c. Economic viability: *parking improvements will enhance the economic viability of the Albany City Centre and will consider commercial development opportunities and land use directions.*
 - d. Public events and tourism: *parking improvements will consider the needs of programmed community and tourism events (such as the Albany Classic).*
 - e. Asset Management and staged implementation: *parking improvements must be carefully staged with broader traffic and asset integrity implications being considered. Future planning shall be appropriately investigated and provide sufficient engineering detail to enable accurate costing and staging into a forward capital works plan.*
 - f. Public access and safety: *parking improvements and initiatives will recognise that streets are public spaces, open to all people, and to be managed in the public interest with safety as a priority.*
 - g. Optimise parking and linkages: *consider vehicle and pedestrian connections, information and directional signage and parking controls will need to be considered with an aim to being simple, clear, consistent and legible.*

- h. Non-discrimination and fair: *consider all network users, including pedestrian and cyclists, equitable access for vulnerable users (such as people with disabilities, young and elderly) while catering for public and private vehicles, couriers, freight carriers, motorcyclists, buses and recreational vehicles.*
 - i. Improve environment and public amenity: *improve public amenity with a mixture of hard and soft landscape treatments. Investigate water harvesting and water sensitive urban design treatments where practical.*
5. With these key principles in mind, City staff briefed elected members at a strategic briefing session showing concept plans prior to commencing public consultation.
 6. The public consultation period commenced on the 6th October and closed on the 13th November 2015.
 7. Further to consultation feedback, City staff has investigated possible amendments and has determined that some can be viably integrated into the scheme during detailed design.

DISCUSSION

8. The most prominent suggestions for amendments received during consultation were consistent with the following themes:
 - a. Additional amenity for cyclists (ie. a cycle lane on the western side of the street);
 - b. Remove or reduce additional parking (ie. do not install median parking);
 - c. Concerns over traffic congestion;
 - d. Additional streetscape elements such as trees and plants; and
 - e. Additional pedestrian crossing opportunities.

Cyclist Amenity

9. Currently the path along the Western side of York Street within the project area is not designated for shared use. Given the ample width of this path and the proposed removal of obstructing elements such as light poles the space is considered adequate and suitable for shared use (ie. cyclist and pedestrian use) and therefore should be designated as such.
10. If designated, this shared path should also link to the dual use path along Albany Highway.
11. In addition, to send a clear signal to motorised traffic that the road lane is for shared use with cyclists, pavement markings (such as bicycle symbols) can be incorporated.
12. Non-confident cyclists will intersperse with pedestrian traffic, while confident cyclists may choose to use the road in a mixed traffic low speed environment.
13. To assist in providing a refuge from the road for confident cyclists, the provision of a flush kerb on the West side is considered a positive improvement which can be implemented in detailed design. This will enable cyclists to simply pull out of the traffic lane and into the shared zone if desired. There are implications to service covers and this could result in increased costs however City staff will investigate and implement the most suitable options.
14. In accordance with the Albany Cycle City Strategy there is a need to undertake a detail design process in respect to the provision of a commuter cycle route via Aberdeen Street enabling cross linkages of the broader cycling network to Grey Street, other connecting streets and laneways.
15. The concept design and the recommended amendments (designation of York St shared path, detailed design for Aberdeen St and Grey St cycle routes) adhere to the Albany Cycle City Strategy by:

- a. Providing a cycling network that is connected and encourages shared use between vehicle users, cyclists and pedestrians (Strategy 1.1);
 - b. Providing direct routes for commuters and local bike routes which link to the CBD and local community hubs and activity centres (Strategy 1.2)
 - c. Connecting various cycle routes (on road, share path, off road, trails) in a coordinated and integrated manner; (Strategy 1.3)
 - d. explores shared slow zones (cars, bikes and pedestrians) and other ways to reduce traffic speed on key cycle routes, in the CBD and around community hubs. (Strategy 3.3)
16. The Albany Cycle City Strategy also makes a specific recommendation in respect to a Northbound dedicated cycle lane being incorporated into York Street. While this has been considered, the inclusion of this dedicated lane is problematic as it precludes or impacts on other uses (eg. sidewalk shared zones, pedestrian crossings, pedestrianised median widths, on street parking) and is therefore inconsistent with the strategic design principles.

Reduction in Parking

17. While it is acknowledged that in larger communities there is an urban design and planning trend which aims to reduce dependency on cars, it is not considered a practical solution at this point in time for Albany. Albany is a regional centre where the population density around the City Centre is not sufficient at this time for sustained business activity without a range of options being provided for motor vehicle access.
18. There is a working precedent for the design in Albany where a single traffic lane and central median parking on York Street has led to slower speeds, more pedestrian options, increased general vibrancy and higher levels of commercial activation on both sides of the street.
19. The use of the Town Hall, Town Square, Library and Alison Hartman Gardens for community events such as markets will place ongoing parking pressures in York Street and the surrounding precinct.
20. Median angled parking as proposed is efficient and safe compared to other types of on street parking particularly due to the buffer distance behind the parked vehicles which enables reversing to occur without interruption to traffic.
21. The median parking space is completely flush with the existing road level (ie. no raised kerbs) which allows the space to be flexible for events or other potential uses. Due to this design the median can also be converted to a fully pedestrian friendly space (either permanently or temporarily) at little or no cost in the future, based on future demand.

Traffic Movements

22. It is acknowledged that there will be a perception of a considerable increase in traffic congestion along York Street, particularly at certain peak times due to the reduction in vehicle speeds.
23. The introduction of a roundabout at Serpentine Road enables improved traffic permeability allowing traffic to utilise Aberdeen Street or Collie Streets as alternative routes if travelling through or beyond the City Centre. Aberdeen Street is the preferred route.
24. Traffic analysis confirms that York Street speeds exceed that which is conducive to a pedestrian friendly environment. By the introduction of single lanes and median parking speeds are not expected to exceed 30km/hr. This is evidenced by traffic data obtained in the lower sections of York Street where this treatment already exists.
25. Overall the lower speeds will greatly improve safety for pedestrians and will enable a mixed use environment more conducive to cycling.

Streetscape Elements

26. The concepts allow for significant improvement through the introduction of street trees and planter boxes. Amendments will be considered in the detailed design with additional trees being planted adjacent to the Town Square.

Streetscape Character

27. The design responds to and enhances the character of the street which is created by its linear nature, gently inclined topography with significant views to the harbour, proportion of the street, scale of the buildings, and a number of heritage buildings and spaces.
28. The design reduces (by over half) the number of light poles & banner poles on street verges by consolidating them into a single alignment. This frees up space for footpaths, street trees, and potential future alfresco activation.
29. The design reduces the visual prominence of trafficable asphalt by introducing a paved median and landscape amenity into the centre of the street. These elements are at a low level which will not inhibit views.
30. The design enhances views down the street looking toward the harbour by reducing the number of light poles and visually detracting elements.
31. The design addresses the distinct lack of street trees, shade and planting beds in the upper end of York Street.
32. The design increases the overall consistency, scale and legibility of York Street by matching in with the general arrangement of the lower end of the street, however makes key updates to the materiality and approach to detailed design more in keeping with more contemporary new public space upgrades (eg. Town Square, Stirling Terrace).

Pedestrian Amenity

33. A mid-block formalised pedestrian crossing is proposed in the concept which is wider than existing crossing and more central to the Library building, improving its linkage to laneways and parking areas to the rear of the York Street shops.
34. Pedestrians will be able to cross more frequently due to lower traffic speeds and the reduced carriageway width.
35. Pedestrians will be encouraged to cross the street by the introduction of streetscape elements (eg. planters) within the median which provide a real and perceived buffer to vehicle traffic.
36. Crossings at intersections are improved by increasing crossing widths, increasing space for pedestrian and cyclist refuge, and by moving crossing points a safer distances away from intersections.
37. Improvements are proposed adjacent to the Caltex service station where there is considerable conflict between pedestrians, vehicles and cyclists.

Albany Classic

38. During the process of developing the concept plans the race organisers for the Albany Classic have been consulted.
39. The event organisers' primary concern was an adjustment to the race layout as even small alterations would put the event at risk. Secondary concerns centred around the track surface treatments.
40. The design incorporates the existing race layout due to the flush treatments and removable elements.

41. The event organisers have allowed some compromise to race lane surface treatments and have indicated support for the concept design.

Project Delivery

42. The project is scheduled to commence in February 2016 to ensure completion prior to Easter and importantly not impact on the Albany Classic Event.
43. Road closures may be required, and if so extensive consultation will occur with businesses affected to ensure impact is minimised.
44. If Council elects not to adopt the concepts at this time then consideration may need to be given to either staging the project or deferring the project until the following financial year or indeed not proceeding with the project.

GOVERNMENT & PUBLIC CONSULTATION

45. The consultation report is attached.
46. In summary, 219 submissions were received.
47. The general feedback offered alternative design ideas with overall supportive themes.
48. There were seven objections to the designs.
49. Reference is made to consider the incorporation of a cycle lane or shared path, on the Western side of York Street.

STATUTORY IMPLICATIONS

50. The City is required to obtain approval for regulatory line marking for this proposal.
51. There are no other statutory approvals required.

POLICY IMPLICATIONS

52. The proposed concepts are consistent, as far as is practical with current City strategies and plans as identified above.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
People Health and Safety <i>Current two lane traffic is conducive to high traffic speed and poor amenity for other users. Risk of collision or accident.</i>	<i>Possible</i>	<i>Severe</i>	<i>High</i>	<i>Implement traffic calming measures such as those proposed in the concept by reducing lane widths.</i>
Community <i>Perception that consultation has not been undertaken appropriately due to lack of options</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Contentious proposals such as this are likely to be divisive. City staff have ensured that the concepts deliver against the key design principles.</i>
Community <i>Delayed start to the project causing issues with the Albany Classic event.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Commence the project in February or as close as is practical.</i>
Community <i>Interruption to businesses along York Street</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Keep road closures to a minimum and consult with business operators</i>

FINANCIAL IMPLICATIONS

- 54. Council has allocated \$700,000 to the project with a further \$200,000 being allocated in the Long Term Financial Plan in 2016/17 for landscaping and street furniture (subject to Council approval).
- 55. Some of the modifications (eg. provision of flush kerb on Western side) may have a cost impact to the project which is not yet determined.

LEGAL IMPLICATIONS

- 56. Nil.

ENVIRONMENTAL CONSIDERATIONS

- 57. Nil.

ALTERNATE OPTIONS

- 58. Council may resolve to defer the project pending further consultation.

SUMMARY CONCLUSION

- 59. The York Street Concept Plans have been the subject of a 38-day period of public consultation where over 200 submissions have been made.
- 60. Submission are generally support however have suggested amendments around the provision of a cycling lane, more trees, more pedestrian crossing opportunities and less parking.
- 61. Submissions were not received from any of the businesses.
- 62. The proposed concept is considered by officers as a balanced solution which addresses key design criteria previously adopted by Council.
- 63. This report recommends that Council adopt the concept, enable City officers to amend the concept in light of the feedback received and conduct further consultation with businesses along York Street.

Consulted References	:	<i>Albany Central Area Masterplan, Albany City Centre Parking Strategy, Albany City Centre Cycle Strategy</i>
File Number (Name of Ward)	:	<i>Fredrickstown</i>
Previous Reference	:	<i>NA</i>

**WS097: CONTRACT C15029 – DEMOLITION WORKS CENTENNIAL
PARK EASTERN PRECINCT**

Proponent : City of Albany
Owner : City of Albany
Report Prepared by : Depot Administration Coordinator (T Sudran)
Responsible Officer : Executive Director Works & Services (M Thomson)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 2. Clean, Green & Sustainable
 - b. **Strategic Objective:** 2.2 To maintain a renew city assets in a sustainable manner
 - c. **Strategic Initiative:** 2.2.2 Deliver effective asset maintenance programs

In Brief:

- Council approval is sought to appoint the preferred tenderer Warren Bennett to provide demolition works at Centennial Park Eastern Precinct for the City of Albany.

RECOMMENDATION

**WS097: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the Responsible Officer Recommendation be ADOPTED subject to the following conditions:

- 1. Subject to Albany Agricultural Society signing the proposed Deed with the City by the 22nd December 2015; and**
- 2. In the event the Deed is not signed by the due date a further report be presented back to Council at a Special Meeting to be held in January 2016.**

WS097: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR SMITH

THAT the Responsible Officer Recommendation be ADOPTED subject to the following conditions:

1. Subject to Albany Agricultural Society signing the proposed Deed with the City by the 22nd December 2015; and
2. In the event the Deed is not signed by the due date a further report be presented back to Council at a Special Meeting to be held in January 2016.

CARRIED 6-0

WS097: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ACCEPT the tender from Warren Bennett and AWARD Contract C15029 – Demolition Works Centennial Park Eastern Precinct (Summary B) subject to negotiation of minor terms and scope of works.

BACKGROUND

2. Tenders were called for the Demolition Works Centennial Park Eastern Precinct. The tender is seeking to engage an experienced Contractor to provide demolition services for a number of existing buildings in the Centennial Park Eastern Precinct.
3. Following a competitive tender process Warren Bennett contractor is recommended.

DISCUSSION

4. A request for tender was published in the West Australian 14th October 2015 and the Albany Weekender on 15th October 2015.
5. Tender documents were evaluated using the weighted attribute method. This method scored the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria are tabled below:-

Criteria	% Weight
Cost	40
Relevant Experience	10
Key Personnel skills and experience	10
Tenderer's Resources	15
Demonstrated Understanding	20
Corporate Social Responsibility	5
Total	100

6. A total number of twenty four (24) tender documents were issued with two (2) completed tender document submitted on or before the stipulated closing date and time.

7. The following table summarises the tenderer and the overall evaluation score applicable.

Tenderer	Weighted Score
Warren Bennett Summary B	718.45
Warren Bennett Summary A	715.84
Tenderer B	494.06
Tenderer B	356.67

8. City staff will need to continue to negotiate terms and scope of works due to some issues concerning the Albany Agricultural Society still being resolved. It is envisaged that demolition will be able to commence soon after Christmas and then enable construction for the main stadium to commence.

GOVERNMENT & PUBLIC CONSULTATION

9. Not applicable.

STATUTORY IMPLICATIONS

10. Regulation 11 of the Local Government (Functions and General) Regulations 1996 (Regulations) requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$150,000.00 (recently amended).
11. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
12. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council's decision.

POLICY IMPLICATIONS

13. The City of Albany Tender Policy and Regional Price Preferences Policy are applicable to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Organisation's Operations <i>Failure to deliver project within specified timeframe</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Award construction tenderer as soon as possible to satisfy funding conditions for project completion</i>
Business Interruption <i>Council rejects/fails to support recommendation for tender award</i>	<i>Possible</i>	<i>Major</i>	<i>Medium</i>	<i>Council makes a timely decision and awards the tender to the recommended tenderer</i>

FINANCIAL IMPLICATIONS

15. The cost of demolition is consistent with Quantity Surveyor estimates however City staff will be seek to make savings in certain areas as part of the negotiations.
16. Under the circumstances, the demolition costs are considered reasonable.

LEGAL IMPLICATIONS

17. Nil.

ENVIRONMENTAL CONSIDERATIONS

18. Nil.

ALTERNATE OPTIONS

19. Council can accept or reject the tender as submitted.

SUMMARY CONCLUSION

20. The evaluation team assessed Warren Bennett as being the most suitable tenderer across the evaluation criteria for the provision of the demolition services for Centennial Park Eastern Precinct. It is recommended that the nominated tenderer be accepted.

Consulted References	:	<i>Local Government (Functions and General) Regulations 1995</i> <i>Council Policy – Purchasing (Tenders & Quotes)</i> <i>Council Policy – Buy Local (Regional Price Preference)</i>
File Number (Name of Ward)	:	NA
Previous Reference	:	NA

WS098: C15034 / C15036 SHARK EXCLUSION BARRIER DESIGN AND CONSTRUCTION, MIDDLETON BEACH, ALBANY

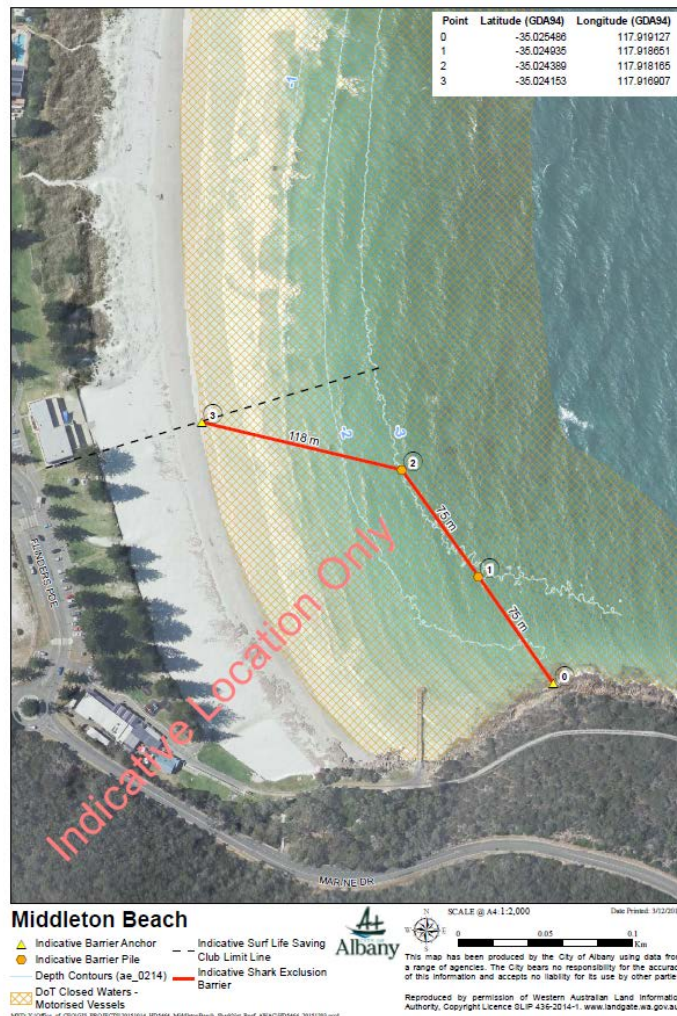
Land Description : Middleton Beach, Albany
Proponent : City of Albany
Report Prepared by : Project Officer, Major Projects (E Evans)
Responsible Officer : Executive Director Works and Services (M Thomson)

Responsible Officer’s Signature:

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 2. Clean, Green and Sustainable
 - b. **Strategic Objective:** 2.1. To protect and enhance our natural environment.
 - c. **Strategic Initiative:** 2.1.2. Sustainably protect and enhance our iconic coastline and reserves.

Maps and Diagrams:



In Brief:

- Following a competitive tender process, Council approval is sought to award tender C15036 Shark Exclusion Barrier System Design and Construction, Middleton Beach, Albany to Global Marine Enclosures (Aquarius Barrier).
- It is not recommended to award tender C15034 Piles for Shark Exclusion Barrier System Design and Construction, Middleton Beach, Albany as piles will not be required if the recommended tender is awarded.

RECOMMENDATION

**WS098: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

1. **ACCEPT** the tender from Global Marine Enclosures (Aquarius Barrier) and **AWARD** contract **C15034 - Shark Exclusion Barrier System, Design and Construct at Middleton Beach, Albany; and**
2. **NOTE** that contract **C15036 - Piles for Shark Exclusion Barrier System Design and Construction, Middleton Beach, Albany will not be awarded.**

WS098: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR SHANHUN**

THAT the Responsible Officer Recommendation be **ADOPTED**.

CARRIED 6-0

WS098: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

3. **ACCEPT** the tender from Global Marine Enclosures (Aquarius Barrier) and **AWARD** contract **C15034 - Shark Exclusion Barrier System, Design and Construct at Middleton Beach, Albany; and**
4. **NOTE** that contract **C15036 - Piles for Shark Exclusion Barrier System Design and Construction, Middleton Beach, Albany will not be awarded.**

BACKGROUND

2. In July 2015 the State Government announced that \$200 000 would be provided to the City of Albany for the installation of a Shark Barrier at Middleton Beach, Albany.
3. The City of Albany considered the offer at its Ordinary Council Meeting on 25/08/2015 where it was resolved to:

- a) *Support conducting a feasibility study into the installation of a Shark Barrier enclosure at Middleton Beach for future consideration and,*
 - b) *Agree to undertake relevant stakeholder and community consultation in respect to the installation of a Shark Barrier enclosure at Middleton Beach in conjunction with the Feasibility Study.*
5. Following the presentation of the Feasibility Study and presentation of Community Consultation Results Council resolved the following:
- a) *The installation of a shark barrier is considered suitable to be trialled at Middleton Beach and therefore Council should accept the State Government grant of \$200,000.*
 - b) *That the barrier be installed for a trial period, duration will be determined by cost but is expected to be 2 to 3 years.*
 - c) *A Request for Tender (RFT) for procurement of a shark barrier system inclusive of all planning/approvals, design, supply, installation, maintenance and monitoring is prepared and publically advertised.*
 - d) *That environmental education is incorporated (signage, media, community news) which will assist communities to accept and understand concerns, and an evaluation of community perceptions is reviewed as part of a trial.*
 - e) *Once tenders are assessed, capital costs to install the barrier be contained within the \$200,000 funding. Recurrent maintenance and renewal funding shall be allocated each financial year from municipal funds. If tenders exceed the budget, then a report for Council consideration shall be prepared.*
 - f) *All opportunities for grant funding be investigated and applied for if appropriate.*

DISCUSSION

6. The standard tender process was applied, ensuring the necessary accountability and transparency when considering submissions. The tenders were evaluated using the weighted attributes methodology. This method scores the evaluation criteria and weights their importance to determine an overall point score for the tender.
7. The project was divided into two tenders, these were:
 - C15036 Piles for Shark Exclusion Barrier System Design and Construction, Middleton Beach, Albany;
 - C15034 Shark Exclusion Barrier Design and Construction, Middleton Beach Albany.

C15036 Piles for Shark Exclusion Barrier System Design and Construction:

8. The City of Albany advertised locally and at a state level seeking tenders for Piles for Shark Exclusion Barrier System, Design and Construction, Middleton Beach, Albany.
9. A total of twenty (20) sets of documents were downloaded from the City of Albany website.
10. The City received two (2) completed tender documents and these were submitted to the Procurement and Contracts Office on/before the stipulated closing date and time. Tenders were subsequently opened, the name of the tender/s were recorded in the tender register and logged into records.

11. The tender panel evaluated tender using the weighted (out of 10) criteria methodology. Criteria and weighting were evaluated in five key areas.

Criteria	% Weighting
Relevant Experience	20%
Tenderer's Resources	15%
Demonstrated Understanding	20%
Corporate Social Responsibility	5%
Cost	40%
Total	100%

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

Tenderer	Total
Engineered Water Systems (Option 1 -Painted Piles)	528.67
Cervan Marine (Option 1 - Painted Piles)	510.11
Engineered Water Systems (Option 2 - Polyethylene Sleeves on Piles)	477.89

13. The tenders that were received exceeded cost estimates.
14. As per previous Council resolution to not exceed the \$200,000 funding in capital costs it is therefore not recommended to award this tender.

C15034 Shark Exclusion Barrier Design and Construction:

15. The City of Albany advertised locally and at a state level seeking tenders for Shark Exclusion Barrier, Design and Construction, Middleton Beach, Albany.
16. A total of eighteen (18) sets of documents were downloaded from the City of Albany website.
17. The City received three (3) completed tender documents and these were submitted to the Procurement and Contracts Office on/before the stipulated closing date and time. Tenders were subsequently opened, the name of the tender/s were recorded in the tender register and logged into records.
18. The tender panel evaluated tender using the weighted (out of 10) criteria methodology. Criteria and weighting were evaluated in five key areas.

Criteria	% Weighting
Relevant Experience	20%
Tenderer's Resources	15%
Demonstrated Understanding	20%
Corporate Social Responsibility	5%
Cost	40%
Total	100%

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

Tenderer	Total
Global Marine Enclosures (Aquarius Barrier)	556.81
Global Marine Enclosures (Bionic Barrier)	456.91
Eco Shark Barrier Pty Ltd	454.62

20. All of the above tenders proposed a methodology for installation of their barrier that did not require the installation of piles rather the use of concrete footings with an anchor chain tied between.
21. On the basis of the total evaluation score, the highest weighting being applied to cost, relevant experience and demonstrated understanding the most suitable company and product was Global Marine Enclosures, Aquarius Barrier.
22. The capital cost for approvals, design, supply and installation of the Aquarius Barrier (ex GST) is marginally below the budgeted amount of \$200 000.
23. The Aquarius Barrier is a hybrid barrier which includes rope and rigid plastic section. It is relatively new and untested technology however it represents the most flexible and cost effective option.



Hybrid Aquarius Barrier

24. Concerns in relation to dealing with sea grass build up and cleaning can be addressed with the supplier given there is some incentive for the trial to be successful. City staff are confident that issues can be worked through during the trial with a good chance of a successful outcome at its conclusion.
25. It is envisaged that installation will occur within 12 – 14 weeks.
26. In respect to other sources of funding for the project, City staff have met with GSDC and there is some potential the project may comply to upcoming funding rounds however it is marginal and timing is an issue.

GOVERNMENT & PUBLIC CONSULTATION

27. There is no government consultation required for the award of the Shark Exclusion Barrier System, Design and Construction, Middleton Beach, Albany.
28. The funding body will be contacted with regard to the outcome of the award and timeframe for construction.

STATUTORY IMPLICATIONS

- 29. Regulation 11 of the Local Government (Functions and General) Regulations 1996 (Regulations) requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$100,000.
- 30. 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.
- 31. Regulation 19 of the Regulations requires Council to advise each tenderer in writing of Council’s decision.

POLICY IMPLICATIONS

- 32. The City of Albany Tender Policy and Regional Price Preference Policy are applicable to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Finance <i>Failure to award means funding has to be returned to the State Government.</i>	<i>Almost Certain</i>	<i>Moderate</i>	<i>High</i>	<i>Council makes a timely decision and awards the tender to the recommended tenderer.</i>
Reputation <i>Failure to deliver project that the community is expecting.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Council makes a timely decision and awards the tender to the recommended tenderer.</i>

FINANCIAL IMPLICATIONS

- 34. The total value for the capital cost (ex GST) of this tender (excluding monitoring and maintenance) is marginally below the budgeted amount of \$200 000 however Council will be required to commit \$30,000 in maintenance for the next 3 years.

LEGAL IMPLICATIONS

- 35. Given responsibility rests with the contractor, contractual terms for all aspects of this project particularly in regard to risk and responsibility will be rigorous.

ENVIRONMENTAL CONSIDERATIONS

- 36. A site specific Environmental Management Plan is required to be submitted to the City of Albany for approval prior to commencement of construction.

ALTERNATE OPTIONS

- 37. Indicative prices have been provided for piles and an alternative barrier net system. These prices were not submitted as part of the tender process and therefore cannot be considered without a further competitive process being undertaken.
- 38. There is some potential to yield a cost saving in specifically seeking quotes for the barrier net system however it is suggested that the saving in capital cost will be outweighed by maintenance in the longer term and may not necessarily achieve a whole of life saving.

39. It is therefore an option for Council to not accept any tender and go through a major quote process for piles and a barrier net.

SUMMARY CONCLUSION

40. On reviewing the submissions, Global Marine Enclosures, Aquarius Barrier, was assessed as being the most suitable tenderer across the evaluation criteria for the Design and Construction of a Shark Barrier Enclosure at Middleton Beach, Albany. Their tender was well detailed and represented good value for money.
41. This report recommends that Global Marine Enclosures be awarded the tender for Shark Exclusion Barrier Design and Construction, for the Aquarius Barrier at Middleton Beach.
42. This report also notes that the tender for C15036 Piles for Shark Exclusion Barrier System, Design and Construction, Middleton Beach, Albany, will not be awarded.

Consulted References	:	<i>Local Government Act 1995 Local Government (Functions and General) Regulations 1995 Council Policy – Purchasing Council Policy – Buy Local (Regional Price Preference)</i>
File Number (Name of Ward)	:	<i>CP.DEC.1</i>
Previous Reference	:	<i>Nil</i>

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