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# MINUTES

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**Ordinary Meeting of Council**

**Tuesday 22 September 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.

ORDINARY COUNCIL MEETING  
MINUTES 22/09/2015

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## 1. DECLARATION OF OPENING

[6:00:59 PM](#) The Mayor declared the meeting open.

## 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** Mayor D Wellington

### **Councillors:**

Breaksea Ward	R Hammond
Frederickstown Ward	C Dowling
Kalgan Ward	J Price
Vancouver Ward	S Bowles
Vancouver Ward	N Mulcahy
West Ward	A Goode JP
West Ward	G Gregson
Yakamia Ward	A Hortin JP

### **Staff:**

Chief Executive Officer	A Sharpe
Executive Director Corporate Services	D Olde
Executive Director Planning and Development	D Putland
Executive Director Community Services	A Cousins
Executive Director Works and Services	M Thomson
Meeting Secretary	J Williamson

Two members of the media and approximately fifty members of the public were in attendance.

### **Apologies:**

Breaksea Ward	V Calleja JP (Leave of Absence)
Kalgan Ward	B Hollingworth (Leave of Absence)
Yakamia Ward	R Sutton (Leave of Absence)
Frederickstown Ward	G Stocks (Apology)

Executive Director Economic Development and Commercial Services	C Woods (Apology)
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#### 4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest
Mayor Wellington	ED025	<b>Financial.</b> The nature of the interest being that Mayor Wellington is the owner of a retail outlet in the City. Mayor Wellington left the Chamber and did not participate in the discussion or vote for this item.
Councillor Sutton	PD093	<b>Impartiality.</b> The nature of the interest being that Councillor Sutton's brother owns a property on Ulster Road, which falls within the proposed Yakamia/Lange Structure Plan. Councillor Sutton was not present at the meeting and is currently on leave of absence.

#### 5. REPORTS OF MEMBERS

##### 6:02:07 PM Councillor Gregson

##### Summary of key points:

- Attended Young Siding Progress Association meeting; and
- Thanked Mayor and Councillors for serving on Council.

##### 6:03:44 PM Mayor's Report

Below is a summary of engagements attended by the Mayor on behalf of Council since the Ordinary Council Meeting held on 25 August 2015.

- Australian Regional Development Conference Dinner in Albany;
- Meeting at La Trobe University with Dr Threkheld;
- National Geographic Anzac Competition meeting and greet with the winner Ms Jane Portley;
- Tourism WA meetings in Albany;
- Italian Club 50<sup>th</sup> Celebration Ball;
- ABC Interview;
- Farewell function for departing Deputy CEO Mr Garry Adams;
- Meeting with Mr Ron Preston and Mr Brian Russel with regard to the development of an "Albany Flag";
- Community Radio;
- G'Day Australia Concert;
- Opening of the Albany Art Prize;
- Invitation-Friendship Force-Afternoon Tea with the Nelson Club of New Zealand;
- Private Citizenship Ceremony;
- Tidy Towns State Award Ceremony;
- Friends of Emu Point;
- Probus Group;
- FIFWA's 120<sup>th</sup> Birthday at the Combined FIFWA/AFPA Industry;
- WARCA Meeting;
- A BIG Picture: Launch of Trails Hub Strategy; and
- Bendigo Bank Southern Art and Craft Trail Launch.

**RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR HORTIN**

**SECONDED: COUNCILLOR GREGSON**

**THAT the Mayor's Report be RECEIVED.**

**CARRIED 9-0**

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

**7. PUBLIC QUESTION TIME**

**6:08:07 PM Mr Richard Vogwill, 53 La Perouse Road, Goode Beach**

**Summary of key points:**

- Mr Vogwill addressed Council regarding PD092: Approval of Local Development Plan-Lot 1 and 2 Frenchman Bay Road, Frenchman Bay.
- Mr Vogwill's tabled address is detailed at Appendix A.

**6:12:13 PM Mr John Myers, Karakatta Road, Goode Beach**

**Summary of key points:**

- Mr Myers addressed Council regarding PD092: Approval of Local Development Plan-Lot 1 and 2 Frenchman Bay Road, Frenchman Bay.

**6:15:27 PM Mr Christopher Saurin, 22 The Vintage Way, Millbrook**

**Summary of key points:**

- Mr Saurin addressed Council regarding WS086: Advertise Use of Reserve 30463 for Motocross.

**6:18:10 PM Mr Roland Paver, 12 La Perouse Road, Goode Beach**

**Summary of key points:**

- Mr Paver addressed Council regarding PD092: Approval of Local Development Plan-Lot 1 and 2 Frenchman Bay Road, Frenchman Bay.
- Mr Paver's tabled address is detailed at Appendix A.

6:22:02 PM Mr Tony Kinlay, Goode Beach

**Summary of key points:**

- Mr Kinlay addressed Council regarding PD092: Approval of Local Development Plan-Lot 1 and 2 Frenchman Bay Road, Frenchman Bay.

6:24:20 PM Mr Austin Rogerson, 19 Shell Bay Road, Lower King

**Summary of key points:**

- Mr Rogerson addressed Council regarding WS086: Advertise Use of Reserve 30463 for Motocross.
- Mr Rogerson also tabled a number of questions on notice, the responses are detailed below:

1. Was the Noise Management Plan conducted by Lloyd George Acoustics **commissioned** by the City of Albany?

*The City of Albany facilitated preparation of the report, which was prepared on behalf of the Albany Motorcycle Club. The original report that was used to provide baseline information was commissioned by the Albany Motorcycle Club.*

2. Was the Noise Management Plan conducted by Lloyd George Acoustics **paid** for by the City of Albany?

*Funding for the report was provided by the City of Albany to the Albany Motorcycle Club through the community grants scheme.*

3. With regard to the Noise Management Plan conducted by Lloyd George Acoustics, was the **scope of services** described in the contract between Lloyd George Acoustics given by the City of Albany?

*No. The scope of services was determined jointly by the Albany Motorcycle Club, Motorcycling Western Australia, the Department of Environment and Regulation (Noise Branch) and City Staff. It was revised during preparation of the plan to ensure that the Noise Management Plan took into account changes to the Noise Regulations that were introduced in 2013.*

4. *Were there previous draft versions of the Noise Management Plan conducted by Lloyd George Acoustics, and if so, would the drafts be made public and any correspondence between the City to Lloyd George acoustics available for the public to view?*

Yes previous drafts were prepared by Lloyd George Acoustics. Application to view previous drafts and any associated correspondence can be made through the Freedom of Information (FOI) process. However please note that it is common for a number of revisions to be made to draft plans to correct textual errors and or add additional information. Modifications to the original draft were also made to make provision for amendments to the Noise Regulations in 2013 that were made in relation to Motor Sport Venues and Noise Management Plans.



[6:28:06 PM](#) **Mr Dean Shekell, 245 Robinson Road, Robinson**

**Summary of key points:**

- Mr Shekell addressed Council regarding PD09: Reconsideration of Development Application-Telecommunications Infrastructure-Lot 105, 241 Robinson Road, Robinson.

[6:31:48 PM](#) **Mr Rob Tweddle, Robinson Road, Robinson**

**Summary of key points:**

- Mr Tweddle addressed Council regarding PD091: Reconsideration of Development Application-Telecommunications Infrastructure-Lot 105, 241 Robinson Road, Robinson.

[6:36:11 PM](#) **Mr Troy Pillage, Monroe Court, Robinson**

**Summary of key points:**

- Mr Pillage addressed Council regarding PD091: Reconsideration of Development Application-Telecommunications Infrastructure-Lot 105, 241 Robinson Road, Robinson.

[6:39:04 PM](#) **Mr Donald Main, 206 Bon Accord Road, Lower King**

**Summary of key points:**

- Mr Main addressed Council regarding WS086: Advertise Use of Reserve 30463 for Motocross.

[6:41:59 PM](#) **Ms Marena Williams, Robinson Road, Robinson**

**Summary of key points:**

- Ms Williams addressed Council regarding PD091: Reconsideration of Development Application-Telecommunications Infrastructure-Lot 105, 241 Robinson Road, Robinson.

[6:46:23 PM](#) **Ms Mary Bunn, Robinson Road, Robinson**

**Summary of key points:**

- Ms Bunn addressed Council regarding PD091: Reconsideration of Development Application-Telecommunications Infrastructure-Lot 105, 241 Robinson Road, Robinson.

[6:47:38 PM](#) **Ms Mary Montefiore, Bon Accord Road, Lower King**

**Summary of key points:**

- Ms Montefiore addressed Council regarding WS086: Advertise Use of Reserve 30463 for Motocross.

[6:48:59 PM](#) **Mr Mal Cameron, Albany Racing Club**

**Summary of key points:**

- Mr Cameron addressed Council regarding PD091: Reconsideration of Development Application-Telecommunications Infrastructure – Lot 105, 241 Robinson Road, Robinson.

[6:52:14 PM](#) There being no further questions the Mayor declared Public Question Time Closed.

**8. APPLICATIONS FOR LEAVE OF ABSENCE Nil.**

**9. PETITIONS AND DEPUTATIONS Nil.**

**10. CONFIRMATION OF MINUTES**

**RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GREGSON**

**SECONDED: COUNCILLOR BOWLES**

**THAT the minutes of the Ordinary Council Meeting held on 25 August 2015, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**CARRIED 9-0**

**11. PRESENTATIONS Nil.**

**12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil.**

**ED025: TEMPORARY/SHORT TERM EXTENDED TRADING HOURS APPLICATION**

**Proponent** : City of Albany  
**Attachments** : ACCI letter dated 15 September 2015  
City of Albany Temporary/Short Term Extended Trading Hours Policy  
**Responsible Officer** : Executive Director Economic Development & Commercial 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 2013-2017.
  - 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 1.2.1** City Centre revitalisation resulting in increased activity.  
**Strategic Initiative 1.3.2.** Tourism Destination and increase in visitor numbers.

**In Brief:**

2. The Albany Chamber of Commerce and Industry (ACCI) have requested Council consider applying for a temporary/short term extension to retail trading hours for the “*January Tourist Season 2016*” being 1 January to 31 January 2016 inclusive.

**RECOMMENDATION**

[7:42:36 PM](#) The Mayor declared a Financial Interest in this item and left the Chamber. Councillor Bowles took the Chair.

**ED025: RESOLUTION**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR MULCAHY**  
**SECONDED: COUNCILLOR HORTIN**

**THAT ED025: Temporary/Short Term Extended Trading Hours Application be ACCEPTED for consideration by Council.**

**CARRIED 8-0**  
**ABSOLUTE MAJORITY**

**Officer’s Reason (ED Economic Development and Commercial Services):**

The request for extended retail trading for the January tourist season 2016 was received by the City on 16 September 2015. The Agenda for the Ordinary Council Meeting to be held on 22 September 2015 had been distributed by this date.

The Department of Commerce require up to six weeks for the approval process. In addition, the City requires time to advise stakeholders and advertise the change in extended trading hours.

**ED025: RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DOWLING**

**SECONDED: COUNCILLOR HORTIN**

**THAT Council APPROVE the ACCI’s request and apply to the Department of Commerce for a temporary/short term extension to retail trading hours for the period 1 January to 31 January 2016 inclusive.**

**CARRIED 8-0**

**BACKGROUND**

3. There are two types of adjustment applications that can be applied for by non metropolitan local government authorities;
  - i. “Temporary/Short Term Adjustments” and
  - ii. “Permanent/Long Term Adjustments”.
4. This item is only concerned with a Temporary/Short Term Adjustment for the month of January 2016.
5. Permanent/long term adjustments require substantial consultation and support from local trader organisations, tourism interests, members of State Parliament and the community. The City of Albany has previously investigated the support for permanent/long term adjustments however this proved to be highly divisive within the key stakeholder groups and community with no clear mandate for permanent change achieved.
6. In the absence of this, the City is required to apply for temporary/short term adjustments if extended retail trading is required for identified high visitor periods such as popular holidays and when Albany hosts large events.
7. Council approved the updating of the City of Albany’s Temporary/Short Term Extended Trading Hours Policy in May 2014. Copy attached.
8. The policy defines peak times and special circumstances and provides the CEO with delegated authority to make applications to the Department of Commerce (Department) during these times without the need for Council review.
9. Peak Times are defined as Christmas and New Year period (1 December to 1 January inclusive), Easter Holidays (Good Friday to Easter Monday inclusive), public holiday weekends, and public holidays excluding Christmas Day and Good Friday.

10. The Albany Chamber of Commerce and Industry (ACCI) have requested Council consider applying for a temporary extension to retail trading hours for the “*January Tourist Season 2016*”. Copy of letter attached.
11. The ACCI’s request for temporary extended opening hours during January 2016 is outside the definition of peak and special circumstances times as defined in the current policy and therefore requires Council approval.

## DISCUSSION

12. The ACCI letter makes the following statements in support of its request;
  - a) *“For many years we have extended the trading hours for General Retail Shops prior to Christmas, but recent trends in consumer behaviour have seen many people invest heavily in retail sales after Christmas”.*
  - b) *Albany has a large population growth during the school holidays and it is the opinion of ACCI that to truly maximise this visitor experience and to assist local businesses, extending retail trading hours during this period would be another step forward for our region.*
  - c) *It is the belief of the ACCI and its members that this would enhance the tourism appeal of the region.”*
13. The month of January is considered a peak visitor period for Albany and surrounds. This is supported by strong historical visitation data shared amongst regional visitor centres and major visitor attractions. Commercial accommodation operators in the region also experience highest average monthly occupancy levels as evidenced from Australian Bureau of Statistics data.
14. If this item is approved, General Retail Shops in Albany will be allowed to temporarily open Monday to Friday 8am to 9pm, Saturdays 8am to 5pm, and Sundays 10am to 5pm for the month of January 2016. Public holidays during this period (1<sup>st</sup> and 26<sup>th</sup>) would have opening hours of 10am to 5pm only.
15. This item is only concerned with a temporary/short term adjustment to retail trading for the month of January 2016.
16. As per the current policy the City will automatically apply to the Department for extended trading hours for the period 1 December 2015 to 1 January 2016 under the peak times definition. If Council approve this motion then this application will be extended to include the 1 December 2015 to 31 January 2016 period.
17. As per the current policy the City CEO will undertake a review of the impacts of this temporary extension and include findings as part of the review position before 30 June 2016.
18. If approved the decision to open remains the choice of the individual retailer and businesses need to look to their own situation to make that decision. The *Commercial Tenancy (Retail Shops) Agreements Act 1985* protects retail tenants from being forced to open on Sundays. These same laws ensure commercial tenants can only be charged operating expenses for Sundays if they open on Sundays.

## GOVERNMENT & PUBLIC CONSULTATION

19. The Albany Chamber of Commerce and Industry Inc is a representative of the affected segment of the population and is the proponent of the requested application.
20. If the motion is approved by Council, the City of Albany will apply to the Department of Commerce (Consumer Protection) for a temporary/short term adjustment to local trading hours for the month of January 2016.

## STATUTORY IMPLICATIONS

21. Non-metropolitan Local Government may apply to the Department of Commerce (Consumer Protection) to extend the trading hours for local general retail shops beyond those stipulated in the *Retail Trading Hours Act 1987*.

## POLICY IMPLICATIONS

22. If the motion is approved, the current Council policy for Extended Trading Hours will remain unchanged.
23. The current policy is required to be reviewed by the City's CEO on or before 30 June 2016.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>If not approved the ACCI may claim Council's decision is not reflective of the wishes of its membership and cause reputational risk to the City.</i>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>City approve the requested changes for the month of January 2016 and review the impacts of these changes as part of its ongoing review of extended trading hours policy.</i>

## FINANCIAL IMPLICATIONS

25. Retailers opening on these days may gain significant economic benefit as it is anticipated there will be a greater number of visitors in Albany over the January summer school holiday period.

## LEGAL IMPLICATIONS

26. Extended trading hour approvals lie within Council's legal discretion.

## ENVIRONMENTAL CONSIDERATIONS

27. Nil

## ALTERNATE OPTIONS

28. Council can decline or modify the policy.

**SUMMARY CONCLUSION**

29. The adoption of the motion will reflect the wishes of the local ACCI retail membership and support a number of the strategic objectives under the City’s theme of Smart, Prosperous and Growing.

30. If approved, City officers will apply to the Department of Commerce (Consumer Protection) for a temporary extension to trading over the January 2016 period.

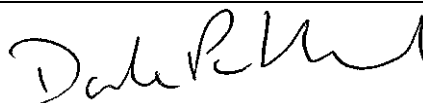
<b>Consulted References</b>	:	<i>Retail Trading Hours Act 1987</i> <i>Commercial Tenancy (Retail Shops) Agreements Act 1985</i>
<b>File Number (Name of Ward)</b>	:	ED.INR.6 (All Wards)
<b>Previous Reference</b>	:	Nil

[7:45:51 PM](#) Mayor Wellington returned to the Chamber and resumed the Chair. Mayor Wellington did not participate in the discussion or vote for this item.

**PD091: RECONSIDERATION OF DEVELOPMENT APPLICATION –  
TELECOMMUNICATIONS INFRASTRUCTURE – LOT 105, 241  
ROBINSON ROAD, ROBINSON**

<b>Land Description</b>	: Lot 105, 241 Robinson Road, Robinson
<b>Proponent</b>	: Daly International
<b>Owner</b>	: Algean Pty Ltd
<b>Business Entity Name</b>	: Algean Pty Ltd
<b>Attachments</b>	: 1. Location plan 2. Site Selection Rationale 3. Visual Impact Assessment 4. Schedule of Comments from the public information session 5. Copy of O.C.M. 24/03/2015 – Item PD073 6. Schedule of Submissions
<b>Supplementary Information &amp; Councillor Workstation:</b>	: Copy of submissions
<b>Report Prepared by</b>	: Senior Planning Officer (A Bott) Planning Officer (C McMurtrie)
<b>Responsible Officer</b>	: Director Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. This is a statutory planning matter that is assessed against *Local Planning Scheme No.1* and any relevant planning policies. As such there are no strategic implications. Notwithstanding this, the most relevant strategic document is the *Albany Local Planning Strategy*.
3. The item relates to the following Strategic Objective of the *Albany Local Planning Strategy*:

**6.4.4 Telecommunications**

*"To encourage the extension and maintenance of high quality telecommunications for the whole Albany district"*

**In Brief:**

- An application was lodged in October 2014, seeking Planning Scheme Consent to install 'Telecommunication Infrastructure' at Lot 105, 241 Robinson Road, Robinson.
- At its Ordinary Meeting on 24 March 2015, Council resolved to refuse Planning Scheme Consent, as it was considered that the *"proposal to site the tower at 241 Robinson Road will have an adverse visual impact on the character and amenity of the local environment"*.
- The proponent subsequently appealed the decision to the State Administrative Tribunal.
- Following mediation, the State Administrative Tribunal has invited Council to reconsider the decision made at its Ordinary Council Meeting on 24 March 2015.



- The proponent has provided the City with additional information in support of the application, including the rationale behind site selection and a Visual Impact Assessment.
- The City conducted a public information session on 26 August 2015 to present the supporting information to the community.
- Council are now requested to grant Planning Scheme Consent, subject to conditions.

**RECOMMENDATION**

**PD091: RESOLUTION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR HORTIN**

**SECONDED: COUNCILLOR GREGSON**

**THAT Council accept the request of the State Administrative Tribunal, that this matter be reconsidered.**

**CARRIED 9-0**

**PD091: RESOLUTION 2**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DOWLING**

**SECONDED: COUNCILLOR MULCAHY**

**That Responsible Officer Recommendation 2 is not to be adopted and in lieu thereof that Council does not accept the recommendation and issues a notice of Planning Scheme refusal for the following reasons:**

- 1. Not in the community interest; and**
- 2. Lack of information.**

**CARRIED 5-4**

**Record of Vote**

Against the Motion: Councillors Goode, Gregson, Hammond and Price

**PD091: ALTERNATE MOTION BY COUNCILLOR MULCAHY (COMMITTEE RECOMMENDATION 2)  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR MULCAHY  
SECONDED: COUNCILLOR DOWLING**

- 3. That Responsible Officer Recommendation 2 is not to be adopted and in lieu thereof that Council does not accept the recommendation and issues a notice of Planning Scheme refusal for the following reasons:
  - a) There has been no change to the originally submitted application considered by Council in March 2015 and no consideration of public feedback or consideration of a preferred site, as sought by residents.**
  - b) The additional documentation provided by the applicant does not contain sufficiently detailed information to approve the application.**
  - c) The impact on amenity remains unacceptable, the additional information provided does not alleviate these concerns.****
- 4. Council authorise City officers to APPROVE under delegation any alternate application for telecommunications infrastructure, whether monopole or lattice tower, on the Albany Racing Club site at 261 Roberts Road, Robinson (Lot 7083).**

**LOST 6-3**

**DID NOT ACHIEVE ABSOLUTE MAJORITY**

**Record of Vote**

Against the Motion: Councillors Hammond, Goode and Gregson

**Councillor's Reason:**

The reasons for this Alternate Motion are contained in the Motion.

**Officer's Comment (Executive Director Planning and Development):**

The amended motion responds to ongoing community concerns which were raised at the Planning and Development Committee Meeting

A planning application for telecommunications infrastructure on the Albany racecourse site at 261 Roberts Road (Lot 7083) could be approved on the site under Local Planning Scheme No.1. if Council is willing to delegate the authority to determine the application to the Executive Director of Planning and Development. While securing tenure on the site within the racecourse lease agreement would be a matter to be negotiated between the Albany Race Club and NBNco, officers note that representatives from the Albany Race Club have indicated that the club would support location of the tower on this site.

PD091: COMMITTEE RECOMMENDATION 1

MOVED: COUNCILLOR GOODE  
SECONDED: COUNCILLOR GREGSON

THAT Responsible Officer Recommendation 1 be RECEIVED.

CARRIED 6-0

PD091: RESPONSIBLE OFFICER RECOMMENDATION 1

THAT Council accept the request of the State Administrative Tribunal, that this matter be reconsidered.

PD091: ALTERNATE MOTION BY COUNCILLOR MULCAHY

MOVED: COUNCILLOR MULCAHY  
SECONDED: COUNCILLOR SUTTON

That Responsible Officer Recommendation 2 is not to be adopted and in lieu thereof that Council does not accept the recommendation and issues a notice of Planning Scheme refusal for the following reasons:

1. Not in the community interest; and
2. Lack of information from NBN and further information to be provided.

CARRIED 4-2

**Record of Vote**

Against the Motion: Councillors Goode and Gregson

PD091: RESPONSIBLE OFFICER RECOMMENDATION 2

THAT Council ISSUES a Notice of Planning Scheme Consent for Telecommunication Infrastructure at 241 Robinson Road, Robinson; subject to the following conditions:

- (1) Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur in accordance with the stamped, approved plans.
- (2) A construction management plan shall be submitted for approval in writing and implemented to the satisfaction of the City of Albany.
- (3) Stormwater from the lot shall be managed to the satisfaction of the City of Albany.
- (4) 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.
- (5) Prior to commencement of development a schedule of materials and colours to be used on the structures hereby approved shall be submitted for approval by the City of Albany.

## 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. An application was lodged in October 2014, seeking Planning Scheme Consent to install 'Telecommunication Infrastructure' at Lot 105, 241 Robinson Road, Robinson.
6. The proposed 'Telecommunication Infrastructure' would consist of a fenced compound of 96m<sup>2</sup>, containing two outdoor equipment cabinets and one 40m tall monopole. The monopole would carry two parabolic antennas (located at 37m above ground) and three panel antennas. The installation would be located centrally on lot 105, setback 125m from Robinson Road, 96m from the western boundary and 88m from the eastern boundary. The installation would form a component of the National Broadband Network's (NBN) wireless network.
7. The subject lot is zoned 'Rural Residential' and is located approximately 4.7km west of Albany town centre, with an area of 6.16ha.
8. The surrounding land to the east, south and west of the subject lot is zoned 'Rural Residential', while the land to the north is zoned 'Rural Small Holding'.
9. The application was advertised from 16 October 2014 to 6 December 2014 by direct referral to all landowners within a 1km radius of the subject lot, and by publication of a notice in the local newspaper.
10. The application was then considered by Council at its Ordinary Meeting on 24 March 2015, where it decided:  
*"THAT:*
  - a. *Council resolves to ISSUE a Notice of Planning Scheme Consent REFUSAL for Telecommunication Infrastructure at 241 Robinson Road, Robinson.*
  - b. *THAT Council support the provision of NBN in the area but not in the current proposed location."*The Councillor's reason for this resolution was that:  
*"The proposal to site the tower at 241 Robinson Road will have an adverse visual impact on the character and amenity of the local environment."*
11. Following Council's decision and the issue of Planning Scheme Consent Refusal, the proponent lodged an appeal with the State Administrative Tribunal.
12. Subsequent mediation took place between the proponent and the City, through the State Administrative Tribunal. From the mediation, it was proposed that:
  - Council reconsider the matter at its Ordinary Meeting on 22 September 2015.
  - The applicant provides the City of Albany with the rationale behind their site selection and a Visual Impact Assessment, in support of the application.
13. The City of Albany offered the proponent an opportunity to undertake further community consultation with the supporting information; however, this offer was declined.

14. In the interests of transparency, the City held a public information session on 26 August 2015 in order to explain the reconsideration process and communicate the additional information to the community. The comments received from the community following this meeting are contained in Attachment 4.

## DISCUSSION

15. The City planning Staff have previously supported the development of the proposed 'Telecommunications Infrastructure' at Lot 105, 240 Robinson Road, Robinson, subject to conditions, having taken into consideration the nature of the submissions received from members of the public and the significant public benefit of the proposal.
16. When assessing telecommunications infrastructure, it is necessary to consider the overall public benefit against any amenity impact. Amenity, particularly the perceived impact on views of significance and the natural amenity of the area, was the main concern raised in the submissions received during the public advertising process.
17. When assessing impacts on amenity, it is necessary to determine the level of existing amenity within the immediate area and secondly, within the wider locality.
18. The likely impact that the proposal would have on the landscape has been assessed by Staff with reference to the Western Australian Planning Commission's publication *Visual Landscape Planning in Western Australia – a manual for assessment, siting and design*.
19. The established character of Robinson Road is that of a typical 'Rural Residential' area, composed of sections of open pasture and a thick band of vegetation to the south of Robinson Road. Lots are defined by rural type post and wire fencing, with buildings generally setback amongst the trees. The land to the south of the subject lot is occupied by smaller 'Rural Residential' lots, which are predominately cleared pasture. The land to the north is occupied by larger 'Rural Small Holding' lots, which are also cleared in the main, with tree cover limited to boundary planting and shelter belts. Overall, the area is considered to have a rural character.
20. A Visual Impact Assessment has also been submitted by the proponent, in response to the submissions received on the perceived impacts on views of significance and the natural amenity of the area. The Assessment confirms that the proposed monopole will be visible from both private properties and public vantage points in the surrounding area, but concludes that due to the screening provided by surrounding trees, only the top of the monopole will be visible from public vantage points.
21. Another comment that was made consistently throughout the submissions was that an alternative location within the locality should be found for the proposed installation. Staff discussed the possibility of finding an alternative site with the proponent. However, the proponent advised that a number of sites had been considered prior to lodging the application, but the proposed location was the most suitable. Since the public advertising process, the proponent has provided a rationale for the selection of this site, in support of the application.
22. The potential for the proposed installation to cause detrimental health effects was raised in a number of submissions. It should be noted that the City is not a regulatory body in respect of electromagnetic energy. The Federally established Australian Radiation Protection and Nuclear Safety Agency enforce the *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300GHz*. The electromagnetic energy report submitted by the proponent states that the maximum calculated electromagnetic energy level from the proposed installation would be 0.028% of the maximum public exposure level.

23. Detrimental impacts on property values were also raised as a concern in some of the submissions. However, effects on property values are not one of the “*Matters to be Considered*” under Section 10.2 of *Local Planning Scheme No. 1* and are not a valid planning consideration.
24. The additional information provided in support of the application confirms the proponents’ preference to develop the proposed ‘Telecommunications Infrastructure’ on Lot 105, 240 Robinson Road, Robinson and Council are requested to reconsider the matter.

#### **GOVERNMENT & PUBLIC CONSULTATION**

25. The proposal was advertised from 16 October 2014 to 6 December 2014 by direct referral to all landowners within a 1km radius of the subject lot, and by publication of a notice in the local newspaper.
26. Seven (7) submissions were received from members of the public during the advertising period, all objecting to the proposal. A petition with 89 signatories, objecting to the proposal, was also submitted. The submissions are summarised in the attached Schedule of Submissions (Attachment 6). Staff comments are also provided in the schedule and the broad issues are discussed in paragraphs 16-23 above.
27. Following the direction set by the mediation, and the submission of additional supporting information by the proponent, the City held a public information session on 26 August 2015 to explain the reconsideration process and communicate the additional information to the community. The comments received from the community following this meeting are summarised in Attachment 4.

#### **STATUTORY IMPLICATIONS**

28. The subject lot is zoned ‘Rural Residential’ under *Local Planning Scheme No. 1*.
29. Telecommunications Infrastructure is classified as an ‘A’ use 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.
30. If Council does not accept the request to reconsider, this matter will be determined by the State Administrative Tribunal.
31. Voting requirement for this item is **SIMPLE MAJORITY**

#### **POLICY IMPLICATIONS**

32. The proposal has been assessed against the Western Australian Planning Commission’s *State Planning Policy 5.2 – Telecommunications Infrastructure*. *State Planning Policy 5.2* provides guiding principles for the assessment of telecommunication infrastructure.
33. Further discussion around the principles set out in *State Planning Policy 5.2* can be found in the original Officer’s report on this matter (Attachment 5).

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Community</b> Council does not accept the request to reconsider, this matter will be determined by the State Administrative Tribunal.	Likely	Moderate	Medium	Continue to lobby the NBN to seek an alternative site in the area.

## FINANCIAL IMPLICATIONS

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

## LEGAL IMPLICATIONS

36. The applicant has the option to continue mediation or to proceed to a hearing at the State Administrative Tribunal.

## ENVIRONMENTAL CONSIDERATIONS

37. Approximately 80% of the lot is covered by vegetation, which forms part of a 130-460m wide band of vegetation between Robinson Road and Racecourse Road. The remaining 20% of the lot is cleared along the frontage to Robinson Road. A house and outbuilding stand back amongst the trees, toward the western lot boundary, approximately 130m from Robinson Road.
38. There are no additional environmental controls on the property other than those contained within *Local Planning Scheme No. 1*. It is the responsibility of the proponents and landowners to ensure that all obligations under the *Environment Protection and Biodiversity Conservation Act 1999* and *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* are fulfilled.

## ALTERNATE OPTIONS

39. Council has the following alternate option in relation to this item:
- To refuse the reconsideration on the grounds that the proposal will have an adverse impact on the visual amenity and character of the area.

## SUMMARY CONCLUSION

40. Having taken into consideration the potential impacts on amenity as a result of the proposed 'Telecommunications Infrastructure' at Lot 105, 240 Robinson Road, Robinson against the long term benefit of a secured high speed broadband service, it is recommended, on balance, that Council grant Planning Scheme Consent, subject to conditions.

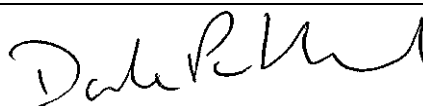
<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy 2010</i></li> <li>3. Western Australian Planning Commission <i>State Planning Policy 5.2 – Telecommunications Infrastructure</i></li> <li>4. Western Australian Planning Commission <i>Visual Landscape Planning in Western Australia – a manual for assessment, siting and design.</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	A42985 (Vancouver Ward)
<b>Previous Reference</b>	:	O.C.M 24/03/2015 – Item PD073



**PD092: APPROVAL OF LOCAL DEVELOPMENT PLAN – LOT 1 AND 2  
FRENCHMAN BAY ROAD, FRENCHMAN BAY**

**Land Description** : Lot 1 and 2 Frenchman Bay Road, Frenchman Bay 6330  
**Proponent** : Harley Dykstra  
**Owner** : MTK Ventures Pty Ltd  
**Business Entity Name** : MTK Ventures Pty Ltd  
**Attachments** : 1. Location plan  
2. Site plan  
3. Schedule of Submissions  
4. Local Development Plan No. 1 report  
**Supplementary Information & Councillor Workstation:** : Copy of submissions  
**Report Prepared by** : Senior Planning Officer (A Bott)  
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. The proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

**In Brief:**

- A Local Development Plan has been prepared in accordance with Schedule 4 – Special Use Zone No. SU13, provision 1 of *Local Planning Scheme No. 1*, to guide the development of Lots 1 and 2 Frenchman Bay Road, Frenchman Bay.
- At its Ordinary Meeting on 24 March 2015, Council determined that the draft Local Development Plan was satisfactory for the purposes of public advertising and referral to service providers and State Government agencies.
- The draft Local Development Plan was advertised for public comment and referred to service providers and State Government agencies in accordance with the requirements of *Local Planning Scheme No. 1*.
- A substantial number of submissions were received from members of the public, with concerns raised around the 'unrestricted stay' units, the provision of a private on-site effluent disposal system and the proposed use of an on-site water supply.
- Legal advice was sought regarding the permissibility of the proposed 'unrestricted stay' units and it was confirmed that this land use could not be considered under the current Local Planning Scheme provisions pertaining to the site.
- The proponent has subsequently updated the Plan to remove the 'unrestricted stay' units and reduce the total number to comply with the Department of Health's draft *Country Sewerage Policy*.
- Council is requested to approve the Local Development Plan, subject to conditions.

**RECOMMENDATION**

**PD092: RESOLUTION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR BOWLES  
SECONDED: COUNCILLOR GREGSON**

**THAT Council APPROVE Local Development Plan No.1, subject to the following conditions:**

- 1. Reduction of the number of units (including caretakers and commercial) to 25.**
- 2. Addition of a notation on the Plan advising of the requirement to amalgamate Lots 1 and 2 prior to development.**
- 3. Addition of a notation on the plan to read as follows: 'If on site effluent disposal is to be utilised, details of the proposed communal on-site wastewater treatment and disposal system are to be referred to Department of Health for consideration prior to the lodgement of a development application'.**

**NOTE: That Council note it is understood that the developer may ultimately seek to have a number of permanent residential units on the subject land, which cannot be approved under the current Local Planning Scheme Provisions that apply to the site.**

**CARRIED 6-3**

**Record of Vote**

Against the Motion: Councillors Goode, Hammond and Price

**PD092: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR GOODE  
SECONDED: COUNCILLOR BOWLES**

**THAT Council APPROVE Local Development Plan No.1, subject to the following conditions:**

- 1. Reduction of the number of units (including caretakers and commercial) to 25.**
- 2. Addition of a notation on the Plan advising of the requirement to amalgamate Lots 1 and 2 prior to development.**
- 3. Addition of a notation on the plan to read as follows: 'If on site effluent disposal is to be utilised, details of the proposed communal on-site wastewater treatment and disposal system are to be referred to Department of Health for consideration prior to the lodgement of a development application'.**

**NOTE: That Council note it is understood that the developer may ultimately seek to have a number of permanent residential units on the subject land, which cannot be approved under the current Local Planning Scheme Provisions that apply to the site.**

**CARRIED 6-0**

**PD092: AMENDMENT BY COUNCILLOR GOODE**

**MOVED: COUNCILLOR GOODE  
SECONDED: COUNCILLOR BOWLES**

**THAT Point 4 of the Responsible Officer Recommendation become a Note to the Conditions.**

**CARRIED 6-0**

PD092: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE Local Development Plan No.1, subject to the following conditions:

1. Reduction of the number of units (including caretakers and commercial) to 25.
2. Addition of a notation on the Plan advising of the requirement to amalgamate Lots 1 and 2 prior to development.
3. Addition of a notation on the plan to read as follows: 'If on site effluent disposal is to be utilised, details of the proposed communal on-site wastewater treatment and disposal system are to be referred to Department of Health for consideration prior to the lodgement of a development application'.
4. That Council note it is understood that the developer may ultimately seek to have a number of permanent residential units on the subject land, which cannot be approved under the current Local Planning Scheme Provisions that apply to the site.

**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 subject lots are zoned 'Special Use' and form Special Use Zone No. SU13. Schedule 4 – Special Use Zone No. SU13, provision 1 of *Local Planning Scheme No. 1* requires that "All land use and development shall be consistent with a Development Guide Plan prepared by the landowner and adopted by the Local Government". Local Development Plan No.1 has been prepared to guide the development of the subject lots, in accordance with this provision.
6. The subject lots are located at the eastern end of Frenchman Bay Road, approximately 600m east of Goode beach and 10km south-east of Albany town centre.
7. The surrounding land is reserved for 'Parks and Recreation', with the exception of the lot to the east, which forms part of 'Special Use' zone No. SU3.

**DISCUSSION**

8. The City planning Staff support the Local Development Plan, subject to conditions and the removal of the 'unrestricted stay' units, 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 *Significant Tourist Sites* and *Frenchman Bay Tourist Development Site* policies.
9. The Local Development Plan will guide the development of Lots 1 and 2 Frenchman Bay Road, Frenchman Bay for the purposes of 'Holiday Accommodation'.

10. Schedule 4 – Special Use Zone No. SU13 only permits the land uses of ‘Caravan Park’, ‘Caretaker’s Dwelling’, ‘Holiday Accommodation’ and ‘Shop’ on the subject lots. ‘Holiday Accommodation’ is defined in *Local Planning Scheme No. 1* as “any land and/or building providing accommodation and recreation facilities for guests/tourists on a short-term commercial basis and may include a shop or dining area incidental to the function providing limited services to patrons”.
11. In its original form, the Local Development Plan contained a proportion of ‘unrestricted stay’ units. The City was uncertain if these could be approved under the definition of ‘Holiday Accommodation’, assuming that they would not be used as a person’s primary place of residence, and sought both legal advice and advice from the Department of Planning on the matter.
12. Notwithstanding the need to obtain this advice, the decision was made to advertise the Local Development Plan to the public, including the proposed ‘unrestricted stay’ units in the interests of transparency, as these form part of the landowners’ ultimate aspiration for the site.
13. During the advertising and referral process, it was confirmed by both the City’s legal counsel and the Department of Planning that the ‘unrestricted stay’ land use could not be considered under the current Local Planning Scheme provisions pertaining to the site.
14. The proponent had sought their own legal advice on the matter, which contradicted the advice given to the City, stating that ‘unrestricted stay’ units could be considered under the provisions of Schedule 4 – Special Use Zone No. SU13 of *Local Planning Scheme No. 1*.
15. A substantial number of submissions were received from service providers, Government agencies and members of the public during the public advertising and referral process. The public submissions objecting to the proposal, or expressing concern, relate mainly to the following issues:
  - The ‘unrestricted stay’ component of the application cannot be approved under the provisions Schedule 4 – Special Use Zone No. SU13.
  - Proposed on-site effluent disposal.
  - Proposed on-site water supply.
16. The proponent had originally identified 10 of the 30 proposed units as being available for ‘unrestricted stay’. A significant number of submissions were received both in objection to, and in support of the ‘unrestricted stay’ units, with most questioning whether they could be approved under the provisions of Schedule 4 – Special Use Zone No. SU13.
17. As outlined above, the City of Albany sought legal counsel and advice from the Department of Planning on whether such a use could be approved on the site. The advice received stated that only land uses contained within Schedule 4 – Special Use Zone No. SU13 can be approved on the site and that the use of ‘Holiday Accommodation’ would not extend to ‘unrestricted stay’ units. As a result, the applicant was invited to change the proposed ‘unrestricted stay’ accommodation to ‘Holiday Accommodation’, as defined in *Local Planning Scheme No. 1*, or to remove the units from the plan. The applicant elected to transfer the units to standard ‘Holiday Accommodation’ units, the occupancy of which is typically restricted to no more than three calendar months per year, by the same person or persons.

18. It should be noted that the proponent has the ability to apply for a Local Planning Scheme amendment to add 'unrestricted stay accommodation' as a permissible land use under Schedule 4 – Special Use Zone No. SU13. Any such amendment would be subject to initiation by Council, a public advertising and referral process, adoption by Council and final approval by the Western Australian Planning Commission and Minister for Planning. If a Local Planning Scheme amendment was to be successful, a subsequent review of, or variation to the *Significant Tourist Sites* policy would also have to be sought by the proponent before 'unrestricted stay' units could be approved on the site.
19. Several of the submissions received during the public advertising and referral process raised concerns around the proposed use of a private on-site effluent disposal system.
20. Schedule 4 – Special Use Zone No. SU13, provision 7 states that:  
*"All development on the Land shall be connected to the reticulated sewerage/wastewater system provided by a licensed sewerage/wastewater disposal and treatment provider unless an alternative treatment system appropriate for the scale of the proposed development and acceptable to the relevant State Government authority can be provided to the satisfaction of the Local Government"*.
21. The Department of Health's *Draft Country Sewerage Policy* makes provision for remote or isolated development sites. A site falls within this classification if the land is remote from existing or proposed urban land, or is unlikely to be connected to reticulated sewer in the foreseeable future.
22. Formal comment on the proposal was sought from the Department of Health on the matter and the following advice was provided:  
*"The proposed development exceeds the number of dwelling units allowed by the provisions of the draft Country Sewerage Policy. Unless the total development is limited to 25 units including the caretaker's unit and commercial unit, and that both the lots are amalgamated, the DOH does not support the proposal."*
23. The Department of Health also provided a further submission, stating that subject to the amalgamation of the lots and density of the development limited to a total of 25 units, including existing developments, the following conditions would apply:
  1. *Demonstrate that adequate and sustainable supply of potable water is achievable for the development.*
  2. *Potable water must be of the quality as specified under the Australian Drinking Water Quality Guidelines 2004 and the water quality must be monitored regularly.*
  3. *Apart from ensuring that a minimum horizontal separation of 30 metres between the source of the potable water supply and the wastewater disposal area, it must be further demonstrated that no contamination of the potable water source can occur from wastewater that has infiltrated.*
  4. *Consideration and acceptability by the DOH of the communal on-site wastewater treatment and disposal system proposed before development application.*
  5. *A Works Approval is required from the Department of Environmental Regulation (DER) if the total wastewater produced exceeds 20 kilolitres/day.*
  6. *Approval of the development by the Department of Water and the DER."*

23. In view of this advice, the proponent has updated the Plan to reduce the number of units to 25, including any caretakers or commercial units, in order for a private on-site effluent disposal system to be utilised. However, five units are still shown indicatively for future inclusion, should the site be connected to reticulated sewer or it is demonstrated to the satisfaction of the Department of Health that the 30 units can be serviced by an private on-site effluent disposal system, in accordance with the draft *Country Sewerage Policy*.
24. The conditions outlined by the Department of Health would be applicable to any future development application. However, the City considers that condition 4 should be placed on the approval of the Local Development Plan, as should a condition requiring the amalgamation of the lots.
25. The Department of Planning also provided comment on the proposal, noting that the planning report accompanying the Local Development Plan proposes to utilise a private on-site effluent disposal system. The Department has stated that if the report is approved along with the Plan, it would be necessary to provide further information prior to approval. However, only the Local Development Plan itself would be approved, not the planning report, thereby retaining the flexibility to either connect the development to reticulated sewer or utilise a private on-site effluent disposal system, as provided for under Schedule 4 – Special Use Zone No. SU13, provision 7.
26. The Department of Water also commented on the proposed private on-site effluent disposal, stating that soils and site characteristics indicate that on site wastewater disposal may be difficult to achieve, and that there may be potential for groundwater contamination. These matters would be addressed as part of any further investigations and would be considered by the Department of Health.
27. A number of the submissions received during the public advertising and referral process raised concerns around the proposed use of an on-site water supply.
28. Schedule 4 – Special Use Zone No. SU13, provision 8 states that:  
  
*“All development on the land shall be connected to reticulated water supplied by a licensed reticulated water provider.”*
29. The Water Corporation have advised that this servicing requirement would stand and that as the proposal is not within the current Water Corporation service area, an extension of the reticulated water network would be required to provide a connection.
30. However, the proponent has stated that there is an operating bore and tank on-site that was previously used to service the former caravan park and currently services the public toilet facilities at the end of Frenchman Bay Road. It is proposed to upgrade this water source with the addition of multiple tanks and water treatment devices to provide potable water to the site.
31. The Department of Water has advised that a groundwater bore may be able to provide the water supply for any future development. However, the Department advises that further drilling and/or aquifer test pumping would be required to determine whether the existing or future production wells can provide the required supply volume without impacting on the water resource, groundwater dependent vegetation or the nearby springs, or leading to seawater intrusion. The Department has also highlighted that total guest numbers are unknown at this time and so it cannot advise whether sufficient groundwater is available to supply the development.

32. Legal advice has been sought regarding the ability of a Local Development Plan to vary a Scheme requirement, such as Schedule 4 – Special Use Zone No. SU13, provision 8. The City has been advised that while a Local Development Plan cannot vary a Scheme requirement, this could be sought as part of any future development application. However, should the proponent seek to vary Schedule 4 – Special Use Zone No. SU13, provision 8, it would be necessary to provide detailed hydrological studies and associated environmental impact reports to demonstrate to the City of Albany and any relevant State Government agencies that there would be no detrimental impacts on the groundwater or wider environment.
33. The Department of Water also commented on the coastal setback requirement set in Schedule 4 – Special Use Zone No. SU13, provision 3, which states that:

“All development on the land is to be setback a minimum of 75 metres from the horizontal setback datum (HSD). A greater setback may be required if recommended by any relevant public authority or in an applicable policy.”
34. The current horizontal setback datum was established as part of the previous Local Planning Scheme amendment over the site and the proposed Local Development Plan is consistent with the setback requirement. However, the Department of Water has recommended that the setback should be reviewed against the newest predictions for sea level rise as per *Environmental Protection Authority Bulletin 18 – Sea Level Rise* and that if there any changes to the setback, this may necessitate a redesign of the Local Development Plan.
35. The Department has also advised that the area to be ceded to the Crown for a foreshore reserve should be clearly marked on the Plan and that at the time of development a foreshore management plan will be required. The extent of the proposed foreshore area is indicated on the Plan, though this may be varied, subject to a detailed site analysis at the time of amalgamation of the lots. A foreshore management plan would also be required at this time.

#### **GOVERNMENT & PUBLIC CONSULTATION**

36. The Local Development Plan was advertised from 16 March 2015 to 18 June 2015 by direct referral to all landowners in the suburb of Goode Beach, service providers and State Government agencies, and advertisement in the local newspaper. The proponent also conducted two community information sessions, with City of Albany staff in attendance, at Little Grove Community Hall and Albany Senior Citizens Centre on 29 May 2015.
37. During the advertising and referral process, advice was sought from the Department of Planning regarding the permissibility of the proposed ‘unrestricted stay’ land use. It was advised that this land use cannot be considered under the current Scheme provisions pertaining to the site. Legal advice confirmed this position. However, the decision had been made to advertise the Local Development Plan to the public, including the proposed ‘unrestricted stay’ units in the interests of transparency, as these form part of the landowners’ ultimate aspiration for the site.
38. Seventy-four (74) submissions were received from members of the public, the Frenchman Bay Association, service providers and State Government agencies and are summarised in the attached Schedule of Submissions. Twenty-eight (28) submissions objected or raised concerns around the proposal, while 46 expressed support, although it is noted that 28 of those in support are pro forma letters. Staff comments and recommendations are also provided in the schedule and the broad issues are discussed in paragraphs 15-35 above.

## STATUTORY IMPLICATIONS

39. Local Development Plans undergo a statutory process in accordance with Section 5.9 of *Local Planning Scheme No. 1*.
40. Section 5.9 of *Local Planning Scheme No. 1* sets out the procedures for the preparation, adoption and approval of a Local Development Plan.
41. Sub-clause 5.9.1.7.1(c) of *Local Planning Scheme No.1* allows Council to approve the Local Development Plan with or without conditions.
42. Voting requirement for this item is **SIMPLE MAJORITY**

## POLICY IMPLICATIONS

43. The proposal is considered to be consistent with the City of Albany's *Significant Tourist Sites* and *Frenchman Bay Tourist Development Site* policies.
44. The original proposal contained a proportion of 'unrestricted stay' units, which would not have been permitted under the *Significant Tourist Sites* policy. However, following the public advertising and referral process, a revised plan has been lodged by the proponent, which removes the proposed 'unrestricted stay' units. In this form, the proposal is now compliant with the policy.
45. With regard to the above, it should be noted that the proponent has the ability to apply for a Local Planning Scheme amendment to add 'unrestricted stay accommodation' as a permissible land use within 'Special Site' zone No. SU13. Any such amendment would be subject to initiation by Council, a public advertising and referral process, adoption by Council and final approval by the Western Australian Planning Commission and Minister for Planning. If a Local Planning Scheme amendment was to be successful, a subsequent review of, or variation to the *Significant Tourist Sites* policy would also have to be sought by the proponent before 'unrestricted stay' units could be approved on the site.
46. The proposal is consistent with the *Frenchman Bay Tourist Development Site* policy in terms of its built form. The policy permits two-storey development to be considered within the areas proposed. Any future development on the site will be subject to a separate development application.
47. The proposal is also compliant with the provisions contained in the *Frenchman Bay Tourist Development Site* policy in relation to setbacks from the high water mark and the Vancouver Springs.
48. The remaining provisions of the *Frenchman Bay Tourist Development Site* policy that relate to built form are not applicable at this stage and would be assessed as part of any future development application.



**RISK IDENTIFICATION & MITIGATION**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<p><b>Community, Organisational Operations and Reputation</b></p> <p><i>It is understood that the developer may ultimately seek to have a number of permanent residential units on the subject land, which cannot be approved under the current Local Planning Scheme Provisions that apply to the site.</i></p>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<p><i>The original proposal included an proportion of 'unrestricted stay' units and this version was advertised to inform the public of the developer's intentions. However, should the developer wish to establish 'unrestricted stay' or permanent residential units on the subject land, they would first have to lodge a Local Planning Scheme Amendment seeking to modify the provisions of Schedule 4 – Special Use Zone No. SU13.</i></p>
<p><b>Environment, Organisational Operations and Reputation</b></p> <p><i>The proposed development may not be connected to reticulated water and sewer.</i></p>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<p><i>At this stage, insufficient information is available to know if connection to reticulated water and sewer will be possible.</i></p> <p><i>However, the Department of Health, Water Corporation and Department of Water have provided advice and recommended conditions that would govern the use of a private on-site effluent disposal system and on-site water supply to service the development. The matters will be investigated in greater detail at the subsequent development stage.</i></p>

**FINANCIAL IMPLICATIONS**

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

**LEGAL IMPLICATIONS**

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

**ENVIRONMENTAL CONSIDERATIONS**

52. There are no additional environmental controls on the property other than those contained within *Local Planning Scheme No. 1*. It is the responsibility of the proponents and landowners to ensure that all obligations under the *Environment Protection and Biodiversity Conservation Act 1999* and *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* are fulfilled.

**ALTERNATE OPTIONS**

53. 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**

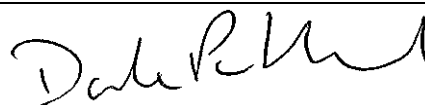
54. The matters raised in the public and State Government agency submissions have been adequately addressed by subsequent modifications to the Local Development Plan, or can be controlled through the application of planning conditions.
55. It is recommended that Council approve Local Development Plan No.1, subject to conditions.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy 2010</i></li> <li>3. <i>City of Albany Strategic Community Plan 2023</i></li> <li>4. <i>City of Corporate Business Plan 2013-2017</i></li> <li>5. <i>City of Albany Significant Tourist Sites policy</i></li> <li>6. <i>City of Albany Frenchman Bay Tourist Development Site policy</i></li> <li>7. <i>Department of Health draft Country Sewerage Policy</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	LDP1 (Vancouver Ward)
Previous Reference	:	<p>O.C.M. 19/05/2009 – Item 11.1.1</p> <p>O.C.M. 24/03/2015 – Item PD075</p>

**PD093: ADOPTION OF YAKAMIA/LANGE STRUCTURE PLAN**

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

**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.
- At its Ordinary Meeting on 25 November 2014, Council determined that the draft Structure Plan was satisfactory for the purpose of public advertising.
- The draft Structure Plan was advertised for public comment and referred to service providers and State Government agencies in accordance with the requirements of *Local Planning Scheme No. 1*.
- Following public advertising and referral of the draft Structure Plan, modifications have been made to the plan, in response to the advice and comments received.
- Council is requested to adopt the modified *Yakamia/Lange Structure Plan*.

## RECOMMENDATION

**PD093: RESOLUTION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GREGSON  
SECONDED: COUNCILLOR HORTIN**

**That PD093: ADOPTION OF YAKAMIA/LANGE STRUCTURE PLAN be DEFERRED for up to 2 months for further consideration at a workshop to be advised.**

**CARRIED 8-1**

### Record of Vote

Against the Motion: Councillor Mulcahy

**PD093: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR GREGSON  
SECONDED: COUNCILLOR SUTTON**

**That PD093 ADOPTION OF YAKAMIA/LANGE STRUCTURE PLAN be DEFERRED for up to 2 months for further consideration at a workshop to be advised.**

**CARRIED 5-1**

### Record of Vote:

Against the Motion: Councillor Mulcahy

**PD093 RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council:

1. ADOPT the Yakamia/Lange Structure Plan, including the following appendices:
  - Local Water Management Strategy;
  - Environmental Opportunities and Constraints Plan;
  - Road Contribution Plan; and
  - Issues Background Paper.

AND

2. Forward the Yakamia/Lange Structure Plan and appendices to the Western Australian Planning Commission seeking its approval of the Structure Plan and appendices.

## 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. Development on land zoned 'Future Urban' under *Local Planning Scheme No. 1* is restricted, unless a Structure Plan has been prepared under Clause 5.9 of the Scheme.

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 developed a draft structure plan for the localities of Yakamia and Lange.
7. Prior to drafting the Structure Plan, the City developed Environmental and Water Management plans. The key findings of the *Environmental Opportunities and Constraints Plan* are that:
  - No threatened flora has been identified (noting that detailed environmental investigations have not been undertaken for some areas);
  - Vegetated communities with *Banksia Coccinea* are possibly threatened; and
  - There are remnant stands of vegetation (Jarrah/Mari) in excellent condition and that form natural corridors.
8. The Water Management Plan highlighted constrained areas, such as those subject to flooding, and set various criteria for the management of water. These plans were then used to inform the design of the draft Structure Plan.
9. The draft Structure Plan was referred to the Office of the Environmental Protection Authority, which supported the plan on the basis that vegetation that is in excellent condition, potentially threatened, forming a large coverage and/or forming an alliance with a foreshore, is protected.
10. The draft Structure Plan was modified in response to the Office of the Environmental Protection Authority advice.
11. Developers strongly objected to vegetation protection measures on the basis that it would detrimentally affect the viability of developing their land. In response, the draft Structure Plan was modified to support development in some less constrained vegetated areas (Lots 79 and 80 Bond Road).
12. The environmental protection measures contained in the draft Structure Plan have been supported by other State Government departments, including the Department of Planning, the Department of Water and the Department of Parks and Wildlife.
13. 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.
14. The southern half of the larger precinct is bounded by 'Residential' zoned land to the east and west, while the land to the south is reserved for 'Parks and Recreation'. The northern half of the precinct is bounded by land zoned 'General Agriculture' or reserved for 'Parks and Recreation' to the east and north. The north-western corner of the precinct adjoins land zoned 'Future Urban' and 'Residential' and a 'Public Use' local scheme reserve.
15. The smaller precinct is predominately surrounded by land within the 'Residential' zone, with the exception of the Yakamia Primary School site to the south, which is reserved for 'Public Use' and the land to the west, which fronts onto Chester Pass Road and is zoned 'Highway Commercial'.

## DISCUSSION

16. The *Yakamia/Lange Structure Plan* is consistent with the current strategic direction set by the *Albany Local Planning Strategy* and *State Planning Policy 3*.
17. The larger precinct within the Structure Plan is identified in the *Albany Local Planning Strategy* as being suitable for 'Future Urban' development with Priority 1 and 2 classifications and 'Regional Reserve', while the smaller precinct is identified as 'Existing Urban'.
18. The *Albany Local Planning Strategy* promotes a staged, incremental approach to the development of identified 'Future Urban' areas, with Priority stages 1 and 2 respectively indicating land that forms part of the existing development front and land that can be developed to a fully-serviced urban standard in the short to medium-term.
19. The 'Regional Reserve' designation covers the Yakamia Creek and identified areas of significant remnant vegetation. The proposed 'Public Parkland' areas in the Structure Plan largely mirror this designation. The smaller precinct that forms part of the structure plan area is identified as 'Existing Urban'; however, it has not been developed to its full potential, as a reticulated sewer connection has not yet been provided.
20. 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 development in accordance with the *Yakamia/Lange Structure Plan*.
21. 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 used for 'Public Parkland'. 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 density residential development.
22. 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 3000m<sup>2</sup>;
  - 'Residential R25' – areas not within easy walking distance of a neighbourhood shop, where the average lot size shall be 350m<sup>2</sup>; and
  - 'Residential R30' – areas within easy walking distance to Brooks Garden shopping centre, where the average lot size shall be 300m<sup>2</sup>.
23. '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.
24. '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.
25. 'Public Parkland' has been identified over areas adjacent to creeks to provide a range of public reserve areas for the purposes of active and passive recreation, protection of foreshores, wetlands, waterways and vegetation, protection of Aboriginal Heritage values, and best-practice urban water management.
26. Areas for 'Active Recreation' have been identified on flat land, central to neighbourhoods, for sporting activities.

27. 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).
28. 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.
29. 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.
30. 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.
31. The comments received from landowners related primarily to the following concerns:
  - The amount of land designated for 'Public Parkland' (Regional Open Space, Public Open Space, Foreshore reserve);
  - High fire risk due to the extent of the remnant vegetation identified for protection; and
  - The financial contributions required for the provision of public open space and infrastructure.
32. In response to landowners' concerns, modifications were made:
  - To reduce the amount of land designated for 'Public Parkland' in areas that are not affected by flooding; and
  - To incorporate measures to ensure that dwellings are constructed in accordance with *Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas*, in order to mitigate concerns about fire risk.
33. 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

34. 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.*

35. 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.
36. 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.
37. Ongoing informal dialogue and on-site meetings have also taken place between the City and landowners to inform the planning process.
38. 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.
39. Forty (40) submissions were received from service providers, State Government agencies and members of the public 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 28-32 above.
40. Since completion of the formal advertising process, the draft document has been modified to reflect the advice and comments received. This document was presented at a public information session held at the City of Albany Civic Rooms on 4 August 2015.

#### STATUTORY IMPLICATIONS

41. Structure Plans undergo a statutory process in accordance with Section 5.9 of *Local Planning Scheme No. 1*.
42. Section 5.9 of *Local Planning Scheme No. 1* sets out the procedures for the preparation, adoption and approval of Structure Plans. Council resolution is sought for the adoption of a Structure Plan.
43. Sub-clause 5.9.1.5.7(a) of *Local Planning Scheme No. 1* allows Council to adopt the Structure Plan with or without modification.
44. Voting requirement for this item is **SIMPLE MAJORITY**

#### POLICY IMPLICATIONS

45. 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.



46. *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.
47. *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.
48. 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.
49. *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**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<p><b>Organisational Operations and Reputation</b></p> <p><i>The aspirations of some landowners to develop may not have been met.</i></p>	<i>Likely</i>	<i>Insignificant</i>	<i>Low</i>	<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><b>Community, Organisational Operations and Reputation</b></p> <p><i>Some Landowners may object to the recommendations made by the Structure Plan.</i></p>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<p><i>The City consulted widely in developing the Yakamia/Lange Structure Plan.</i></p> <p><i>The City acknowledges that some 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**

51. 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.

52. The approximate amount of roadwork's and the associated cost is included in the appendices "Road Contribution Plan".

53. 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*.
54. 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

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

### ENVIRONMENTAL CONSIDERATIONS

56. 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.
57. 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

58. Council has the following alternate options in relation to this item, which are:
- To resolve to adopt the proposed Structure Plan without modifications; or
  - To refuse to adopt the proposed Structure Plan and give reasons for this.

### SUMMARY CONCLUSION

59. It is recommended that Council adopt 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.

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

**PD094: INITIATION OF SCHEME AMENDMENT – LOT 5 LOWANNA DRIVE, LOTS 9 AND 110 GEORGE STREET AND LOT 16 SOUTH COAST HIGHWAY, GLEDHOW**

**Land Description** : Lot 5 Lowanna Drive, Lots 9 and 110 George Street and Lot 16 South Coast Highway, Gledhow

**Proponent** : Ayton Baesjou Planning

**Owner** : F & J Lombardo, Q D Knight, T G Burgess and L J & R Spaanderman

**Business Entity Name** : Nil

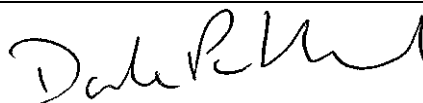
**Attachments** : 1. Location plan  
: 2. Albany Local Planning Strategy excerpts  
: 3. Local Planning Scheme Amendment No. 9 report

**Supplementary Information & Councillor Workstation:** : Nil

**Report Prepared by** : Senior Planning Officer (A Bott) & 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. The City 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.
5. Although this proposal seeks to create lots for rural living purposes, it is considered to be an 'infill' development, within the already fragmented peri-urban edge. It also seeks to further subdivide lots of approximately 4-5ha in area, which are already considered to have little capacity for agricultural production. Consequently, it is considered that the proposal does not conflict with the current moratorium and may be entertained.

**In Brief:**

- A request has been submitted for Council to initiate a Local Planning Scheme Amendment to rezone Lot 5 Lowanna Drive, Lots 9 and 110 George Street and Lot 16 South Coast Highway, Gledhow from the 'General Agriculture' zone to the 'Rural Residential' zone and amend the Scheme Maps accordingly.
- 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*.

- The proposal is considered to be an ‘infill’ development, within the already fragmented peri-urban edge. It seeks to further subdivide lots of approximately 4-5ha in area, which are already considered to have little capacity for agricultural production. As such, it may be entertained, as it does not conflict with the current 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.
- Council is requested to initiate the Local Planning Scheme Amendment.

[7:20:52 PM](#) Councillor Price left the Chamber.

## RECOMMENDATION

**PD094: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GREGSON**  
**SECONDED: COUNCILLOR BOWLES**

**THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967, resolves to initiate Amendment No. 9 to City of Albany Local Planning Scheme No. 1 for the purposes of:**

- (1) Rezoning Lot 5 Lowanna Drive, Lot 16 South Coast Highway and Lots 9 and 110 George Street from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone and incorporating them within area No. RR22, as set out in Schedule 14 – Rural Residential Zone of the Scheme text;**
- (2) Amending the Scheme Maps accordingly.**

**CARRIED 8-0**

**PD094: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR GREGSON**  
**SECONDED: COUNCILLOR SUTTON**

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

**CARRIED 6-0**

**PD094: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967, resolves to initiate Amendment No. 9 to City of Albany Local Planning Scheme No. 1 for the purposes of:**

- (1) Rezoning Lot 5 Lowanna Drive, Lot 16 South Coast Highway and Lots 9 and 110 George Street from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone and incorporating them within area No. RR22, as set out in Schedule 14 – Rural Residential Zone of the Scheme text;**
- (2) Amending the Scheme Maps accordingly.**

## BACKGROUND

6. 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.
7. Amendment No. 9 has been prepared to seek the rezoning of Lot 5 Lowanna Drive, Lot 16 South Coast Highway and Lots 9 and 110 George Street from the 'General Agriculture' zone to the 'Rural Residential' zone.
8. The subject lots are located approximately 6.5km west of Albany town centre and have an area of approximately 18.4ha.
9. Land to the north-west, north-east and south is currently zoned 'General Agriculture', while the land to the north and west is reserved for 'Parks and Recreation' or zoned 'Rural Small Holding'. The lots to the east are zoned 'Rural Residential'.
10. *The amendment document states that:*

*"Following the designation of land located within the area bounded by Lowanna Drive, Charles Street, George Street and South Coast Highway for rural residential purposes, a number of landowners propose to rezone the land from 'General Agriculture' zone to the 'Rural Residential' zone"*

## DISCUSSION

11. The City planning Staff support the rezoning of Lot 5 Lowanna Drive, Lots 9 and 110 George Street and Lot 16 South Coast Highway, Gledhow from the 'General Agriculture' zone to the 'Rural Residential' zone as it is consistent with the current strategic direction set by the *Albany Local Planning Strategy* (see Attachment 2) and *State Planning Policy 2.5*. It is considered that the proposal is an 'infill' development, within the already fragmented peri-urban edge, and seeks to further subdivide lots of approximately 4-5ha in area, which are already considered to have little capacity for agricultural production. In this context, the proposal can be entertained, as it does not conflict with the current 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.
12. It is proposed that the rural residential zoning for the site be amalgamated under the controls for the adjacent 'Rural Residential' zone Area No. 22.
13. Lot 15 George Street has not been included within the amendment as it is owned by Main Roads WA.
14. A land capability assessment has been carried out on the subject land and it has been found that it can support the installation of private on-site effluent disposal systems.

## GOVERNMENT & PUBLIC CONSULTATION

15. Prior to lodging the amendment documents with the City of Albany, the proponent has consulted with Main Roads WA regarding the planned Albany Ring Road alignment and any associated constraints that would apply to the rezoning proposal.



16. The westernmost lots shown on the proposed Subdivision Guide Plan would lie within the planned Albany Ring Road alignment. An appropriate acoustic setback, which would also serve as a development exclusion area, has been identified on the plan and would allow for dwellings to be developed in accordance with the 60da(A) noise limit within *State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning*.
17. No further consultation has taken place at this stage.
18. The *Town Planning Regulations 1967* require that a Local Planning Scheme amendment is initiated by a resolution of Council and that the consent of the Environmental Protection Authority and the Department of Planning is obtained, prior to the proposal being advertised for public comment.

### STATUTORY IMPLICATIONS

19. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
20. 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. Council resolution is sought for the initiation of a local planning scheme amendment.
21. *Regulation 25* of the *Town Planning Regulations 1967* sets out the process for amending the Local Planning Scheme.
22. Voting requirement for this item is **SIMPLE MAJORITY**

### POLICY IMPLICATIONS

23. The proposal is considered to be consistent with the key policy measures identified in Western Australian Planning Commission *State Planning Policy 2.5 – Land Use Planning in Rural Areas*.
24. *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.
25. The overarching policy requirements of *State Planning Policy 2.5* 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.

26. The proposal has been designed to be consistent with the requirements of *State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning*. State Planning Policy 5.4 aims to “promote a system in which sustainable land use and transport are mutually compatible. It seeks to minimise the adverse impact of transport noise, without placing unreasonable restrictions on noise-sensitive residential development, or adding unduly to the cost of transport infrastructure”. The objectives of the policy are to:

- Protect people from unreasonable levels of transport noise by establishing a standardised set of criteria to be used in the assessment of proposals;
- Protect major transport corridors and freight operations from incompatible urban encroachment;
- Encourage best-practice design and construction standards for new development proposals and new or redeveloped transport infrastructure proposals;
- Facilitate the development and operation of an efficient freight network; and
- Facilitate the strategic co-location of freight handling facilities.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Organisational Operations and Reputation</b></p> <p>A decision to initiate this scheme amendment may be perceived as being at odds with the current moratorium on the rezoning of agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.</p>	Possible	Minor	Medium	The proposal is considered to be an ‘infill’ development, within the already fragmented peri-urban edge. It seeks to further subdivide lots of approximately 4-5ha in area, which are already considered to have little capacity for agricultural production. As such, it may be entertained, as it does not conflict with the current moratorium.
<p><b>Organisational Operations and Reputation</b></p> <p>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	Possible	Minor	Medium	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.
<p><b>Community, Organisational Operations and Reputation</b></p> <p>The proposal may attract objections from members of the public or other Government agencies.</p>	Possible	Minor	Medium	Widely consulting with all parties who may be affected and all government agencies should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.

**FINANCIAL IMPLICATIONS**

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

**LEGAL IMPLICATIONS**

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

**ENVIRONMENTAL CONSIDERATIONS**

30. The subject lots are largely cleared pasture with the exception of well vegetated windbreaks on lot boundaries. There is a stand of parkland cleared vegetation in the southwest corner of lot 9 George Street.

**ALTERNATE OPTIONS**

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

- To resolve to initiate the scheme amendment with modification; or
- To resolve not to initiate the scheme amendment.

**SUMMARY CONCLUSION**

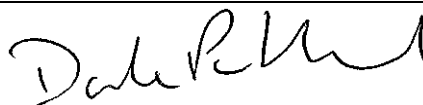
32. It is recommended that Council initiate Local Planning Scheme Amendment No. 9, as the proposal is consistent with the strategic direction currently set within the *Albany Local Planning Strategy* and *State Planning Policy 2.5*.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy 2010</i></li> <li>3. <i>City of Albany Strategic Community Plan 2023</i></li> <li>4. <i>City of Albany Corporate Business Plan 2013-2017</i></li> <li>5. Western Australian Planning Commission <i>State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i></li> <li>6. Western Australian Planning Commission <i>State Planning Policy 2.5 – Land Use Planning in Rural Areas</i></li> <li>7. Western Australian Planning Commission <i>State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning.</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	LAMD9 (West Ward)
<b>Previous Reference</b>	:	Nil

**PD095: ADOPTION OF SCHEME AMENDMENT – LOTS 105 AND 106  
NANARUP ROAD, LOWER KING**

**Land Description** : Lots 105 and 106 Nanarup Road, Lower King  
**Proponent** : Ayton Baesjou Planning  
**Owner** : J A & M A Kennedy, G A & P M Clark  
**Business Entity Name** : Nil  
**Attachments** : 1. Location plan  
2. Schedule of Submissions and Modifications  
3. Albany Local Planning Strategy Excerpts  
4. Local Planning Scheme Amendment No. 6 report  
**Supplementary Information &** : Nil  
**Councillor Workstation:**  
**Report Prepared by** : Planning Officer (C McMurtrie)  
**Responsible Officer** : Executive Director Planning and Development  
(D Putland)

**Responsible Officer's Signature:**



[7:22:09 PM](#) **Councillor Price returned to the Chamber**

**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. The City 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.
5. Although this proposal seeks to create semi-rural 'lifestyle' lots, it is considered relatively minor and would constitute an area of 'infill' in the established 'Special Residential' planning unit. The amendment was also initiated prior to Council imposing the moratorium. Consequently, it is considered that the proposal does not conflict with the current moratorium and may be entertained.

**In Brief:**

- At its Ordinary Meeting on 24 February 2015, Council initiated a Local Planning Scheme Amendment to rezone Lot 105 and a portion of Lot 106 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Special Residential' zone and to reserve a portion of Lot 106 for 'Parks and Recreation'.
- The Local Planning Scheme Amendment has been advertised for public comment and referred to service providers and State Government agencies in accordance with the requirements of the *Town Planning Regulations 1967*.

- The proposal is considered to be a minor 'infill' development within an established 'Special Residential' zoned area and is consistent with the strategic direction currently set within the *Albany Local Planning Strategy* and *State Planning Policy 2.5*. The amendment was also initiated prior to Council imposing the current 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. As such, it is considered that the proposal does not conflict with the moratorium.
- Council is requested to consider the submissions received following public advertising and referral and to adopt the Local Planning Scheme Amendment, subject to modification.

## RECOMMENDATION

### PD095: RESOLUTION

#### VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GREGSON

SECONDED: COUNCILLOR BOWLES

**THAT Council, in pursuance of section 75 of the Planning and Development Act 2005 and Regulation 17(2) of the Town Planning Regulations 1967, ADOPT Amendment No. 6 to City of Albany Local Planning Scheme No. 1, subject to the modifications specified in the attached Schedule of Submissions and Modifications, for the purposes of:**

- (1) Rezoning Lot 105 and a portion of Lot 106 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Special Residential' zone (SR10)
- (2) Transferring a portion of Lot 106 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Parks and Recreation' local scheme reserve.

**CARRIED 9-0**

### PD095: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be ADOPTED.

**CARRIED 6-0**

### PD095 RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, in pursuance of section 75 of the Planning and Development Act 2005 and Regulation 17(2) of the Town Planning Regulations 1967, ADOPT Amendment No. 6 to City of Albany Local Planning Scheme No. 1, subject to the modifications specified in the attached Schedule of Submissions and Modifications, for the purposes of:

- (1) Rezoning Lot 105 and a portion of Lot 106 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Special Residential' zone (SR10)
- (2) Transferring a portion of Lot 106 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Parks and Recreation' local scheme reserve.

## BACKGROUND

6. *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.
7. Amendment No. 6 has been prepared to seek the rezoning of Lot 105 and a portion of 106 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Special Residential' zone and to reserve a portion of Lot 106 for 'Parks and Recreation'.
8. The subject lots are located approximately 10.6km north-east of Albany town centre and have an area of approximately 6.88ha.
9. The land to the east and west of the subject lots is zoned 'Special Residential', while the land to the north, on the opposite side of Nanarup Road, is zoned 'Rural Residential'. The land to the south is reserved for 'Parks and Recreation' and forms the Oyster Harbour foreshore reserve.
10. The amendment document states that:

*"This rezoning has been foreshadowed by the original rezoning and creation of Special Residential Zone Area No. 10, as well as the Albany Local Planning Strategy".*

## DISCUSSION

11. The City planning Staff support the rezoning of Lots 105 and 106 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Special Residential' zone and 'Parks and Recreation' local scheme reserve, 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*.
12. The subject land is identified in the *Albany Local Planning Strategy* as being suitable for 'Special Residential' development and is located between two existing components of 'Special Residential' zone No. 10 to its east and west and is considered to form a minor 'infill' in an established 'Special Residential' planning unit. The land to the north has also been rezoned and subdivided into larger 'Rural Residential' zoned lots. Furthermore, the amendment was initiated prior to Council imposing the current 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. As such, it is considered that the proposal does not conflict with the moratorium.
13. Fire management implications on the subject land are minimal; much of the area has been parkland cleared and further stands of vegetation will see limited clearing to locate development envelopes and facilitate hazard reduction measures. The extension of Kula Road and its connection to a right-of-way over existing driveways to the west by means of an 8m wide pedestrian access way will also provide significantly improved emergency access or egress.
14. The lower reaches of Lot 106 will be transferred into the 'Parks and Recreation' local scheme reserve, thereby enhancing the reserve network and increasing the depth of the Oyster Harbour foreshore reserve.

15. A small number of submissions were received from service providers, Government agencies and the local progress association, expressing no objection to the proposed amendment. Western Power and Water Corporation have provided subdivision and development advice, which will be relevant to the future subdivision and development of the land; however, it has no bearing on the proposed zoning change itself.
16. The Department of Water commented that development should be restricted to the parkland cleared areas of proposed Lots 7 and 8 to ensure that the largest possible vegetation buffer is maintained to Oyster Harbour. This position is reflected by a notation on the proposed subdivision guide plan that requires all building envelopes to be located north of the 'low fuel link', as indicated. This would place the building envelopes within the cleared area to the northern extent of proposed Lots 7 and 8. The Department of Water's comment also highlights the fact that the notations on the proposed subdivision guide plan, which is an updated version of the existing plan, still refer to the provisions contained within former *Town Planning Scheme No. 3*. It is therefore recommended that these notations are updated to refer to the provisions of *Local Planning Scheme No. 1*, where still relevant.
17. The Lower Kalgan Progress Association commented on the need to provide a second road connection from Nanarup Road to Kalgan Heights, at least in the form of an emergency access/egress route. The subdivision design incorporates an 8m wide pedestrian access way that would connect the proposed extension to Kula Road back to Nanarup Road, via an existing right-of-way to the west of Lot 104. This would provide an alternative route in and out of the subdivision in an emergency situation.

#### GOVERNMENT & PUBLIC CONSULTATION

18. The Amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 30 April 2015 to 18 June 2015 by placement of a sign on-site, direct referral to affected and adjoining/nearby landowners, service providers and State Government agencies, and advertisement in the local newspaper.
19. Seven (7) submissions were received from service providers, State Government agencies and the local progress association and are summarised in the attached Schedule of Submissions and Modifications. Staff comments and recommendations are also provided in the schedule and the broad issues are discussed in paragraphs 13-15 above.

#### STATUTORY IMPLICATIONS

20. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
21. 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. Council resolution is sought for the adoption of a local planning scheme amendment.
22. Regulation 17(2)(a) of the *Town Planning Regulations 1967* allows Council to adopt the Scheme with or without modification.
23. Voting requirement for this item is **SIMPLE MAJORITY**

## POLICY IMPLICATIONS

24. The proposal is considered to be consistent with the key policy measures identified in Western Australian Planning Commission *State Planning Policy 2.5 – Land Use Planning in Rural Areas*.
25. 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.
26. The overarching policy requirements of *State Planning Policy 2.5* 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

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Organisational Operations and Reputation</b></p> <p><i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i></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>

## FINANCIAL IMPLICATIONS

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

## LEGAL IMPLICATIONS

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



**ENVIRONMENTAL CONSIDERATIONS**

- 30. Much of the land is relatively level, with only a slight fall to the west across the western half of Lot 105 and the driveway leading to Lot 106 from Nanarup Road. The western and southern extents of Lot 106 fall more steeply down to Oyster Harbour.
- 31. Lot 105 is parkland cleared, with the thickest stand of remaining trees running through the centre of the lot in a north-south axis. A single house stands on Lot 105, slightly west of the centre of the lot and approximately 17m from the southern boundary.
- 32. A tree-lined access leg to Lot 106 runs along the eastern boundary of Lot 105 before dog-legging to the west, where it opens out into the lot. The level area of Lot 106 is parkland cleared, with thicker vegetation remaining on the slopes to the west and south of the lot on the steeper slopes. A clearing measuring approximately 140m by 50m near the centre of the lot accommodates a single house and outbuildings.

**ALTERNATE OPTIONS**

- 33. Council has the following alternate options in relation to this item, which are:
  - To resolve to adopt the scheme amendment with modification; or
  - To resolve not to adopt the scheme amendment and advise the Western Australian Planning Commission, in writing, of the reasons for doing so.

**SUMMARY CONCLUSION**

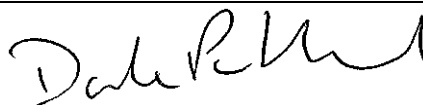
- 34. It is recommended that Council adopt Local Planning Scheme Amendment No. 6, subject to modification, as the proposal is considered to be a minor 'infill' development within an established 'Special Residential' zoned area and is consistent with the strategic direction currently set within the *Albany Local Planning Strategy* and *State Planning Policy 2.5*

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy 2010</i></li> <li>3. <i>City of Albany Strategic Community Plan 2023</i></li> <li>4. <i>City of Corporate Business Plan 2013-2017</i></li> <li>5. Western Australian Planning Commission <i>State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i></li> <li>6. Western Australian Planning Commission <i>State Planning Policy 2.5 – Land Use Planning in Rural Areas</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	LAMD6 (Kalgan Ward)
<b>Previous Reference</b>	:	OCM – 24/02/2015 – Item PD070

**PD096: ADOPTION OF SCHEME AMENDMENT – LOT 11 ON  
DIAGRAM 42859 NANARUP ROAD, NANARUP**

**Land Description** : Lot 11 Nanarup Road, Nanarup  
**Proponent** : Harley Dykstra Pty Ltd  
**Owner** : R C & J L Buegge  
**Business Entity Name** : Nil  
**Attachments** : 1. Location plan  
2. Schedule of Submissions and Modifications  
3. Local Planning Scheme Amendment No. 10  
report  
**Supplementary Information & Councillor Workstation:** : Nil  
**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 broadly consistent with the strategic direction set in the *Albany Local Planning Strategy*.

**In Brief:**

- At its Ordinary Meeting on 24 February 2015, Council initiated a Local Planning Scheme Amendment to rezone Lot 11 Nanarup Road, Nanarup from 'Residential' R1 to 'Residential' R5.
- The Local Planning Scheme Amendment has been advertised for public comment and referred to service providers and State Government agencies in accordance with the requirements of the *Town Planning Regulations 1967*.
- Staff support the rezoning on the basis that it is a minor increase in residential density, but remains consistent with the established residential density of the adjoining lots.
- The City 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 does not seek to rezone agricultural land or intensify a sensitive land use adjacent to agricultural land.

- Council is requested to consider the submissions received following public advertising and referral and to adopt the Local Planning Scheme Amendment, subject to modification.

## RECOMMENDATION

**PD096: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR HORTIN**  
**SECONDED: COUNCILLOR MULCAHY**

**THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967, ADOPT Amendment No. 10 to City of Albany Local Planning Scheme No. 1, subject to the modifications specified in the attached Schedule of Submissions and Modifications, for the purposes of:**

- (1) **Rezoning Lot 11 Nanarup Road, Nanarup from the 'Residential' R1 to the 'Residential' R5.**
- (2) **Amending the Scheme Maps accordingly.**

**CARRIED 9-0**

**PD096: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR SUTTON**  
**SECONDED: COUNCILLOR MULCAHY**

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

**CARRIED 6-0**

**PD096 RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967, ADOPT Amendment No. 10 to City of Albany Local Planning Scheme No. 1, subject to the modifications specified in the attached Schedule of Submissions and Modifications, for the purposes of:**

- (3) **Rezoning Lot 11 Nanarup Road, Nanarup from the 'Residential' R1 to the 'Residential' R5.**
- (4) **Amending the Scheme Maps accordingly.**

## BACKGROUND

1. *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.
2. Amendment No. 9 has been prepared to seek the rezoning of Lot 11 Nanarup Road, Kalgan from the 'Residential' R1 zone to the 'Residential' R5 zone.

3. The subject lot is located approximately 11.5km north-east of Albany town centre and has an area of approximately 1.45ha.
4. The land to the north of the subject lot is zoned 'Caravan and Camping', the land to the south-west is reserved for 'Public Use' (Great Southern Grammar School), and the land to the east is zoned 'Residential' R1.
5. The amendment document states that:

*"The purpose of this amendment to the City of Albany Local Planning Scheme No.1 (LPS1) is to rezone Lot 11 (No. 264) Nanarup Rd, Kalgan (herein referred to as the subject site) from Residential R1 to Residential R5".*

## DISCUSSION

6. The City planning Staff support the rezoning of Lot 11 Nanarup Road, Nanarup from 'Residential' R1 to 'Residential' R5, as it is broadly consistent with the current strategic direction set by the *Albany Local Planning Strategy* and *State Planning Policy 3.1*.
7. The subject land is identified in the *Albany Local Planning Strategy* as being suitable for 'Rural Residential' development. However, a submission was made to the City during the preparation of *Local Planning Scheme No.1* stating that the 'Rural Residential' designation was not consistent with the existing low density residential development in the area.
8. It was then determined that a zoning of 'Residential' R1 would be a more appropriate for the land and this was applied as part of *Local Planning Scheme No. 1*. It was also advised at this time that in order to support any increase in residential density beyond R1, land capability to support additional on-site effluent and stormwater disposal would have to be demonstrated.
9. The City 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 does not seek to rezone agricultural land or intensify a sensitive land use adjacent to agricultural land.
10. The Subdivision Concept Plan submitted with the amendment document shows a proposed subdivision layout incorporating six lots of 2000-2574m<sup>2</sup>, which is consistent with the minimum lot size requirement for the R5 residential density code contained in *State Planning Policy 3.1 – Residential Design Codes*. These lot sizes are also consistent with the size of the three adjoining lots on Kalgonak Lane, immediately to the east of the subject lot.
11. The proposed change in residential density is also consistent with the provisions of the Department of Health's draft *Country Sewerage Policy*. The Policy states that unsewered subdivision can be supported if it does not result in lots of less than 2000m<sup>2</sup> in area or a residential density greater than R5.
12. The Department of Health has indicated that proposed lot 'F' on the Subdivision Concept Plan could not support private on-site effluent disposal in its current state. However, the City's Environmental Health Officers have reviewed the land capability report and agree with the finding that the land is capable of supporting private on-site effluent disposal systems, subject to fill being placed on proposed lot 'F' as part of subdivisional works. This would allow the necessary vertical separation to be achieved between the effluent disposal system and the water table. City Officers have also recommended that all lots to utilise nutrient retaining Alternative Treatment Units, due to their proximity to the Kalgan River.

13. The Great Southern Grammar has raised concerns about the possible influence an additional five households on adjacent land may have on their day-to-day operation and future expansion plans. They have specific concerns that noise and disturbance caused by outdoor activities and sports may lead to complaint from adjoining residents and that these residents may also object to potential future expansion of the school in line with its master plan.
14. The Lower Kalgan Progress Association and adjoining landowners have both raised concerns about the safety of the proposed access to the proposed lots via Kalgonak Lane. Following assessment by City engineers, it is recommended that the Subdivision Concept Plan is modified to show access being taken from the existing crossover point near the centre of the subject lot.

#### **GOVERNMENT & PUBLIC CONSULTATION**

15. The Amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 30 April 2015 to 18 June 2015 by placement of a sign on-site, direct referral to affected and adjoining/nearby landowners, service providers and State Government agencies, and advertisement in the local newspaper.
16. Ten (10) submissions were received from service providers, State Government agencies and the local progress association and are summarised in the attached Schedule of Submissions and Modifications. Staff comments and recommendations are also provided in the schedule and the broad issues are discussed in paragraphs 11-13 above.

#### **STATUTORY IMPLICATIONS**

17. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
18. 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. Council resolution is sought for the adoption of a local planning scheme amendment.
19. Regulation 17(2)(a) of the *Town Planning Regulations 1967* allows Council to adopt the Scheme with or without modification.
20. Voting requirement for this item is **SIMPLE MAJORITY**

#### **POLICY IMPLICATIONS**

21. The proposal is consistent with the lot area requirements for the R5 residential density code, as prescribed by *State Planning Policy 3.1 - Residential Design Codes*.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Organisational Operations and Reputation</b></p> <p><i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i></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>

## FINANCIAL IMPLICATIONS

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

## LEGAL IMPLICATIONS

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

## ENVIRONMENTAL CONSIDERATIONS

25. The subject lot is largely cleared of vegetation, with the exception of a row of trees along the southern boundary. A single house and associated outbuildings stand near the centre of the lot. The Kalgan River lies approximately 110m from the eastern lot boundary and 245m from the southern lot boundary.

26. The land capability assessment provided in support of the amendment demonstrates adequate vertical separation from the water table to avoid any negative impact on the waterway, with the exception of proposed Lot 'F'. However, a small amount of fill on proposed lot 'F', as a part of subdivisional works, will allow the necessary vertical separation between the effluent disposal system and the water table to be achieved.

27. To further protect the waterway, City of Albany Environmental Health Officers have recommended the use of nutrient-retaining Alternative Treatment Units on the proposed lots, that comply with Department of Health advice.

## ALTERNATE OPTIONS

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

- To resolve to adopt the scheme amendment with modification; or
- To resolve not to adopt the scheme amendment and advise the Western Australian Planning Commission, in writing, of the reasons for doing so.

## SUMMARY CONCLUSION

29. It is recommended that Council adopt Local Planning Scheme Amendment No. 10, as the proposal seeks a minor increase in residential density, which remains consistent with the intended low-density for the area, as set out in the *Albany Local Planning Strategy*.

<b>Consulted References</b>	:	<ol style="list-style-type: none"><li>1. <i>Local Planning Scheme No. 1</i></li><li>2. <i>Albany Local Planning Strategy 2010</i></li><li>3. <i>City of Albany Strategic Community Plan 2023</i></li><li>4. <i>City of Corporate Business Plan 2013-2017</i></li><li>5. Draft Country Sewerage Policy</li><li>6. Western Australian Planning Commission <i>State Planning Policy 3.1 – Residential Design Codes</i></li></ol>
<b>File Number (Name of Ward)</b>	:	LAMD10 (Kalgan Ward)
<b>Previous Reference</b>	:	OCM – 24/02/2015 – Item PD071

**PD097: PLANNING AND BUILDING REPORTS AUGUST 2015**

**Proponent** : City of Albany  
**Attachment** : Planning and Building Reports August 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**

**PD097: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR BOWLES**  
**SECONDED: COUNCILLOR DOWLING**

**THAT Council NOTE the Planning and Building Reports for August 2015.**

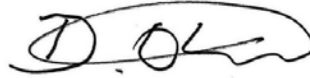
**CARRIED 9-0**



**CSF192: FINANCIAL ACTIVITY STATEMENT – JULY 2015**

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

**Responsible Officer's Signature:**



**CSF192: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR HORTIN**  
**SECONDED: COUNCILLOR GREGSON**

**THAT Council RECEIVE the Financial Activity Statement for the period ending 31 July 2015.**  
**CARRIED 9-0**

**CSF192: COMMITTEE RECOMMENDATION**

**MOVED COUNCILLOR SUTTON**  
**SECONDED COUNCILLOR GREGSON**

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

**CARRIED 9-0**

**CSF192: RESPONSIBLE OFFICER RECOMMENDATION**

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

**BACKGROUND**

1. The Statement of Financial Activity for the period ending 31 July 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 31 July 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

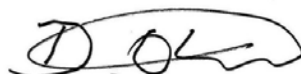
9. The City’s 2015/16 Annual Budget provides a set of parameters that guides the City’s financial practices.
10. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

<b>File Number (Name of Ward)</b>	FM.FIR.2 - All Wards
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**CSF193: LIST OF ACCOUNTS FOR PAYMENT – AUGUST 2015**

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

**Responsible Officer's Signature:**



**RECOMMENDATION**

**CSF193: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GOODE**  
**SECONDED: COUNCILLOR GREGSON**

**That Council received the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 August 2015 totalling \$5,616,889.56.**

**CARRIED 9-0**

**CSF193: COMMITTEE RECOMMENDATION**

**MOVED COUNCILLOR GOODE**  
**SECONDED COUNCILLOR BOWLES**

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

**CARRIED 9-0**

**CSF193: RESPONSIBLE OFFICER RECOMMENDATION**

**That Council received the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 August 2015 totalling \$5,616,889.56.**

**BACKGROUND**

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

**DISCUSSION**

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

**Municipal Fund**

Trust	\$0.00
Credit Cards	\$27,034.81
Payroll	\$1,177,037.31
Cheques	\$.54,877.48
Electronic Funds Transfer	\$4,357,939.96

**TOTAL**

**\$5,616,889.56**

3. As at 15 August 2015, the total outstanding creditors, stands at \$444,785.99 and made up as follows:-

Current	\$222,368.33
30 Days	\$222,571.16
60 Days	\$304.50
90 Days	-\$458.00

**TOTAL** **\$444,785.99**

Cancelled cheques: Nil

**STATUTORY IMPLICATIONS**

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

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

8. Expenditure for the period to 15 August 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.

<b>File Number (Name of Ward)</b>	:	FM.FIR.2 - All Wards
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**CSF194: 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**

**CSF194: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR MULCAHY**  
**SECONDED: COUNCILLOR DOWLING**

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

**CARRIED 9-0**

**CSF194: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR GREGSON**  
**SECONDED: COUNCILLOR SUTTON**

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

**CARRIED 9-0**

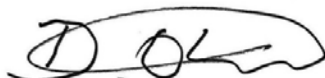
**CSF194: RESPONSIBLE OFFICER RECOMMENDATION**

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

**CSF195: RATING SUBSIDY 2015/16 – SPORTING & COMMUNITY GROUPS**

**Business Entity Name** : City of Albany  
**Report Prepared by** : Acting Executive Director Corporate Services (D. Olde)  
**Responsible Officer** : Acting 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:**

- For a number of years, a rating subsidy has been offered to certain sporting and community organisations. Continuation of this subsidy is being sought for 2015/16, with a separate policy to be put to Council at a later date.

**RECOMMENDATION**

**CSF195: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR PRICE**  
**SECONDED: COUNCILLOR HAMMOND**

**THAT Council ENDORSE the Rating Subsidy offered to sporting and community organisations for 2015/16, as detailed further in the report.**

**CARRIED 8-1**

**Record of Vote**

Against the Motion: Councillor Goode

**CSF195: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR SUTTON**  
**SECONDED: COUNCILLOR GREGSON**

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

**CARRIED 8-1**

**Record of Vote**

Against the Motion: Councillor Goode

**CSF195: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council ENDORSE the Rating Subsidy offered to sporting and community organisations for 2015/16, as detailed further in the report.

**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, or land held or used for public purpose.

**DISCUSSION**

4. An informal program has existed for a number of years giving rating subsidies to community and sporting groups. It appears that this program has never been formally endorsed by Council.
5. A policy will put to forward to Council for discussion and adoption at a later date.
6. To give Council, officers and the community transparency and accountability, a table detailing the amount and organisations receiving the subsidy is detailed further on in this item.
7. For the 2015/16, it is proposed that the subsidy continue as it has done in the past.

**GOVERNMENT & PUBLIC CONSULTATION**

8. Nil.

**STATUTORY IMPLICATIONS**

9. The *Local Government Act 1995* does not provide a definition of what constitutes a charitable purpose, or for a public purpose.
10. 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**

11. No policy currently exists. An item recommending adoption of a policy will be submitted at a later date.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Community &amp; Organisational Operations.</b>  <i>Failure to endorse the subsidy leaves some uncertainty amongst community organisations and City officers regarding eligibility and amount of subsidy.</i></p>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Support the officer's recommendation and adopt the subsidy.</i>

**FINANCIAL IMPLICATIONS**

13. The total value of the subsidy offered under the proposed policy is \$202,190.26 for 2015/16. This has been budgeted for in the 2015/16 budget.
14. The following table details the amount and organisation receiving the subsidy, being 100% of rates due for 2015/16:

	2015/16 FINANCIAL ASSISTANCE	
ASSESS	COMMUNITY/SPORTING GROUP	Subsidy Amount \$
A104446	SENIOR CITIZENS CENTRE	\$ 9 298.29
A116479	NORTH ALBANY FOOTBALL CLUB	\$ 5 875.29
A124369	ALBANY GIRL GUIDES ASSN	\$ 1 941.40
A130471	ALBANY MARITIME FOUNDATION	\$ 5 444.30
A133873	ALBANY ATHLETICS GROUP	\$ 3 423.00
A136225	LOWER GREAT SOUTHERN HOCKEY ASSOC	\$ 2 072.19
A136770	ALBANY GOLF CLUB	\$ 20 793.43
A140446	ALBANY MODEL RAILWAY	\$ 2 444.12
A14758	ALBANY HARNESS RACING CLUB INC	\$ 5 977.47
A14780	ALBANY ITALIAN CLUB	\$ 2 196.85
A149179	ALBANY CLUB INC (1932)	\$ 7 152.53
A155029	EMU POINT SPORTING CLUB	\$ 6 692.72
A156611	ALBANY LIGHT OPERA & THEATRE COMPANY	\$ 1 928.83
A157843	SPECTRUM THEATRE INC	\$ 1 673.69
A161280	ALBANY BOWLING CLUB	\$ 4 904.59
A161537	ALBANY BRIDGE CLUB INC	\$ 3 116.46
A162430	JAYCEES WHALEWORLD (DISCOVERY BAY)	\$ 3 506.78
A171336	ALBANY SPRINT KART CLUB	\$ 1 123.13
A174427	ALBANY EQUESTRIAN CENTRE	\$ 8 838.48
A176287	STIRLING CLUB INC	\$ 12 261.48
A179378	ALBANY BOATING & OFFSHORE FISHING CLUB	\$ 2 554.48
A185660	ALBANY TAOIST TAI CHI SOCIETY	\$ 2 473.14
A187399	ALBANY SPEEDWAY CLUB	\$ 1 623.20
A204721	ALBANY MODEL AERO CLUB	\$ 1 634.86
A204735	ALBANY ENTERPRISE GROUP	\$ 7 119.83
A227280	LOWER KING COMMUNITY KINDERGARTEN	\$ 935.00
A30213	CITY OF ALBANY BAND INC	\$ 1 164.84
A50479	MERRIFIELD PARK TENNIS CLUB	\$ 1 716.61
A6037	KING RIVER RECREATION CENTRE	\$ 3 167.55
A64785	SOUTH COAST COUNTRY MUSIC CLUB INC	\$ 1 010.00
A64799	RIVERVIEW COUNTRY CLUB	\$ 3 320.82
A64820	PRINCESS ROYAL SAILING CLUB	\$ 7 407.98
A64866	WA VETERAN CAR CLUB	\$ 2 350.12
A64947	ALBANY ROWING CLUB	\$ 1 634.86
A65539	GREEN RANGE COUNTRY CLUB	\$ 3 109.10
A65999	KING RIVER HORSE & PONY CLUB	\$ 3 423.00
A6791	ALBANY RACING CLUB INC	\$ 13 538.72
A74354	SCOUT ASSOC OF WA	\$ 2 043.58
A74368	LAWLEY PARK TENNIS CLUB	\$ 4 853.50
A79732	ALBANY PLAY GROUP INCORPORATED	\$ 935.00
A82145	ALBANY KINDERGARTEN	\$ 1 583.77
A84446	MIDDLETON BEACH BOWLING CLUB	\$ 8 991.75
A92223	RAILWAYS FOOTBALL CLUB	\$ 4 342.61
A92354	ROYALS FOOTBALL CLUB	\$ 4 087.16
A96087	GREAT SOUTHERN SOCCER ASSOCIATION	\$ 3 831.71
A96429	TS VANCOUVER NAVAL CADETS	\$ 1 737.04
A97368	ALBANY WOMENS' INSTITUTE	\$ 935.00
	<b>PROPOSED TOTAL SUBSIDY 2015/16</b>	<b>\$ 202 190.26</b>

**ALTERNATE OPTIONS**

15. That no rating subsidy is given to the listed sporting and community organisations.

**SUMMARY CONCLUSION**

16. Nil.

<b>Consulted References</b>	:	<i>Local Government Act 1995</i>
<b>File Number (Name of Ward)</b>	:	All wards.
<b>Previous Reference</b>	:	N/A.



**WS085: MOUNT ELPHINSTONE TO CENTRAL BUSINESS DISTRICT  
CYCLE LINK FEASIBILITY STUDY**

**Land Description** : Mount Elphinstone (adjacent to Frenchman Bay Road Hanrahan Road intersection)

**Owner** : City of Albany

**Attachments** : Mount Elphinstone to CBD Cycle Link Feasibility Study

**Report Prepared by** : Senior Engineering Officer (A Greenwood)  
Executive Director Works and Services (M Thomson)

**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:** 3. Connected built environment.
  - b. **Strategic Objective:** 3.1. To advocate, plan and build friendly connected communities.
  - c. **Strategic Initiative:** 3.1.1. Improve connectedness and traffic flows.
  - d. **Strategic Outcome:** A well designed, diverse and safe transport network that connects people and services.

**Maps and Diagrams:**

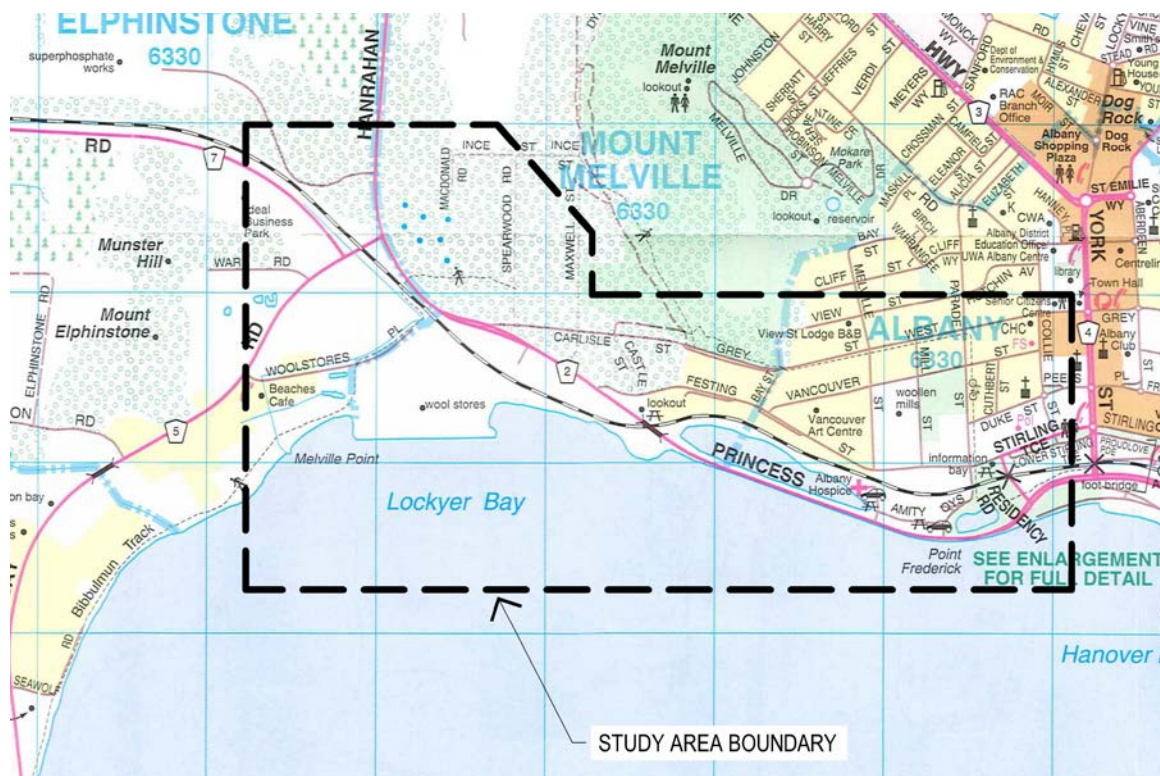


Figure 1: study area

**In Brief:**

- The City of Albany has conducted a feasibility study into providing a safe cycle route from Mount Elphinstone (adjacent to Frenchman Bay Road Hanrahan Road intersection) to the Albany Central Business District.
- The route is a key priority identified in the Cycle City Albany Strategy 2014-2019.
- Council is requested to receive the study and adopt its recommendations.

**RECOMMENDATION**

**WS085: RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DOWLING**

**SECONDED: COUNCILLOR HORTIN**

**THAT Council RECEIVE the Mount Elphinstone to CBD Cycle Link Feasibility Study and ADOPT the recommendations therein.**

**CARRIED 9-0**

**WS085: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR DOWLING**

**SECONDED: COUNCILLOR GREGSON**

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

**CARRIED 5-0**

**WS085: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council RECEIVE the Mount Elphinstone to CBD Cycle Link Feasibility Study and ADOPT the recommendations therein.**

**BACKGROUND**

2. In February 2014 Council adopted the Cycle City Albany 2014-2019 Strategy (CCA).
3. As part of the development of the CCA extensive community consultation was undertaken including surveys and community workshops.
4. The community engagement report (appendix C of the CCA) noted that 90% of respondents to the draft strategy believed that the Princess Royal Drive/Wool Stores missing link is one of the most significant areas for improvement for cyclists.
5. The Mount Elphinstone to CBD Feasibility Study addresses this specific area and considers a number of opportunities and constraints and recommends short, medium and long term options for both confident and less confident cyclists.
  - a. Confident Cyclists: Recommended route option provides on-road cycle lanes on Frenchman Bay Road, Lower Denmark Road and Princess Royal Drive with access to the CBD via Festing Street.

- b. Less Confident Cyclist: Recommended route option provides an off road shared path along Frenchman Bay Road and then through existing bushland up to the top of Carlisle Street. The route continues along the northern side of Grey Street West through existing bushland and the adjacent road verge through to Collie Street. The option for less confident cyclists also makes provision for pedestrians.

## **DISCUSSION**

6. City staff prepared the feasibility in house with a Project Control Group (PCG) established to guide the assessment of options. The PCG consisted of representatives from the following agencies and community groups:
  - a. Department of Transport;
  - b. Main Roads Western Australia;
  - c. Brookfield Rail;
  - d. Grange Resources;
  - e. Albany Bicycle User Group;
  - f. Albany Cycle Club;
  - g. Over 50's Cycle Club.
  - h. City of Albany (Rec. Services ,Planning and Works and Services)
7. The PCG was tasked with providing advice for the feasibility study and was responsible for:
  - a. Providing local advice to the City of Albany on proposed strategies for improvements;
  - b. Ensuring all views were appropriately represented during the developmental phase;
  - c. Providing guidance and assistance in regards to communication and consultation with stakeholders;
  - d. Providing advice and assist with the collection of data and local contextual information, as requested.
8. The PCG have endorsed the final study. Implementation will be stage subject to Council adoption and future budget considerations.

## **GOVERNMENT & PUBLIC CONSULTATION**

9. A workshop/presentation was held at the City of Albany offices on 12 May 2015 and the PCG was presented with, and discussed, the various draft options and recommended routes from the Feasibility Study. Plans were provided for comment and the group also undertook a site visit.
10. The PCG met once again in June 2015 and were presented with the draft report for further comment.
11. The members of the PCG fed information back to their respective groups/agencies and provided feedback of their behalf.
12. As the feasibility is essentially a technical report with consultation undertaken during development of the options, recommendations are constrained to those which can be practically achieved. On this basis it is not considered necessary to advertise the report for public comment.
13. If adopted, the report will be published on the City of Albany website.

**STATUTORY IMPLICATIONS**

14. Nil

**POLICY IMPLICATIONS**

15. Nil

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>People Health and Safety</b> <i>No alternative cycling routes available resulting in cyclists taking unacceptable risk.</i>	<i>Unlikely</i>	<i>Major</i>	<i>Medium</i>	<i>City progress the options outlined in the feasibility report.</i>
<b>Financial</b> <i>City not having funds to enable options to proceed.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>City has allocated funds in its 10 year Long Term Financial Plan. City staff to continue to pursue funding opportunities.</i>

**FINANCIAL IMPLICATIONS**

- 17. In respect to the feasibility report itself there are no financial implications. The study was budgeted and completed last financial year with the aid of part funding through the Department of Transport.
- 18. The short term recommendations in the feasibility report will (where required) progress into detailed design with a view to enabling detailed costing.
- 19. Allocations are made in the current Long Term Financial Plan in 2016/17 and 2017/18 to progress the recommendations.
- 20. City staff will actively seek external funding for the projects to supplement existing allocations.

**LEGAL IMPLICATIONS**

21. Nil

**ENVIRONMENTAL CONSIDERATIONS**

22. Some clearing is involved at implementation stage and City Reserves Officers will undertake the appropriate Environmental Impact Assessments.

**ALTERNATE OPTIONS**

23. Council may choose to not adopt the recommendations detailed within the feasibility study, in which case no further action will be take to progress the matter.

**SUMMARY CONCLUSION**

- 24. The implementation of the Mount Elphinstone to CBD Cycle Link would facilitate improved access for cyclists and a safer environment for travel within the City. The feasibility study outlines options which will improve cycling routes to cater for both confident and less confident cyclists.
- 25. Implementation will be staged in accordance with future budget considerations.
- 26. This report recommends that the feasibility report be received and its recommendations be adopted.

<b>Consulted References</b>	:	<i>Austroads Engineering guides</i> <i>Australian Standards</i> <i>CROW standards</i> <i>Albany Harbours Dual Use Path Planning Strategy 1996</i>
<b>File Number (Name of Ward)</b>	:	<i>Vancouver Ward</i>
<b>Previous Reference</b>	:	<i>Cycle City Albany Strategy 2014-2019</i>

**WS086: ADVERTISE USE OF RESERVE 30463 FOR MOTOCROSS**

<b>Land Description</b>	: Reserves 30463 and 35381
<b>Proponent</b>	: City of Albany
<b>Owner</b>	: Crown Land - Department of Parks and Wildlife
<b>Attachments</b>	: Noise Management Plan, Lloyd George Acoustics
<b>Report Prepared by</b>	: Manager City Reserves (M Ford) Executive Director Works and Services (M Thomson)
<b>Responsible Officer</b>	: 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.
  - d) **Strategic Outcome:** Projects and programs that reflect the importance of our coastline and natural reserves.

**Maps and Diagrams:**

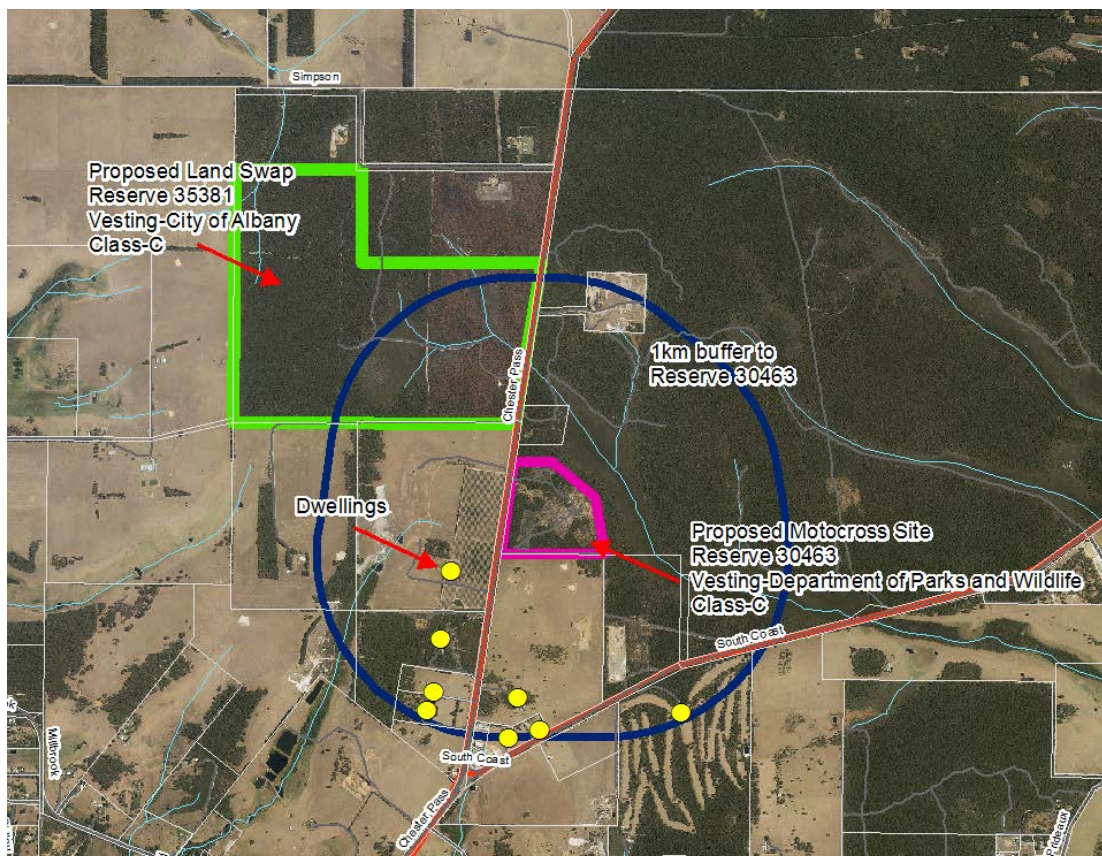


Figure 1: Location of proposed motocross site and land swap (Reserve 35381)

**In Brief:**

- The Albany Motorcycle Club previously held a lease over Reserve 30495 at Roberts Road for motocross activities from 1 July 1992 to 30 June 2013. Since the expiry of the lease in 2013 the club has not had a suitable site from which to conduct its activities.
- The Albany Motor Cycle Club has previously expressed interest in developing a portion of Reserve 30463 Chester Pass Road for motocross activities.
- The City has been furnished with a Noise Management Plan prepared on behalf of the Albany Motocross Club which details predicted noise levels and noise abatement measures for the site, if it were to be used for motocross activities.
- Reserve 30463 is vested with the Conservation Commission of Western Australia and is managed by the Department of Parks and Wildlife (DPaW). DPaW, in-principle, supports a transfer of land management to the City of Albany under a land swap arrangement involving an adjacent site.
- Consideration is sought in respect to these matters and in particular Council approval is sought to advertise the proposed use of the subject land seeking specific comment on the Noise Management Plan.

**RECOMMENDATION**

**WS086: RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DOWLING**

**SECONDED: COUNCILLOR MULCAHY**

**THAT Council:**

1. **SUPPORT** in principle transferring land management responsibility of Reserve 30463 Chester Pass Road from the Department of Parks and Wildlife to the City of Albany
2. **SUPPORT** in principle, in return for item 1 above, transferring land management responsibility of Reserve 35381 Chester Pass Road from the City of Albany to the Department of Parks and Wildlife
3. **ADVERTISE** the proposed use of Reserve 30463 for motocross and related activities seeking community and government agency comment and seek specific comment on the Albany Motorcycle Clubs proposed Noise Management Plan. The public notice will invite any resident of the City of Albany to make a submission on the proposed use of the site.
4. **NOTE** that in conjunction with advertising the City will conduct a mail out to affected residents within a 3km radius. Following the conclusion of the advertising period a report will be prepared, that will address comments received, for Council consideration.

**CARRIED 8-1**

**Record of Vote**

Against the Motion: Councillor Goode

**WS086: AMENDMENT BY COUNCILLOR DOWLING**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DOWLING**  
**SECONDED: COUNCILLOR MULCAHY**

**THAT Point 3 of the Amended Responsible Officer Recommendation be amended to read:**

**“ADVERTISE the proposed use of Reserve 30463 for motocross and related activities seeking community and government agency comment and seek specific comment on the Albany Motorcycle Clubs proposed Noise Management Plan. The public notice will invite any resident of the City of Albany to make a submission on the proposed use of the site.”**

**CARRIED 8-1**

**WS086: AMENDED MOTION BY COUNCILLOR GOODE**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GOODE**  
**SECONDED: COUNCILLOR GREGSON**

**THAT Point 4 of the Amended Responsible Officer Recommendation be amended to read:**

**“NOTE that in conjunction with advertising the City will conduct a mail out to affected residents within a 5km radius. Following the conclusion of the advertising period a report will be prepared, that will address comments received, for Council consideration.”**

**LOST 2-7**

**Record of Vote**

For the Motion: Councillors Goode and Gregson



WS086: AMENDED RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council:

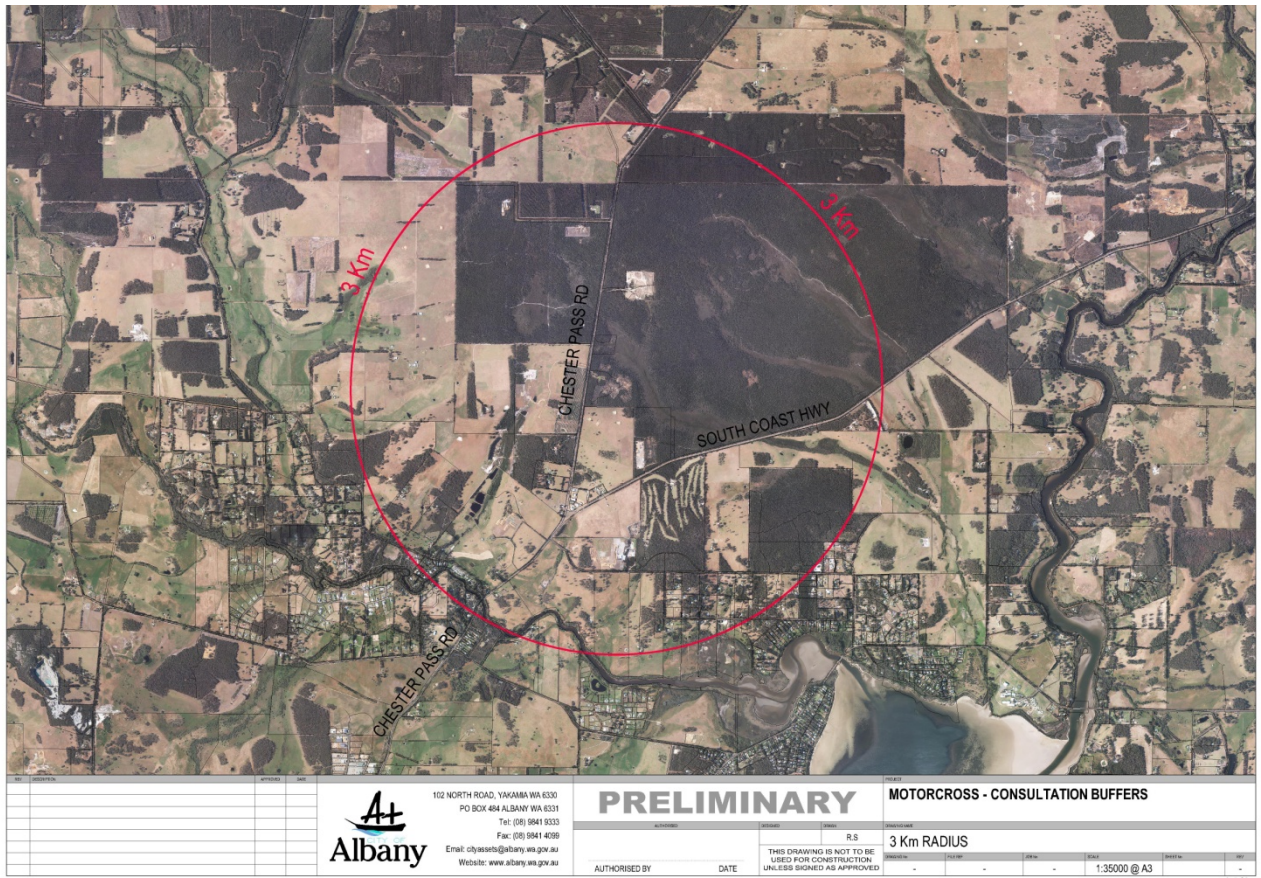
1. SUPPORT in principle transferring land management responsibility of Reserve 30463 Chester Pass Road from the Department of Parks and Wildlife to the City of Albany
2. SUPPORT in principle, in return for item 1 above, transferring land management responsibility of Reserve 35381 Chester Pass Road from the City of Albany to the Department of Parks and Wildlife
3. ADVERTISE the proposed use of reserve 30463 for motocross and related activities seeking community and government agency comment and seek specific comment on the Albany Motorcycle Clubs proposed Noise Management Plan.
4. NOTE that in conjunction with advertising the City will conduct a mail out to affected residents within a 3km radius. Following the conclusion of the advertising period a report will be prepared, that will address comments received, for Council consideration.

**Officers Reason (Executive Director Works and Services):**

Given the sensitivity of the issue it is felt prudent to increase the required mail out radius from 1km to 3km in order to broaden the feedback and include some of the residents in Millbrook and Lower King.

In addition to the mail out, public notice will be given via the local newspaper and a frequently asked questions sheet will be prepared. The public notice will enable anyone to make a submission on the proposed use of the site including those which may fall just outside the mail out boundary.

There are approximately 160 residents within the 3km radius as shown.



**WS086: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

1. SUPPORT in principle transferring land management responsibility of Reserve 30463 Chester Pass Road from the Department of Parks and Wildlife to the City of Albany
2. SUPPORT in principle, in return for item 1 above, transferring land management responsibility of Reserve 35381 Chester Pass Road from the City of Albany to the Department of Parks and Wildlife
3. ADVERTISE the proposed use of reserve 30463 for motocross and related activities seeking community and government agency comment and seek specific comment the Albany Motorcycle Clubs proposed Noise Management Plan.
4. NOTE that following the conclusion of the advertising period a report will be prepared, that will address comments received, for Council consideration.

**WS086: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR GREGSON**  
**SECONDED: COUNCILLOR DOWLING**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 5-0

**WS086: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council:

1. SUPPORT in principle transferring land management responsibility of Reserve 30463 Chester Pass Road from the Department of Parks and Wildlife to the City of Albany
2. SUPPORT in principle, in return for item 1 above, transferring land management responsibility of Reserve 35381 Chester Pass Road from the City of Albany to the Department of Parks and Wildlife
3. ADVERTISE the proposed use of reserve 30463 for motocross and related activities seeking community and government agency comment and seek specific comment the Albany Motorcycle Clubs proposed Noise Management Plan.
4. NOTE that following the conclusion of the advertising period a report will be prepared, that will address comments received, for Council consideration.

## BACKGROUND

### Albany Motorcycle Club – Previous Track

2. The Albany Motorcycle Club previously held a lease over Reserve 30495 at Roberts Road (see figure 1 above) for motocross activities from 1 July 1992 to 30 June 2013.
3. The City received numerous complaints regarding various aspects of the Clubs operations, with several of those complaints related to noise.
4. In 2008 the City, with the support of the Department of Environment and Conservation undertook noise measurements of the Clubs motocross activities. Analysis of the measurements concluded that noise levels exceeded the limits defined by the *Environmental Protection (Noise) Regulations*, and subsequently the City issued the Albany Motorcycle Club with an Environment Protection Notice (EPN).
5. The Notice prevented the Club from using the site and required the Club to address reduction of noise emissions by way of preparation and implementation of a Noise Management Plan (attachment one) to abate noise and monitor the effectiveness of actions taken.
6. Irrespective of the Notice, the Club was given permission to operate for a limited number of days in 2009, 2010 and 2011.
7. The Notice remained in place until the Lease expired on 30 June 2013.
8. On expiry of the Lease the Club was required to remove all improvements and make good the land. The City assisted the Club with this process and implemented a remediation plan for the site.
9. Since this time the club has not had a suitable site from which to conduct its activities.

### Albany Motorcycle Club – Proposed Alternative Site

10. The Albany Motorcycle Club has expressed the desire to develop a new motocross facility on a portion of Reserve 30463, located north of Bakers Junction and vested with the Conservation Commission of Western Australia.
11. The subject site (22ha) is part of a larger reserve and contains a disused gravel pit. It is partially cleared and is surrounded by native vegetation forming a natural noise and dust buffer. It appears to be well suited to the proposed use and is centrally situated.
12. The Department of Parks and Wildlife has given in-principle support to transfer the management of the Reserve to the City of Albany subject to the following:
  - a. A portion of City of Albany managed Reserve 35381 being excised under a new Reserve number with management order to DPaW ;
  - b. Community support;
  - c. The site being excised from the Nature Reserve;
  - d. Clearing only occurring within the foot print of the pre-existing gravel pit;
  - e. Large trees being retained where possible to provide roosting habitat for Black Cockatoo species;
  - f. That approval for the establishment of a motocross site is obtained through DER Noise Management Branch; and
  - g. Use and management of the motocross site is undertaken under an Environmental Management Plan that includes protocols for dieback, weed management and vegetation management.

Previous Consultation/Research

13. The City of Albany has consulted with landholders on the proposal of motocross being undertaken at the subject Reserve 30463. In January 2013, 63 landowners within in the surrounding radius of 1km from the site were sent consultation letters seeking feedback on the proposal. Of the 19 responses received, 17 objected and 2 supported the idea of motocross.
14. The City of Albany undertook a phone survey in July 2015 of Western Australian municipalities that have motocross tracks and focused primarily on those located close to built-up areas. The purpose was to get a feel for operating requirements and issues being experienced. In summary:
  - a. Very few complaints were being fed through to the municipalities. Phone participants were of the opinion that this may be due to residents being accepting to the tracks as some tracks have been operational for over 50 years and some tracks are located in industrial locations;
  - b. Also seems that operating times are moderately relaxed, meaning the tracks are available for use every day of the week.
15. The following provides more detailed results of the phone survey:

<b>Local Government Authority</b>	<b>Comments</b>
City of Geraldton	Motocross track was recently relocated to a light industrial area due to complaints around noise. Since relocating, no complaints have been received.
City of Bunbury and the Shire of Manjimup	Motocross track within close vicinity to residential housing. The tracks have been operational for over half a century without complaints. The tracks are open to users at all times and events are run on Saturdays and Sundays.
Shire of York	Motocross track, which has been operational for many years and is open to the public at any time. The Shire receives noise complaints on occasion. The Shire is looking to lease the site to a club to avoid issues around liability and insurance.
City of Cockburn	Motocross track located in an industrial area. The City of Cockburn advised regulating against the drinking of alcohol at any motocross venue due to potential anti-social behaviour.
City of Wanneroo	Motocross track located in a rural area. They do not receive noise complaints and are of the opinion that the location, away from residential areas is beneficial in terms of noise related issues.

**DISCUSSION**

Noise Management Plan

16. The Albany Motorcycle Club had a Noise Management Plan (attachment 1) prepared by Lloyd George Acoustics Pty Ltd to ensure that any noise impacts to neighbouring properties are minimised as far as practical.
17. The Noise Management Plan includes predicted noise levels during racing and provides details of the Clubs commitments in managing the noise emissions.
18. Noise is predicted to be approximately LA10 50 dB at the closest houses. This noise level would be audible at nearby residential premises and exceeds the assigned noise levels under the *Environmental Protection (Noise) Regulations 1967*.

19. Noise emissions from motor sport venues often exceed assigned levels during meetings and practice sessions. Consequently, the *Environmental Protection (Noise) Regulations 1967* have been amended to enable a motor sport to apply for approval of a Noise Management Plan.
20. The application for approval of a Noise Management Plan is made to the Chief Executive Officer (CEO) of the local government.
21. If the CEO gives approval, the venue operating under an approved Noise Management Plan is exempt from the assigned levels as long as the Noise Management Plan is being complied with.
22. To minimise the impact of noise, the following noise management measures are proposed to be enforced by the Albany Motorcycle Club at all racing, training and practice sessions:
  - a. Ensure noise emissions for motorcycles are within best practice guidelines. The *Motorcycling Australia - 2015 Manual of Motorcycle Sport* recommends a maximum 95db reading 30m from side of track.
  - b. Limit the use of the track to prescribed times only. On days that the track is open, a curfew will be enforced. Training days will be under the supervision of officials, and only officials that are rostered on will have access to a gate key. When the track is closed, it will be securely locked and riding will be strictly prohibited.
  - c. All motorcycles using the track will be tested to ensure that they comply with Motorcycling Australia and FIM (Federation of International Motocross) Guidelines on noise output. The club has a sound level meter for this purpose and a number of club members are accredited Noise Control Officers. Any motorcycles failing the test will not be permitted to race until they conform to the Guidelines.
  - d. A maximum fourteen Sunday race events are proposed per year, (some events may be held on a Saturday). Race days start at approx 8.30 am and finish at approx 5pm.
  - e. From March to November, training will occur on three days per week between 12pm and 6.30pm (curfew time will be drastically reduced in mid winter due to daylight).
  - f. From December to February, training will occur on two days per week between 12pm and 6.30pm. Club members and officials will be informed of curfew times for training days.
  - g. The Albany Motorcycle Club commits to supplying our neighbours with a copy of their race calendar at the beginning of the season. The club will also inform neighbours of any changes to the calendar that may occur during the year.
  - h. The Albany Motorcycle Club wishes to maintain a good relationship with their neighbours and will ensure that systems are in place to address any concerns our neighbours have.
  - i. The Albany Motorcycle Club will provide all affected residents with a complaints number. All complaints will be answered as soon as possible and no later than 24 hours after the complaint was received. The reason for the complaint will be investigated and any remedial action will be conveyed to the complainant.
  - j. A log of any complaints will be kept on record and will be presented to the City of Albany upon request.

#### **GOVERNMENT & PUBLIC CONSULTATION**

23. As stated earlier in this report, landholders within the locality (Bakers Junction) were consulted on the proposed motocross site. At this time consultation was undertaken without a Noise Management Plan having been prepared.
24. As a requirement under the *Environmental Protection (Noise) Regulations 1967 – as amended*, landholders within 1km of the boundaries to the portion of Reserve 30463, proposed for motocross, are to be requested to make a submission on whether or not a Noise Management Plan should be approved.

25. It is therefore necessary that the motocross proposal be formally advertised and that specific comment be sought in respect to the Noise Management Plan.

### STATUTORY IMPLICATIONS

26. For owners consent, transfer of land, leasing arrangements and excision of land, applications may need to be made to:
- Parliament under section 43 of the *Land Administration Act 1997*;
  - Department of Lands; and/or
  - Western Australian Planning Commission.
27. Specific considerations under the Land Administration Act 1997 include:
- Section 18 states that a person shall not deal with interest in Crown Land or lease or licence Crown land without the prior approval of the Minister of Lands;
  - Section 46 allows the Minister for Lands to place the care, control and management of a reserve to a management body;
  - Section 50 allows the Minister for Lands to revoke a management order for a Crown Reserve where the management body agrees that it should be revoked;
  - Section 51 allows the Minister for Lands to cancel or amend the boundaries of a reserve;
  - Section 18 (1) provides that a person must not, without the prior approval in writing of the Minister, assign, sell, transfer or otherwise deal with interests on Crown land. The Ministers consent to any new lease will be sought.
28. Consideration will need to be given to Section 3.58 of the *Local Government Act 1995* which defines the requirements for the disposal of property, including leased land and buildings.
29. Section 30 of the *Local Government (Functions and General) Regulations 1996* defines the dispositions to which the advertising requirements of Section 3.58 of the Act do not apply. The Albany Motorcycle Club is a not for profit sporting association, therefore exempt from the advertising requirements.

### POLICY IMPLICATIONS

30. Nil.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Community</b> Adjacent landowners not having opportunity to comment resulting in negativity towards the proposed use.	Likely	Moderate	High	The City will advertise the proposal and consult with required agencies direct.
<b>Environment</b> Damage to remnant vegetation.	Possible	Moderate	Medium	City to take control of the subject land and impose strict conditions on use. Motocross club and City reserves team to work closely together to ensure that activities are confined to previously degraded areas.

**FINANCIAL IMPLICATIONS**

32. Apart from minor advertising costs, there are no direct financial implications in relation to this item. Should the matter progress there will some minor administrative costs associated with land management processes. Costs will be covered through existing operational accounts.

**LEGAL IMPLICATIONS**

33. There are no legal implications in respect to seeking community and agency comment.

**ENVIRONMENTAL CONSIDERATIONS**

34. An environmental assessment will need to be submitted and implemented to the satisfaction of the City, as a component of an application for Planning Scheme Consent should the matter progress further.

**ALTERNATE OPTIONS**

35. Council may wish to not proceed with advertising the proposal, in which case the issue will lapse and no further action will be taken.

**SUMMARY CONCLUSION**

36. The Albany Motorcycle Club has expressed an interest in utilising Reserve 30463 for motocross activities.
37. To progress this matter, a potential way forward is for the City of Albany to take over control (land management) of the subject land from the Department of Parks and Wildlife and for the City to formally advertise the proposed use of the land and in particular seek comment on the proposed means of noise management.
38. This report recommends that a transfer of land management be supported in principle and the proposed use be advertised with comments being sought and results being brought back to Council for future consideration.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme 1</i> 2. <i>Local Planning Strategy</i> 3. <i>Environmental Protection (Noise) Regulations 1967</i> 4. <i>Land Administration Act 1997</i> 5. <i>Motorcycling Australia - 2015 Manual of Motorcycle Sport</i>
<b>File Number (Name of Ward)</b>	:	A174968 PRO170
<b>Previous Reference</b>	:	Nil



**WS087: CONTRACT C15023 – MILLBROOK ROAD (SLK1.9-3.5)  
WIDENING AND RECONSTRUCTION**

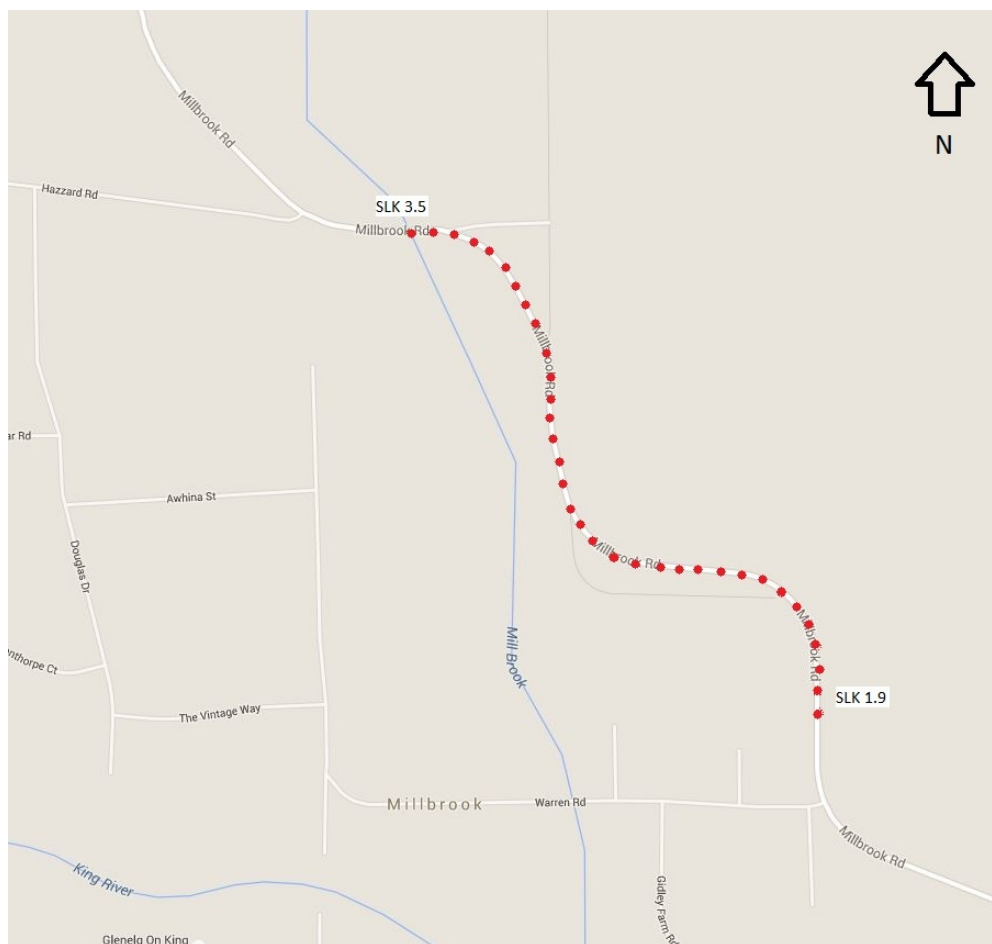
**Land Description** : Millbrook Road, Millbrook (SLK 1.9-3.5)  
**Proponent** : City of Albany  
**Owner** : City of Albany  
**Report Prepared by** : Senior Engineering Officer (A Greenwood)  
 Executive Director Works & Services (M Thomson)  
**Responsible Officer** : Executive Director Works & Services (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 and renew City assets in a sustainable manner.
  - c. **Strategic Initiative:** 2.2.1. Asset management

**Maps and Diagrams:**



**Figure 1 Location Plan**

**In Brief:**

- Council approval is sought to appoint the preferred tenderer AD Contractors to provide widening and reconstruction of 1.6km of Millbrook Road.
- Six complying tenders were received with AD Contractors the recommended contractor.
- Construction is scheduled for completion by mid January 2016.

**RECOMMENDATION**

**WS087: RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR PRICE**

**SECONDED: COUNCILLOR GREGSON**

**THAT Council ACCEPT the tender from AD Contractors and AWARD contract C15023 Millbrook Road (SLK 1.9-3.5) Widening & Reconstruction.**

**CARRIED 9-0**

**BACKGROUND**

2. Millbrook Road has been upgraded in stages to modern road standards for a number of years. This stage is 1.6km long and is located 1.9 km northwest of Chester Pass Road.
3. Design and specification documentation was prepared by external consultants to the stage of "Issue for Tender". The tender was from 19 August 2015 to 9 September 2015.

**DISCUSSION**

4. A total of 29 tender documents were issued by the City of Albany.
5. Six completed tender documents were submitted on or before the stipulated closing date and time.
6. The tenders were evaluated using the weighted attributes methodology. This method scores the evaluation criteria and weights their importance to determine an overall points score for each tender. The criteria are tabled below:

<b>Criteria</b>	<b>% Weighting</b>
Cost	20%
Relevant Experience	20%
Key Personnel Skills & Experience	20%
Tenderer's Resources	10%
Demonstrated Understanding	20%
Corporate Social Responsibility	10%
<b>Total</b>	<b>100%</b>

7. The following table summarises the tenders and overall evaluation scores applicable to each submission:

Tenderer	Total Evaluation Score
AD Contractors	748.89
Palmer Earthmoving	718.76
Great Southern Sands	715.51
ATM Civil	688.30
Tracc Civil	549.90
Tricoast Civil	445.68

### GOVERNMENT & PUBLIC CONSULTATION

8. All relevant Government departments including Department of Environment Regulation, Department of Indigenous Affairs and SWALSC have been consulted on the project.
9. A request for tenders was published in the West Australian on 19 August 2015 and the Albany Weekender on 20 August 2015.

### 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 \$100,000.
11. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
12. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council's decision.

### POLICY IMPLICATIONS

13. The City of Albany Tender policy and Regional Price Preference 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
<b>People Health and Safety</b> <i>Road users impacted by inadequate road width and shape.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Accept tender and undertake works as budgeted.</i>
<b>Finance</b> <i>Non compliance with contract or business failure.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>General conditions of contract (forming part of tender) allow for contract termination on the basis of failure to supply goods and services.</i>

**FINANCIAL IMPLICATIONS**

- 15. The value of this tender is in excess of \$500,000 and therefore the approval is referred to Council for consideration.
- 16. Funding for this project has been received from Regional Road Group. Funds have also been allocated in the 2015-2016 budget.
- 17. Total budget for the contract is \$754,410.

**LEGAL IMPLICATIONS**

- 18. There are no legal implications associated with this item.

**ENVIRONMENTAL CONSIDERATIONS**

- 19. Some clearing of native vegetation will take place to accommodate the proposed road widening and associated roadside open drainage.
- 20. An Environmental Impact Assessment has been undertaken by a City of Albany Reserves Officer. No declared rare fauna were identified within the area of the proposed works.
- 21. Approval to clear native vegetation has been obtained from the Department of Environment Regulation.

**ALTERNATE OPTIONS**

- 22. Council can accept or reject tenders as submitted.

**SUMMARY CONCLUSION**

- 23. On reviewing the submissions, the evaluation team assessed AD Contractors as being the most suitable tenderer across the evaluation criteria in terms of cost, relevant experience, key personnel (skills & experience), tenderer’s resources, demonstrated understanding and corporate social responsibility. AD Contractors are recommended to be awarded the Millbrook Road contract.

<b>Consulted References</b>	:	<i>Local Government (Functions and General) Regulations 1995 Council Policy – Purchasing Council Policy – Buy Local (Regional Price Preference)</i>
<b>File Number (Name of Ward)</b>	:	<i>C15023 (Kalgan Ward)</i>
<b>Previous Reference</b>	:	<i>Not applicable</i>

## BFA005: NEW KALGAN FIRE STATION

<b>Proponent</b>	: Kalgan Volunteer Bushfire Brigade
<b>Attachments</b>	: Kalgan Volunteer Brigade boundary
<b>Report Prepared by</b>	: Senior Land Officer (N Crook) Manager Ranger and Emergency Services (T Ward)
<b>Responsible Officer</b>	: Executive Director Planning and 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:** 2 Clean, Green & Sustainable
  - b. **Strategic Objective:** 2.1 To protect and enhance our natural environment
  - c. **Strategic Initiative:** 2.1.1 Deliver effective fire practices that reduce risk
2. This item also relates to a number of objectives outlined in the City of Albany Strategic Bush Fire Plan 2014-2019, as follows:
  - a. Resourcing the Strategic Bush Fire Plan:
    - i. **1.16 Financial:** City to explore funding opportunities for prevention, preparedness and recovery activities; and
    - ii. **1.17 Fire Stations:** City to undertake a review of existing Brigade facilities to ensure they are sufficient to meet the needs of the local brigade and community.

### In Brief:

- Members of the Kalgan Volunteer Bushfire Brigade (the Brigade) have brokered a deal with the Heath Development Company to obtain funding for the construction of a new fire shed.
- While this Brigade currently has two fire sheds and the brigade area has not been identified as requiring upgraded facilities in the short term, this presents a unique funding opportunity to build an expanded facility that will likely be required in the longer term.
- While the project is in the early planning stages, the timing requirements of the external funding group provides a 18-24 month window to finalise matters relating to location, site requirements, design, project management, future operations etc.
- In agreeing to support this project, the Council must consider whether it is willing to take on the financial, planning and project management tasks and to potentially allocate additional funding in future budget considerations if there is a shortfall.
- Council is requested to provide in-principle support to this project, committing to finding a site and undertaking the future financial, planning and project management requirements, in order to provide the certainty required for the external funding body to proceed with their part.

**RECOMMENDATION**

**BFA005: RESOLUTION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GREGSON  
SECONDED: COUNCILLOR BOWLES**

**THAT Council:**

- 1. ACKNOWLEDGE the efforts of the Kalgan Volunteer Bushfire Brigade in sourcing funding for the upgrading of their fire station facilities and thank Heath Development Company for their contribution;**
- 2. REQUEST that the City Officers confirm the Kalgan Volunteer Bushfire Brigade's expectation for the design of the fire shed and obtain indicative costs for the construction of the proposed Kalgan fire station project.**
- 3. REQUEST City Officers present a further report to the Bushfire Advisory Committee detailing the proposal.**

**CARRIED 9-0**

**BFA005: COMMITTEE RECOMMENDATION (AMENDED)**

**MOVED: COUNCILLOR SUTTON  
SECONDED: D JONES**

**THAT Council:**

- 1. ACKNOWLEDGE the efforts of the Kalgan Volunteer Bushfire Brigade in sourcing funding for the upgrading of their fire station facilities and thank Heath Development Company for their contribution;**
- 2. REQUEST that the City Officers confirm the Kalgan Volunteer Bushfire Brigade's expectation for the design of the fire shed and obtain indicative costs for the construction of the proposed Kalgan fire station project.**
- 3. REQUEST City Officers present a further report to the Bushfire Advisory Committee detailing the proposal.**

**CARRIED 6-0**

**BFA005: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council:**

- 1. ACKNOWLEDGE the efforts of the Kalgan Volunteer Bushfire Brigade in sourcing funding for the upgrading of their fire station facilities and thank Heath Development Company for their contribution;**
- 2. PROVIDE in-principle support to the new Kalgan Fire Station project, on the following basis:**
  - a. The City commits to finding and/or agreeing on a suitable site for the proposed fire**

station;

- b. The City will undertake the financial, planning and project management tasks associated with the construction of the new Kalgan Fire Station;
- c. Council be provided a further opportunity to comment on matters associated with site location, building design, project cost, budget allocations, future operations etc, considering the advice of the Department of Fire and Emergency Services as may be required;
- d. The Kalgan Volunteer Bushfire Brigade be advised that it is unlikely that this project will be commenced until the 2017/18 financial year and any contribution made by Heath Development Company will be held in trust until this time;
- e. The Kalgan Volunteer Bushfire Brigade be advised that as part of the project planning, the City will be investigating whether the maintenance of two fire shed locations is warranted; and
- f. Council advise that at the completion of the new Kalgan Fire Station project, the City will not accept any further maintenance liability of the Lower Kalgan fire shed in the event that this building is re-purposed and discussions should occur with the Lower Kalgan Progress Association on this basis.

## **BACKGROUND**

3. The Kalgan Volunteer Bushfire Brigade (the Brigade) services an area generally bound by the properties north of South Coast Highway, Betty's Beach Reserve to the east, Lower King Road / Mead Road to the west and the coastline (refer attachment).
4. The Brigade is currently equipped with three permanent fire fighting vehicles. Until recently, a fourth vehicle was stationed in the Brigade district over the summer months and it is expected that this situation will be extended for the 2015-2016 fire season, subject to availability.
5. The Brigade currently has two sheds, as follows:
  - a. Upper Kalgan Fire Shed – Three bay shed situated on Reserve 22325 Hunton Road (corner of Wheeldon Road), which is vested directly in the Kalgan Settlers' Association.
  - b. Lower Kalgan Fire Shed – Three bay shed situated on Lot 9 No 516 Nanarup Road, which is owned in freehold title by the Lower Kalgan Progress Association.

It is noted that the City does not have land management responsibility over either site.

6. It is understood the Lower Kalgan shed was originally constructed in the 1970s, though it was moved to the Nanarup Road location in the 1980s.
7. The Brigade have advised that there are no formal agreements in place to use the land at either the upper or lower sites and no rent is paid, though a contribution of \$300 per annum is made to the Kalgan Progress Association for the use of electricity.
8. Funding for maintenance and building improvement for all City Bush Fire Brigade facilities and equipment is presently sourced from the Department of Fire and Emergency Services (DFES) through the Local Government Grants Scheme (LGGS).
9. Building requirements are reviewed by DFES annually. Factors such as age, suitability of facility, number of brigade appliances and current membership are considered, in addition to changing demographics in the affected community.
10. Neither shed is scheduled for replacement under the existing capital grants building replacement program.

11. In February 2015, members of the Kalgan Brigade approached the City to find a potential site for the new Kalgan Fire Station, on the basis that they had secured a funding agreement with the Heath Development Company.

## **DISCUSSION**

### Funding Opportunity

12. The Heath Development Company has agreed to provide funding assistance for the construction of a new fire station in the Kalgan Brigade area through donating proceeds from the sale of a Charity Home within the Oyster Harbour Estate. Home Group WA has also indicated their support to the project.
13. The Heath Development Company initially asked for confirmation from the Brigade that a site has been secured for the new facility. However, in subsequent discussions between City officers and the Heath Development Company, they verbally advised that Council's commitment to the project would provide sufficient assurance for them to proceed with their part, as the funds would be provided to an incorporated body with sufficient expertise to complete the project.
14. With regard to the funding assistance, Heath Development Company has advised that they will need to select a site within the Oyster Harbour Estate for the charity home. Home Group WA will secure builders to provide their services voluntarily. They advised that approximately a third to a quarter of the development costs cannot be met by voluntary labour and this balance is deducted from the ultimate sale price of the home. Overall, they expect that approximately \$300,000 - \$350,000 will be made available to the new Kalgan Fire Station project.
15. Heath Development Company has indicated that it will likely take 12-18 months before the money can be made available, from the time they are advised of Council's support for the project. Heath Development Company also verbally indicated to City officers that if there was a time lag between the provision of the funds and the commencement of the new fire station project, they would agree to the monies being held in trust by the City.
16. While City Officers believe it likely that the new facility can be constructed with the funds being made available by the Heath Development Company, the project has not been fully costed. In addition, a site has not yet been identified, which means that the cost of site works cannot be estimated, and this may have a significant impact on the project cost.
17. In reviewing this item, Council should consider that it may rest with the City to make up any shortfall in the total project cost, though it is likely that this will not be required until the 17/18 financial year and can be considered in this context.

### Site Options

18. The Brigade have noted the following reasons for wanting a new fire station:
  - a. The existing sheds have no amenities, such as toilets, store rooms or meeting rooms, and are very cold in winter;
  - b. The roof on the Lower Kalgan fire shed is worn and rusty and will soon require replacement;
  - c. The current facilities do not align with DFES 'fit for purpose' policy for a multi-purpose building; and
  - d. Reversing the trucks into the sheds over some distance can cause problems and a drive through facility would be preferred.
19. The Brigade advised of the following requirements for the new fire station:
  - a. It is located central to the Kalgan Bushfire Brigade area;



- b. The site will have an area of between 3000–4000m<sup>2</sup> to allow for parking, vehicle manoeuvrability and long term expansion;
  - c. There is good access to major roads and clear lines of sight from the station entrance onto the road on which it is situated; and
  - d. There is access to a scheme water supply if possible.
20. A number of possible sites have been identified, though a final site has not yet been determined. Those sites that may have some potential include:
- a. **Existing Site, Lower Kalgan Hall** – While noting this land is owned by the Lower Kalgan Progress Association, there appears to be options for expansion and road entry / exit is relatively safe. While this will be dependent on the future intentions of the Progress Association, in a recent meeting between the Brigade and this Association, the Progress Association stated their preference that the fire sheds remain on their land and that the toilet facilities in the new shed could be made available for use when events are held at the Hall;
  - b. **Future Reserve following subdivision of Lot 1301 Nanarup Road** – A public open space reserve will be ceded in the north-east corner of this property, immediately adjacent to the Lower Kalgan fire station, providing an ideal option for the expansion of the existing facilities in the same location. However, timing for this land to become available is at the discretion of the landowner and may not fit with the project timeframes. The Brigade have approached this owner and he has not indicated any willingness to cede the land prior to the completion of the subdivision;
  - c. **Reserve 13909 Hunton Road (corner Andrews Road)** – This is a ‘C’ class reserve with the purpose of “Recreation”. The purpose of the reserve would need to be amended to include the use of fire station. Direct access onto Hunton Road is not suitable in this location and access onto Andrews Road is preferred, though this may necessitate the upgrading of Andrews Road;
  - d. **Reserve 22720 Hunton Road (corner of Riverside Drive)** – This is a ‘C’ class reserve with the purpose of “Recreation”. The purpose of the reserve would need to be amended to include the use of fire station. Direct access onto Hunton Road is not suitable in this location and access onto Riverside Road is preferred. This is an old gravel reserve and has areas that have been cleared and/or have become weed infested. As such, this is the preferred site of the City’s Reserves team;
  - e. **Reserve 15658 South Coast Highway** – This is a ‘C’ class reserve with the purpose of “Recreation”. The purpose of the reserve would need to be amended to include the use of fire station. The reserve abuts South Coast Highway and Main Roads approval would be required for any future crossover entry. Some clearing of roadside vegetation may be required to improve site lines from the exit onto the highway;
  - f. **Future Reserve following subdivision of Lots 1 and 973 Nanarup Road** – An amendment to rezone this land to “Rural Residential” is currently in progress. Should this amendment be supported, there may be an opportunity to require the ceding of a land parcel for the purpose of a fire station.
21. While a definite site for the new fire station has not yet been identified, there will be at least an 18-24 month period to plan this project and more detailed site investigations will occur through this process. No concerns are raised with finding a suitable location in this timeframe.

### Project Management

22. The Brigade is not an incorporated body and, as such, cannot undertake the financial management associated with the construction of the new fire station. It is also questioned whether it is appropriate for a volunteer group to undertake the project management components.
23. It is considered that, should Council support this project, it must do so on the basis that the City would be undertaking the financial, planning and project management tasks associated with the construction of the new fire station. The Brigade has indicated that this is also their preference.

### Context & Future Operation

24. While it is noted that the two Kalgan fire sheds do not have appropriate amenities and meeting rooms, which limits their function, there are operative sheds in these locations. This must be considered in the light of some of the City's other Brigade areas that have lower levels of infrastructure provision than the Kalgan Brigade. The City's immediate priority is the Napier Brigade area and funding has been sourced and allocated for a construction of a fire shed in the 15-16 financial year.
25. It is recognised that the Kalgan Brigade would have been lower on the list of priorities for upgrading of infrastructure, however this brigade has shown significant initiative in sourcing external funding to upgrade their facilities. It would be a lost opportunity to not support this project in view of the funding assistance from Heath Development Company.
26. The Brigade has stated that it is their preference that the new fire station will replace the Lower Kalgan Fire Shed and the Upper Kalgan Fire Shed will also be retained. It has been suggested that the Lower Kalgan Fire Sheds could be re-purposed for activities associated with the Lower Kalgan Progress Association.
27. In considering future operations, the City must consider the maintenance requirements of the two sheds and whether the volunteer numbers justify two facilities. While this can be considered in more detail in the planning phase of the project, the initial indication is that the new fire station should replace both the Upper and Lower Kalgan Fire Sheds. Council should also be clear that if the existing Lower Kalgan fire shed is to be retained and re-purposed, the City will not be accepting any future maintenance responsibility for this building.

### **GOVERNMENT & PUBLIC CONSULTATION**

28. In considering various site options, preliminary discussions occurred with the Department of Lands. This agency did not raise any concerns with a fire station being situated on a Crown Reserve under the City's management, though noted the requirement to change the purpose of the reserve as per the provisions of the *Land Administration Act 1997*. This would include the comment of other state government agencies.
29. The Department of Fire and Emergency Services have been consulted over this matter, particularly in respect to the relationship between Volunteer Bush Fire Brigade services and those provided by the state body. DFES has indicated that they have no intention to expand existing Fire and Rescue Services to the Kalgan Brigade area and have offered their support to the proposal in principle.
30. However, DFES has advised that the cost of maintenance for the proposed new fire shed would be an eligible expenditure under the LGGs guidelines and therefore not borne by the City.
31. No public consultation has occurred on this matter, though the City has been working closely with members of the Kalgan Volunteer Bushfire Brigade.

**STATUTORY IMPLICATIONS**

32. Section 51 of the *Land Administration Act 1997* allows the Minister to cancel, change the purpose of or amend the boundaries of the land comprising a reserve. This part may be used if the fire station is located on a Crown Reserve that does not otherwise include the purpose of “Fire Station”.
33. *Delegation 2015:035 (Crown Reserves, Street Names)* grants authority to process matters relating to Crown Reserves, included the change of purpose of a reserve, provided that the change is consistent with the Local Planning Scheme No 1, adopted Asset Management Plans and the City of Albany Bushfire Strategy.
34. Voting requirement for this item is **SIMPLE MAJORITY**

**POLICY IMPLICATIONS**

35. There are no policy implications relevant to this item.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Community:</b> Council decides not to take on the new Kalgan Fire Station project, as it is not an identified priority at the current time. This may impact on the future operation and membership of the volunteer brigade.	Possible	Minor	Medium	Clearly convey the reasons for not supporting the project at this time, in view of other higher priority needs in other brigade areas and maintain open communication with the Kalgan Volunteer Bushfire Brigade. It is noted however, that this is a lost funding opportunity and is not the recommendation of this report.
<b>Community:</b> Other Volunteer Brigades raise issue with the Kalgan project and expect similar facilities to be constructed in their own brigade areas.	Possible	Minor	Medium	The facility provision for all volunteer brigades should be considered in a strategic context and planned for appropriately.

**FINANCIAL IMPLICATIONS**

37. While the project cost is currently unknown and there is no allocated budget to make up any shortfall that may occur, the funding assistance from Heath Development Company provides a unique opportunity to upgrade facilities that will likely require improvement in the future. At some stage, it would fall to the City or State Government to provide funding for these improvement works. This item before Council does not propose any financial expenditure in the current financial year, though it is recognise that in-principle support to the project may result in future budget allocations in subsequent financial years. Council will have the opportunity to further comment on this project, once more detailed planning has occurred and the project costs are estimated.
38. As advised above, maintenance of the proposed shed will be an eligible expenditure under the LGGs.

**LEGAL IMPLICATIONS**

39. There are no legal considerations relevant to this item.

**ENVIRONMENTAL CONSIDERATIONS**

40. There are no environmental considerations relevant to this item.

**ALTERNATE OPTIONS**

41. Council may:

- a. Grant in principle support to the new Kalgan Fire Station project and agrees to undertake the financial, planning and project management tasks. It is recommended that Council make clear the conditions on which this support is given; or
- b. Decide that the new Kalgan Fire Station is not a priority at this time. There may be negative consequences if this is the preferred option and it would represent a lost funding opportunity.

**SUMMARY CONCLUSION**

- 42. It is recognised that many of the volunteer bushfire brigades operate in facilities that are not up to standard and upgrading of many of these facilities will be required over time.
- 43. While the Kalgan fire sheds are not high priorities at the present time, this Brigade has shown significant initiative in sourcing funds to upgrade their existing facilities. If the Council does not support this project at this time, this would be a lost funding opportunity and could impact on the goodwill of the Brigade.
- 44. In supporting this project, it must be clear that the Council is agreeing that the City would take on the financial, planning and project management tasks associated with the construction of the new facility. Council may also be required to make up any funding shortfall, though this may not be required until the 17/18 financial year.
- 45. While it is recommended that in-principle support of this project is granted, it is also recommended that the Council be clear on the basis on which this project is accepted to provide assurance to the contributor and clarity to the Kalgan Volunteer Bushfire Brigade.

<b>Consulted References</b>	:	Land Administration Act 1997 City of Albany Strategic Bush Fire Plan 2014 – 2019 Local Government Grants Scheme Manual for Capital and Operating Grants 2014/15
<b>File Number (Name of Ward)</b>	:	CP.ASR.1
<b>Previous Reference</b>	:	No previous references

**14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**

CSF196: PROPOSED LAND SALE

**15. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN Nil**

**16. REPORTS OF CITY OFFICERS: Nil**

**17. MEETING CLOSED TO PUBLIC.**

CSF196: PROPOSED LAND SALE-CONFIDENTIAL

**18. CLOSURE.** There being no further business the Mayor declared the meeting closed at [7:49:00 PM.](#)



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Dennis W Wellington  
**MAYOR**

**TABLED DOCUMENTS**

<b>NAME</b>	<b>REFERENCE</b>	<b>FILE</b>
Mr Richard Vogwill	PD092	GO.COM.3
Mr Roland Paver	PD092	GO.COM.3

TABLED ADDRESS BY MR RICHARD VOGWILL

Ordinary Council Meeting, 22 September 2015  
Agenda Item PD 092, Lots 1 and 2 Frenchman Bay Road, Local  
Development Plan

Mr Mayor,

I remain disappointed that the Planning and Development Committee has recommended that Council approve this Local Development Plan, even with the recent modifications that have been made. To date, I have been involved in three submissions about this project and have presented my opinions at two previous meetings.

Even to the layman, it is obvious that the original Plan should never have been advertised or referred to Council, because according to LPS1, permanent residential or unrestricted stay units are not allowed on this site (PD092 items 11 and 12). Before advertising, the owners should have been asked to remove this land use from their planning report and because they were not Council and the public were initially under the impression that such land uses were allowed on this site. Council subsequently approved advertising of the Plan. After the public questioned this land use, advice from lawyers and the DOP had to be obtained and this has resulted in taxpayer's money being wasted because there would have been no need for such advice if these unacceptable and illegal land uses had been removed from the Plan before advertising commenced.

In spite of this unnecessary confusion, the following positive progress has been made regarding this Plan, largely as a result of input from the public and State Government departments:

- Unrestricted stay units removed (PD092 Items 13 and 17);
- Total holiday units decreased to 23 plus a caretaker's unit plus a commercial unit (PD092 Item 22);
- Reviews by the Departments of Health, Water and Planning have stipulated a series of conditions and studies that are required for the on-site water supply and sewage treatment options (PD092 Items 23 to 26 and 31 and 32).

At the recent P & D Committee Meeting, I noted that the following changes were needed to the Plan figure in order to conform to the Committee's recommendations and the DOH requirements:

TABLED ADDRESS BY MR RICHARD VOGWIL

- The DOH has stipulated that Lots 1 & 2 have to be amalgamated; however, note 3 on the Plan figure still says that the Lots may be amalgamated
- The DOH has also stipulated that only a total of 25 units are allowed, including the caretaker's unit and the commercial unit; however, the revised Plan figure still shows 25 holiday units, which would make a total of 27 units; therefore the holiday units should be reduced to 23. Therefore the Committee Recommendation Number 1 should read 'Reduction of the number of units to 23, plus a caretakers unit plus a commercial unit' . and
- Note 1. The 5 'additional holiday accommodation' units shown on the Plan figure are not being allowed by the DOH. These are now irrelevant and should be removed from the Plan (PD092 item 23).

These changes have still not been made to the figure included as an attachment for tonight's Council meeting. Please confirm that these changes will be made to the final figure and send me a copy.

In order to allow the on-site water and on-site sewage treatment options, the Departments of Health, Water and Planning have stipulated stringent conditions that need to be met. These conditions can only be satisfied by completing scientific fieldwork comprising groundwater, effluent disposal and environmental studies.

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These will need to be major studies because scientific data for this site are almost nonexistent and they will have to be completed to the satisfaction of the various State Government departments before any development application is lodged with City. It will be a test of the owner's real intent for this property to see if these investigations ever occur.

These studies are important because little scientific information is available for a site that is extremely vulnerable to numerous environmental impacts, such as:

- Lack of groundwater to satisfy requirements, aquifer dewatering.



- seawater intrusion into the aquifer, resulting in saline groundwater quality, negating supply options.
- contamination of groundwater by sewage effluent infiltration, negating supply options.
- drying up of Vancouver Spring.
- discharge of sewage effluent through the embankment below the development affecting vegetation, slope stability and beachgoers.

These studies should have already been completed as part of the current Plan, because until we complete these studies, we won't know whether or not we're possibly wasting time and money working on a Plan that is scientifically unrealistic regarding on-site water supply, sewage treatment and environmental impacts.

Therefore in view of the lack of scientific data for this site, I still feel that this Plan should not be approved by Council until the necessary studies are completed and I hope that you will agree.

Richard Vogwill, 53 La Perouse Road, Goode Beach

**TABLED ADDRESS BY MR ROLAND PAVER**

**Tabled Address by Roland Paver to Council on Agenda Item PD092 Ordinary Council Meeting 22<sup>nd</sup> September 2015.**

I wish to speak on the development proposal for Lots 1 and 2 Frenchman Bay.

The original proposal included 10 residential dwellings which were called unrestricted stay units on the accompanying Local Development Plan. The City's planners, in a report to Council, recommended that Council adopt this LDP for advertising. They supported the LDP on the ground that without the residential/unrestricted stay units the proposed development would not be viable. This was an irrelevant planning consideration. They declared that the LDP was consistent with the Albany Local Planning Strategy. This was a misleading half-truth. And they failed to draw Councillors' attention to clauses in the Town Planning Scheme that preclude Council from approving residential/unrestricted stay units on the site. This was a serious omission of arguably the most relevant planning consideration. In this way Councillors were encouraged to adopt for advertising a LDP that Council could not lawfully finally approve. And they adopted it unanimously.

The City duly published the advertisement. It effectively invited a largely unwitting public to support a proposal that the City ought to have known was not permitted under the Special Use Zone provisions of the Town Planning Scheme. It is worth noting that this is not the first time the City has done this. It did so in 2006 when it advertised a development proposal that included residential units which it knew or ought to have known were an 'X' or prohibited use under the old Town Planning Scheme. History, it has been said, is one vast early warning system. Residents at Frenchman Bay, therefore, were quick to object to the LDP on the same grounds as they had objected to the previously advertised proposal. This unfortunately was not enough to bring an immediate halt to what must surely be regarded as something of a charade. The developer held public meetings to garner support for the LDP and persons in York Street were encouraged to sign a petition in favour of it without knowing that they were thereby petitioning the Council to make an unlawful decision.

The City eventually obtained legal advice from the Department of Planning and the City's lawyers. This confirmed the stand taken by residents at Frenchman Bay. Accordingly, the developer was advised to amend the LDP by removing

**TABLED ADDRESS BY MR ROLAND PAVER**

the residential/unrestricted stay component and this amended LDP is what has now been presented to Council for approval at this meeting. One wonders why the City did not obtain legal advice before recommending that Council adopt the LDP for advertising. One wonders also what the outcome of the public consultation process would have been had the City not sought legal advice at all.

The recent 800<sup>th</sup> anniversary of Magna Carta is a reminder that in our democracy government must be in accordance with the law. Care should be taken therefore to ensure that the mandatory provisions of the City's Town Planning Scheme are always upheld. They must never be permitted to be overthrown by the side wind of an advertised LDP. If the developer wants to develop residential/unrestricted stay units on the Frenchman Bay site the proper course is to seek an amendment to the Scheme. If and when an application to do so is lodged it is sincerely hoped that the City's planners will give the policy considerations that inform the existing Scheme the objective attention they did not receive when they recommended Council adopt the LDP for advertising.

Signed:

Roland Paver.