



MINUTES

Ordinary Meeting of Council

Tuesday 24 July 2018

6.00pm

City of Albany Council Chambers

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



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1. DECLARATION OF OPENING

The Mayor declared the meeting open at **6.00pm**.

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

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

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

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor	D Wellington
Councillors:	
Breaksea Ward	P Terry
Breaksea Ward	R Hammond
Frederickstown Ward	G Stocks (Deputy Mayor)
Frederickstown Ward	R Stephens
Kalgan Ward	B Hollingworth
Kalgan Ward	E Doughty
Vancouver Ward	J Shanhun
Vancouver Ward	T Sleeman
West Ward	S Smith
West Ward	A Goode JP
Yakamia Ward	A Moir
Yakamia Ward	R Sutton
Staff:	
Chief Executive Officer	A Sharpe
Executive Director Corporate Services	M Cole
Executive Director Development Services	P Camins
Executive Director Infrastructure & Environment	M Thomson
Executive Director Community Services	S Kay
Meeting Secretary	J Williamson

Apologies:

Nil.

4. DISCLOSURES OF INTEREST

Name	Report Item Number	Nature of Interest
Councillor Sleeman	CCS068	Impartiality. The nature of the interest being that Councillor Sleeman works at the Albany and Regional Volunteer Service. This organisation will receive funding from the City as part of the 2018-19 Budget. Councillor Sleeman remained in the Chamber and participated in the discussion and vote for this item.
Councillor Terry	DIS105	Financial. The nature of the interest being that one of Councillor Terry's sons is employed by an associated company of the company named as the Business Entity. Councillor Terry left the Chamber and was not present during the discussion and vote for this item.
Councillor Sleeman	CCS065	Impartiality. The nature of the interest being that Councillor Sleeman works at the Albany and Regional Volunteer Service which manages volunteer participation in events. Councillor Sleeman remained in the Chamber and participated in the discussion and vote for this item.
Councillor Moir	DIS105	Impartiality. The nature of the interest being that Councillor Moir is a member of the Albany Port Community Consultative Committee. Councillor Moir remained in the Chamber and participated in the discussion and vote.

5. REPORTS OF MEMBERS

6.03pm Councillor Hammond

Summary of key points:

- Attended the recent tour for inspection of capital works.
- Advised that there are now 112 Defibrillation units around Albany.

6.04pm Councillor Moir

Summary of key points:

- Advised Council of progress with the Container Deposit Scheme and recycling plastic packaging and the Senate Inquiry into Waste Management.

6.08pm Councillor Sutton

Summary of key points:

- Attended the recent community meeting with Telstra regarding the need for a Telstra Tower in the Napier district, and thanked Rick Wilson MP, the City's Mayor and CEO for their support at the meeting. There is an identified need for mobile coverage in that area.
- Spoke about the ongoing issue of off road motor bikes being ridden illegally in Reserves. There is an urgent need to identify off road areas for riders to use, as there is a total lack of facilities and/or areas to ride socially.

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Ordinary Council Meeting held 26 June 2018, Mr Roland Paver tabled questions which were taken on notice. Please find below the questions and responses provided by City staff.

1. Will the City of Albany please provide an example of another Structure Plan in Western Australia that, like Structure Plan No 9, Lot 660, Goode Beach, proposes a rezoning of a single special use zoned lot without proposing a subdivision of the lot into two or more lots?

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Response: N/A. The structure planning process for the Lot 660 has been approved by the Commission.

2. Will the City of Albany please enumerate and list all the approvals that have been issued within the Albany municipality since 1987 for the development of chalets/cottages of more than 3 bedrooms?

Response: N/A. 10 chalets may be considered for development approval at Lot 660 La Perouse Rd. There are no provisions restricting the size of chalet at Lot 660. The Scheme definition for chalet states:

chalet/cottage unit means a building that is used or provided for use for holiday accommodation purposes and is generally developed as self-contained building(s)

3. Will the City of Albany please explain why, in the Agenda and Minutes of the Planning Committee Meeting of December 2017, it regarded the environmental approval given in MS 319 of 1993 to Loire Nominees 15 special residential lot subdivision of Lot 401, Goode Beach as a relevant matter in relation to Structure Plan No 9, Lot 660, Goode Beach?

Response: The EPA advised on 21 March 2018 that the MS 319 is not applicable to the proposed structure plan, for the following reasons:

- The MS319 was for the rezoning and subdivision of a previous Lot 401;
- The MS319 did not consider an intensive tourist development;
- The structure plan constitutes a new proposal.

4. Can the environmental approval given by the Minister for the Environment in MS 319 be relied upon as an environmental approval of the development proposed by Structure Plan No 9, Lot 660, Goode Beach?

Response: See above.

5. Will the City of Albany please explain the purpose and outcome of the Section 45C EP Act application to the EPA by the proponents of Structure Plan No 9, Lot 660, Goode Beach?

This is a matter between the proponent and the EPA. The EPA recommended that the proponent consider referring the new proposal under s.38 of the EP Act or alternatively, the EPA will consider the proposal as a scheme amendment under s.48A of the EP Act.

6. Is the City of Albany aware that in the 1990's the Shire of Albany, the Planning Commission and the Minister for Planning all consistently rejected Loire Nominees proposals to rezone what is now Lot 660 from rural to special residential and that they did so because they were not prepared to compromise the natural features of the landscape, that is, the vegetated parabolic dunes?

Noted.

7. Is the City of Albany aware that when the Planning Commission first suggested in 1998 the possibility of "a well-designed, low key tourist development (eg chalets) in a concentrated pocket of the site clear of steep slopes" it had the protection of the vegetated parabolic dunes on Lot 660 very clearly in mind?

Noted.

8. Is the City of Albany aware that it prescribed building envelopes on the 9 special residential lots around La Perouse Court to protect the vegetated parabolic dunes on those lots?

Noted.

9. Will the City of Albany please indicate what additional groundwater and lake water technical studies have been undertaken by the proponent since receiving all submissions on Structure Plan No 9, Lot 660, Goode Beach? If studies have been undertaken, what are the results?

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Response: The City has not been supplied additional groundwater and lake water technical information. It is proposed that:

Prior to the submission of a Scheme Amendment, Lake Vancouver water level data and adjacent groundwater data shall be collected as required to measure the depth of groundwater and direction and rate of flow of the groundwater.

The updated data needs to be collected from existing and additional bores and piezometers as required at appropriate times of the year to establish the extent and period of flow, if any, toward Lake Vancouver.

Management and/or mitigation measures shall be determined by a qualified hydrologist in response to findings from this monitoring and shall be incorporated into the LPS provisions to the satisfaction of the City of Albany.

10. Will the City of Albany please indicate the definition of the Lake Vancouver wetlands it has adopted in the context of deliberating on the merits of Structure Plan No 9, Lot 660 Goode Beach?

Response: The State Planning Policy 2.9 provides guidance regarding appropriate buffering to waterways and estuaries.

The Policy states the following at Schedule 2 (Pages 11-12):

“Existing mechanisms for identifying foreshore management and protection areas are generally based on a ‘foreshore reserve’ width of 30 m for waterways (WAPC Development Control Policy 2.3) and a ‘development setback’ of 50 m for estuaries (WAPC Development Control Policy 6.1).”

The above approach has been used to determine the existing Public Parkland and the development setback to nine subdivided lots to the south of Lot 660.

As per the State Planning Policy 2.9, the following approach was used to aid the determination of appropriate buffering for Lake Vancouver.

Step 1: Acquire background information and conduct preliminary investigations.

Site investigations and aerial photos were used to assess vegetation complexes, and waterway form and function associated with Lake Vancouver. The Department of Biodiversity and Conservation and Attractions were consulted.

Step 2: Assess the values and functions of the waterway

The extent of the riparian (wetland) vegetation was determined and is proposed to be protected as a component of structure planning for Lot 660.

Step 3: Identify threatening processes from adjacent or proposed land uses.

A 100m setback has been proposed from the waters edge to proposed building development (Local Structure Plan No.9). Car parking, access and landscaping areas with stormwater treatment is proposed surrounding buildings.

Step 4: Establish separation requirement for waterway

Relevant information has been combined and presented as a ‘line’ on a map.

Step 5: What other factors need to be considered?

Consequences and risks resulting from proposed setbacks have been considered. The majority of groundwater flows toward the ocean. Stormwater and effluent management criteria is proposed to ensure protection of ecosystems.

Step 6: Finalise the buffer distance

Ensure the assessment process is based on protecting the agreed values of the waterway and dependent environment (which may include economic, environmental, social and cultural values) in a sustainable and equitable way...EPA to confirm at the Scheme Amendment Stage.

11. Will the City of Albany please indicate whether or not, in its deliberations on the merits of Structure Plan No 9, Lot 660, Goode Beach, it is treating access roadworks, car parks and drainage swales as included in the proposed development?

[Response: Access roadworks, car parks and drainage swales are included in the proposed structure plan assessment.](#)

7. PUBLIC QUESTION TIME

Tabled Address from Ms Viv Read, Chair of BirdLife Western Australia, 167 Perry Lakes Drive, Floreat WA 6014
Ms Read submitted this address by email on Monday 16 July 2018.

RE: Structure Plan for Proposed Tourist Resort at Lot 660 La Perouse Rd, Goode Beach

Thank you for the invitation to address an Open Forum of the City of Albany Council meeting on 24th July 2018. We are unable to attend the meeting in person however provide our submission for consideration through this email communication.

BirdLife Western Australia has previously commented on the proposed development at Lake Vancouver and welcomes the opportunity to provide further input on the Structure Plan.

Three Black-Cockatoo species are present in the area – Carnaby's Black-Cockatoo, Baudin's Black-Cockatoo and the Forest Red-tailed Black-Cockatoo, with Baudin's known to be breeding within the vicinity, and all are listed as threatened under both state and federal legislation. As previously noted, any potential impact on these species, along with any other protected matters such as the critically endangered Western Ringtail Possum and vulnerable Australian Fairy Tern (also noted to occur or breed in the area), may require a referral to the federal Department of Environment and Energy under the Environment Protection and Biodiversity Conservation Act 1999. We note that the Department of Environment and Energy (DoEE) are not listed as a consultee in the Conversation document. Please can you advise what your strategy is for environmental approvals and if no referrals are to be made under the EPBC Act or WA EP Act, what the justification is for this.

As this proposal requires clearing of 2.1 Ha of natural vegetation that is associated with habitat for cockatoos, we would also request information on how impacts of this clearing will be offset or minimised.

We understand that a Fire Management Plan may well be required for the site. We support this in consideration of the additional risk of fire that has potential for environmental impact. However with such a plan, there may be need for a Building Protection Zone or a Hazard Separation Zone for which further clearing of natural vegetation may be required. This could result in additional clearing to that required for the proposal. We would hold similar concerns for any additional clearing of natural vegetation to that proposed.

We further request Council to consider a Conservation Covenant for the lake and adjacent lands as a form of environmental off-set for the proposal.

I re-iterate that BirdLife Western Australia is available to advise further on requirements for bird habitat conservation in relation to this or other similar development proposals.

Yours sincerely

Viv Read, Chair, BirdLife Western Australia

6.11pm Mr Robin Budden, 94 La Perouse Road, Goode

Beach Summary of key points:

- Mr Budden addressed Council regarding DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Mr Budden spoke in opposition to the Committee Recommendation.

6.14pm Prof. Stephen Hopper, 23 La Perouse Court, Goode

Beach Summary of key points:

- Mr Hopper addressed Council regarding DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Mr Hopper spoke in opposition to the Committee Recommendation for this item.

6.18pm Mr Ian Herford, 14 Grove Street West, Little Grove

Summary of key points:

- Mr Herford addressed Council regarding DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Mr Herford spoke in opposition to the Committee Recommendation for this item.

6.22pm Mr John Tonkin, 10 Karrakatta Road, Goode Beach

Summary of key points:

- Mr Tonkin addressed Council regarding DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Mr Tonkin spoke in opposition to the Committee Recommendation for this item. Mr Tonkin's tabled address is detailed at Appendix A.

6.27pm Ms Linda Matthews, 94 La Perouse Road, Goode Beach

Summary of key points:

- Ms Matthews addressed Council regarding DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Ms Matthews spoke in opposition to the Committee Recommendation for this item. Ms Matthews' tabled address is detailed at Appendix A.

6.30pm Mr Mark Colbung, Albany

Summary of key points:

- Mr Colbung addressed Council regarding DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Mr Colbung is opposed to development of the site amid concerns over Aboriginal Heritage rights.

6.34pm Mr Tony Kinlay, 10 La Perouse Road, Goode Beach

Summary of key points:

- Mr Kinlay addressed Council regarding DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Mr Kinlay spoke in opposition to the Committee Recommendation for this item.

6.38pm Dr Giles Watson, 5 Queen Street, Little Grove

Summary of key points:

- Dr Watson addressed Council regarding DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Dr Giles spoke in opposition to the Committee Recommendation for this item.

6.43pm Ms Virginia Probert, 27 Karrakatta Road, Goode Beach

Summary of key points:

- Ms Probert addressed Council regarding DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Ms Probert spoke in opposition to the Committee Recommendation for this item.

6.47pm Mr Roland Paver, 12 La Perouse Road, Goode Beach

Summary of key points:

- Mr Paver addressed Council regarding DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Mr Paver spoke in opposition to the Committee Recommendation for this item. Mr Paver's tabled address and supporting documents are detailed at Appendix A.

6.52pm Dr Christine Kershaw, CEO Stirling's to Coast Farmers

Summary of key points:

- Dr Kershaw addressed Council regarding DIS105: Further Information on Local Structure Plan No. 12-Lot 3 Toll Place, Albany.

6.57pm Dr Cherry Martin, Proponent of development at Lot 660 La Perouse Road, Goode Beach

Summary of key points:

- Dr Martin addressed Council in support of DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach.

6.59pm Ms Melanie Price, 76 Festing Street, Albany

Summary of key points:

- Ms Price addressed Council in support of DIS104: Local Structure Plan No. 9-Lot 660 La Perouse Road, Goode Beach. Ms Price's tabled address is detailed at Appendix A.

There being no further speakers the Mayor declared Public Question Time closed at **7.02pm**.

8. APPLICATIONS FOR LEAVE OF ABSENCE

RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SLEEMAN

SECONDED: COUNCILLOR SMITH

THAT Councillor Sutton be GRANTED Leave of Absence for the period 7th August to 30th August 2018 inclusive.

CARRIED 13-0

RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR DOUGHTY

SECONDED: COUNCILLOR SMITH

THAT Councillor Goode be GRANTED Leave of Absence for the period 8th August to 27th August 2018 inclusive.

CARRIED 13-0

9. PETITIONS AND DEPUTATIONS Nil

10. CONFIRMATION OF MINUTES

RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR MOIR
SECONDED: COUNCILLOR STEPHENS

THAT the minutes of the Ordinary Council Meeting held on 26 June 2018, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 13-0

11. PRESENTATIONS Nil

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

DIS093: Recommend Adoption of Local Structure Plan No. 10- Lot 10 Chester Pass Road and Lot 521 Mercer Road, Walmsley. This report has been deferred for three months at the request of the applicant.

CCS060: FINANCIAL ACTIVITY STATEMENT – MAY 2018

Proponent : City of Albany
Report Prepared by : Manager Finance (D Olde)
Responsible Officer : Executive Director Corporate Services (M Cole)

RECOMMENDATION

CCS060: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR SUTTON

THAT Council RECEIVE the Financial Activity Statement for the period ending 31 May 2018.

CARRIED 13-0

CCS060: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR DOUGHTY
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS060: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Financial Activity Statement for the period ending 31 May 2018.

BACKGROUND

1. The Statement of Financial Activity for the period ending 31 May 2018 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Activity, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

DISCUSSION

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

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

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

8. The City’s 2017/18 Annual Budget provides a set of parameters that guides the City’s financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

FINANCIAL IMPLICATIONS

10. Expenditure for the period ending 31 May 2018 has been incurred in accordance with the 2017/18 proposed budget parameters.
11. Details of any budget variation in excess of \$100,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

File Number (Name of Ward)	FM.FIR.7 - All Wards
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CCS061: LIST OF ACCOUNTS FOR PAYMENT – JUNE 2018

Business Entity Name : City of Albany
Attachments : List of Accounts for Payment
Report Prepared By : Manager Finance (D Olde)
Responsible Officers: : Executive Director Corporate Services (M Cole)

RECOMMENDATION

CCS061: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR DOUGHTY

That Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 June 2018 totalling \$8,551,710.36.

CARRIED 13-0

CCS061: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR MOIR
 SECONDED: COUNCILLOR SMITH

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS061: RESPONSIBLE OFFICER RECOMMENDATION

That Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 June 2018 totalling \$8,551,710.36.

BACKGROUND

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

DISCUSSION

- The table below summarises the payments drawn from the municipal fund for the period ending 15 June 2018. Please refer to the Attachment to this report.

Municipal Fund	
Trust	\$10,265.00
Credit Cards	\$15,568.38
Payroll	\$1,260,721.39
Cheques	\$65,238.19
Electronic Funds Transfer	\$7,199,917.40
TOTAL	\$8,551,710.36

As at 15 June 2018, the total outstanding creditors, stands at \$812,224.71 and made up as follows:-

Current	\$811,518.18
30 Days	\$751.83
60 Days	\$0.00
90 Days	-\$45.30
TOTAL	\$812,224.71
Cancelled Cheques	Nil

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

6. Expenditure for the period to 15 June 2018 has been incurred in accordance with the 2017/2018 budget parameters.

FINANCIAL IMPLICATIONS

7. Expenditure for the period to 15 June 2018 has been incurred in accordance with the 2017/2018 budget parameters.

CONCLUSION

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

File Number (Name of Ward)	:	FM.FIR.2 - All Wards
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CCS062: DELEGATED AUTHORITY REPORTS – MAY TO JUNE 2018

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

RECOMMENDATION

CCS062: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STEPHENS
SECONDED: COUNCILLOR HOLLINGWORTH

THAT Council RECEIVE the Delegated Authority Reports 16 May 2018 to 15 June 2018.

CARRIED 13-0

CCS062: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR SLEEMAN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS062: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Delegated Authority Reports 16 May 2018 to 15 June 2018.

**CCS063: PROPOSED LEASE – TRANSWA – PORTION OF LOT 1521
PROUDLOVE PARADE**

Land Description	: Lot 1521 on Plan 27470 as detailed in Certificate of Title Volume 2561 Folio 501
Proponent	: Public Transport Authority (Transwa)
Owner	: City of Albany
Attachments	: Site plan for Lot 1521
Report Prepared by	: Team Leader Property and Leasing (T Catherall)
Responsible Officer	: Executive Director Corporate Services (M Cole)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme: 1.** Leadership.
 - **Objective: 1.1** To establish and maintain sound business and governance structures.
 - **Community Priority: 1.1.2** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflect the level of associated risk and are adequately explained to community.

Maps and Diagrams:



In Brief:

- Council is requested to consider new lease arrangements for portion of Lot 1521 Proudlove Parade to Public Transport Authority (Transwa) to continue public transport services to and from Albany.
- Transwa propose to develop the site with a ticketing office building, bus access, bus canopy, staff parking and simple landscaping.
- The City has successfully collaborated with Transwa to share costs associated with design and civil works in preparing the whole of Lot 1521 ready for City car park and Transwa development.
- Transwa continues to occupy its current location within the Railway Station building on holding over arrangements until June 2019.
- Once Transwa vacate, the space will be occupied by UWA for the Wave Energy Research Centre to align with Councils position to encourage renewal energy development and be self-supporting in our community energy requirements.
- It is recommended that proposed lease to Public Transport Authority (Transwa) and allocation of funds be approved to complete the City car park.

RECOMMENDATION

CCS063: RESOLUTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR SHANHUN

THAT Council:

- 1. APPROVE the lease over portion of Lot 1521 Proudlove Parade to Public Transport Authority (Transwa) subject to:**
 - a. Lease being conditional on the approval of the Development Application by the City of Albany as local planning authority.**
 - b. Lease permitted use being for Transwa ticketing office and associated activities.**
 - c. Lease commencing as soon as practicable.**
 - d. Lease area being approximately 491m², subject to survey.**
 - e. Lease rent being \$9,600 per annum plus GST and outgoings.**
 - f. Rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years annually.**
 - g. Lease term being 10 years.**
 - h. Lease special condition to document the mechanism to recover the Transwa funding component for agreed costs associated with design and civil works to prepare the site for Transwa development. Note that the Lease will become enforceable once executed and prior to the commencement of City of Albany works, subject only to payment of the contribution.**
 - i. All costs associated with the ongoing operations of the leased premises including outgoings and utilities being payable by the tenant.**
 - j. All costs associated with the development and finalisation of the lease being met by the tenant.**
 - k. Lease being consistent with Council Policy – Property Management (Leases and Licences).**
- 2. APPROVE the allocation of funding within the 2018/19 Budget for the following:**
 - a. Expenditure of \$148,940 for the construction of the Transwa lease area and City car park.**
 - b. Revenue and reserve transfer to fund this expenditure by:**
 - i. A transfer of \$65,491 from the City of Albany Parking Reserve Fund, being car parking cash in lieu funds, and;**
 - ii. A contribution from Transwa of \$83,449 for the works associated with the design and civil works for the ticketing office and bus depot.**

**CARRIED 13-0
ABSOLUTE MAJORITY**

CCS063: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR SHANHUN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS063: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. APPROVE the lease over portion of Lot 1521 Proudlove Parade to Public Transport Authority (Transwa) subject to:
 - a. Lease being conditional on the approval of the Development Application by the City of Albany as local planning authority.
 - b. Lease permitted use being for Transwa ticketing office and associated activities.
 - c. Lease commencing as soon as practicable.
 - d. Lease area being approximately 491m², subject to survey.
 - e. Lease rent being \$9,600 per annum plus GST and outgoings.
 - f. Rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years annually.
 - g. Lease term being 10 years.
 - h. Lease special condition to document the mechanism to recover the Transwa funding component for agreed costs associated with design and civil works to prepare the site for Transwa development. Note that the Lease will become enforceable once executed and prior to the commencement of City of Albany works, subject only to payment of the contribution.
 - i. All costs associated with the ongoing operations of the leased premises including outgoings and utilities being payable by the tenant.
 - j. All costs associated with the development and finalisation of the lease being met by the tenant.
 - k. Lease being consistent with Council Policy – Property Management (Leases and Licences).
2. APPROVE the allocation of funding within the 2018/19 Budget for the following:
 - a. Expenditure of \$148,940 for the construction of the Transwa lease area and City car park.
 - b. Revenue and reserve transfer to fund this expenditure by:
 - i. A transfer of \$65,491 from the City of Albany Parking Reserve Fund, being car parking cash in lieu funds, and;
 - ii. A contribution from Transwa of \$83,449 for the works associated with the design and civil works for the ticketing office and bus depot.

BACKGROUND

2. Transwa has leased a portion of the Railway Station Building since 1994. Following expiry of the lease Transwa continues to occupy the building under holding over arrangements, with City consent.
3. In view of the vacation of the Railway Station building by the Visitor Centre relocation to York Street, a Request for Proposal to Lease was advertised for parties interested in a lease of part or whole of the property, excluding the public toilet area. Proposals were required to be submitted by Wednesday 14 June 2017.

4. Three responses were received from UWA, Transwa and South Coast Natural Resource Management Inc. (SCNRM).
5. UWA's submission was to lease the whole of the property plus whole of the Bond Store for the UWA Centre of Excellence in Wave Research. Noting that a portion of the Bond Store is currently leased by the Albany Model Railway Association with the remainder used as storage by the City's library and the City's art collection.
6. Transwa's submission was to remain within portion of the property in their current location, an area of approximately 60m² plus continued use of the portico for picking up and dropping off passengers.
7. City Officers conducted an assessment of the three proposals and entered into further negotiations with both UWA and Transwa to determine if an outcome satisfactory to all parties could be achieved. It is noted that SCNRM advised they had found suitable space within the Department of Fisheries.

DISCUSSION

8. The discussions with UWA and Transwa outlined the following position:
 - a. Transwa to consider a lease for portion of Lot 1521 Proudlove Parade to develop for ticketing office centre and bus bay. Transwa existing ticketing office to remain within the Railway Station building in their current location (lease area 60m²) until the completion of development or 30 June 2019, whichever occurs first.
 - b. UWA lease of the Railway Station building area (approximately 217m²) for office plus portion of the Bond Store area (approximately 135m²) for storage. Once Transwa vacate then UWA will lease the vacated space (approximately 60m²). UWA have also requested to lease the bitumen area between the Railway Station building and the Bond Store for an enclosed yard area (approximately 178m²). This would include a total area of 590m² for the UWA Centre of Excellence in Wave Research.
 - c. The Albany Model Railway Association to remain within the Bond Store (lease area 209m²) under new lease arrangements.
 - d. The City's art collection stored in one of the rooms within the bond Store has recently been relocated to the Vancouver Art Centre. The Library items, which are surplus to requirements will be disposed of by auction and the room cleared to allow UWA to occupy.
9. The proposed new lease/s over the Railway Station Building and Bond Store to UWA for Wave Energy Research Centre will form a separate item to Council.
10. The table below summarises the essential terms of the proposed lease:

ITEM	DETAILS
Tenant	Public Transport Authority
Land/Lease Area	Portion of Lot 1521 on Plan 27470 as detailed in Certificate of Title Volume 2561 Folio 501, being an area of approximately 491m ²
Land Ownership	City of Albany
Permitted Use	Transwa ticketing office and associated activities
Term of Lease	10 years from commencement date
Rent	\$9,600 plus GST per annum
Rent Review	Market Valuation every 3 years with Perth All Groups CPI applied on the anniversary for intervening years

Outgoings	Tenant responsible for all outgoings
Utilities	Tenant responsible for all utilities
Special Conditions	<p>To document the mechanism to recover the Transwa funding component for agreed costs associated with design and civil works to prepare the site for Transwa development.</p> <p>Contribution monies owing will become payable under the lease.</p> <p>The lease will be executed and become enforceable prior to the commencement of City of Albany works on the site. This will provide an obligation for Transwa to pay the contribution prior to commencement of works and taking occupancy of the site.</p> <p>The lease will have an occupancy date that is determined by notification of completion of City of Albany works and subject to payment of the contribution. Non-payment will be considered a breach of an essential term and a terminable event under the lease in the same manner as non-payment of rent. Non-payment will also be a breach of the separate payment obligation contained in the lease, such that payment of the contribution triggers on completion of the works and not the commencement of occupancy.</p>
	Tenant responsible for the development of Transwa portion of the land (491m ²) in line with the Development approval on or before 30 June 2019. The existing lease over 60m ² portion of the Railway Station building will cease on the above date.

11. Transwa will be required to maintain the building and surrounds within the lease area, with no positive obligation on the City.
12. The remaining terms of the lease agreement will align with the City's Property Management (Leases and Licences) Policy.
13. Transwa have agreed in principle with the above position, subject to Council and LandCorp approval.

Lot 1521 Proudlove Parade

14. Lot 1521 was purchased by the City from LandCorp in 2015 with conditions that this site be developed by August 2018 and any development being approved by LandCorp. The City has since been granted an extension of 12 months to complete the development by August 2019.
15. It is proposed to lease a of 491m² portion of Lot 1521 to Transwa with the remaining portion of 362m² being allocated for the development of additional City car parking within the Proudlove Precinct.
16. To comply with the land sale condition, LandCorp has been consulted and confirmed they have no objections to the proposed Transwa and City car parking developments.

Development – Transwa and City Car park

17. In May 2018 Transwa lodged a Development Application for portion of Lot 1521. The scope of development includes the construction of the following:
 - 53m² portable ticketing office building, featuring a 15m² covered deck
 - Vehicle access (one way) for Transwa buses and staff vehicles
 - Staff parking (2 bays)
 - A canopy over the bus stop area
 - Simple, low native landscaping
18. The buses will enter the north end of the site from Proudlove Parade and exit the south end of the site. There is a public parking area and street parking adjacent the site.
19. The application is currently being assessed by the City's Planning Team and may form a separate item to Council.
20. At the time of lodging the Development Application, Transwa raised the potential of working with the City around the design for whole of Lot 1521 including the area allocated for City car park. Transwa sought to comply with City requirements in relation to footpaths, kerbing, and landscaping to enable them to tie in with the surrounding Proudlove Precinct.
21. In considering the proposal City Officers agreed a collaborative approach to design and civil works over the whole of Lot 1521 had merit. It was considered working together would be better value for money for both parties in delivering a site ready for Transwa and additional public car parking within the CBD.
22. It has been agreed in-principle that Transwa and the City would share costs for the design and civil works as below:
 - Drainage associated with the car parks and bus bay
 - All earthworks and pavements associated with the car parks and bus bay
 - All brick paved areas and pram ramps as indicated on the drawings
 - Gravel hardstand on the building footprint
23. It has been estimated the cost of the works will be in the vicinity of \$148,940. Transwa will contribute \$83,449 and the remainder of \$65,491 will be drawn from the City's car parking cash in lieu funds.
24. The City of Albany contribution of \$65,491 is the cost component of developing additional car parking on the part of the freehold lot not under consideration for lease.
25. Importantly the works do not include:
 - Building or services required for the building
 - Shelter structure
 - Footings for the shelter
 - Soft landscaping or irrigation
26. The lease documentation will provide the legal mechanism with which to recover the Transwa funding component. While the figures provided are estimates, the Transwa financial component will be based upon actual construction costs of the areas shown in red in site plan (Attachment 1).

GOVERNMENT & PUBLIC CONSULTATION

27. Under the contract of sale conditions of Lot 1521 to the City, LandCorp sought written approval to any development of the land. LandCorp have been consulted and advise they have no objections to the proposed Transwa and City car park development.
28. Section 3.58 of the *Local Government Act 1995* outlines the requirements for the disposal of property, including leased/licenced land and buildings. The Act requires the following:
- a. A local government must give local public notice of the proposed lease/licence inviting submissions from the public, for a period of two weeks.
 - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
 - c. A local government can then proceed with the lease/licence.
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. Section 30 (2) (c) (i & ii) states that Section 3.58 of the Act is exempt if:
- (c) The land is disposed of to –
 - (i) The Crown in right of the State or the Commonwealth; or
 - (ii) A department, agency, or instrumentality of the Crown in right of the State or the Commonwealth.
30. Public Transport Authority (Transwa) is exempt from the advertising requirements as they are considered a government entity.

STATUTORY IMPLICATIONS

31. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including licensed land and buildings including advertising requirements.

POLICY IMPLICATIONS

32. Council adopted a revised Property Management (Leases and Licences) Policy in July 2017.
33. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
34. The recommendation is consistent with the Policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation: lease not approved	Possible	Moderate	Medium	Seek to negotiate terms to Council satisfaction.
Financial: new lease not approved – no rental income	Unlikely	Low	Low	Call for further proposals for the vacant site.
Reputation: expenditure not approved – additional public car parking deferred	Unlikely	Moderate	Medium	Seek to negotiate terms to Council satisfaction.
Reputation: new lease not approved – public criticism on relocating Transwa and potential for interruption to bus services	Unlikely	Moderate	Medium	Offer assistance to identify a new site suitable to continue bus services.
Opportunity: To secure a suitable site for the relocation of Transwa and continuation of bus services to and from Albany and the Great Southern.				
Opportunity: To provide a vacant building to UWA in support of the establishment of the Wave Energy Research Centre in Albany.				
Opportunity: Developing Lot 1521 to comply with LandCorp land purchase timing conditions.				
Opportunity: Provision of additional public car parking within the CBD.				

FINANCIAL IMPLICATIONS

Lease

36. The lease will provide an income of \$9,600 plus GST per annum in the first year with anticipated rental increases over the term of the 10 year lease.
37. All costs associated with the preparation and finalisation of the lease will be met by the tenant.

Development Lot 1521

38. If approved, an allocation of \$148,940 to a new budget line for the construction of the Transwa lease area and public car park area will be made.
39. The City of Albany currently retains \$81,045 in car parking cash in lieu funds of which \$34,500 was paid by the University of Western Australian (UWA) for their development and \$46,545 by Advance housing for the student accommodation development.
40. \$65,491 of this is proposed to be spent on the car parking component of the works.
41. Transwa will contribute the remaining estimated \$83,449 for the works associated with the site works to develop the ticketing office and bus bay.

LEGAL IMPLICATIONS

42. The lease documentation will be prepared by the City's lawyers with enforceable terms and conditions, at the tenant's expense.

ENVIRONMENTAL CONSIDERATIONS

43. As the land is already cleared, there are no environmental considerations relevant to this item.

ALTERNATE OPTIONS

44. Council may:
 - a. Approve the lease with Public Transport Authority (Transwa) for portion of Lot 1521 Proudlove Parade; or
 - b. Decline the new lease request.
45. Should Council decline the request, an alternate location within the CBD may be sought by Transwa in order for public transport services to continue.
46. A number of central sites have been considered and deemed not suitable for a ticketing office that can also accommodate bus movements in near proximity. Not identifying another suitable location may represent a risk to the future public transport operations to and from Albany.

SUMMARY CONCLUSION

47. The future use of the Railway Station building has been considered following the relocation of the Albany Visitor Centre to the Tourism Hub in York Street.
48. Following a Request for Proposal process, it is considered the best future use of the Railway Station building is to enter into a lease with UWA for the establishment of the UWA Centre of Excellence in Wave Research. As such Transwa are required to relocate from the Railway Station building.
49. Lot 1521 Proudlove Parade, opposite the Railway Station building, has been identified as a suitable central location for Transwa to develop a new ticket office and bus depot in order to continue public transport services to and from Albany.
50. Transwa have agreed in-principle to relocate and develop a portion of the land, at Transwa cost, subject to Council approval.
51. The remainder of the Lot 1521 was set aside for public car parking. The City has taken the opportunity to work with Transwa to develop the whole of Lot 1521 including the City car park component and share the costs for design and civil works.

52. The coordinated approach will deliver better value for money, a consistent design, a new site for Transwa and additional public parking in the CBD.
53. It is recommended the new lease to Public Transport Authority (Transwa) and the allocation of funds for design and civil works for Lot 1521 be approved.

Consulted References	:	<ul style="list-style-type: none">• Council Policy – Property Management (Leases and Licences)• <i>Local Government Act 1995</i>
File Number (Name of Ward)	:	PRO095/PRO429 (Frederickstown Ward)
Previous Reference	:	OCM 26/05/2015 Item CSF167

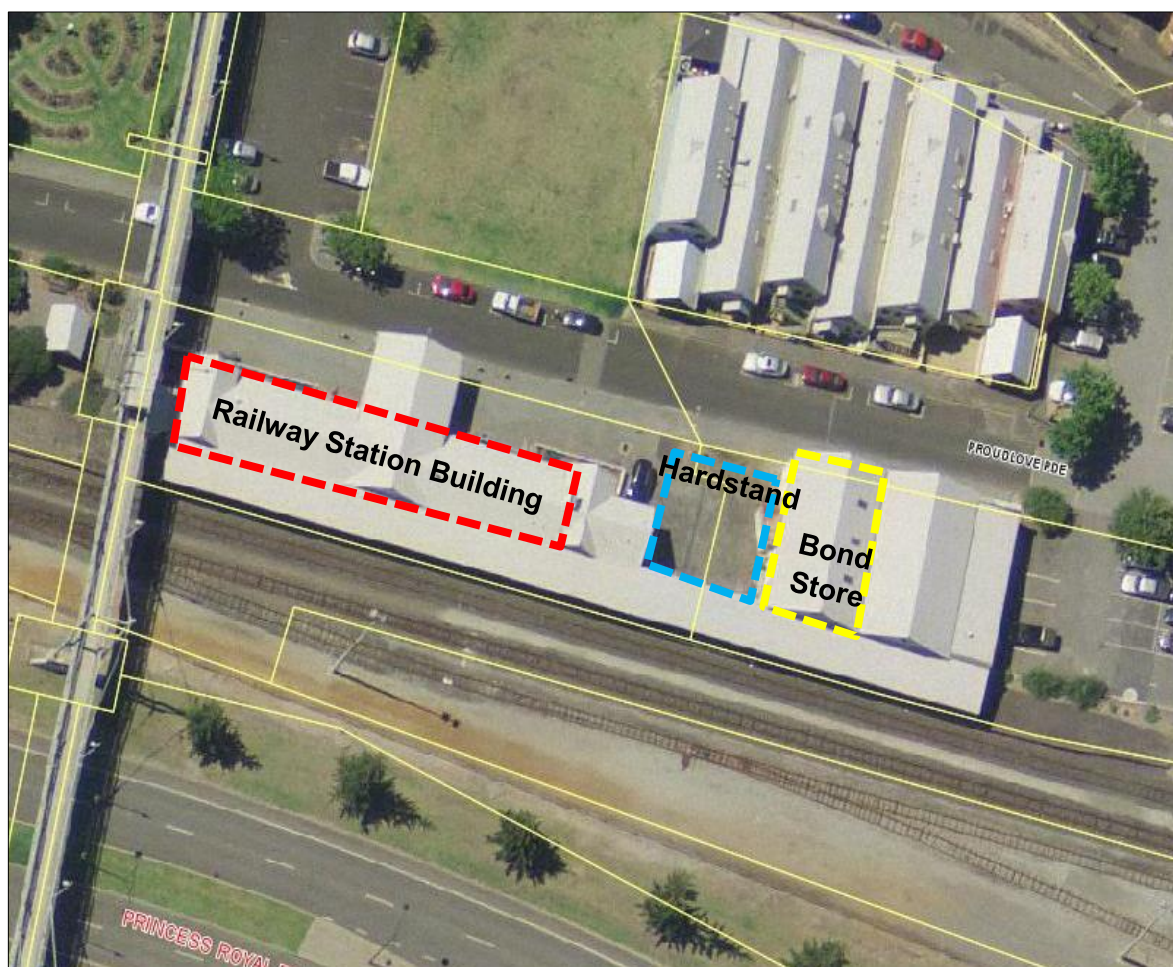
CCS064: PROPOSED LEASES – ALBANY RAILWAY STATION AND BOND STORE BUILDINGS TO THE UNIVERSITY OF WESTERN AUSTRALIA

Land Description	: • Crown Reserve 42792 and being Lot 1404 on Plan 218308 as detailed in Certificate of Title Volume LR3121 Folio 760 • Crown Reserve 42793 and being Lot 512 on Plan 58074 as detailed in Certificate of Title Volume LR3160 Folio 28
Proponent	: University of Western Australia
Owner	: Crown (City of Albany under Management Order)
Report Prepared by	: Team Leader Property and Leasing (T Catherall)
Responsible Officer	: Executive Director Corporate Services (M Cole)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme: 1.** Leadership.
 - **Objective: 1.1** To establish and maintain sound business and governance structures.
 - **Community Priority: 1.1.2** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflect the level of associated risk and are adequately explained to community.

Maps and Diagrams:



In Brief:

- Council is requested to consider new lease arrangements for portion of the Albany Railway Station, Bond Store and adjoining hardstand area between the buildings to the University of Western Australia (UWA) for establishment of UWA Centre of Excellence in Wave Research.
- The City has used the Railway Station and Bond Store buildings for a number of years for the Albany Visitors Centre and for storage of the library overflow and art collection. This occupation has been shared with both Transwa for their booking office and the Albany Model Railway Association. There are also public toilet facilities within the Railway Station building that will remain available to the public.
- In view of the City's relocation of the Visitors Centre to York Street in March this year, a Request for Proposal process was undertaken for the future lease of the whole or part of the Railway Station building. Three submissions were received.
- The City has entered into negotiations with UWA to achieve the best use of the Railway Station and Bond Store buildings. This includes UWA's lease of a 590m² area within the Railway Station, Bond Store buildings and adjoining hardstand area, initially excluding the Transwa booking office (lease area 60m²) until Transwa relocate on or before end of June 2019 then this area will also be leased to UWA.
- Albany Model Railway (lease area 209m²) will remain in their current location. New lease agreements will be required as they continue to occupy on holding over provisions.
- It is recommended that proposed leases to UWA be approved.

RECOMMENDATION

CCS064: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR TERRY

THAT Council APPROVE the following leases over portion of Crown Reserve 42792 Lot 1404 Proudlove Parade (Bond Store) and portion of Crown Reserve 42793 Lot 512 Proudlove Parade (Railway Station):

1. **A new lease to the University of Western Australia for a 217m² portion of the Railway Station building, a 135m² portion of the Bond Store building and the adjoining hardstand area of 178m², subject to:**
 - a. **Lease being conditional on the approval of a Development Application by the City of Albany as local planning authority.**
 - b. **Lease permitted use being office space for portion of the Railway Station Building, storage for portion of the Bond Store building and hardstand areas.**
 - c. **Lease commencing as soon as practicable.**
 - d. **Lease rent being \$40,475 per annum plus GST and outgoings for the three areas to be leased.**
 - e. **Rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years.**
 - f. **Lease term being 4 years with two options of 3 years each.**
 - g. **Special condition being included to provide for non-exclusive use of the City's public toilets within the Railway Station building.**
 - h. **All costs associated with the ongoing operations of the leased premises being payable by the tenant.**
 - i. **All costs associated with the development and finalisation of the lease being met by the tenant.**
 - j. **Pursuant to Section 18 of the *Land Administration Act 1997*, Minister for Planning, Lands and Heritage consent being obtained.**

- k. Lease being consistent with Council Policy – Property Management (Leases and Licences).**
- 2. A new lease to University of Western Australia for a 60m² portion of the Railway Station building, following the relocation of Transwa, anticipated on or before 30 June 2019, subject to:**
- a. Lease being conditional on the approval of the Development Application by the City of Albany as local planning authority.**
 - b. Lease permitted use being office space.**
 - c. Lease commencing following the relocation of Transwa.**
 - d. Lease rent being \$6,000 per annum plus GST and outgoings.**
 - e. Rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years.**
 - f. Lease term to run concurrent with the UWA lease for the remainder of the Railway Station Building, excluding the public toilets and signal room.**
 - g. All costs associated with the ongoing operations of the leased premises being payable by the tenant.**
 - h. All costs associated with the development and finalisation of the lease being met by the tenant.**
 - i. Pursuant to Section 18 of the *Land Administration Act 1997*, Minister for Planning, Lands and Heritage consent being obtained.**
 - j. Lease being consistent with Council Policy – Property Management (Leases and Licences).**

CARRIED 13-0

CCS064: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR DOUGHTY

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS064: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE the following leases over portion of Crown Reserve 42792 Lot 1404 Proudlove Parade (Bond Store) and portion of Crown Reserve 42793 Lot 512 Proudlove Parade (Railway Station):

- 1. A new lease to the University of Western Australia for a 217m² portion of the Railway Station building, a 135m² portion of the Bond Store building and the adjoining hardstand area of 178m², subject to:
 - a. Lease being conditional on the approval of a Development Application by the City of Albany as local planning authority.
 - b. Lease permitted use being office space for portion of the Railway Station Building, storage for portion of the Bond Store building and hardstand areas.
 - c. Lease commencing as soon as practicable.
 - d. Lease rent being \$40,475 per annum plus GST and outgoings for the three areas to be leased.
 - e. Rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years.
 - f. Lease term being 4 years with two options of 3 years each.
 - g. Special condition being included to provide for non-exclusive use of the City's public toilets within the Railway Station building.
 - h. All costs associated with the ongoing operations of the leased premises being payable by the tenant.
 - i. All costs associated with the development and finalisation of the lease being met by the tenant.

- j. Pursuant to Section 18 of the *Land Administration Act 1997*, Minister for Planning, Lands and Heritage consent being obtained.
 - k. Lease being consistent with Council Policy – Property Management (Leases and Licences).
2. A new lease to University of Western Australia for a 60m² portion of the Railway Station building, following the relocation of Transwa, anticipated on or before 30 June 2019, subject to:
- a. Lease being conditional on the approval of the Development Application by the City of Albany as local planning authority.
 - b. Lease permitted use being office space.
 - c. Lease commencing following the relocation of Transwa.
 - d. Lease rent being \$6,000 per annum plus GST and outgoings.
 - e. Rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years.
 - f. Lease term to run concurrent with the UWA lease for the remainder of the Railway Station Building, excluding the public toilets and signal room.
 - g. All costs associated with the ongoing operations of the leased premises being payable by the tenant.
 - h. All costs associated with the development and finalisation of the lease being met by the tenant.
 - i. Pursuant to Section 18 of the *Land Administration Act 1997*, Minister for Planning, Lands and Heritage consent being obtained.
 - j. Lease being consistent with Council Policy – Property Management (Leases and Licences).

BACKGROUND

2. The former Albany Railway Station building is located on Crown Reserve 42793 Lot 512 Proudlove Parade, Albany and the Bond Store building is located on Crown Reserve 42792 Lot 1404 Proudlove Parade, Albany with the hardstand area over portion of both reserves.
3. Crown Reserve 42792 is a 'C' class reserve under Management Order (H670839) issued to the City of Albany with the power to lease or licence for any term not exceeding 21 years subject to the consent of the Minister for Planning, Lands and Heritage. The current purpose of this reserve is "Historical Building and Arts Centre".
4. Crown Reserve 42793 is a 'C' class reserve under Management Order (H689058) issued to the City of Albany with the power to lease or licence for any term not exceeding 21 years subject to the consent of the Minister for Planning, Lands and Heritage. The current purpose of this reserve is "Preservation of Historical Buildings and Community Centre".
5. The buildings have high heritage significance and are contained on various heritage lists, including the State Register of Heritage Places. There is also a conservation plan for the buildings.
6. The Albany Visitors Centre had been located at the Railway Station for a number of years and was relocated to the Tourism and Information hub in York Street in March this year.
7. Transwa have occupied a leased space of 60m² within the Railway Station building since 1994. The lease expired in 2014 and Transwa remains at the property under holding over arrangements.
8. The Albany Model Railway Association has occupied part of the Bond Store under community lease arrangements since July 2000. The lease area of approximately 209m² returns a rental being the equivalent of minimum rate set by Council each year, currently \$992 plus GST.

9. The lease to the Albany Model Railway Association expired on 30 June 2015 and the group has remained on holding over arrangements since this time.
10. The remainder of the Bond Store was being used for City storage of the art collection and library items. The art collection has recently been relocated to the Vancouver Art Centre and library items surplus to requirements will be disposed of by auction and areas cleared to allow UWA to occupy.
11. An item was presented to Council on 26 May 2015 to consider the expiring leases to Transwa, Albany Model Railway and the Spectrum Theatre. This item noted the considerations that were occurring around the future use and management of the Proudlove Precinct and proposed that the leases remained on holding over arrangements to maintain opportunities for future expansion and growth in this precinct. Council resolved:

THAT Council ENDORSES the following leases to remain on holding over arrangements pending determination of the future use and management of the Proudlove Precinct, subject to providing lessees with no less than ten (10) months' notice regarding the end of the holding over arrangement.

1. *Transwa.*
2. *Albany Model Railway Association Inc.*
3. *Spectrum Theatre Inc.*

DISCUSSION

Request for Proposal

12. In view of the vacation of the Railway Station building, a Request for Proposal was advertised in June 2017 for parties interested in a lease of part or whole of the property, excluding the public toilets area. Three submissions were received.
13. City staff conducted an assessment on the three proposals received consistent with the City's usual procurement process. On this basis, the City entered into further negotiations with both UWA and Transwa to determine if an outcome satisfactory to all parties could be achieved. It is noted that SCNRM has secured a suitable space within the Department of Fisheries.

Impact on Existing Lessees

14. The relocation of Transwa from the Proudlove Precinct has been considered in detail and a number of sites within the Central Business District were investigated, however there are few central locations that might be suitable for the ticketing office that can also accommodate bus movements in near proximity.
15. As such, Lot 1521 Proudlove Parade was identified as being the most suitable for Transwa and allows the central bus station to remain within the Proudlove Precinct. The proposed new lease to Transwa over portion of Lot 1521 will form a separate item to Council in July.
16. In considering the future lease of the Railway Station or Bond Store, the City considered the potential impact on the Albany Model Railway Association. This Association has been in place since 2000 and any relocation of this group would involve demolition of their existing displays, as they have been built within the Bond Store building and are not suitable for relocation.
17. When Council considered the item presented in May 2015 regarding the existing leases in the Proudlove Precinct, the Model Railway group expressed significant concern about the potential relocation of their activities.

18. It is proposed that the Model Railway group remain in their current location and new lease arrangements be formalised.

New Lease Agreements

19. Following the Request for Proposal process, further negotiations with UWA occurred. These discussions outlined the following position:
- a. UWA lease of portion of the current Railway Station building area (approximately 217m²) for office excluding the public toilets and signal room. Plus a portion of the Bond Store area (approximately 135m²) for storage and bitumen hardstand area (approximately 178m²) between the buildings for boat and buoy storage.
 - b. The Bond Store is suitable for storage purposes however would require additional works if it was to be used for any other purpose.
 - c. The signal room has been retained by the City for Visitor Centre storage purposes.
 - d. The Transwa booking office to remain within the Railway Station building in their current location until the completion of the development of Lot 1521 on or before 30 June 2019.
 - e. Following the relocation of the Transwa, UWA will lease the vacated space (approximately 60m²). This would include a total area of 590m² for the UWA Centre of Excellence in Wave Research.
 - f. The Albany Model Railway Association to remain within the Bond Store (lease area 209m²).
20. The table below summarises the essential terms of the proposed lease:

ITEM	DETAILS
Tenant	University of Western Australia
Land/Lease Area	Portion of Lots 512 and 1404 Proudlove Parade as detailed in Certificate of Title Volume LR3121 Folio 760 and Certificate of Title Volume LR3160 Folio 28, being an area of approximately 590m ²
Land Ownership	State of Western Australia – Management Orders in favour of City of Albany
Permitted Use	Wave Energy Research Centre office, storage and associated activities
Term of Lease	4 years with two options of 3 years each (10 years from commencement date)
Rent	\$46,475 plus GST per annum (including Transwa area)
Rent Review	Market Valuation every 3 years with Perth All Groups CPI applied on the anniversary for intervening years
Outgoings	Tenant responsible for all outgoings
Utilities	Tenant responsible for all utilities

21. UWA's lease rental for the Railway Station and Bond Store buildings will initially be \$40,475 per annum plus GST & outgoings and will increase to \$46,475 plus GST & outgoings once occupying Transwa area. The rental is consistent with the independent market valuation obtained.
22. UWA have agreed with this position, though has sought some building compliance and improvement works to the Railway Station and Bond Store including electrical, ramp access upgrades, and repairs to doors and windows and a City contribution towards a dedicated universal access toilet within the Railway Station Building.
23. The City has agreed to undertake these works in line with the conservation plan for the buildings. It has been estimated that these works will be in the vicinity of \$85,000 and has been allocated in the 2018/19 budget. The City considers that these works will bring the City's buildings up to standard to allow for UWA fit out and any future tenants.
24. UWA will be responsible for their own fit out at UWA cost.
25. It is noted that the City has allocated capital works funding in the 2018/19 budget of \$35,000 for the Railway Station and Platform station to replace roof plumbing and prevent rising damp and \$45,000 for the Bond Store to address rising damp issues.

GOVERNMENT & PUBLIC CONSULTATION

26. The Minister for Planning, Lands and Heritage consent will be sought for the proposed leases, as required under Section 18 of the *Land Administration Act 1997*.
27. Section 3.58 of the *Local Government Act 1995* outlines the requirements for the disposal of property, including leased/licenced land and buildings. The Act requires the following:
 - a. A local government must give local public notice of the proposed lease/licence inviting submissions from the public, for a period of two weeks.
 - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
 - c. A local government can then proceed with the lease/licence.
28. 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. Section 30 (2) (b) (i & ii) states that Section 3.58 of the Act is exempt if:
 - (b) The land is disposed of to a body, whether incorporated or not –
 - (i) The object of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature, and
 - (ii) The members of which are not entitled or permitted to receive any pecuniary from the body's transactions.
29. UWA are exempt from the advertising requirements as they are considered an educational body.

STATUTORY IMPLICATIONS

30. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased/licenced land and buildings including advertising requirements.

POLICY IMPLICATIONS

31. Council adopted a revised Property Management (Leases and Licences) Policy in July 2015.

32. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
33. The recommendation is consistent with the Policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation: leases not approved	Possible	Moderate	Medium	Seek to negotiate terms to Council satisfaction
Financial: new lease not approved – no rental income	Unlikely	Low	Low	Call for further proposals for the vacant space
Reputation: lease of space granted to one entity at the expense of existing lessee, requiring relocation of existing uses	Unlikely	Moderate	Medium	Offer assistance to relocated lessees to identify a new space; or Seek to negotiate terms to the satisfaction of all users
Opportunity: To provide buildings and hardstand space within the Proudlove Precinct to UWA in support of the establishment of the Wave Energy Research Centre.				

FINANCIAL IMPLICATIONS

35. The City has agreed to undertake some building compliance and minor improvement works to the Railway Station and Bond Store buildings. These works are estimated at \$85,000 and allocated in the 2018/19 budget.
36. It is proposed the lease income be held in reserve for future building preservation works for the Railway Station and Bond Store.
37. All costs associated with the development and finalisation of the lease will be met by UWA.

LEGAL IMPLICATIONS

38. The lease documentation will be prepared by the City's lawyers with enforceable terms and conditions.

ENVIRONMENTAL CONSIDERATIONS

39. The Railway Station and Bond Store buildings are listed on the State Register of Heritage Places and, as such, the provisions of the Heritage of Western Australia Act 1990 will apply.
40. Through the Request for Proposal process, UWA have been advised of the requirements associated with occupying a heritage building and are experienced in and in agreement to meeting the heritage requirements.

ALTERNATE OPTIONS

37. Council may:
- a. Approve the lease to UWA for the proposed UWA Centre of Excellence in Wave Research Centre within portion of the Railway Station, Bond Store and adjoining hardstand area, whilst allowing Transwa to remain while developing Lot 1521 for ticket office and terminus and maintaining the existing Albany Model Railway Association within their previous lease areas; and
 - b. Approve the lease to UWA for the space vacated by Transwa; or
 - c. Decline the UWA lease requests.

38. Should Council decline the requests, an alternate location within the CBD may be sought to establish the UWA Wave Energy Research Centre.
39. It is not considered desirable under any scenario to relocate the Albany Model Railway Association, given the significant detrimental impact this will have on this group.

SUMMARY CONCLUSION

40. Council has fully supported the relocation of the Albany Visitors Centre to the Tourism and Information Hub and on this basis, the future use of the Albany Railway Station has been considered.
41. Following a Request for Proposal process, the best future use of the Railway Station building and the adjoining Bond Store building is to enter into a lease with UWA for the establishment of the UWA Centre of Excellence in Wave Research, whilst permitting Transwa to remain in their current location during development of Lot 1521 for ticketing office and terminus and the Albany Model Railway Association to remain in their current location.
42. UWA have requested some building compliance and improvement works to the Railway Station and Bond Store buildings to facilitate UWA fit out. The City has agreed to undertake these works in line with the conservation plan for the buildings, at the City’s cost, subject to Council approval.
43. It is recommended the new leases to UWA be approved.

Consulted References	:	<ul style="list-style-type: none"> • Council Policy – Property Management (Leases and Licences) • <i>Local Government Act 1995</i> • <i>Land Administration Act 1997</i> • <i>Heritage of Western Australia Act 1990</i>
File Number (Name of Ward)	:	PRO428 (Frederickstown Ward)
Previous Reference	:	OCM 26/05/2015 Item CSF167

CCS065: RACEWARS ALBANY 2018 - POST EVENT EVALUATION REPORT

Proponent / Owner : City of Albany and Racewars Group
Report Prepared By : Manager Governance and Risk (S Jamieson)
Responsible Officers: : Executive Director Corporate Services (M Cole)

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

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** Smart, prosperous and growing.
 - **Objectives:**
 - Strengthen and grow our region’s economic base.
 - Develop and promote Albany as a unique and sought after visitor location.
 - **Community Priorities:**
 - Encourage, support and deliver significant events that promote our region and have a positive economic and social benefit.
 - Promote the “Amazing South Coast” region as a sought after and iconic tourism destination.

In Brief:

- Receive the Post Event Evaluation for Racewars 2018.

RECOMMENDATION

CCS065: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY
MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR HAMMOND
THAT Council:
(a) RECEIVE the Racewars 2018 Post Event Evaluation; and
(b) CONSIDER additional funding support (cash or in-kind) for 2019 and 2020 being provided to hold the event.
CARRIED 12-1

Record of Vote

Against the Motion: Councillor Goode

CCS065: ALTERNATE MOTION BY COUNCILLOR SLEEMAN
VOTING REQUIREMENT: SIMPLE MAJORITY
MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR GOODE
THAT the Committee Recommendation be AMENDED to remove Point (b) and read as follows:
THAT Council RECEIVE the Racewars 2018 Post Event Evaluation.
LOST 2-11

Record of Vote

For the Motion: Councillors Sleeman and Goode

Councillor Reason:

Paragraph 23 of the report notes that a financial review will be conducted prior to the 2019 event and that any additional funding be considered at an elected member briefing and workshop. Accordingly, recommendation (b) as it stands is too open ended and any additional funding to be considered at an elected member briefing would be subject to a further report to Council.

Officer Comment:

Administration is supportive of removing part (b) of the Responsible Officer recommendation.

CCS065: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR MOIR

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-2

CCS065: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- (a) RECEIVE the Racewars 2018 Post Event Evaluation; and
- (b) CONSIDER additional funding support (cash or in-kind) for 2019 and 2020 being provided to hold the event.

BACKGROUND

2. The City of Albany successfully hosted the Racewars Albany 2018 event, following the inaugural Racewars Albany 2017 event.
3. On 26 April 2017, Council resolved to authorise the Chief Executive Officer to negotiate the host destination rights for the Racewars annual event for the years 2018, 2019 and 2020 and to present a host bid proposal for Council review and approval.
4. On 28 November 2017, Council resolved to authorise the *Chief Executive Officer to finalise an agreement for host destination rights for the Racewars annual event for the years 2018, 2019 and prepare a report be submitted to Council at the end of the 2018 event with Council having the ability to consider additional funding support (cash or in-kind) for 2019 and 2020.*
5. The City provided event organisers with the exclusive use of the Albany Regional Airport for two days of "Straight Line Racing".
6. In support of the event, the City negotiated with Region Express Airlines (REX), to accommodate the event by providing additional flights on Friday 2nd March and Monday 5th March to compensate for the closing of the Airport for the event days of Saturday 3rd and Sunday 4th of March.

DISCUSSION

Summary of Post Event Survey:

7. **Spectator Attendance:** Overall attendance at the 2018 event was 9000 plus attendees over the weekend.
 - Actual attendance exceeded the 9000; however the organisers ran out of spectator bands so exact numbers are not available.

- It should be noted that attendance was up from the 7500 reported in 2017 and that children under 12 received free admission and are not included in the attendance figures.
 - 60% of respondents would consider paying a premium for grandstand seating at the event; and
 - The percentage of families attending the event in 2018 rose to 37% from 29% in 2017.
8. **Competitor Participation:** Competitor participation increased from 230 in 2017 to 334 in 2018.
- 88% of respondents are in favour of expanding the Racewars event to include a Super Cruise of open lapping.
9. **Visitation Rates:** Visitation from outside the Great Southern Region increased by 20 %. (From 66% percent to 82%).
10. **Accommodation:** The percentage of people staying in Albany increased by 5 %. (From 77% to 82%).
- 19 % of people who did not stay in Albany were unable to find accommodation in 2018, up from 10% in 2017;
 - The number of people staying for 5+ days decreased from 20% in 2017 to 11% in 2018;
 - Those staying for 3 days increased from 47% in 2017 to 51% in 2018;
 - 74% of respondents to the survey said an official Racewars campground would be a positive addition;
11. **Economic Impact:** Data modelling in 2017 estimated an economic impact of \$4.42 million.
- At the time of writing this report initial modelling conducted by the organiser estimates a positive economic impact of up to \$5.3 million.
 - 66% of respondents said they would like to see more local trade content at trade stands across the weekend;
12. **Domestic & International Promotion:** Live video feeds achieved a combined reach of over 550,000 views across 5 international and domestic platforms.

In-kind Support:

13. The City:
- a. Constructed a permanent internal utility road which was modified for use by RaceWars competitors for the 2018 and future events.
 - b. Purchased and installed a 40ft shipping container for the exclusive use of the Racewars Group.
 - c. Provided staff to assist with the provision of logistic and event management support through all phases of the event.
 - d. Financially supported:
 - The relocation of the Fire Spotter Aircraft to Denmark, for the duration of the event.
 - The renting and installation of temporary fencing to provide for security of general aviation hangars and airport infrastructure.
 - The provision of traffic management.
 - The provision of mobile security for the protection of airport infrastructure.

Future Event Support:

14. Council resolved to support future Racewars events in 2019 and 2020.
15. Consideration could be given to support:
 - a. The allocation of additional funding to provide improvements of the runway surface, by installing a concrete warm up pad. This will mitigate to possibility of damage to the runway surface.
 - b. For Racewars 2019 and 2020 expand “Off Airport Events”, for example:
 - Open Street Cruising,
 - Kebabs (Pies) and Cars, and
 - Touge (or Tōge) Challenge (Japanese style hill climb event-typically run on narrow, winding roads in mountainous areas).
 - Use Centennial Park as a campground for the 2019 Racewars event. A nominal fee could be charged for camping sites.

GOVERNMENT & PUBLIC CONSULTATION

Airport Operations:

16. Through the Department of Transport’s Community Consultation Group, which consists of stakeholders from industry, government, and the aviation community the City negotiated for the Albany Airport to be closed to aircraft movement from 8:45pm on Friday evening to 6:00pm Sunday evening.

It was noted that air transport on the Perth to Albany route is historically low on long weekends and it is usual for selected flights to be cancelled due to insufficient demand.

Royal Flying Doctor & Water Bombers:

17. The Airport remained open for emergency flights for the Royal Flying Doctor Service. To facilitate emergency use of the airport, Albany Airport staff remained on duty to ensure safety and operational compliance needs were adhered to, and to respond to any emergency air service requirements.
18. The Royal Flying Doctor Service in consultation with the Albany Hospital scheduled non-emergency flights to accommodate the event.

STATUTORY IMPLICATIONS

19. Nil

POLICY IMPLICATIONS

20. Nil

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Business Operation & Financial.</i> <i>Risk:</i> Accelerated wear and tear to the Albany Airport runway from chip seal loss.	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Continue to monitor the wear resulting from the event activity.</i> <i>Allocate additional funds from the Economic Development Funding lines.</i>

<p>Reputation. <i>There is a potential risk that the event will continue to grow and existing resources may not be able to accommodate visitor expectations.</i></p>	<p><i>Almost Certain</i></p>	<p><i>Major</i></p>	<p><i>Extreme</i></p>	<p><i>Work with the event organisers to transition this event to be overseen by a dedicated event management entity.</i></p> <p><i>Note: A full operational risk management plan will continue to be developed in partnership with the event organiser as part of the event approval process.</i></p> <p><i>The current proposed plan will address lessons learnt (i.e. improve traffic management).</i></p>
<p>Opportunity: <i>To continue to promote Albany as a unique and sought after visitor location to attend and hold internationally recognised events and meet our Communities priority to encourage, support and deliver significant events that promote our region and have a positive economic and social benefit.</i></p> <p><i>Based on the conduct of the past two events, there is the potential to develop this event into an internationally recognised event.</i></p>				

FINANCIAL IMPLICATIONS

22. Previously the City estimated a conservative funding support of **\$68,000.00** over a three year period.

Cost Item	Cost Type	Year 1	Year 1 Actual	Year 2	Year 3	Estimated Total
Return Road	Internal Service	\$30,000	\$30,194	\$2,500	\$2,500	\$35,000
Operational Funding Support	COA Contract /Service	\$11,000	\$8,454.07	\$11,000	\$11,000	\$15,000
		\$41,000	\$38,648.07	\$13,500	\$13,500	\$68,000

23. It is recommended that:

- a. This amount is not adjusted at this time.
- b. A financial review is conducted prior to the conduct of the 2019 event.
- c. Additional funding be considered at an elected member briefing and workshop, specifically the cost of the burn out concrete pad at the end of the runway.

LEGAL IMPLICATIONS

24. Nil.

ENVIRONMENTAL CONSIDERATIONS

25. Nil.

ALTERNATE OPTIONS

26. Nil.

CONCLUSION

27. THAT the Committee CONSIDER additional funding support (cash or in-kind) for 2019 and 2020 being provided to hold the event.

Consulted References	:	Nil
File Number (Name of Ward)	:	All Wards
Previous Reference	:	OCM November 2017, Resolution CCS009

CCS066: RENEWABLE ENERGY WORKING GROUP ESTABLISHMENT

Proponent / Owner : City of Albany
Report Prepared By : Executive Director Corporate Services (M Cole)
Responsible Officers: : Chief Executive Officer (A Sharpe)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme 3:** Clean, Green and Sustainable.
 - **Objective 3.3:** To identify and deliver improvements in sustainability within the City and wider community.
 - **Community Priority 3.3.1:** Integrate and promote effective sustainability through resource conservation, management and education to continuously improve environmental outcomes.

In Brief:

- Council to consider the establishment of a Working Group to address renewable energy opportunities in Albany and the surrounding region.

RECOMMENDATION

CCS066: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY
MOVED: COUNCILLOR HOLLINGWORTH
SECONDED: COUNCILLOR DOUGHTY

THAT Council:

1. **AUTHORISE the establishment of the Renewable Energy Working Group;**
2. **AUTHORISE the Chief Executive Officer to issue invitations to the Renewable Energy Working Group as identified in paragraph 13 of the report.**
3. **NOTE the parameters for the Working Group as outlined in paragraph 13 of the report;**
4. **NOTE that the Working Group does not have delegation from Council, and that Renewable Energy Working Group recommendations, actions or activities will be the subject of future Council Report(s).**
5. **APPOINT Councillor Moir & Councillor Hammond as City of Albany Elected Member Representatives.**

CARRIED 13-0

CCS066: COMMITTEE RECOMMENDATION
MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR SHANHUN

THAT Council:

1. **AUTHORISE the establishment of the Renewable Energy Working Group;**
2. **AUTHORISE the Chief Executive Officer to issue invitations to the Renewable Energy Working Group as identified in paragraph 13 of the report.**
3. **NOTE the parameters for the Working Group as outlined in paragraph 13 of the report;**
4. **NOTE that the Working Group does not have delegation from Council, and that Renewable Energy Working Group recommendations, actions or activities will be the subject of future Council Report(s).**
5. **APPOINT Councillor Moir & Councillor Hammond as City of Albany Elected Member Representatives.**

CARRIED 11-0

CCS066: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. AUTHORISE the establishment of the Renewable Energy Working Group;
2. AUTHORISE the Chief Executive Officer to issue invitations to the Renewable Energy Working Group as identified in paragraph 13 of the report.
3. NOTE the parameters for the Working Group as outlined in paragraph 13 of the report;
4. NOTE that the Working Group does not have delegation from Council, and that Renewable Energy Working Group recommendations, actions or activities will be the subject of future Council Report(s).

BACKGROUND

2. The City of Albany has recently undertaken a package of activities associated with Renewable Energy. This has largely constituted 'information gathering' and 'stakeholder introductions'.
3. An overview of work that has been undertaken through both Elected Members and City Officers is as follows:
 - a. Direct liaison and meeting with the State Government through the Minister for Energy the Hon. Ben Wyatt and the Great Southern Development Commission;
 - b. Direct liaison and meetings with energy stakeholders, including; Western Power, Synergy, ATCO Gas, AMES Associates and Carnegie Energy;
 - c. Direct liaison and meetings with the Tertiary Sector, including: University of Western Australia and Murdoch University;
 - d. Partnering with Western Power to participate in a sustainable energy 'Hackathon'; and
 - e. Provision of a letter of support to AMES Associates for an Australian Renewable Energy Agency (ARENA) application for a distributed Energy Platform in Albany.
4. At its Ordinary Council Meeting held on 24 April 2018 it was unanimously resolved that Council endorse the City of Albany to explore opportunities with key stakeholders to be self-supporting in its community energy requirements through the use of renewable energy and technology. Council additionally resolved that any associated projects that required a budget allocation would be the subject of further Council reports and resolution.

DISCUSSION

Setting/Context

5. Energy management is an increasingly complex sector with traditional models and supply chains (generation, transmission and distribution, retailing and consumption) being disrupted through changes to government regulation and policy, new technology, new business models and consumer demand.
6. Albany and the Great Southern Region is located within the South West Interconnected Network (SWIN) in which Western Power (as a government owned corporation) owns and operates transmission and distribution. Generation, Retailing and Pricing operate within a suite of government regulation.
7. The Local Government sector is not typically a stakeholder in the generation, transmission and distribution and retailing of energy. More typically the LGA sector is a consumer across assets and services.

8. In Western Australia enhanced efforts are being made to develop and deploy new models of energy management. In particular regional Western Australia presents a suitable case study for innovation, due to:
 - a. The cost and complexity of the energy grid across large distances in regional WA;
 - b. The available supply of alternate energy sources – Wind, Solar, Wave and Waste; and
 - c. The relatively small population being suitable for trials and pilots of new systems.
9. Albany has some investment in renewable energy (most notably the Grassmere and Albany Wind Farms), and more recently Carnegie Energy – Wave Energy.
10. To capitalise on investment to date and assist the region transition to new models of energy management, the City has developed an aspiration to be self-sufficient in its energy needs by 2026, as well as becoming a regional leader in research, development and education in renewables and energy management systems.

Project Control and Governance

11. Given the complex set of stakeholders, regulation, emergent technology and business systems in the energy management sector the engagement of government and industry expertise is critical for the City of Albany to understand, facilitate, and implement models to achieve its stated aspiration.
12. To undertake this engagement, a Renewable Energy Working Group is proposed as the preferred model.
13. Proposed parameters for the Working Group are as follows:

a. Terms of Reference

A detailed Terms of Reference for the Working Group will be finalised through its initiation with the following key objectives and governance matters to be included:

- (i) To facilitate Albany becoming self-supporting in its energy needs by 2026 with a bias towards renewable energy sources, systems and technology;
- (ii) To explore opportunities to establish Albany as a recognised regional centre for Renewable Energy research, development and education; and
- (iii) The Working Group will not have any delegation from Council and any Working Group decisions, actions or processes are to take the form of recommendations for future Council consideration.

b. Membership

Membership of the Working Group is proposed as follows:

- (i) Chair – City of Albany Mayor
- (ii) City of Albany Elected Members – Two Representatives
- (iii) City of Albany – Chief Executive Officer
- (iv) Shire of Denmark – One Representative
- (v) Shire of Plantagenet – One Representative
- (vi) Western Power – One Representative
- (vii) Synergy – One Representative
- (viii) Great Southern Development Commission – One Representative
- (ix) Regional Development – One Representative (DPIRD, RDA or equivalent)
- (x) University of Western Australia – One Representative
- (xi) Co-opted members as recommended via the Working Group and endorsed through the Chair.

Sitting fees will not be applicable.

c. Establishment

The Working Group will be established through direct invitation via the City of Albany Chief Executive Officer. Note: City of Albany Elected Member Representation should occur through a simple call out at Committee, and if contested - a simple ballot.

Subject to Council Approval of the Working Group the initiation of the Working Group will occur in August 2018.

d. Delegation and Communication

The Working Group will not have any delegation from Council. Meeting notes and relevant correspondence will be issued to all Elected Members. Recommendations from the Working Group will come forward to Council as reports for consideration.

e. Management

City of Albany Officers will provide secretarial support to the Working Group as well as relevant officer expertise as required. City resources and assets will be made available to enable the effective functioning of the Working Group inclusive of information communications technology (ICT), facilities and relevant local networks.

f. Budget

A budget to support the functioning, actions and outcome of the Working Group has not been allocated.

GOVERNMENT & PUBLIC CONSULTATION

14. The City has advised Western Power, Synergy, the Great Southern Development Commission and the Lower Great Southern Economic Alliance of its intent to establish a Renewable Energy Working Group.

STATUTORY IMPLICATIONS

15. Nil

POLICY IMPLICATIONS

16. Nil

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Business Reputational. <i>Risk: Non-Establishment of a Working Group may not meet stakeholder expectations</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>Engagement with stakeholders to keep all parties informed of the City's progress towards Working Group establishment.</i>

FINANCIAL IMPLICATIONS

18. The Working Group will be established utilising the City's existing resources.
19. Minor incidental meeting costs may be incurred as a result of the Working Group that are not currently budgeted for. These costs are considered negligible and can be met through existing operational budgets.
20. Any costs related to the Working Group of a material nature will be addressed through the 2018-2019 Mid-Year Budget Review for Council consideration and resolution.

LEGAL IMPLICATIONS

21. Nil

ENVIRONMENTAL CONSIDERATIONS

22. Nil

ALTERNATE OPTIONS

23. Council may determine to not support the establishment of the Renewable Energy Working Group and/or propose an alternate governance model to progress work being undertaken as a result of the Council resolution at the April 2018 Ordinary Council Meeting.

CONCLUSION

24. The endorsement of the Renewable Energy Working Group is recommended.

Consulted References	:	<ul style="list-style-type: none">• <i>Local government Act 1995</i>• <i>City of Albany Delegations Register</i>
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	<ul style="list-style-type: none">• April 2018 OCM – Motion moved from the floor.

CCS068: 2018-19 BUDGET ADOPTION

Proponent : City of Albany
Attachments : Draft 2018-19 Budget Documents
Report Prepared by : Business Analyst/Management Accountant (D Harrison)
Responsible Officer : Chief Executive Officer (A Sharpe)
Executive Director Corporate Services (M Cole)

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

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme: 5.** Leadership.
 - **Aspiration: 1.1** To establish and maintain sound business and governance structures.
 - **Community Priorities: 5.1.2** Develop informed and transparent decision making processes that meet our legal obligations, reflect the level of associated risk and are adequately explained to community.
2. This proposed budget aligns with the City's Corporate Business Plan, which aligns with the City's:
 - 10 Year Financial Plan;
 - Asset Management Plans; and
 - Work Force Development Plan (People Strategy).

In Brief:

- Approve the 2018/19 budget, noting that the proposed budget is a result of a series of elected member and staff workshops.

RECOMMENDATION

CCS068: RESOLUTION 1
VOTING REQUIREMENT: ABSOLUTE MAJORITY
MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR STEPHENS

Council **ADOPT** the following municipal rates in the dollar on unimproved values and gross rental valuations for the 2018/2019 financial year:

- (1) **Rating Category 1 – GRV General**
 - The General Rate on Gross Rental Values for the 2018/2019 financial year on Rating Category (1) including all GRV rateable land be **10.0196** cents in the dollar.
- (2) **Rating Category 3 – UV**
 - The General Rate on current unimproved values for the 2018/2019 financial year on Rating Category (3) including all UV rateable land be **0.4388** cents in the dollar.
- (3) **Minimum Rate**
 - The Minimum Rate for Rating Category 1 – GRV General rateable properties within the City of Albany will be **\$1,021.00**
 - The Minimum Rate for Rating Category 3 – UV rateable properties within the City of Albany will be **\$1,103.00**

CARRIED 13-0
ABSOLUTE MAJORITY

CCS068: RESOLUTION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR HOLLILNGWORTH

THAT Council APPROVES the following Refuse Collection and Recycling charges for the City of Albany (including general refuse collection, Bulk green waste collection, collection of recyclables and green waste) be adopted for the 2018/2019 financial year:

(1) Residential Services

- Full Domestic Refuse Service \$343.00
- Refuse Collection 140 Ltr MGB Weekly
- Recycling Collection 240 Ltr MGB Fortnightly
- Green Waste Collection 240Ltr MGB Monthly

(2) Additional Services

Additional Services (Maximum of One) with a full domestic rubbish service.

- Refuse Collection 140 Ltr MGB (Inc GST) Weekly \$92.50
- Recycling Collection 240 Ltr MGB (Inc GST) Fortnightly \$44.00
- Green Waste Collection 240Ltr MGB (Inc GST) Monthly \$44.00

(3) Waste Facilities Maintenance Rate (Section 66(1) Waste Avoidance and Resource Recovery Act 2007)

In addition to the full domestic refuse service the City will be raising an annual rate under section 66(1) of the *Waste Avoidance and Resource Recovery Act 2007* (WARR Act) and, in accordance section 66(3) of the WARR Act, apply the minimum payment provisions of section 6.35 of the *Local Government Act 1995*. The rate is proposed to be called the 'Waste Facilities Maintenance Rate'. The minimum payment will be \$56.

The proposed rates are:

- GRV General Properties – Rate in the dollar: 0.01 Cents, minimum \$56.00
- UV General Properties – Rate in the dollar: 0.0022 Cents, minimum \$56.00

CARRIED 13-0
ABSOLUTE MAJORITY

CCS068: RESOLUTION 3
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR HAMMOND

THAT Council ADOPTS:

- (1) Pursuant to the provisions of section 6.2 of the *Local Government Act 1995* and Part 3 of the *Local Government (Financial Management) Regulations 1996*, the Municipal and Trust Fund Budgets as contained in the Attachment to this agenda and the minutes, for the City of Albany for the 2018/2019 financial year which includes the following:**
- Statement of Comprehensive Income by Nature and Type on page (v) showing a net result for that year of \$6,980,108
 - Statement of Comprehensive Income by Program on page (iv) showing a net result for that year of \$6,980,108
 - Statement of Cash Flows on page (vii)

- **Rate Setting Statement on page (viii) showing an amount required to be raised from rates of \$36,852,574**
- **Notes to and Forming Part of the Budget on pages (1 to 56)**
- **Fees and Charges and Capital Works Schedule as detailed on pages (58 to 96)**
- **Transfers to / from Reserve Accounts as detailed in pages (45 to 50)**

(2) Pursuant to section 6.11 of the *Local Government Act 1995*, maintain the following reserves (noting the purpose of each reserve detailed in page 45 to 50 of the budget):

- **Airport Reserve**
- **Albany Classic Barriers**
- **Albany Entertainment Centre**
- **Albany Heritage Park Infrastructure Reserve**
- **Albany Leisure And Aquatic Centre – Synthetic Surface “Carpet”**
- **Bayonet Head Infrastructure Reserve**
- **Building Restoration Reserve**
- **Capital Seed Funding for Sporting Clubs**
- **Centennial Park Stadium and Pavilion Renewal Reserve**
- **Cheyne Beach Reserve**
- **City of Albany General Parking Reserve**
- **Coastal Management Reserve**
- **Debt Management Reserve**
- **Destination Marketing & Economic Development Reserve**
- **Emu Point Boat Pens Development Reserve**
- **Great Southern Contiguous Local Authorities Group**
- **Information Technology Reserve**
- **Land Acquisition Reserve**
- **Master Plan Funding Reserve**
- **National Anzac Centre Reserve**
- **Parks and Recreation Grounds**
- **Plant & Equipment Reserve**
- **Prepaid Rates Reserve**
- **Refuse Collection & Waste Minimisation Reserve**
- **Roadworks Reserve**
- **Unspent Grants Reserve**
- **Waste Management Reserve**

**CARRIED 13-0
ABSOLUTE MAJORITY**

CCS068: RESOLUTION 4
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR SHANHUN

THAT Council APPROVES the due dates for payment of Rates and Rubbish Collection Charges for 2018/2019 be as follows:

- (1) Pay rates in full 11th September 2018.
- (2) Pay by two instalments:
 - (a) First Instalment Payment 11th September 2018; and
 - (b) Second Instalment: 14th January 2019.
- (3) Pay by four instalments:
 - (a) First Instalment Payment (and 'Payment in Full'): 11th September 2018;
 - (b) Second Instalment: 12th November 2018;
 - (c) Third Instalment: 14th January 2019; and
 - (d) Fourth Instalment: 15th March 2019.

CARRIED 13-0
ABSOLUTE MAJORITY

CCS068: RESOLUTION 5
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR STEPHENS
SECONDED: COUNCILLOR HOLLINGWORTH

THAT pursuant to the *Local Government Act 1995*, Council APPROVES the following Rates and Charges to provide for Administration and Interest Charges on Rating, Rubbish, Waste Recycling and General Debtor Collection charges during the 2018/2019 financial year:

- (1) **Instalment Plan Administration Fee**
An Instalment Plan Administration fee of \$6.50 for the second and each subsequent instalment notice issued will apply for rates and rubbish collection charges.
- (2) **Late Payment Interest Charge**
A charge on outstanding rates and rubbish collection accounts (including amounts owed on ad hoc Payment Plans) of 11% will be calculated daily at 0.0301% on a simple interest basis for the number of days from the account due date until the day prior to the day on which the payment is received.
- (3) **Instalment Plan Interest Charge**
An interest rate of 5.5% will be calculated on a daily basis at 0.0151% by simple interest basis from the due date of the first instalment as shown on the rate notice to the due date of each respective instalment.
- (4) **Late Payment Interest Charge (Excluding Rates & Charges)**
A charge of 11% interest, calculated on a simple interest basis for the number of days outstanding, may apply on unpaid debts (other than rates and rubbish collection charges) outstanding 35 days from the date of invoices raised after 1 July 2018.
In respect to the Late Payment Interest Charge on rates and charges, the method of calculating the interest charge is on the daily balance outstanding.
- (5) **Waivers**
Where a small balance remains on a property assessment due to circumstances such as a delay in the receipt of mail payments or monies from property settlements and additional daily interest has accumulated, amounts outstanding of \$5.00 and under will be waived, as it is not considered cost effective or equitable to recover from the new property owner. Estimated loss of revenue from this waiver is \$1,100.

CARRIED 13-0
ABSOLUTE MAJORITY

CCS068: RESOLUTION 6
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR DOUGHTY

THAT Council APPROVES the Schedule of Fees and Charges (which forms part of the 2018/2019 Budget) be adopted effective from 25th July 2018.

CARRIED 13-0
ABSOLUTE MAJORITY

CCS068: RESOLUTION 7
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR SMITH

THAT Council SETS the Elected Member Sitting Fees and Allowances as prescribed by the *Local Government (Administration) Regulations 1996* per annum, being:

- (1) Councillor Meeting Attendance Fee: \$31,364**
- (2) Mayoral Meeting Attendance Fee: \$47,046**
- (3) Councillor and Mayoral ICT Allowance: \$3,500**
- (4) Annual Travel and Accommodation Allowance (allowable claims in excess of this allowance will be reimbursed): \$50**
- (5) Total Mayoral Allowance is: \$88,864**
- (6) Deputy Mayoral Allowance: \$22,216 - being 25% of the Mayoral Allowance.**

CARRIED 13-0
ABSOLUTE MAJORITY

CCS068: RESOLUTION 8
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR HAMMOND

THAT Council APPROVES a variance between actual and budget-to-date of greater than \$100,000 is considered to be a material variance for reporting purposes in the Statement of Financial Activity for 2018/2019.

CARRIED 13-0
ABSOLUTE MAJORITY

BACKGROUND

3. Council has considered strategic and operational issues which will impact on the 2018/19 budget.
4. Under section 6.36 of the *Local Government Act 1995*, the City is not required to advertise the proposed rates amounts for the 2018/19 financial year.

DISCUSSION

5. Through Council workshops, Council members have considered various factors in developing a financially responsible budget while ensuring compliance with Local Government legislation, occupational safety and health requirements, continuation of the various services provided by the City, cost-saving initiatives and new capital projects that are “project ready” or will be required to be undertaken this financial year, given commitments previously made by Council.
6. An important consideration in preparing any budget is to ensure that Council works towards achieving financial sustainability for the future. The draft budget reflects a number of factors to maintain financial sustainability, which will impact not only on this year’s budget but will have a compounding effect in future budgets.

GOVERNMENT & PUBLIC CONSULTATION

7. The Department of Local Government is not consulted prior to budget adoption. Once the Budget is adopted, a copy is sent to the Department for review.

PUBLIC CONSULTATION / ENGAGEMENT

8. Budget information will be published in the local newspapers and on the City of Albany website.

STATUTORY IMPLICATIONS

9. This item directly relates to, and contributes to achievement of, the Strategies within the Community Strategic Plan – Albany 2023, and Corporate Business Plan- 2017-2021.

POLICY IMPLICATIONS

10. Nil.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Financial & Reputation: Council does not endorse the 2018/19 Budget, with the consequence risk of deferred cash flow, and thus inability to meet financial commitments.	Unlikely	Extreme	Extreme	Delegated authority to the CEO to incur expenditure under the Local Government Act 1995 until Budget endorsement. Reconsideration of the budget paper at a Council meeting prior to 31 August 2018.

FINANCIAL IMPLICATIONS

12. The 2018/19 Budget sets the parameters for expenditure of City resources.
13. The City must meet its legislative and debt obligations through endorsement of a budget. Failure to do so incurs considerable financial and other risks to the City.

LEGAL IMPLICATIONS

14. Nil.

ALTERNATE OPTIONS

15. Council adopt the 2018/19 Annual Financial Budget with changes.

SUMMARY CONCLUSION

16. Endorsement of the budget provides delegated authority to the CEO to incur expenditure from 1 July 2018 until 30 June 2019.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Government Act 1995</i>• <i>Local Government (Financial Management) Regulations 1996.</i>
File Number (Name of Ward)	:	FM.BUG.12
Previous Reference	:	<ul style="list-style-type: none">• <i>Budget Workshop – 6 June 2018</i>• <i>OCM July 2017 Resolution CCCS042</i>

DIS104: LOCAL STRUCTURE PLAN NO.9 – LOT 660 LA PEROUSE ROAD, GOODE BEACH.

Land Description	: Lot 660 La Perouse Road, Goode Beach
Proponent / Owner	: AHOLA Planning / Dr Cherry Martin
Business Entity Name	: TINKO PTY LTD (Directors – Dr Cherry Martin and Rolf Hermann Ludwig Koch) Andrea Ursula Whiting
Attachments	: 1. Local Structure Plan No.9; 2. Refuge Building Area; 3. Schedule of Submissions; 4. Schedule of Provisions; 5. Current zone and reservation; 6. Structure Planning Area; 7. Development Scenarios (Existing/Proposed – indicative); 8. 1987 Resort Approval; 9. 15 Lot subdivision proposal.
Supplementary Information & Councillor Workstation	: 1. Copy of Submissions; 2. Letter from Environmental Protection Authority; 3. Letter to the City of Albany – Update on Structure Plan; 4. EPA Statement 319; 5. Letter – Minister’s decision on Amendment 143; 6. Amazing South Coast – Project Sheet; 7. ‘State Government Strategy for Tourism in Western Australia 2020’.
Report Prepared By	: Senior Planning Officer – Strategic Planning (A Nicoll)
Responsible Officers:	: Executive Director Development Services (P Camins)

STRATEGIC IMPLICATIONS

1. When exercising discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
2. The proposal is consistent with the City of Albany *Local Planning Strategy (2010)*, which makes the following recommendation:
 - *Encourage the development of sustainable tourism uses and proposals that integrate with the City’s unique natural and man- made landscape and heritage values.*
3. Map 9b of the City’s Local Planning Strategy (2010) designates the subject site (Lot 660) as being suitable for ‘Conservation’. The rezoning of the site, in 2014, to ‘Special Use’ and Parks and Recreation, is considered to have implemented this strategic designation.
4. The City’s Draft Local Planning Strategy (*Draft 2018*), which has been certified for advertising, seeks to encourage the development of tourism uses at the subject site.
5. The item relates to the following elements of the City of Albany Strategic Community Plan:
 - Theme: 2 – Smart Prosperous & Growing.
 - Objective: 2.3 - develop and promote Albany as a unique and sought-after visitor location.
 - Community Priority: 2.3.2 - Promote the “Amazing South Coast” region as a sought after and iconic tourism destination to increase the number of people visiting and the duration they stay.

Maps and Diagrams: Subject Site – Lot 660



In Brief:

- Local Structure Plan No.9 has been prepared to justify variations to the Local Planning Scheme No.1 provisions pertaining to the site and to guide and facilitate future amendment to the Local Planning Scheme Number 1 and the subsequent development of the subject land.
- The Western Australian Planning Commission has accepted Local Structure Plan No.9 as the appropriate mechanism to coordinate a future scheme amendment.
- The structure plan proposes the following key elements;
 - A 'Holiday Accommodation Precinct' comprising of:
 - A Maximum of ten (10) two storey holiday accommodation buildings comprising of a maximum total of 51 units (approximately 5 units/building);
 - Maximum 120 persons at capacity;
 - A function centre with the dual function of being a refuge (bushfire) building;
 - Café/dining/restaurant; and
 - Manager's residence.
 - 'Development Buffer Precinct' comprising of:
 - Access, car parking, waste treatment, pool and asset (bushfire) protection.
 - 'Remnant Vegetation Precinct', comprising of:
 - Vegetation protection areas; and
 - Access.
- The Environmental Protection Authority was consulted on environmental grounds and it was determined that referral should be made to the Environmental Protection Authority at the scheme amendment stage.

- It is considered that the matters raised during the referral process can be appropriately managed and mitigated via conditions and ongoing environmental management requirements.
- Council is requested to consider the submissions received following public advertising and referral and determine whether to recommend support of Local Structure Plan No.9 to the Western Australian Planning Commission.

RECOMMENDATION

DIS104: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR SUTTON

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and regulation 20. (2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

- 1. Recommend that the Western Australian Planning Commission approve Local Structure Plan No.9, subject to the following modification:**
 - a) Inserting provisions as detailed in the attached ‘Schedule of Provisions’ , but replacing provision 16 for the Holiday Accommodation Precinct, with the following:**
 - 16. Prior to the submission of a Scheme Amendment, Lake Vancouver water level data and adjacent groundwater data shall be collected as required to measure the depth of groundwater and direction and rate of flow of the groundwater. The updated data needs to be collected from existing and additional bores and piezometers as required at appropriate times of the year to establish the extent and period of flow, if any, toward Lake Vancouver. Management and/or mitigation measures shall be determined by a qualified hydrologist in response to findings from this monitoring and shall be incorporated into the LPS provisions to the satisfaction of the City of Albany.**
- 2. Forward the structure plan documentation, submissions and recommended provisions to the Western Australian Planning Commission with a request that the Commission grant approval to the structure plan.**
- 3. Advise the applicant/owner and those who lodged a submission of the Council decision accordingly.**

CARRIED 10-3

Record of Vote

Against the Motion: Councillors Moir, Sleeman and Shanhun

**DIS104: ALTERNATE MOTION BY COUNCILLOR MOIR
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR MOIR
SECONDED: COUNCILLOR SHANHUN**

THAT Council Recommend that the Western Australian Planning Commission NOT APPROVE the proposed structure plan.

LOST 3-10

Record of Vote

For the Motion: Councillors Moir, Shanhun and Sleeman

Councillor Reason:

1. The proposal does not adequately address or meet the Objectives of SPP2.6 that are to:

1. Ensure that development and the location of coastal facilities takes into account coastal processes, landform stability, coastal hazards, climate change and biophysical criteria;
2. Ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities;
3. Provide for public coastal foreshore reserves and access to them on the coast; and
4. Protect, conserve and enhance coastal zone values, particularly in areas of landscape, biodiversity and ecosystem integrity, indigenous and cultural significance.

The WALGA Climate policy statement from July 2018 states;

2.6 Local Government urges effective adaptation and resilience planning

Local Government is committed to the common goal of ensuring that Western Australia's human communities and natural ecosystems have the resources and assistance to enable them to build maximum resilience and adapt to climate change impacts that are now understood to be unavoidable.

Local Government asserts that it is the responsibility of all spheres of Australian Government to ensure that their decisions, policies and programs take into consideration the likely impact of climate change on current and future human settlements, natural resources and ecosystems and facilitate adaptation to these. These include but are not limited to disaster relief, national security, environment, energy, infrastructure and land use planning, water, housing, health and transport.

Local Government notes there are some policies, programs and limited funding for *coastal* adaptation in Western Australia, and a body of work completed in relation to bushfire planning and management. While this action is welcome, it is insufficient, and there is currently only *minimal* capacity and resourcing available to adapt to other effects of climate change, such as changes in temperature and rainfall, extreme weather events such as heatwaves and floods, flow-on effects such as the health and social impacts of climate change.

City of Albany Environmental policy

Document Reference Number; NP1766768

Revised OCM 23/05/2017 resolution CCCS 028

Objective

To ensure that the City of Albany commits to taking action on climate change, recognising that while uncertainty is present in existing climate science, this does not present a reason for inaction or delay of action, and that the “precautionary principle” should be applied.

The key principles behind this objective include:

- Ensuring that an understanding is reached on the potential impacts of climate change in a local, regional and international context;
- A commitment to reducing the vulnerability of the City to climate change impacts through risk management and adaptation strategies.

Policy Statement

The City of Albany is committed to ensuring that appropriate responses are undertaken to mitigate the potential climate change impacts. To achieve this, the City will:

- Acknowledge and recognise climate change as a factor in all City operations
- Be prepared and adaptable to future events, by applying the “precautionary principle” and conducting risk analysis. The resulting risk analysis will be used for informed decision-making;

Legislative and Strategic Context

Local Government Act 1995

Section 1.3 (3) of the Local Government Act 1995 states... *“In carrying out its functions, a local government is to use its best endeavours to meet the needs of current and future generations through integration of environmental protection, social advancement and economic prosperity”*. In order to ‘meet the needs of current and future generations’, Local Government must address climate change impacts on its community. A range of mitigation and adaptation strategies must be applied to ensure that economic, social, environmental and legal obligations are met.

Albany 2030 Community Strategic Plan, Theme 3: Clean, Green & Sustainable

In terms of the City’s strategic plan, this policy compliments and recognizes the Community Strategic Plan at the time of adoption:

What our community said:

Our community continues to love the city’s natural assets, coastline and green spaces within our municipality. Our climate, coastline, parks and natural reserves are strongly valued by our community. Our community believes these should be protected, maintained and, where practical enhanced. There is a strong desire for our natural assets to feature prominently in nature based tourism opportunities, and to promote Albany as a sustainable city;

They would also like the City to lead by example in environmental sustainability.

2. The proposal will have a detrimental impact on the amenity of the locality including the following —

- (i) environmental impacts of the development;
- (ii) the character of the locality;
- (iii) social impacts of the development;

Due to the tight constraints created by the required wetland buffer and coastal setbacks, the proposed intensified unsustainable development (planning to retreat) places the fragile coastal ecological system under an increased, and unnecessary threat. One of the main concerns is that with a planned 50 year lifespan, if the CHRMAP modelling is correct, then, if we have one of those 1 in 100 major storm events sooner rather than later it may jeopardise the integrity, not just that of the development site (built structure) but that of a unique and biodiverse ecosystem which is a public asset for the enjoyment and prosperity of current and future generations. Under the SPP2.6 guidelines the first recommended action for managing risk is to avoid according to the risk management hierarchy.

(Note that an application has been submitted to register the area as an Aboriginal heritage site, which is currently pending).

3. The proposal will have a detrimental impact on the natural environment and water resources.

The Department of Water and Environmental Regulation (DoWER)

Who are not in support of the proposal stated that:

The hydrological data and analysis provided by the consultant in the Structure Plan Report does not adequately describe the current pre-development hydrology and Insufficient analysis is presented to adequately demonstrate the post-development Hydrology has been considered or how risks have been addressed; and
The increased hydraulic loading from the development may impact the hydraulic Gradient, leading to greater groundwater flow towards the lake.

Also the Department of Biodiversity, Conservation and Attractions (DBCA) advised that: There is little recognition of Lake Vancouver as a wetland of regional significance (South Coast Significant Wetlands, DoW 2008), and more detail on potential impacts would be useful.)

Officer Comment in relation to the proposed alternate motion.

City staff are not supportive of the alternate motion as proposed by Councillor Moir. Officers Stand by the recommendation and explanations stated in report: DIS104 Local Structure Plan No.9 – Lot 660 La Perouse Road, Goode Beach.

1. The proposal does not adequately address or meet the Objectives of SPP2.6:

The State Planning Policy 2.6 (SPP2.6) recognizes that there '*are existing public and private assets in a number of localities along the Western Australian coastline that are currently vulnerable to coastal hazards*'. The SPP2.6 recognises this problem and therefore allows the adaptation option of '*planned or managed retreat*'.

The 'planned or managed retreat' option is applicable to 'Brownfield' and 'Infill' development such as the Lot 660 which has been designated in the City's Scheme for development.

The 'planned or managed retreat' option recommends the removal of 'at risk' development upon the occurrence of certain events.

The DOT stated in their submission on the structure plan proposal, the following:

'DoT have reviewed the Strategy and consider comments provided on the January 2017 version in regard to coastal physical processes have been adequately addressed.'

The report also recommend a requirement for the following actions to be undertaken by the property owner:

Visual Inspections

- Visual inspection and monitoring of the beach to identify any significant changes in the shoreline is to occur on an annual basis. Should significant changes occur, early planning around adapting to sea-level rise is to be undertaken.

Shoreline Mapping

- Every 5 years, aerial photographs are to be taken and the coastal vegetation line mapped to track the movement of the shoreline. Should significant changes occur, early planning around adapting to sea-level rise is to be undertaken.

Survey Cross Sections

- If the eroded shoreline came within a distance of approximately 36m of the resort site, survey cross sections should be completed every 1 to 2 years to determine the extent of change in shoreline profile. Should significant changes occur, early planning around adapting to sea-level rise is to be undertaken.

2. The proposal is not expected to have a detrimental impact on the amenity of the locality including the following —

- (i) the environment;
- (ii) the character of the locality;
- (iii) social characteristics.

It is proposed that conditions and management plans are implemented to ensure a five star (quality) resort is developed at the subject site, to blend with the surrounds, to protect natural surrounds, to enhance natural surrounds and to integrate with the surrounding community.

Additional Management plans proposed to be implemented include:

- An Urban Water Management Plan to ensure protection of water quality. This includes: best practice management, including no direct drainage into Lake Vancouver, treatments such as flush kerbing for diffuse discharge (where possible) and soil amendment of basins. Extra hydrological information to be gathered and analysed.
- Foreshore Management Plan.
- Coastal Management Plan.
- Remnant Vegetation management Plan (weeds, disease and revegetation).
- Bushfire Management Plan.
- Accommodation management plan. The AMP is to be implemented by an on-site caretaker and is to provide criteria for appropriate behaviour of tenants considerate of surrounding landholders and the environment (e.g. management of noise and rubbish).

3. The proposal is not expected to have a detrimental impact on the natural environment and water resources.

- The structure plan has incorporated best practice management options to mitigate risks to the lake (i.e. for road, other structure, stormwater, effluent treatment).
- The environmental scientist (Aurora Environmental) acting on behalf of the structure plan undertook an environmental assessment of the subject land. The wetland, flora and fauna, hydrology and threatened species were all assessed in accordance with legislative standards and consultation with government agencies. The structure plan has been designed considerate of environmental imperatives, including protecting vegetation surrounding the lake and managing effluent and stormwater in accordance with legislative standards.
- Flora and fauna surveys have been used to inform the structure planning process. Vegetation associated with Lake Vancouver will not be disturbed.
- No Threatened or Priority species were recorded on site. In addition, no species listed as Threatened under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 were recorded.
- All stormwater generated from impervious surfaces in relation to the tourist resort (buildings and pavement) will be contained on-site;
- Roof based stormwater runoff will be stored in rainwater tanks plumbed into each unit for reuse in toilets, washing facilities and the proposed swimming pool. Overflows from water tanks will be infiltrated at the point of discharge;
- Stormwater runoff from road pavements will be infiltrated at source through the use of vegetated swales;
- Stormwater management will incorporate the latest water sensitive urban design elements;
- A groundwater report developed for the subject area concluded that a buffer zone of 60 m between residential development and Lake Vancouver is suitable. The report stated that this will provide opportunity for nutrient extraction by vegetation, and add to the protection of the lake water.
- Further to the above, it will be required that prior to the submission of a Scheme Amendment, surface water and groundwater data shall be seasonally collected from Lake Vancouver. Management and/or mitigation measures determined by a qualified hydrologist in response to findings from this monitoring are to be incorporated into the LPS provisions to the satisfaction of the City of Albany.

The structure plan is a guide for future planning. It is proposed that a scheme amendment process occur subsequent to structure planning. The Environmental Protection Authority confirmed (refer to letter from EPA) that it is prepared to consider the proposal as a scheme amendment under s.48A of the EP Act.

DIS104: AMENDED MOTION BY COUNCILLOR TERRY

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR STOCKS

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and regulation 20. (2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

1. Recommend that the Western Australian Planning Commission approve Local Structure Plan No.9, subject to the following modification:
 - a) Inserting provisions as detailed in the attached 'Schedule of Provisions', but replacing provision 16 for the Holiday Accommodation Precinct, with the following:

16. Prior to the submission of a Scheme Amendment, Lake Vancouver water level data and adjacent groundwater data shall be collected as required to measure the depth of groundwater and direction and rate of flow of the groundwater.
The updated data needs to be collected from existing and additional bores and piezometers as required at appropriate times of the year to establish the extent and period of flow, if any, toward Lake Vancouver.
Management and/or mitigation measures shall be determined by a qualified hydrologist in response to findings from this monitoring and shall be incorporated into the LPS provisions to the satisfaction of the City of Albany.
2. Forward the structure plan documentation, submissions and recommended provisions to the Western Australian Planning Commission with a request that the Commission grant approval to the structure plan.
3. Advise the applicant/owner and those who lodged a submission of the Council decision accordingly.

Councillor Reason:

The existing provision 16 is not clear. The amended provision spells out the procedure and purpose for collecting water data. In particular, establishing the extent and period of flow, if any, toward Lake Vancouver.

Officer Comment (Executive Director Development Services):

We are supportive of this amended motion, which seeks to ensure useful data is recorded to inform development and management of the land.

DIS104: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and regulation 20. (2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

1. Recommend that the Western Australian Planning Commission approve Local Structure Plan No.9, subject to the following modification:
 - a) Inserting provisions as detailed in the attached 'Schedule of Provisions'
2. Forward the structure plan documentation, submissions and recommended provisions to the Western Australian Planning Commission with a request that the Commission grant approval to the structure plan.
3. Advise the applicant/owner and those who lodged a submission of the Council decision accordingly.

BACKGROUND

6. Local *Planning Scheme No. 1* was endorsed on 28 April 2014 and consists of the Scheme Text and the Scheme Maps.
7. The endorsement of the scheme included an assessment by the Environmental Protection Authority. The assessment undertaken by the Environmental Protection Authority did not declare the Lot 660 to be 'Environmentally Sensitive'. Subsequently, Lot 660 has been partly zoned 'Special Use' to accommodate holiday accommodation and partly reserved 'Parks and Recreation' (refer to the above map).
8. Prior to the current proposal, there have been three substantive proposals previously considered for the subject land, these include;
 - a) The first application (1987) was for a 'Resort Hotel and Hotel Complex' development, which was conditionally approved.
 - b) The second application was for a rezoning to create fifteen 'Special Residential' lots (1999). The Environmental Protection Authority (EPA) recommended conditional support for the proposal. The Minister for Planning however decided to:
 - i. Support a maximum six 'Special Residential' lots; and
 - ii. Recommend that the landholder pursue an appropriate zoning of the remaining rural lot to reflect the potential for low key tourism.
 - c) The third application (current local planning scheme situation) was for the rezoning of the 'Rural' lot to the 'Special Use' zone to reflect the Planning Minister's previous advice. The following provisions were included:
 - i. Support holiday accommodation subject to provisions culminating from a 'Development Guide Plan' including:
 - (i) Max 10 chalet/cottage units
 - (ii) Buildings clustered
 - (iii) Minimising clearing
 - (iv) Designing buildings to blend with the site
 - (v) Coastal setbacks
 - (vi) Foreshore management plan
 - (vii) Management of stormwater and effluent disposal to limit impact on the Lake Vancouver
 - (viii) Potable water supply
 - (ix) Implementing bushfire management criteria
9. Please note the following in relation to the above:
 - a) The City's scheme defines a 'chalet/cottage unit' as follows:
Chalet/cottage unit means a building that is used or provided for use for holiday accommodation purposes and is generally developed as self-contained building(s).
 - b) The City's scheme does not restrict the size of chalet/cottage unit that may be placed on the subject Lot 660.
 - c) The City's scheme does not restrict the amount of persons that may reside within a chalet/cottage unit developed at Lot 660.
10. The City of Albany has now received a structure plan application pertaining to the subject Lot 660, proposing the following;
 - 'Holiday Accommodation Precinct' comprising:
 - Maximum ten (10) two storey holiday accommodation buildings comprising maximum total 51 units (approximately 5 units each);
 - Maximum 120 persons at capacity;
 - Function centre also developed as a refuge (bushfire) building;
 - Café/dining/restaurant; and
 - Manager's residence.

- A 'Development Buffer Precinct' comprising:
 - Access, car parking, waste treatment, pool and asset (bushfire) protection.
 - A 'Remnant Vegetation Precinct', comprising:
 - Vegetation protection; and
 - Access.
11. The *Planning and Development (Local Planning Schemes) Regulations 2015* (Schedule 2, Part 4, cl14) defines a structure plan as:
"A plan for the coordination of future subdivision and zoning of an area of land."
12. The structure plan is a guide for future planning. A scheme amendment process will have to occur subsequent to the structure planning process and will involve referral to the Environmental Protection Authority, public consultation, and ultimately determination by the Minister for Planning.

DISCUSSION

13. The structure plan submitted for approval, addresses the *Planning and Development (Local Planning Schemes) Regulations 2015* (Part 4 cl16) as follows:
- a) The Western Australian Planning Commission has preliminarily assessed the structure plan and agreed that satisfactory information has been provided including:
 - i. Key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;
 - ii. Planning context for the area covered by the plan and the neighbourhood and region within which the area is located;
 - iii. any major land uses, zoning or reserves proposed by the plan;
 - iv. estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
 - v. Population impacts that are expected to result from the implementation of the plan;
 - vi. Extent to which the plan provides for the coordination of key transport and other infrastructure;
 - vii. Proposed staging of the subdivision or development covered by the plan.
14. The structure plan is supported by the following studies and management plans:
- a) Coastal Hazard Assessment & Risk Management Strategy (MP Rogers & Associates Pty Ltd);
 - b) Environmental Assessment (Aurora Environmental);
 - c) Targeted Survey for Western Ringtail Possum, Main's Assassin Spider and Black Cockatoo (Aurora Environmental);
 - d) Bushfire Management Plan (Eco Logical Australia in association with Biodiverse Solutions);
 - e) Civil Engineering Report (Stormwater Management, Traffic Management, Effluent Management - Wood & Grieve Engineers); and
 - f) Resort Concept Plan (Grounds Kent Architects).
15. The City of Albany advertised the proposed Local Structure Plan No.9 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
16. In addition to this, the City of Albany has facilitated conversations between landholders, consultants, City of Albany staff and Councillors to better inform all parties concerned.
17. At the close of advertising, the City of Albany received 110 submissions commenting on the proposed structure plan.

18. Comments received during the advertising and referral process have been summarised in a schedule (attached) under the following key headings:
 - a) Tourism;
 - b) Utilities;
 - c) Environment;
 - d) Bushfire;
 - e) Building Scale/Design;
 - f) Access;
 - g) Character – Goode Beach;
 - h) Views/Visual/Noise/Lighting;
 - i) Aboriginal Heritage;
 - j) Consultation;
 - k) Process – Structure Planning;
 - l) Previous Decisions;
 - m) Soils;
 - n) Unexploded Ordnance.

19. The following key comments were made during the advertising process:
 - a) Given the tourist attractions in the area, there's a need for 5 star tourist accommodation.
 - b) The City's planning scheme and policy recommend small scale development.
 - c) Approval is required for any on-site waste water treatment process with such proposals being in accordance with Department of Health publications (Department of health).
 - d) Doubt regarding the environmental assessments, in-particular the potential impacts on groundwater, Lake Vancouver and flora and fauna.
 - e) Concern relating to clearing of vegetation and the potential detrimental impact on Black Cockatoo and Western Ringtail Possum habitat.
 - f) Concern in respect to potential stormwater/effluent contamination to the Lake Vancouver ecosystem.
 - g) Development associated with unstable, fragile dune system, susceptible to sea level rise and storm surge.
 - h) The potential for the introduction of weeds and disease (Phytophthora).
 - i) Proposed development in land reserved for 'Parks and Recreation'.
 - j) Conflict with legislative requirements (e.g. State Coastal Planning Policy 2.6 and Ministerial Statement 319).
 - k) Development of a 'Refuge' area or building (Department of Fire and Emergency Services).
 - l) The scale of development and the potential impact to the character of Goode Beach, including noise, visual, pedestrian movement, lighting, traffic and use of reserve and beaches.
 - m) Noongar culture and heritage consultation.
 - n) The community consultation process.
 - o) The structure planning process is being used to circumnavigate current development standards.
 - p) Unexploded ordnance may exist on the land.

20. The applicants were requested by City Staff to do additional work in response to some of the submissions received, this included work on Bushfire planning and Environmental matters.

21. WAPC granted time extensions for this purpose in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.

22. Council is now asked to consider comments received and is requested to make a recommendation to the Western Australian Planning Commission (WAPC).

23. The submissions received cover a broad range of matters, which are addressed in the attached Schedule of Submissions. The key matters which emerged are discussed in detail below:

Tourism

24. Comments were received in both support and opposition to the tourism nature and merit of the proposal. A number of submissions outlined the need for the area to have a unique, high quality tourist resort. A number of submitters put forward that the proposal should not be supported as it is in conflict with City of Albany statutory requirements.
25. In respect to the above, it is considered that the proposed structure plan for the subject site compliments the City's Local Planning Strategy (Draft 2018), the '*State Government Strategy for Tourism in Western Australia 2020*' and the '*Amazing South Coast Tourism Development Strategy*'. The City's Local Planning Strategy (Draft 2018), seeks to encourage the development of tourism uses at the subject site. The '*State Government Strategy for Tourism in Western Australia 2020*', sees the Governments role to include; *creating a favourable environment for tourism infrastructure investment and development, through policy creation*. The '*Amazing South Coast Tourism Development Strategy*' seeks to; *strengthen and diversify the economic base of the Amazing South Coast through unified promotion and development of an abundance of unique and unrivalled experiences. With an ultimate goal of, three million visitor nights by 2021.*
26. While noting a nearby tourist development has recently been approved (not yet constructed) the current tourist accommodation opportunity within the locality is lacking. At present, tourists rely on accommodation within Albany's central business district, which is located approximately 24 kilometres away.
27. The proposed structure plan seeks to create the framework for a quality resort in an iconic location, within close proximity to tourist attractions.

Utilities

28. A number of submissions have raised concerns over the ability of the proposal to sufficiently deal with onsite effluent disposal and potable water.
29. The Water Corporation confirmed that the current Water Corporation reticulation system can serve the proposed development on Lot 660.
30. The Department of Health advised that approval from the Department of Health is required for any on-site waste water treatment. Any such proposals are to be in accordance with Department of Health publications.
31. A report provided by Wood and Grieve Engineers establishes that current wastewater treatment technology to collect, treat and utilise (treated) wastewater may be developed at the subject site to accommodate the proposed development, in accordance with the health, environmental and engineering requirements of Western Australia.
32. The effluent system proposed by the structure plan consists of two wastewater treatment plants. The main plant accommodates the short stay units and the minor plant accommodates the kitchen/restaurant. The kitchen/restaurant has been provided with a dedicated treatment plant to mitigate any risk.
33. It is recommended that provisions are included to address concerns raised, including:
- a) Effluent disposal systems are to be approved and managed in perpetuity to the satisfaction of the Department of Health and City of Albany.
 - b) Effluent quality should meet nutrient concentration targets of 10mg/L of nitrogen and 1mg/L of phosphorous.

- c) Effluent disposal systems being in accordance with Department of Health publications; and
- d) On-site sewage disposal is to be located at least 100m from the edge of the wetland (McBI) vegetation. The 100m setback is in response to recommendation of the Department of Water and Environmental Regulation.

Environment

34. Submissions received from both the community and government agencies raised concerns that development of the structure plan may potentially impact on the environment.
35. The Department of Biodiversity, Conservation and Attractions (DBCA) advised that:
- *There is little recognition of Lake Vancouver as a wetland of regional significance (South Coast Significant Wetlands, DoW 2008), and more detail on potential impacts would be useful.)*
36. In response to the DBCA comment on Lake Vancouver, the following applies:
- The structure plan is proposing to protect the integrity of the environment in accordance with preliminary consultation with the Department of Biodiversity Conservation and Attractions, relevant legislation and an environmental assessment of the site. It was indicated by the Department of Biodiversity Conservation and Attractions, that wetland boundaries and associated setbacks based solely on hydric soils (in this case *Melaleuca cuticularis* / *Banksia littoralis* (McBI) vegetation as outlined in DER's *Wetland Buffer Study Report Case Study 3*) had not been adopted by the department due to difficulties with identification and application in the planning context. A conceptual approach was therefore discussed with DBCA, with the protection of the McBI vegetation (vegetation directly around the lake) as a suitable method for considering setbacks.
 - The structure plan documentation (Aurora, 2017 Section 2.9) acknowledges the conservation status of Lake Vancouver and has incorporated best practice management options to mitigate risks to the lake (i.e. for road, other structure, stormwater, effluent treatment).
 - The environmental scientist (Aurora Environmental) acting on behalf of the structure plan undertook an environmental assessment of the subject land. The wetland, flora and fauna, hydrology and threatened species were all assessed in accordance with legislative standards and consultation with government agencies. The structure plan has been designed considerate of environmental imperatives, including protecting vegetation surrounding the lake and managing effluent and stormwater in accordance with legislative standards.
 - Flora and fauna surveys have been used to inform the structure planning process. Vegetation associated with Lake Vancouver will not be disturbed. It is not necessary to undertake additional surveys for the following reasons:
 - A total of 56 native species were recorded during a flora survey carried out in June 1992 by Alan Tingay and Associates. The survey covered Lot 660, Reserve 48916 (Lake Vancouver) and Reserve 28111 (foreshore reserve). The species list has been checked for changes to nomenclature and compared to the most recent Threatened and Priority species listed under Schedule 1 of the *Western Australian Wildlife Conservation Act 1950*. No Threatened or Priority species were recorded on site. In addition, no species listed as Threatened under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* were recorded.
 - Targeted surveys for three species of Threatened Black Cockatoo, Western Ringtail Possum and Main's Assassin Spider have been undertaken. A Western Ringtail Possum was detected to the west of Lake Vancouver during a targeted fauna survey on 6 December 2016 (Appendix 14). Potential foraging habitat for Black Cockatoos was identified in a targeted fauna survey as occurring immediately around Lake Vancouver (McBI) and to the west of the lake (AfEmt and Mt). This vegetation type is not proposed to be cleared.

- The environmental consultant working on-behalf of the landholder also classified vegetation on the subject land by comparing to a mosaic of Albany Regional Vegetation Survey Units (Peppermint low forest, coastal heath and coastal limestone heath) undertaken for land to the north of the subject site. It was determined by the consultant that the vegetation units described are well represented in the ARVS study area and in the region. This was not contested by the DBCA.
 - Aurora Environmental has undertaken a targeted survey of the area proposed to be cleared for the Threatened flora species, *Calectasia cyanea* (Blue Tinsel Lily) on 20 October 2017 (flowering period of the species is June to October). The species was not detected and it was also noted that the habitat surveyed (*Agonis flexuosa*/ *Adenanthos sericeus* Closed Scrub) was not likely to host the species.
 - No Threatened or Priority species were recorded on site. In addition, no species listed as Threatened under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* were recorded.
37. The Department of Water and Environmental Regulation (DoWER) who are not in support of the proposal stated that:
- *The hydrological data and analysis provided by the consultant in the Structure Plan report does not adequately describe the current pre-development hydrology and insufficient analysis is presented to adequately demonstrate the post-development hydrology has been considered or how risks have been addressed; and*
 - *The increased hydraulic loading from the development may impact the hydraulic gradient, leading to greater groundwater flow towards the lake.*
 - *A Local Water Management Strategy is required to prove that the land is capable of development and that water can be appropriately managed.*
 - *The department's guidelines (Wetland buffers - Water & Rivers Commission, Water Notes No.4 January 2000) recommends that a minimum buffer of 50 m is established from the boundary of wetland dependent vegetation with the exception of wetlands which have significant conservation values. In these instances a buffer of 200 m or greater may be recommended.*
38. In response to the DoWER comments on hydrological data and water management, the following applies:
- A civil engineering report was prepared to support the development and includes an existing catchment plan that identifies catchment low points as well as potential major event flow path. A Stormwater Management Concept was consequently prepared which considers infiltration and/or conveyance and infiltration of all storm events up to and including the 1:100 year ARI event. The Concept uses an indicative resort design concept (comprising of buildings, roads, parking pavement, pedestrian pathways that have been prepared in consideration of the opportunities and constraints of the land) to identify the estimated impervious areas, stormwater volumes and events and pavement flows.
 - Soil testing investigations undertaken by Aurora Environmental confirm that the proposed tourist resort site is free draining and well above the assessed groundwater levels. Furthermore, the site permeability tests confirm that the site is capable of infiltrating in excess of the 1:100 year ARI storm event.
 - All stormwater generated from impervious surfaces in relation to the tourist resort (buildings and pavement) will be contained on-site;
 - Roof based stormwater runoff will be stored in rainwater tanks plumbed into each unit for reuse in toilets, washing facilities and the proposed swimming pool. Overflows from water tanks will be infiltrated at the point of discharge;
 - Stormwater runoff from road pavements will be infiltrated at source through the use of vegetated swales;

- Stormwater management will incorporate the latest water sensitive urban design elements;
 - It will be required that prior to the submission of a Scheme Amendment, a Local Water Management Strategy is completed to the satisfaction of the City of Albany, in accordance with Better Urban Water Management (WAPC, 2008) and in consultation with the Department of Water, Environment and Regulation.
 - The proposed tourist development will be in compliance with the City of Albany's 'Development Guidelines' and Department of Water 'Stormwater Management Manual'. The DoWER confirmed within their submission that; *the proposed methodology for dealing with the stormwater generated on site is considered acceptable.*
 - The structure plan considered Hydrological data recorded for the site (Groundwater Aspects of Residential Development, Alan Tingay and Associates 1992) and more recent groundwater data collected post November 2016. A groundwater report developed for the subject area concluded that a buffer zone of 60 m between residential development and Lake Vancouver is suitable. The report stated that this will provide opportunity for nutrient extraction by vegetation, and add to the protection of the lake water.
 - Further to the above, it will be required that prior to the submission of a Scheme Amendment, surface water and groundwater data shall be seasonally collected from Lake Vancouver from five existing piezometers and bores. Management and/or mitigation measures determined by a qualified hydrologist in response to findings from this monitoring are to be incorporated into the LPS provisions to the satisfaction of the City of Albany.
 - It is noted that the DoWER suggest an ideal 200m buffer to wetland dependent vegetation. In response to this recommendation, it is considered that in this case it is not a practical solution given that a previous decision and current scheme provisions created the area for development. Modifications to this buffer to the extent recommended would create a situation where the land became undevelopable and would have the effect of reserving the land for conservation. If the land was ultimately reserved, the City would be liable for injurious affection and compensation.
 - It is proposed to establish development with a minimum 100m buffer from the edge of the open water of Lake Vancouver, with protection of the hydrologically linked area (McBI – wetland vegetation). Development outside this area can be adequately managed (as per the draft Government Sewerage Policy) to mitigate risks to Lake Vancouver and associated vegetation.
 - Setbacks to the beach foreshore and wetland vegetation surrounding the Lake Vancouver are proposed in accordance with the Draft Government Sewerage Policy (Government of WA, 2016), the Better Urban Water Management guidelines (WAPC, 2008) and discussions with the Department of Biodiversity Conservation and Attractions (January 2017).
39. The Frenchman Bay Association (FBA) stated that:
- *The FBA members are extremely concerned about protecting the pristine wetlands around Lake Vancouver, the destruction and degradation of the parabolic dunes, and the proposed development set-back of only 70 metres from the beach.*
40. In response to the FBA comment on protecting wetlands and dunes, the following applies:
- a) The subject land does have existing development rights in accordance with the City's *Local Planning Scheme No.1*. Three substantive proposals have been considered for the subject lot prior to the structure plan application being lodged.
- The first application was for a 'Resort Hotel and Hotel Complex' development, which was conditionally approved in 1987.
 - The second application (see attachment 2) was for a rezoning to create fifteen 'Special Residential' lots (1999). The EPA recommended conditional support for

the proposal. The Environmental Protection Authority concluded (Statement 319) that the management of environmental impacts can rely extensively on management controls through the planning process. The Minister for Planning recommended that the landholder pursue an appropriate zoning of the remaining rural lot to reflect the potential for low key tourism.

- The third application (see attachment 2) was for the rezoning of the 'Rural' lot to the 'Special Use' zone to reflect the Minister's previous advice. Holiday accommodation may now be considered for development at the subject site.
- b) *Local Planning Scheme No.1* was endorsed on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The endorsement of the scheme included an assessment by the Environmental Protection Authority. The assessment undertaken by the Environmental Protection Authority did not declare the Lot 660 to be 'Environmentally Sensitive'.
- c) The proposed structure plan conforms to current scheme standards, including:
- Department of Health and Water Corporation servicing standards;
 - Reference to the Biodiversity Act, which seeks to protect threatened species;
 - The Western Australian Liveable Neighbourhoods document for traffic design;
 - The State Planning Policy 3.7 Planning in Bushfire Prone areas;
 - The State Coastal Planning Policy 2.6 – Coastal Planning;
 - The City's Local Planning Scheme No.1 for setbacks to wetlands;
 - The Draft Government Sewerage Policy 2016 and the required setbacks to wetlands. It is proposed to install a package treatment plant that provides secondary treatment and removes nutrients (to 1 mg/L of phosphorus and 10 mg/L of nitrogen) as per 2016 Draft Government Sewerage Policy. The unit will also remove pathogens. Irrigation of the treated waste water will be set back from Lake Vancouver and spread over a minimum area of 4000 m² (in compliance with Schedule 3: Site Requirements for On-site Sewerage Disposal Systems in 2016 Draft Government Sewerage Policy and Department of Health (2015) Supplement to Regulation 29 and Schedule 9 – Wastewater System Loading Rates).
- d) Various management plans are proposed to oversee implementation and operation phases of development, including:
- An Urban Water Management Plan to ensure protection of water quality. This includes: best practice management, including no direct drainage into Lake Vancouver, treatments such as flush kerbing for diffuse discharge (where possible) and soil amendment of basins. Extra hydrological information to be gathered and analysed.
 - Foreshore Management Plan.
 - Coastal Management Plan.
 - Remnant Vegetation management Plan (weeds, disease and revegetation).
 - Bushfire Management Plan.
- e) Other than a 2.1ha proposed clearing for development, no other vegetation will be cleared. Remaining vegetation will be retained and managed to reduce risk of weeds and dieback.
- f) Any rehabilitation will use local native species (noting that landscaping within the development foot print will use a combination of native and non-native species). These objectives will be achieved through preparation of a Remnant Vegetation Management plan at the development approval stage.
- g) Development can achieve a 1.5m vertical separation from the discharge point of the on-site sewage disposal system to the highest groundwater level.
- h) A coastal management strategy has been prepared for this site in accordance with the requirements of the State Planning Policy 2.6 – State Coastal Planning Policy. The coastal management strategy outlined the potential implications of future sea level rise on the coastline and presented a future adaptation pathway whereby the risk of future coastal change is borne completely by the landowner. The coastal report has been reviewed and accepted by the Department of Planning, Lands and Heritage and the Department of Transport. The coastal report found that, even though the shoreline

fronting the proposed site has only moved by around 2 metres in the period since 1961, allowance for future shoreline movement of 68 metres should be provided over the coming 50 years to ensure a low level of risk to the development over this time. In this regard, it is noted that a 50-year initial planning horizon has been adopted for this development on the basis that a tourist resort can generally be expected to have a useful service life of around 50 years before full redevelopment is required. Thereafter the redevelopment can be assessed and / or relocated as appropriate based on an assessment of coastal stability and risk at that time. Acceptance and acknowledgement of this risk is proposed through a notification on title as well as a commitment to undertake a managed retreat of the development at a time when identified trigger points are reached. Adoption of a managed retreat approach is entirely consistent with the policy requirements (refer to SPP2.6 Section 5.5; Item (iii) Part (2)), particularly for a development such as that proposed – which is a tourist development with a finite structural lifespan before renewal is required.

- i) The structure plan is a guide for future planning. It is proposed that a scheme amendment process occur subsequent to structure planning. The Environmental Protection Authority confirmed (refer to letter from EPA) that it is prepared to consider the proposal as a scheme amendment under s.48A of the EP Act.

41. It is recommended that provisions are included to address comments relating to the environment, including:

- a) Referral to the Department of Environment and Energy is required, prior to development. The Department of the Environment and Energy is an Australian government department. The Department is responsible for matters including environment protection and conservation of biodiversity as well as energy policy.
- b) The following management plans are to be implemented:
 - Foreshore Management Plan. Note:
 - Development of a physical demarcation is to be accomplished on the boundary of the 'Development Buffer Precinct' to the wetland vegetation (McBI – *Melaleuca cuticularis* / *Banksia littoralis* Low woodland). A hard edge such as the proposed internal road is suitable for this purpose.
 - Urban Water Management Plan in accordance with Better Urban Water Management (WAPC, 2008). Note:
 - For storm-water, the use of amended soils would be required within infiltration swales.
 - Stormwater drainage to be accommodated on site and incorporate water sensitive urban water design elements to the satisfaction of the local government.
 - Roof based stormwater runoff being stored in rainwater tanks for reuse in toilets, washing facilities and swimming pool.
 - Identify and describe proposed measures to capture and treat the minor events; and
 - Outline future monitoring and management requirements.
 - Coastal Management Plan.
 - Remnant Vegetation management Plan (weeds, disease and revegetation).
 - Sand/Dust/Erosion Management Plan.
 - Accommodation Management Plan (noise).
 - Effluent Management Plan, subject to Department of Health Approval.
 - Bushfire Management Plan.
- c) Recommend including the following provisions to ensure appropriate management of effluent and ultimate protection of the environment:
 - A 1.5m separation from the discharge point of the on-site sewage disposal system to the highest groundwater level is to be achieved;
 - The type of on-site sewerage system should be determined in response to the site and soil conditions, vulnerability of the receiving environment and nature of the proposal.

- On-site sewage disposal is to be located at least 100m from the edge of the wetland (McBI) vegetation.
 - Approval is required for any on-site waste water treatment process with such proposals being in accordance with DOH publications.
- d) In-order to protect as much vegetation as possible, the width of internal access is to developed to a max 4m sealed width for main access and 4m gravel access for egress and is to include passing bays and turnaround areas.
- e) Internal access is to be designed to ensure movement of water.
- f) Prior to occupation of use, management and/or mitigation measures in response to findings from hydrological monitoring (2017-2018), are to be implemented to the satisfaction of the City of Albany. Surface water and groundwater data to be collected from Lake Vancouver and five existing piezometers and bores seasonally to determine and to manage any impacts.
- g) As an ongoing condition of development, the following coastal assessment is to be undertaken:
- Visual inspection and monitoring of the beach to identify any significant changes in the shoreline is to occur on an annual basis.
 - Every 5 years, aerial photographs are to be taken and the coastal vegetation line mapped to track the movement of the shoreline.
 - If the eroded shoreline came within a distance of approximately 36m of the resort site, survey cross sections should be completed every 1 to 2 years to determine the extent of change in shoreline profile.
- h) Prior to occupation of use, a Notification is to be placed on the Certificate of Title of Lot 660 La Perouse Road, Vancouver Beach advising the landowner and any prospective purchaser that:
- The lot is within a Vulnerable Coastal Area
 - The land is subject to management in accordance with the Coastal Management Strategy;
 - The risk of future coastal change is borne completely by the landowner.
- i) A geotechnical report is implemented to guide earthworks/development.
- j) The Foreshore Management Plan is to ensure that the sensitive areas adjacent to the beach is protected and maintained in a natural state.

Bushfire

42. The subject structure plan area is located within a bushfire prone area. Development is therefore required to comply with State Planning Policy 3.7 and including a Bushfire Management Plan and Emergency Evacuation Plan. The Department of Fire and Emergency Services (DFES) originally stated that the proposal does not have adequate access. Because of non-compliant access, DFES recommended the development of a 'Refuge' area or building that complies with the following:
- a) in close proximity to the development;
 - b) safe to travel to in a bushfire emergency;
 - c) appropriate for both the amount of people on site and the risk;
 - d) max BAL – 02 is to be achieved for Refuge Open Area;
 - e) max BAL – 10 is to be achieved for Refuge Building. Compliance with Design and Construction of Community Bushfire Refuges – Information Handbook (2014);
 - f) Safe access to refuge area/building.
43. Subsequent to DFES advice, a certified practitioner confirmed that it may be possible to develop a refuge building at the subject site, with a heat flux rating less than the min 10kW/m² (refer to attachment).

44. Consistent with State Planning Policy 3.7 and DFES comments, the following conditions are recommended:
- a) Development of a refuge building, built to the appropriate standard and located in an area with a heat flux rating less than 10kW/m²; and
 - b) Development and implementation of a Bushfire Management Plan and Emergency Evacuation Plan, to the satisfaction of the City, in consultation with the DFES.
 - c) All proposed habitable buildings are to be located in areas subject to a BAL rating of BAL 29 or lower.
 - d) All residential buildings and, as far as is practicable, non-residential developments, are to incorporate the bushfire resistant construction requirements of the Building Code, including as appropriate the provisions of AS3959 Construction of Buildings in Bushfire Prone Areas (as amended), commensurate with the bushfire attack level (BAL) established for the relevant portion of the site.
 - e) Development is to incorporate an Asset Protection Zone that is to be managed to reduce bushfire hazard to an acceptable level.
 - f) Water being provided for dedicated firefighting purposes, in accordance with a Bushfire Management Plan developed in accordance with State Planning Policy 3.7.
 - g) As an ongoing condition, occupation of the site is to occur in accordance with an Emergency Evacuation Plan developed to the satisfaction of the City and in consultation with the Department of Fire and Emergency Services.

Building Scale/Design

45. The Local Structure Plan No.9 has been submitted to justify variations to scheme zoning and provisions. The structure plan is proposing:
- a) 'Holiday Accommodation Precinct' comprising 10 holiday accommodation buildings totalling 51 units, a function centre, a café/dining/restaurant and manager's residence;
 - b) 'Development Buffer Precinct' comprising access, car parking and asset protection areas; and
 - c) 'Remnant Vegetation Precinct' comprising access and vegetation protection areas.
46. A number of submissions consider that the concept plan proposed is not 'low key' and will therefore impact on the amenity of the area.
47. City staff consider that the conceptual layout designed to inform the structure plan envisages a low profile development that blends to the natural environment. Low profile characteristics include:
- a) buildings consisting of one and two storey (in-keeping with existing building developments at Goode Beach);
 - b) 6,000m² building footprint (similar size to three existing lots subdivided on La Perouse Court);
 - c) 2.1ha clearing footprint (2.6ha designated in scheme for 'Special Use' development at Lot 660);
 - d) Buildings clustered to the north of the site, away from existing housing and buffered by a hill and remnant vegetation;
 - e) Designing buildings to blend with the site;
 - f) Coastal and wetland setbacks in accordance with legislative requirements.
48. Environmental matters have been researched and management criteria proposed to address issues in accordance with legislative requirements. Management plans are proposed to protect vegetation, the foreshore, groundwater, Lake Vancouver and property and life from bushfire.
49. The proposed 51 units is comparatively smaller than other tourist accommodation complexes approved in popular tourist areas such as Bunker Bay (Dunsborough WA). The Bunker Bay resort consists of 150 units and functions as a high quality eco-tourism facility adjacent to the beach.

50. The proposed structure plan has been designed considerate of legislative requirements including:
- a) Department of Health and Water Corporation servicing standards;
 - b) Reference to the Biodiversity Act, which seeks to protect threatened species;
 - c) The Western Australian Liveable Neighbourhoods document for traffic design;
 - d) The State Planning Policy 3.7 Planning in Bushfire Prone areas;
 - e) The State Coastal Planning Policy 2.6 – Coastal Planning;
 - f) The City's Local Planning Scheme No.1 for setbacks to wetlands;
 - g) The Draft Government Sewerage Policy 2016 for the appropriate setback to wetlands.
51. Majority of current scheme standards are being maintained, including:
- a) Buildings clustered;
 - b) Minimising clearing;
 - c) Designing buildings to blend with the site;
 - d) Coastal setbacks;
 - e) Foreshore management plan;
 - f) Management of storm-water and effluent disposal to limit impact on the Lake Vancouver;
 - g) Potable water supply; and
 - h) Implementing bushfire management criteria.
52. It is recommended that the following provisions are included to allay concerns relating to building design / scale of development:
- a) Lighting is kept low to the ground (bollard lighting).
 - b) Development is to be designed to blend with natural features within the area;
 - c) Incidental developments (e.g. bin storage areas) are appropriately screened;
 - d) Car parking is developed to the satisfaction of the City. Car parking shall be provided in accordance with the provisions of the Scheme, meaning an additional 20 car parking bays may be required. The scheme states the following standard for Hotel/Motel: 1 per employee (10 employees) + 1 per 3m² bar area (10m²) + 1 per four seats in dining area (40 seats) + 1 per bedroom (50 bedrooms) + 1 per 4m² other public areas (nil). May be possible to utilize internal access areas for additional car parking bays.
 - e) All development shall comply with the following performance criteria:
 - The Holiday Accommodation precinct is developed to provide a unique, high quality tourist resort designed to blend (not dominate) with its natural surrounds.
 - High quality built form is provided across the site that recognises the iconic location and significance of the area (beach, foreshore reserves and Lake Vancouver).
 - The privacy of beach users is not impacted via development overlooking the beach.
 - The development of public land (access links to beach) is integrated to establish a safe and environmentally sustainable outcome.
 - An effective, efficient, integrated and safe access network that prioritises drainage management considerate of Lake Vancouver ecosystem and protection of flora and fauna.
 - Developments incorporate sustainable technologies and design including best practice with regard to energy efficiency, water sensitive urban design and fire safety requirements.
 - A reputable manager being accommodated on-site to oversee operations.
 - Areas disturbed during development are to be stabilised and/or restored.

Access

53. It was commented that the development of a future resort will increase traffic, which will ultimately impact pedestrians.
54. An engineering report and traffic data developed by a qualified engineer and submitted as a component of the structure plan indicates that the existing road network has sufficient capacity to accommodate the proposed resort traffic.
55. It is recommended that the proposal is supported for the following reasons:
- a) Internal access roads are proposed along existing tracks;
 - b) The Engineering report and traffic data submitted as a component of the structure plan indicate that the existing road network has sufficient capacity to accommodate the proposed resort traffic. La Perouse Road is developed as an Access Street – Class C. The preferred volume of vehicles for this type of street is 3000vpd. The proposed development is expected to increase the traffic on La Perouse Road from approximately 50vpd to 150vpd, (50units x 3vpd).
 - c) At resort capacity, the increase in traffic is expected to result in an acceptable delay between vehicles of 4 minutes near the entrance to the development.
 - d) Traffic analysis undertaken for La Perouse Road (2012) confirms that approximately 75% of the vehicles travel less than 50km/h.
56. It is recommended that the following provisions are included to allay concerns relating to access:
- a) Development of a pedestrian path (1.5m wide) along La Perouse Road, to the satisfaction of the City;
 - b) Development of internal access considerate of surface and ground water flows. The width of internal access is developed to a max 4m sealed width for main access and 4m gravel access for egress and is to include passing bays and turnaround areas. Development of signage advising visitors of internal speed limit (max 20km/hr) and wildlife (e.g. Quenda);
 - c) Maximum two internal pedestrian access paths developed to the beach.

Character Goode Beach

57. It was commented that development of a resort would impact on the tranquillity of Goode Beach.
58. The City recognizes that the use of public areas, including beaches and tourist destinations within and adjacent to Goode Beach may increase, the result of a resort development. The City actively promotes tourism opportunities ('State Government Strategy for Tourism in Western Australia 2020' and 'Amazing South Coast Tourism Development Strategy') subject to management criteria being imposed.
59. It is considered that that the proposal can be supported for the following reasons:
- a) The number of persons visiting the resort (traveling on roads, paths and using the coastline and other public amenities) is expected to increase as a result of the proposed development. However, due to the remote location of Goode Beach and the limited period of tourism activity expected in the region (subject to season variation), the resort is not expected to run at capacity for lengthy periods and therefore any change to the Goode Beach character is expected to be marginal. The resort proposes to be self-contained, meaning tourists are inclined to stay within the resort area utilizing services, including a restaurant, function centre and pool.
 - b) The separation of the resort area from existing developed areas (150m) limits impact. Development is also somewhat buffered by a ridge and vegetation.
 - c) The conceptual layout developed to inform the structure plan envisages low profile buildings consisting of one and two storey development.

60. It is recommended that the following provisions are included to address concerns relating to Goode Beach character:
- a) The Holiday Accommodation precinct is developed to provide a unique, high quality tourist resort designed to blend (not dominate) with its natural surrounds.
 - b) Prior to occupation of use, an Accommodation Management Plan being implemented to the satisfaction of the City of Albany. The Accommodation Management Plan is to be implemented by an on-site caretaker and is to provide criteria for appropriate behaviour of tenants considerate of surrounding landholders and the environment (e.g. management of noise and rubbish).

Views/Visual/Noise/Lighting

61. It was commented that development will create incidental impacts such as noise and night time lighting and also impact on neighbouring landholder views.
62. City staff believe that incidental impacts can be restricted via development controls. In particular, staff believe that minimum finished floor level heights should be incorporated to limit the overall height of the proposed two storey development.
63. It is recommended that the structure plan is supported for the following reasons:
- a) Buildings are not expected to be visible from the beach due to the height limits and a sand dune located between the beach and development.
 - b) The majority of Goode Beach is located on higher ground, which overlooks the subject site. Panoramic views to the ocean are not expected to be impacted due to future conditional development.
 - c) The development site is proposed in an area of depression – relative to surrounds. A ridge located between the proposed development site and the foreshore (beach) is expected to screen development.
 - d) Future development is proposed to be developed sympathetic to the natural surroundings.
 - e) Surrounding vegetation and landscaping is expected to provide screening and visual enhancement to surrounds.
 - f) Finished floor levels and building heights (2 storey) are proposed to be limited to protect the privacy of beach users.
 - g) Development is proposed to be clustered in the northern precinct of the subject lot – away from existing development and in a hollow.
64. It is recommended that the following provisions are included to allay concerns relating to any offsite impacts:
- a) An Accommodation Management Plan (noise) being implemented via a caretaker on-site.
 - b) Finished floor levels for buildings not exceeding 3.5m AHD. Variation to a maximum 5m AHD may be considered under the following circumstances:
 - Justification to the satisfaction of the City, that cut and retaining to achieve a 3.5m AHD is necessary and that the retaining may compromise the amenity of development (retaining above a height of 2m is considered excessive); and
 - Justification to the satisfaction of the City, that two storey development does not visually dominate the landscape when viewed from the ocean and surrounding developed areas; and
 - Justification to the satisfaction of the City, that the development does not overlook the beach fronting the subject land.
 - c) A design outcome utilising clustering of buildings and colours and materials to demonstrate that buildings are sympathetic within the site (namely landform and vegetation);

- d) Building height is limited as follows:
 - Unless otherwise approved by Council, the maximum building height to top of external wall (roof above) 6m.
 - Unless otherwise approved by Council, the maximum building height to top of external wall (concealed roof) 7m.
 - Unless otherwise approved by Council, the maximum building height to top of pitched roof 9m.
- e) Screening of incidental developments (e.g. bin storage areas), using bushfire resistant materials.
- f) Subdued night time lighting to the Goode Beach townsite (south west direction from subject site). Consider using low bollard lighting.

Aboriginal Heritage

65. It was commented that there is a strong probability that there are Aboriginal middens located where buildings and access roads are proposed (A 'midden' is an occupation site where Aboriginal people left the remains of their meals (e.g. shells)).
66. It was also commented that Vancouver Peninsula is well-documented in historical and contemporary sources as a place of high significance for Noongar cultural use and heritage (camping, hunting, quarrying, restricted ceremonies) and that a thorough archaeological survey of Lot 660 for Aboriginal artefacts, in conjunction with local Noongar people, is essential before any clearing and earthworks are undertaken.
67. The subject Lot 660 is not a registered site under the Aboriginal Heritage Act and therefore the proponent is not required under the Aboriginal Heritage Act to undertake an archaeological survey.
68. The *Department of Planning Lands and Heritage* (Department of Indigenous Affairs) commented that:
If there are burials in this area it is also likely that they could be exposed when any ground disturbing work occurs in the area requiring an immediate stop to works and reporting to the police (and then if they are determined to be of Aboriginal origin) and in-turn to our section. Should this occur the proponents should contact this office as soon as possible for further advice.
69. It is recommended that the following notation is included on the structure plan:
 - a) The Department of Aboriginal Affairs is to be notified should the construction phase reveal the presence of artefacts.

Consultation

70. It was commented that the City failed to suitably notify and consult with the community on the proposed structure plan.
71. The City undertook consultation in accordance with legislative requirements (*Planning and development (Local Planning Schemes) Regulations 2015 – Part 4 cl.18*).
72. The following consultation was undertaken:
 - a) Giving notice of the proposed structure plan to all landholders/community members in Goode Beach, which included inviting community members to make comment during the 28 day advertising period;
 - b) A sign was placed on-site to advertise the proposed structure plan.
 - c) A copy of the structure plan was given to the Frenchman Bay Association and a copy was made available on the City's website and at the City's offices.
 - d) The City included a summary of the structure plan to community members ('Conversation') plan;
 - e) The City facilitated a site meeting and conversation between consultants, City of Albany staff and councillors – to benefit the community members.

- f) The City facilitated meetings to show a three dimensional model of the subject site, between Councillors and the Frenchman Bay Association.
- g) The City facilitated a presentation to Councillors on-behalf of the Frenchman Bay Association.

The Structure Plan Process

73. It was commented that the structure planning process is being misused to secure approval for development.
74. The City sought clarification on the matter from the Department of Planning, Lands and Heritage. It was confirmed by the Department of Planning, Lands and Heritage that the structure planning process is in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
75. As the structure plan process has been confirmed as the appropriate approach, it is considered that the structure plan can be supported for the following reasons:
 - a) In accordance with the City's *Local Planning Scheme No.1*, development may be considered on the land zoned 'Special Use' and also on the land reserved for 'Parks and Recreation'. The reserve purpose, for the area around the Lake Vancouver, is 'Class C – Public Recreation'.
 - b) The structure plan is proposed to guide the scheme amendment process. The landholder proposes to change the 'Special Use' zone boundary and 'Parks and Recreation' reservation boundary. As defined in the *Planning and Development (Local Planning Schemes) Regulations 2015 (Part 4 cl14)*; *Structure Plan means a plan for the coordination of future subdivision and zoning of an area of land*.
 - c) The City has followed procedural requirements as stipulated in the *Planning and Development (Local Planning Schemes) Regulations 2015* to deal with the Structure Plan submitted.
76. It is recommended the following provision be included:
 - a) The structure plan (2018) proposes variations to current *Local Planning Scheme No.1* 'Special Use' zone and 'Parks and Recreation' reserve boundaries and scheme provisions. The *Local Planning Scheme No.1* is to be amended prior to supporting development proposed in accordance with the Structure Plan (2018), endorsed by the Western Australian Planning Commission.
 - b)
 - I. The planning scheme amendment process requires the Local Government to refer to the EPA a written notice of the proposal to amend a scheme; and such written information about the scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the *Environmental Protection Act 1986 (EP Act)*. Schemes and scheme amendments can only be referred to the EPA by the responsible authority. Upon receipt of a scheme or scheme amendment and such written information about the scheme or scheme amendment which enables the EPA to comply with section 48A of the EP Act, the EPA will decide whether the referred scheme or scheme amendment:
 - should not be assessed (advice and recommendations may be provided); or
 - should be assessed; or
 - is incapable of being made environmentally acceptable.
 - II. Prior to application for an amendment to the scheme, referral is to be made to the Department of Environment and Energy to determine if development constitutes a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999*.

Previous Decisions

77. It was commented that the structure plan has failed to consider previous decisions pertaining to the subject land.
78. The Minister for Environment (1993 EPA Statement 319) previously concluded that a proposal to subdivide the land into 15 lots is environmentally acceptable subject to:
- a) Protection of Lake Vancouver and provision of an adequate buffer of native vegetation.
 - Lake Vancouver has now been incorporated into a Crown Reserve and is managed by the City of Albany.
 - b) Stormwater management.
 - It is intended by the structure plan that an urban water management plan will be developed, consistent with Better Urban Water Management principles (WAPC, 2008) which will comply with the Ministerial Condition. Urban water management plans consider the treatment, storage and conveyance of 15mm events, 20% annual exceedance probability (AEP) events and 1% AEP events (respectively). It is proposed that there will be no direct drainage to either Lake Vancouver or Frenchman Bay and treatments such as soil amendment will be considered. The Department of Water and Environmental Regulation commented that, *the proposed methodology for dealing with the stormwater generated on site is considered acceptable.*
 - c) Groundwater use not being permitted.
 - Groundwater extraction is not proposed by the structure plan.
 - d) The setback of the development which includes road access, driveways and residences, from the coast shall take into account land capability and suitability.
 - The structure plan has taken into account the State Planning Policy 2.6 State Coastal Planning with setbacks being agreed with the Department of Planning, Lands and Heritage. Land capability (including management of erosion risk during construction) has also been considered. Access roads are proposed to be built keeping in mind environmental characteristics and limitations. See schedule of proposed provisions.
 - e) A Health Department of Western Australia approved alternative domestic wastewater treatment system, as proposed, with adequate phosphorus retention capacity should be installed.
 - The current proposal complies with the 2016 Draft Government Sewerage Policy. It is proposed to install a package treatment plant that provides secondary treatment and removes nutrients (to 1 mg/L of phosphorus and 10 mg/L of nitrogen) as per 2016 Draft Government Sewerage Policy. The unit will also remove pathogens. Irrigation of the treated waste water will be set back from Lake Vancouver and spread over a minimum area of 4000 m² (in compliance with Schedule 3: Site Requirements for On-site Sewerage Disposal Systems in 2016 Draft Government Sewerage Policy and Department of Health (2015) Supplement to Regulation 29 and Schedule 9 – Wastewater System Loading Rates).
 - f) Indigenous vegetation shall be retained on all areas of the site that are not required to be cleared for building envelopes, fences, firebreaks, access and servicing. Areas cleared of indigenous vegetation shall be rehabilitated with indigenous species in accordance with guidelines developed by the Shire of Albany on advice from the Environmental Protection Authority. Satisfactory arrangements shall be made with the Shire of Albany to ensure the on-going maintenance of both the existing vegetation and the revegetation established; by the developer outside the areas cleared for building envelopes, fences, firebreaks, access and servicing.

- Other than the 2.1 ha proposed to be cleared for the current development, no other vegetation will be cleared. The remaining vegetation will be retained and managed to reduce risk of weeds and dieback. Any rehabilitation will use local native species (noting that landscaping within the development foot print will use a combination of native and non-native species). These objectives will be achieved through preparation of a vegetation protection plan/construction management plan at the development approval stage.

Soils

79. A number of submissions commented that:
- a) Poorly compactable soils are unsuitable for roadworks or building foundations; and
 - b) Importing suitable soil carries the risk of introducing phytophthora infection to the Lake Vancouver wetlands and adjacent Reserve.
80. To address these concerns, it is recommended that the structure plan is supported for the following reasons:
- a) Development is required to occur in accordance with a Geotechnical assessment. The geotechnical assessment is a standard procedure undertaken by a qualified engineer. The geotechnical assessment classifies soil structure and identifies necessary development measures, which may include transporting soil that's suitable for foundation.
 - b) In consultation with an environmental professional it is believed that, Phytophthora is likely to be present in all soils and to be dominant in clay soils (not so much sandy – building soils) that hold water.
81. It is recommended that the following provisions are included to allay concerns relating to soils:
- a) Development is to occur in accordance with a Geotechnical report to the satisfaction of the City.
 - b) Prior to commencement of earthworks, a sand/dust/erosion management plan is to be developed and implemented to the satisfaction of the City.
 - c) Areas disturbed during development are to be stabilised and/or restored having regard to:
 - Cleared shrubs and trees should be chipped and used for mulching and not removed;
 - Topsoil should be re-used;
 - The duration of sand stockpiling should be minimised;
 - Vegetation cover should be established as quickly as possible;
 - Land should be cleared and rehabilitated in sequence, not simultaneously;
 - d) The site should be monitored during and after construction, and any eroding areas repaired.

Unexploded ordnance

82. It was commented that there may be unexploded ordnance on the land.
83. Historical research has revealed that during the past 100 years, former elements of the Australian Defence Forces may have conducted training and/or operational activities within or close to the area of the proposed development. It is possible that as a result of these activities, the subject area may contain unexploded ordnance (UXO). Whilst it is considered that the possible risk from UXO on the land is minimal, an absolute guarantee that the area is free from UXO cannot be given.

84. Having consulted with the Department of Fire and Emergency Services on the matter of UXO, the City recommends including the following as a notation to the structure plan:
- a) Should, during development works, or at any other time, a form or suspected form of UXO be located, the following process should be initiated:
 - i. do not disturb the site of the known or suspected UXO;
 - ii. without disturbing the immediate vicinity, clearly mark the site of the UXO;
 - iii. notify Police of the circumstances/situation as quickly as possible; and
 - iv. maintain a presence near the site until advised to the contrary by a member of the WA Police Service or Defence Forces.

GOVERNMENT & PUBLIC CONSULTATION

85. Local Structure Plan No.9 was advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. Structure Plans require advertising in accordance with Part 4, cl.18 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Reg's).
86. The City advertised the structure plan in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* as follows:
- a) By giving notice of the proposed structure plan to all landholders in Goode Beach, which included inviting landholders to make comment – 28 day advertising period.
 - The City provided a summary of the structure plan to landholders ('Conversation Plan'); and
 - Facilitated a site meeting and conversation between consultants, City of Albany staff and Councillors – to benefit the landholders.
 - b) By placing a sign on-site.
 - c) By making a copy of the structure plan available on the City's website and as hard copy to the Frenchman Bay association and at the City's offices.
87. Submissions were received from government agencies and members of the public. Submissions have been provided to the Councillors as an original and as summarised in the attached Schedule of Submissions.
88. Commentary on the submissions has been provided in this report item and in the attached Schedule of Submissions.

STATUTORY IMPLICATIONS

89. Local Structure Plans undergo a statutory process in accordance with Schedule 2, Part 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
90. Schedule 2, Part 4, clause 19 requires the local government to consider the submissions made within the period specified in the notice advertising the structure plan.
91. Schedule 2, Part 4, clause 20 requires the local government to prepare a report to the Western Australian Planning Commission, including a recommendation on whether the proposed structure plan should be approved by the Commission.
92. Voting requirement for this item is **SIMPLE MAJORITY**
93. Following endorsement of the structure plan, a scheme amendment proposal to modify zone and reserve boundaries and to introduce additional provisions into the scheme, may be undertaken to reflect structure plan requirements.

POLICY IMPLICATIONS

94. The following policies are applicable and have been considered for the assessment of the structure plan:
- a) *Draft Government Sewerage Policy*
 - b) *State Planning Policy 2.6 Coastal Planning*
 - c) *State Planning Policy No. 2.9 Water Resources*
 - d) *State Planning Policy 3.7 Planning in Bushfire Prone Areas*
 - e) *Liveable Neighbourhoods*.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Reputation.</p> <p><i>Risk: 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>
Opportunity: <i>To expand the tourism opportunities for the Goode Beach area</i>				

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

98. The structure plan was referred to the Department of Biodiversity, Conservation and Attractions, the Department of Water, Environment and Regulation and the Department of Health.

Department of Biodiversity, Conservation and Attractions

99. The Department of Biodiversity, Conservation and Attractions recommended no direct discharge of stormwater into Lake Vancouver and targeted surveys for threatened flora and fauna.
100. In response to the Department of Biodiversity and Attractions comment, it is recommended that:
- a) Stormwater management measures are implemented in accordance with an Urban Water Management Plan, to the satisfaction of the City; and
 - b) Referral to the Environmental Protection Authority and the Department of Environment and Energy is required to determine if clearing of vegetation constitutes a controlled action in accordance with the EPA Act and the Biodiversity Act. It needs to be understood that the consultant working on behalf of the structure plan undertook extensive environmental research including:
 - I. The classification of vegetation on the subject land by comparison to a mosaic of the Albany Regional Vegetation Survey Units (Peppermint low forest, coastal heath and coastal limestone heath) undertaken for land to the north of the subject site.

- II. It was determined by the consultant that the vegetation units located in the subject area are well represented in the Albany region.
- III. The environmental consultant also undertook a targeted survey of the area proposed to be cleared for the Threatened flora species, *Calectasia cyanea* (Blue Tinsel Lily). The species was not detected and it was also noted that the habitat surveyed (*Agonis flexuosa*/ *Adenanthos sericeus* Closed Scrub) was not likely to host the species.

Department of Water and Environmental Regulation

101. The Department of Water and Environmental Regulation who are not in support of the proposal recommended protection of wetland vegetation, protection of water quality, groundwater testing, setback to wetland vegetation and management criteria to protect reserve areas.
102. In accordance with the agency comments and the draft Government Sewerage Policy (2016), it is recommended that:
 - a) Wetland vegetation surrounding the Lake Vancouver is protected.
 - b) A minimum 100m buffer is required from the edge of the open water of Lake Vancouver to future development.
 - c) A minimum 100m buffer is required from the edge of the wetland vegetation to effluent disposal.
 - d) Management measures being implemented in accordance with a Foreshore Management Plan, Urban Water Management Plan and Remnant Vegetation Management Plan, to the satisfaction of the City, in consultation with the Department of Water, Environment and Regulation and the Department of Biodiversity, Conservation and Attractions.
 - e) Ongoing groundwater testing in consultation with the Department of Water, Environment and Regulation. Note; the structure plan has considered Hydrological data recorded for the site (Rockwater) and more recent groundwater data collected post November 2016. A groundwater report developed for the subject area (Groundwater Aspects of Residential Development, Alan Tingay and Associates 1992) concluded that a buffer zone of 60 m between residential development and Lake Vancouver is suitable. The report stated that this will provide opportunity for nutrient extraction by vegetation, and add to the protection of the lake water.
 - f) Effluent being managed to the satisfaction of the Department of Health.

Department of Health

103. A provision is recommended to address the Department of Health comment, which included:
Separate approval is required for any on-site waste water treatment process with such proposals being in accordance with DOH publications.

Environmental Protection Authority

104. The City was advised by the Department of Water and Environmental Regulation that Ministerial Statement 319 related to the Site. The Ministerial Statement was published in 1993 and supported the rezoning and subdivision of the land as it was then known for Special Residential Development.
105. It was deemed that, because the proposal contained within the Structure Plan differed from the proposal contemplated in the Ministerial Statement 319, a request should be submitted to the EPA Chairman to amend the Ministerial Statement pursuant to section 45C of the *Environmental Protection Act 1986* (EP Act). Section 45C of the EP Act allows a proposal to be amended by the Minister after a ministerial statement has been issued without the entire proposal having to be reassessed by the EPA.

106. The proponent followed this advice and submitted a section 45C request accordingly. The proponent sought and received approval from the Commission for an extension of time for structure plan assessment.
107. In response to the section 45C request, the EPA determined that, because the structure plan differs from the original special residential proposal, the structure plan constitutes a new proposal. Subsequently, the EPA invited the proponent to withdraw the section 45C. The EPA recommended that it would be more appropriate to assess the current proposal in the statutory context of a scheme amendment referral.
108. It is recommended that the structure plan is endorsed for the following reasons:
- a) The EPA considers it more appropriate to assess the current proposal in the statutory context of a scheme amendment referral, which follows the structure planning process. If the Structure Plan is approved, the EPA will have a better opportunity and power to provide a fully informed comment in respect of the proposal at the amendment stage.
 - b) The City's Local Planning Scheme is an assessed scheme for the purposes of the Environmental Protection Act, meaning that it has been duly considered by the Environmental Protection Authority as part of its approval process. As part of the Environmental Protection Authority's assessment of the scheme, no environmental conditions were imposed on the subject Lot 660.

ALTERNATE OPTIONS

109. Council may consider alternate options in relation to the structure plan, including:
- a) Recommend, with justification, that the Western Australian Planning Commission not approve the proposed structure plan; or
 - b) Recommend that the Western Australian Planning Commission approve the proposed structure plan subject to additional modifications and or provisions.
110. The Local Government is required to make a recommendation on the proposed structure plan, to the Commission, by the 27 July 2018. Alternatively, Council may resolve to request an extension of time to:
- a) Consider submissions;
 - b) Request further information; and
 - c) Advertise any modifications proposed to the structure plan to address issues raised in submissions.

CONCLUSION

111. In accordance with the City's *Local Planning Scheme No.1*, tourist development may be considered at the subject Lot 660.
112. Local Structure Plan No.9 is proposing changes to the City's *Local Planning Scheme No.1*, including:
- A 'Holiday Accommodation Precinct' comprising:
 - Maximum ten (10) two storey holiday accommodation buildings comprising maximum total 51 units (approximately 5 units each);
 - Maximum 120 persons at capacity;
 - Function centre also developed as a refuge (bushfire) building;
 - Café/dining/restaurant; and
 - Manager's residence.
 - A 'Development Buffer Precinct' comprising:
 - Access, car parking, waste treatment, pool and asset (bushfire) protection.
 - A 'Remnant Vegetation Precinct', comprising:
 - Vegetation protection; and
 - Access.

113. The ‘Holiday Accommodation Precinct’ is proposed to be developed to provide a unique, high quality tourist resort designed to integrate with its natural surrounds and not to impact on surrounding landholders or beach users.
114. Stringent environmental protection measures are proposed across the site to recognise the iconic location and significance of the area (beach, foreshore reserves and Lake Vancouver).
115. A reputable manager is proposed to be accommodated on-site to oversee operations.
116. The Environmental Protection Authority was consulted on environmental grounds and it was determined that referral should be made to the Environmental Protection Authority at the scheme amendment stage. The structure plan will not actually have any practical effect until the scheme amendment is finalised at which time referral to the EPA is required.
117. The structure plan has been developed in accordance with the *Planning and Development Regulations 2015*.
118. The proponent and the City have undergone significant stakeholder engagement with various relevant government agencies and landholders in respect of the Structure Plan.
119. There is no further outstanding information required to finalise the assessment of the Structure Plan and should proceed for formal consideration by the Western Australian Planning Commission.
120. Council is now asked to consider comments received and is requested to recommend that the Commission supports the Local Structure Plan No.9, subject to provisions, including:
- a) The City’s *Local Planning Scheme No.1* is amended prior to development, in accordance with the Structure Plan No.9;
 - b) At the scheme amendment stage, the Structure Plan is referred to the Environmental Protection Authority and the Department of Environment and Energy to determine if development constitutes a controlled action under the EPA Act and EPBC Act; and
 - c) Development is limited to the following, as depicted on the structure plan:
 - ‘Holiday Accommodation Precinct’ comprising:
 - Maximum ten (10) two storey holiday accommodation buildings comprising maximum total 51 units (approximately 5 units each);
 - Maximum 120 persons at capacity;
 - Function centre also developed as a refuge (bushfire) building;
 - Café/dining/restaurant; and
 - Manager’s residence.
 - ‘Development Buffer Precinct’ comprising:
 - Access, car parking, waste treatment, pool and asset (bushfire) protection.
 - ‘Remnant Vegetation Precinct’, comprising:
 - Vegetation protection; and
 - Access.

Please refer to the ‘Schedule of Provisions’ for a full list of proposed provisions.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>State Planning Policy 3.7 Planning in Bushfire Prone Areas.</i> 2. <i>Draft Government Sewerage Policy.</i> 3. <i>Local Planning Strategy (2010).</i> 4. <i>Local Planning Strategy (Draft 2018).</i> 5. <i>Local Planning Scheme No. 1.</i> 6. <i>City of Albany Strategic Community Plan 2023.</i> 7. <i>State Planning Policy No. 2.9 Water Resources (2006).</i> 8. <i>Liveable Neighbourhoods (2009).</i> 9. <i>EPA Ministerial Bulletin and Statement (1993).</i> 10. <i>1987 Resort approval.</i> 11. <i>Amendment No 143 – Minister Approval letter.</i>
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		12. <i>Amazing South Coast – Project Sheet.</i> 13. <i>State Government Strategy for Tourism in Western Australia 2020.</i>
File Number (Name of Ward)	:	LSP9 (Vancouver Ward)
Previous Reference	:	Nil

DIS105: FURTHER INFORMATION ON LOCAL STRUCTURE PLAN NO.12 – LOT 3 TOLL PLACE, ALBANY.

Land Description	: Lot 3 Toll Place, Albany
Proponent	: Harley Dykstra
Business Entity Name	: Foreshore Investments Albany Pty Ltd (P Lionetti)
Attachments	: Local Structure Plan No.12 (Includes Acoustic Assessment) Schedule of Submissions and Recommendations <i>Albany Waterfront - Memorandum of Agreement (2007)</i>
Supplementary Information & Councillor Workstation	: Copy of Submissions TranScore Traffic Assessment Report
Report Prepared By	: Senior Planning officer – Strategic Planning (A Nicoll)
Responsible Officers:	: Executive Director Development Services (P Camins)

8.06pm Councillor Terry declared a Financial Interest in this item and left the Chamber.

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

STRATEGIC IMPLICATIONS

1. In 2011, a structure plan was endorsed to guide land use and development at the Albany Waterfront.
2. This application proposes to modify this structure plan to guide development of a hotel, car parking and permanent accommodation in the form of multiple dwellings, at Lot 3 Toll Place, Albany Waterfront.
3. In making a decision on the proposed modified structure plan, the Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2010, Community Strategic Plan – Albany 2030* and *Albany Waterfront – Memorandum of Agreement (2007)*.
4. The structure plan complies with the Albany Community Strategic Plan.
 - The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).
5. The structure plan does not principally comply with the *Albany Local Planning Strategy 2010* and *Albany Waterfront – Memorandum of Agreement (2007)*.
 - The *Albany Local Planning Strategy (2010)* seeks to encourage the development of the Structure Plan area for 'Tourist Accommodation'.
 - The *Albany Waterfront - Memorandum of Agreement (2007)* seeks to prohibit permanent residential activity at the subject land.
6. The vision of the *Albany Waterfront - Memorandum of Agreement (2007)* is to:
 - *Create a sustainable, attractive and exciting world-class waterfront precinct for the Albany community, the Great Southern Region, and visitors to the region.*
7. Various parcels of land at the Albany Waterfront remain vacant and awaiting investment. The owner of Lot 3 Toll Place is prepared to invest in the development of a Hotel, however also desires to construct permanent accommodation. The proponent proposes that the permanent accommodation is required to support the year round operation of other land uses such as shops, offices and restaurants.
8. A variation to the City's Local Planning Strategy and Memorandum of Agreement may be considered in light of the *State Planning Bulletin No. 83 – Planning for Tourism*.

- The *State Planning Bulletin No. 83 – Planning for Tourism* indicates that local governments may set a limit to residential development as part of a tourist site within their local planning strategy.

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



In Brief:

- This item has been prepared to seek Council support in addressing the noise related aspects of the structure plan prior to its full consideration. All items will be subject to discussion in the full item for the Structure Plan. The scope of this item is limited to addressing the required noise assessment.
- A modified structure plan has been prepared to facilitate modifications to the 'Accommodation' precinct (Lot 3 Toll Place), located at the Albany Waterfront.
- Modifications include:
 - Introducing permanent accommodation;
 - Reduced setback to Princess Royal Drive; and
 - Allowing basement parking.
- An 'Acoustic concept design document' (desktop review) was completed for the structure plan, to determine 'general' internal noise criteria.
- Southern Ports commented that the 'acoustic concept design document', is not detailed enough to recommend the suitability of permanent residential and/or a specific noise control package for the proposed development.
- In light of comment received from Southern Ports, city staff requested that the proponent undertake a 'detailed acoustic assessment'.
- Instead of undertaking a detailed assessment, the proponent recommended that the following provision be included, which requires a detailed acoustic assessment at the development stage:

- *A detailed acoustic assessment is required to support a Development Application detailing the design, construction measures and acoustic treatments incorporated to adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA(Max)).*
- Although this provision may address the concerns raised to some extent it is not enough to deal with the additional information/updates required and to provide certainty that the mitigation is indeed feasible, achievable or something that is considered appropriate e.g. it could include a 10m high noise wall.
- The following additional information is therefore still required;
 - An updated noise contour plan that includes data provided by Southern Ports and their consultants; and
 - an appropriate noise package detailing attenuation measures to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA(Max)).
- Council is requested to agree that prior to making a recommendation to WAPC, the City of Albany seek input from the Southern Ports, the Department of Planning, Lands and Heritage and the Department of Water and Environmental Regulation on the above proposed provision.

RECOMMENDATION

**DIS105: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR STOCKS**

THAT Council:

1. **NOTE** that WAPC has agreed to an extension of time to submit a recommendation on the proposed Structure Plan.
2. **SUPPORT** City of Albany staff seeking the following information from the applicant:
 - Updated noise contour plan that includes data provided by Southern Ports and their consultants ;and
 - The appropriate noise package to adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA_(Max)).
3. **SUPPORT** City of Albany staff seeking further input from the Southern Ports, the Department of Planning, Lands and Heritage and the Department of Water and Environmental Regulation on the below proposed provision:

A detailed acoustic assessment is required to support a Development Application detailing the design, construction measures and acoustic treatments incorporated to adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA_(Max)).
4. **NOTE** that after consultation, a recommendation regarding the structure plan will be made to Council.

CARRIED 12-0

DIS105: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR STOCKS

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-1

DIS105: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. NOTE that WAPC has agreed to an extension of time to submit a recommendation on the proposed Structure Plan.
2. SUPPORT City of Albany staff seeking the following information from the applicant:
 - Updated noise contour plan that includes data provided by Southern Ports and their consultants ;and
 - The appropriate noise package to adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA_(Max)).

3. SUPPORT City of Albany staff seeking further input from the Southern Ports, the Department of Planning, Lands and Heritage and the Department of Water and Environmental Regulation on the below proposed provision:

A detailed acoustic assessment is required to support a Development Application detailing the design, construction measures and acoustic treatments incorporated to adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA_(Max)).

4. NOTE that after consultation, a recommendation regarding the structure plan will be made to Council.

BACKGROUND

9. The subject land comprises Lot 3 Toll Place Albany, which is zoned 'Special Use' area No.15.
10. Lot 3 Toll Place is located to the east of the Albany Entertainment Centre.
11. The 'Albany Waterfront Structure Plan (2011)' applies to the subject land to provide a detailed framework for land use and development.
12. Structure planning of the waterfront is broken up into precincts. Lot 3 Toll Place is defined as being part of the 'Accommodation Precinct'.
13. The 2011 structure plan states:

Accommodation Precinct [2] is to the eastern side of the Toll Place spine comprising a hotel and short stay/serviced apartments...2.4.1 No permanent residential developments are permitted in the Albany Waterfront...4.6 No basement or part basement parking is permitted...2.1 All buildings will be set back a minimum of 25m from the Princess Royal Drive road reserve boundary.

14. The Albany Waterfront - Memorandum of Agreement (2007) between the City of Albany and the State of Western Australia also applies to subject land. The agreement states:

5. COMMITMENTS TO THE COMMUNITY

The State of Western Australia and the City of Albany are committed to the following underlying principles regarding the development and ongoing operation of the Albany Waterfront...Prohibition of permanent residential activity.

15. The proponent of Lot 3 Toll Place submitted a MODIFIED structure plan proposing a series of land use and urban structure modifications, pertaining to the Accommodation Precinct of the approved *Albany Waterfront Structure Plan (2011)*.
16. The proponent has specified that the modifications will:
 - a) Provide increased flexibility with the design and siting of development and land use;
 - b) Serve as a catalyst to promote further development within the Albany Waterfront area; and
 - c) Contribute towards providing the critical mass required to support the year round operation of other land uses such as shops, offices and restaurants.
17. Seven modifications are proposed to the *Albany Waterfront Structure Plan (2011)*. It should be noted that there are no changes to existing building height or scale standards. Furthermore, the primary land use for the site will remain for Tourist purposes, with measures proposed to permit a limited amount of permanent residential accommodation. It should also be noted that endorsement of the structure plan is a catalyst for the Department of Planning, Lands and Heritage to make a recommendation to the Minister for Planning on changing the *Albany Waterfront - Memorandum of Agreement (2007)*.
18. The modifications proposed to the structure plan are summarised in the below table:

Structure Planning		
	Existing Provisions	Proposed Provisions
1.	No permanent residential developments are permitted in the Albany Waterfront (c24.1).	1. <i>No permanent residential development is permitted in the Albany Waterfront Structure Plan Area, with the exception of Multiple Dwellings being a discretionary land use within the Accommodation Precinct. Multiple Dwellings are not permitted on the ground level fronting the Waterfront Promenade.</i>
2.	No provision for prioritising the location of tourism development.	2. (A) <i>The scale of any residential development is to complement the tourism component and priority is to be given to locating the tourism component(s) on those areas of the site providing the highest tourism amenity.</i> 2. (B) <i>Any staging of development is to occur so that the tourism development and provision of facilities occurs prior to, or concurrently with, any residential development.</i> 2. (C) <i>Multiple dwelling development shall not exceed a Gross Floor Area of 6,800m2.</i>
3.	Building footprints shown on Structure Plan.	3. <i>Revising the building footprints to the Accommodation Precinct to provide improved pedestrian connectivity through the Waterfront Area via revised pedestrian access points, and enable increased flexibility of building design and siting, while maintaining key principles of the Design Guidelines.</i>
4.	No basement or part basement parking is permitted (c4.6).	4. <i>Basement parking, or part basement parking, to protrude a maximum 1.5m above the natural ground level of the Accommodation Precinct, excluding the active ground floor interface with the Waterside Promenade.</i>

5.	All buildings will be setback a minimum of 25m from the Princess Royal Drive road reserve boundary (c2.1).	<i>5. Revise the building setback to Princess Royal Drive from 25m to 19m within the Accommodation Precinct to allow increased flexibility with design and siting of buildings.</i>
6.	Nil	<i>6. All Holiday Accommodation and Multiple Dwellings located within the Accommodation Precinct are to incorporate Quiet House Design Package B.</i>
7.	Nil	<p><i>7. (A) Prior to development commencing a Management Statement is to be prepared in consultation with the City of Albany to ensure all Holiday Accommodation units will be let out for tourism purposes, preferably by an on-site letting agent (manager).</i></p> <p><i>7. (B) Prior to development commencing a Management Statement is to be prepared in consultation with the City of Albany to address amenity and mitigation measures associated with the Port and Entertainment Precinct.</i></p> <p><i>7. (C) The Local Government may consider the use of a Section 70A notification being placed on the Title(s) to advise prospective purchasers of potential impacts that may arise from activities associated with the Albany Waterfront or Port of Albany.</i></p>

19. An 'Acoustic concept design document' (desktop review) was completed for the structure plan, to determine 'general' internal noise criteria. The assessment determined that development should adequately attenuate external noise in accordance with the *State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning*.
20. The City of Albany advertised the proposed modified Local Structure Plan No.12 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
21. At the close of advertising, the City of Albany received nineteen (19) submissions commenting on the proposed structure plan.
22. The Western Australian Planning Commission has granted an extension of time, whilst the City awaits comment from the Department of Water and Environmental Regulation.

DISCUSSION

23. The proposed modified Structure Plan supports permanent residential accommodation in the form of multiple dwellings. The Structure Plan argues that permanent residential accommodation will contribute towards providing the critical mass required to support the year round operation of other land uses such as shops, offices and restaurants.
24. The Structure Plan is proposing measures to ensure that the function of the road users and Port remain. Proposed measures include:
 - a) That development implements a Management Statement to ensure Holiday Accommodation units address amenity and mitigation measures associated with activities at the Port and Entertainment Precinct;
 - b) The use of a Section 70A notification being placed on the Title(s) to advise prospective purchasers of potential impacts that may arise from activities associated with the Albany Waterfront or Port of Albany; and
 - c) All holiday accommodation and multiple dwellings located within the accommodation precinct incorporate design measures to limit noise.

25. This item has been prepared to seek Council direction in addressing the noise related aspects of the Structure Plan prior to its full consideration. Commentary on the full submissions will be provided in the full report item and attached as a Schedule of Submissions.
26. An 'Acoustic concept design document' (desktop review) was undertaken as part of the proposal to determine impacts of noise and vibration. The assessment established that:
 - a) vibration mitigation measures are not deemed necessary; and
 - b) *'Measured noise levels are generally in good agreement with noise levels predictions'*.
27. The proposed Structure Plan includes provisions to address noise issues, including;
 - a) Provision for the application of a Section 70A notification to be placed on all title(s) to advise prospective purchasers of potential impacts that may arise from activities associated with the Albany Waterfront or Port of Albany; and
 - b) All holiday accommodation and multiple dwellings located within the accommodation precinct are to incorporate design measures (Package B as defined by *State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning*) to limit noise.
28. Southern Ports believe that a more detailed acoustic assessment should be undertaken to consider maximum noise measurements, LA_{max} (e.g. night time noise and the sound of a train horn). Southern Ports argues that maximum noise readings provide a more accurate reflection of the short-term noise impact to residents, especially regarding sleep disturbance at night. Their submission states that:
 - a) *The use of the LA_{eq} metric (as specified by SPP 5.4 Road and Rail Noise) does not adequately reflect the level of noise disturbance generated by freight rail due to the low volume of movements on the network, resulting in reduced urban amenity for noise-sensitive land uses, such as permanent residential dwellings.*
29. Southern Ports also stated that:
 - *SPP 5.4 does not require noise sensitive development to adequately address noise generated by low volume road and rail operations; and*
 - *The acoustic report provided in support of the proposed modifications is not compliant with SPP 5.4 or detailed enough to recommend the suitability of permanent residential and/or a specific noise control package for the proposed development.*
30. LA_{eq} metric refers to noise levels, measured over a period of time that is then averaged over that time.
31. LA_{max} refers to the maximum noise level recorded over a stated period.
32. According to the *Environmental Protection (Noise) Regulations 1997* the 55dB level is the maximum sound limit that should not be exceeded in a highly Sensitive area within a Noise sensitive premises e.g. inside a sleeping area of a residential building.
33. The noise acoustic assessment undertaken to determine appropriate building design considered average noise levels, LA_{eq} from surrounding land use.
34. In response to comment received from Southern Ports, City staff requested that the proponent prepare a more detailed acoustic assessment. The proponent declined to undertake a detailed acoustic assessment and instead recommended that the following condition of development is included in the structure plan:
 - *A detailed acoustic assessment is required to support a Development Application detailing the design, construction measures and acoustic treatments incorporated to adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB ($LA_{(Max)}$).*

35. Although this provision may address the concerns raised to some extent it is not enough to deal with the additional information/updates required and to provide certainty that the mitigation is indeed feasible, achievable or something that is considered appropriate e.g. it could include a 10m high noise wall.

The following additional information is therefore still required;

- An updated noise contour plan that includes data provided by Southern Ports and their consultants; and
 - an appropriate noise package detailing attenuation measures to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA_(Max)).
36. Further, in respect to the matter of noise, a number of public comments objected to the proposal to allow permanent residential accommodation on the grounds that:
- a) The number of people using the precinct will be significantly reduced, further deadening rather than enlivening the waterfront; and
 - b) Council will receive complaints about noise, which may inadvertently lead to a request to further change the *Albany Waterfront - Memorandum of Agreement (2007)*, which seeks to protect 24 hour a day, 7 day a week heavy haulage access to the Port of Albany.
37. Based on comments received, it is recommended that Council agree that the City of Albany seek input from the Southern Ports, the Department of Planning, Lands and Heritage and the Department of Water and Environmental Regulation on the provision proposed by the proponent, prior to making a recommendation to WAPC.

GOVERNMENT & PUBLIC CONSULTATION

38. Local Structure Plan No.12 was advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. Structure Plans require advertising in accordance with Part 4, cl.18 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Reg's).
39. The City advertised the structure plan in accordance with the Reg's as follows:
- a) By giving notice of the proposed structure plan to neighbouring landholders;
 - b) By giving notice of the proposed structure plan in the local newspaper;
 - c) By giving notice of the proposed structure plan via a sign on-site;
 - d) By making a copy of the structure plan available on the City's website and as hard copy at the City of Albany offices (102 North Road).
40. Submissions were received from government agencies and members of the public.

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

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

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

In accordance with SPP5.4, the structure plan seeks to protect occupants from transport noise via quiet house design and notifications on title.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation. The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>If not supported by the WAPC or Minister, the proponent has a right of appeal.</i>
Opportunity: <i>Increase opportunity for servicing, land use and development.</i>				

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

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

ALTERNATE OPTIONS

- 51. Council may consider alternate options in relation to seeking more information regarding the structure plan, including;
 - a) Seeking no additional information and making a recommendation to the Western Australian Planning Commission.

CONCLUSION

- 52. This item has been prepared to seek Council support in addressing the noise related aspects of the structure plan prior to its full consideration.
- 53. Local Structure Plan No.12 is proposing changes to the Albany Waterfront Structure Plan (2011).
- 54. Modifications proposed include:
 - a) Introducing permanent residential accommodation;
 - b) Reduced setback to Princess Royal Drive; and
 - c) Basement parking.

55. The Southern Ports contend that an acoustic assessment completed to support the structure plan, should consider maximum noise levels and not just average noise levels.
56. Instead of undertaking a detailed assessment, the proponent recommended that the following provision be included, which requires a detailed acoustic assessment at the development stage:

A detailed acoustic assessment is required to support a Development Application detailing the design, construction measures and acoustic treatments incorporated to adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA(Max)).

57. Prior to considering the Structure Plan, Council is requested to agree that the City of Albany:
- a) Request the following additional information;
 - (i) An updated noise contour plan that includes data provided by Southern Ports and their consultants; and
 - (ii) an appropriate noise package detailing attenuation measures to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA_(Max)).
 - b) Seek input from the Southern Ports, the Department of Planning, Lands and Heritage and the Department of Water and Environmental Regulation on the above proposed provision. Although this provision may address the concerns raised to some extent it is not enough to deal with the additional information/updates required and to provide certainty that the mitigation is indeed feasible, achievable or something that is considered appropriate e.g. it could include a 10m high noise wall.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy (2010)</i> 3. <i>State Planning Policy No.3 – Urban Growth and Settlement</i> 4. <i>State Planning Bulletin No. 83 – Planning for Tourism</i> 5. <i>State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning.</i>
File Number (Name of Ward)	:	LSP12 (Frederickstown Ward)
Previous Reference	:	Nil

8.12pm Councillor Terry returned to the Chamber. Councillor Terry was not present during the discussion and vote for this item.

DIS106: INDUSTRY – EXTRACTIVE (LIME), LOT 9005 EDEN ROAD, NULLAKI

Land Description	: 9005 Eden Road, Nullaki.
Proponent	: Sam Williams
Owner	: Graeme Robertson
Business Entity Name	: N/A
Directors	: N/A
Attachments	: Schedule of Submissions, Copy of Proposal, Area Plan, Site Plan, Updated site plan and letter amending application
Report Prepared by	: Coordinator Planning Services (A Bott)
Responsible Officer	: Executive Director Development Services (P Camins)

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 inconsistent with the strategic direction identified in the *Albany Local Planning Strategy*.

Maps and Diagrams:



* Noting the original assessment of this application was in 2017, a number of Government agencies have subsequently had name changes. In order to avoid confusion, all Government Departments will be referred to as they were at the time of consultation.

In Brief:

- At September 2017 Council Meeting, Council resolved to refuse an application for a lime pit at Lot 9005 Eden Road, Nullaki.
- The applicant subsequently appealed the decision to the State Administrative Tribunal for review.
- In orders dated 1 June, 2018, the State Administrative Tribunal required Council to reconsider its decision in respect to the – Extractive (Lime), at Lot 9005 Eden Road, Nullaki.
- Through the SAT process, the proponent has provided the City with additional information in support of the application, including;
 - Revised site plan of 8ha in area, which incorporates the separate stock pile area previously proposed into the excavation area.
 - Amended months of operation and transport between December and March.
 - An expected 8 truck movements in and 8 movements out per day.
 - Upgrading of the Lee Road extension prior to commencement of operation
- The proposal seeks to initially extract 20,000 tonnes of lime per a year, with a potential increase to 50,000 per year and possibly extending to 100,000 tonnes per year. It is proposed to cart the extracted lime from site via Lee Road.
- The applicant has proposed a yearly royalty of the lesser of 5% of revenue from the lime pit operation, or \$30,000 per financial year, being made to the Nullaki Wilderness Association.
- The application was advertised for public comment and referred to Government agencies.
- 75 public submissions were received in relation to the proposal. Six submissions supported the proposal, with 69 providing objections or serious concern.
- Support of the proposal was based on manageable environmental impacts and a need for lime within the agricultural sector.
- The submissions opposing the development relate to the non-compliance with the Conservation zone, proposed access route, noise, dust, proximity to dwellings and health issues.
- The proposal was referred to the Environmental Protection Authority (EPA) by the applicant, with the matter being deferred until a determination was made. The EPA determined on 16 August, 2017 that the proposal would not be assessed by the EPA, with the matter capable of being dealt with by the standard clearing permit process.
- Extractive Industry is not a use that shall be permitted or a use that may be permitted under clause 3 of Schedule 12 (CZ1). The only other type of use that may be permitted under clause 3 is “Other incidental or non defined activities considered appropriate by the Local Government which are consistent with the objectives of the Zone”. The Extractive Industry use proposed is not an incidental or non defined activity, nor is it consistent with the objectives of the Zone.
- The Department of Planning made a submission to the City of Albany providing an objection to the matter. Officers consider the Department of Planning submission holds significant importance for the determination of the matter.
- While the proposal is broadly compliant with the City of Albany *Extractive Industries and Mining Local Planning Policy* it is considered that the proposal remains inconsistent with the objectives and provisions of Conservation zone CZ1, as contained within *Local Planning Scheme No.1*.
- Having considered the revised information received, and the requirement to reconsider the proposal, staff remain of the view that the proposal is not consistent with the objectives and provisions of the Conservation zone, and recommend that Council refuse the proposed development.

RECOMMENDATION

**DIS106: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR TERRY**

THAT Council resolves to ISSUE a notice of REFUSAL for Industry – Extractive (Lime) at Lot 9005 Eden Road, Nullaki, for the following reasons;

- (1) The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, namely;**
 - (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;**
 - (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving**
 - (n) the amenity of the locality including the following –**
 - (i) environmental impacts of the development;**
 - (ii) the character of the locality;**
 - (iii) social impacts of the development;**
 - (y) any submissions received on the application;**
 - (za) the comments or submissions received from any authority consulted under clause 66;**
- (2) The proposal does not comply with the general objectives of the Conservation Zone, and also the objectives contained within Schedule 12 – Conservation Zone Provisions No. CZ1 of Local Planning Scheme No.1.**

CARRIED 13-0

DIS106: COMMITTEE RECOMMENDATION

**MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR GOODE**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

DIS106: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of REFUSAL for Industry – Extractive (Lime) at Lot 9005 Eden Road, Nullaki, for the following reasons;

- (1) The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, namely;**
 - (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;**
 - (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving**

- (n) the amenity of the locality including the following –
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (y) any submissions received on the application;
- (za) the comments or submissions received from any authority consulted under clause 66;
- (2) The proposal does not comply with the general objectives of the Conservation Zone, and also the objectives contained within Schedule 12 – Conservation Zone Provisions No. CZ1 of Local Planning Scheme No.1.

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. The subject lot lies to the western side of Lower Denmark Road and to the southern side of Eden Road, approximately 40km west of Albany City centre. The lot has an area of approximately 437 hectares and is zoned 'Conservation' and listed as No. CZ1 in Schedule 12 of City of Albany *Local Planning Scheme No. 1*.
3. The subject lot is bounded by reserved land to the south and east. The land to the north and west is zoned Conservation. The Bibbulmun Track runs to the east of the subject site.
4. Due to the environmental properties of the land, and in order to secure long term land use protection, the Nullaki Peninsula is zoned Conservation under *Local Planning Scheme No. 1*.
5. In terms of permissibility, Extractive Industry is not a use that shall be permitted or a use that may be permitted under clause 3 of Schedule 12 (CZ1). The only other type of use that may be permitted under clause 3 is "Other incidental or non defined activities considered appropriate by the Local Government which are consistent with the objectives of the Zone". The Extractive Industry use proposed is not an incidental or non defined activity, nor is it consistent with the objectives of the Zone..
6. The application was advertised extensively for public comment, with landowners in the area directly notified by letter. Government agencies were also directly notified.
7. Six submissions supported the proposal. Support was largely based on the basis of the proposal potentially having a minimal environmental impact and the current lack of availability of lime within the Great Southern region.
8. 69 public submissions objected to the proposal.
9. The City of Albany has received advice from a number of Government agencies.
10. The proposal was previously refused at the September 2017 OCM. In orders dated 1 June 2018, the State Administrative Tribunal invited the City of Albany to reconsider its decision in light of certain changes made by the applicant to the application, comprising:
 - a. Revised site plan of 8ha in area, which incorporates the separate stock pile area previously proposed into the excavation area.
 - b. Amended months of operation and transport between December and March.
 - c. An expected 8 truck movements in and 8 movements out per day
 - d. Upgrading of the Lee Road extension prior to commencement of operations

11. The City of Albany currently has an omnibus scheme amendment (AMD 29) pending consideration at the WAPC statutory planning committee. A provision of this amendment in respect to the CZ1 zone clarifies that only the land uses specifically listed within CZ1 are capable of consideration and approval. In accordance with this amendment, the land use of Industry (Extractive) would be considered a prohibited land use. It is noted that as per Schedule 2, Part 9, Clause 67 (b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, that the Scheme Amendment 29 is a relevant planning consideration. It is considered that approval of the proposed use would be contrary to the interests of orderly and proper planning given the likely (and imminent) approval of Amendment 29.
12. Council is now requested to consider the revised application and determine whether to grant development approval.

DISCUSSION

13. The subject site is 437 hectares in size and zoned Conservation under *Local Planning Scheme No.1*. The Conservation zone allows for controlled development in accordance with strict development provisions.
14. In addition to the Conservation zoning, and to further preserve environmental qualities of the area, the current owner has recently undertaken a conservation covenant with Department of Parks and Wildlife (DPAW) over a portion of the subject property. While located on the same title, the proposed extraction area is outside of the covenant area.
15. The applicant has advised that the site is a quality lime deposit, with the lime possessing a high neutralising value.
16. In terms of operation, the application proposes the following key elements;
 - Expected 20 year lifetime;
 - Lime being extracted from a 8 hectares area;
 - Stockpiled on a 2 hectares storage area, now incorporated with the excavation area
 - Anticipated to start at 20,000 tonnes per a year and increase to 50,000 per year with possible increase to 100,000 tonnes per year;
 - Operating Monday - Saturday 6.30 am to 5.00 pm excluding public holidays.
 - Carted off site via Lee Road;
 - Lime products are to be transported from December and March.
 - The proponent seeks to contribute the lesser of 5% of revenue from the lime pit operation or \$30,000 per financial year to the Nullaki Wilderness Association.
17. The proposed operations proposed are broadly compliant with the City of Albany *Extractive Industries and Mining Local Planning Policy*. In the event of approval, it is considered that planning conditions and any subsequent environmental approvals would address matters in the event of approval.
18. However, noting the above, the primary issues with the development, and subsequent recommendation, relate to Local Planning Scheme No.1 matters, primarily in respect to permissibility and appropriateness within the zone.
19. The applicant has put forward the notion that the proposal can be considered to be in accordance with the objectives of the zone on the grounds that the works are environmentally acceptable and that the royalty proposed will ensure the long term provision of funds towards the Nullaki area.
20. As discussed in greater detail below, the Department of Planning has raised a number of issues with to the proposal in respect to the planning framework.

21. A total of 75 public submissions were received from members of the public during the advertising period. Six of these supported the proposal, with sixty-nine objecting or raising concerns.
22. Support of the proposal identified a need for an accessible lime resource with the region and that any potential environmental impacts can be managed and mitigated.
23. The objections received primarily relate to non-compatibility with the zone, potential impacts on amenity, environment, and traffic from the proposed operations.
24. The matters raised both for and against the proposal during the advertising process are addressed in the attached schedule of submissions. The following key elements were raised during the assessment and referral of the proposal. The matters are discussed in details below;

Compliance with Conservation Zone Provisions and Objectives

25. Extractive Industry is not a use that shall be permitted or a use that may be permitted under clause 3 of Schedule 12 (CZ1). The only other type of use that may be permitted under clause 3 is “Other incidental or non defined activities considered appropriate by the Local Government which are consistent with the objectives of the Zone”. The Extractive Industry use proposed is not an incidental or non defined activity, nor is it consistent with the objectives of the Zone.
26. The proposal is subject to the general Conservation Zone objectives of *Local Planning Scheme No.1*, which are as follows;
 - a) *Provide for residential uses upon large lots adjoining significant environmentally sensitive areas such as coastal or conservation areas where there is a demonstrated commitment to protecting, enhancing and rehabilitating the flora, fauna and landscape qualities of the particular site; and*
 - (b) *Require innovative subdivision design and development controls to:*
 - (i) *Minimise visual impacts from subdivisional infrastructure, particularly roads;*
 - (ii) *Restrict access to any sensitive areas such as beaches, conservation areas or National Parks that adjoin the zone;*
 - (iii) *Prevent land uses and development that would adversely impact on the ecological values of the site for conservation purposes; and*
 - (iv) *Provide for the safety of future residents from the threat of wild fire.*
27. In addition to the abovementioned general conservation objectives, the objectives of Conservation zone CZ1 are as follows;
 - b) *Protect, enhance and rehabilitate the flora, fauna and landscape qualities of the Nullaki Peninsula;*
 - c) *Provide for controlled public access to the Peninsula, the Wilson Inlet Foreshore and Anvil Beach; and*
 - d) *Provide for limited wilderness retreat subdivision and development in a manner that is compatible with the conservation values of the Nullaki Peninsula.*
28. Any extractive industry operation will be in direct conflict with the scheme objective that requires Protection, enhancement and rehabilitation of the flora, fauna and landscape qualities of the Nullaki Peninsula.
29. The applicant has argued that the proposal is environmentally acceptable, and via the proposed monetary royalty, will contribute to the ongoing conservation efforts of the zone.
30. In respect to the above, if there was an intent within the zone for extractive industries to be considered as a bona fide land use within such a sensitive zone, there would be specific provisions as such. The absence of such provisions in this zone, in conjunction with the limited land uses which are identified as being permissible, further reinforces that the proposed land use is not suitable.

31. Given the abovementioned Local Planning Scheme matters pertinent to the proposal, the application was also referred to the Department of Planning for comment. The Department of Planning raised a number of concerns regarding the development and advised that the City of Albany should not approve the development.
32. The Department of Planning submission on the proposal outlines a number of areas of non-compliance with the development provisions of the zone, including, *inter alia*;
- The use would be contrary to *Local Planning Scheme No.1*;
 - The primary objective of the zone is for Residential uses. The secondary objective (b) (iii) directs the local government to provide for land use and development provisions which prevent impacts to the zone's conservation purpose;
 - The application proposes a maximum of 4ha development area which exceeds the 1ha maximum allowable development footprint (cl 3.4 (e) and 4.3);
 - Proposed pit No.4 is within the 200 metre exclusion area of the foreshore reserve;
 - Pits are located along a significant ridgeline;
 - The land use is not supported within the *Albany Local Planning Strategy*;
 - The *Lower Great Southern Strategy* notes environmental or conservation considerations may have a higher priority than resource extraction in the region.
 - Approval would set an undesirable precedent for similar uses within all other lots within the Conservation Zone
 - There is no mechanism that can guarantee proposed royalties from the sale of lime extracted will be reinvested across the whole of the Nullaki Peninsula Conservation zone;
 - The Department of Agriculture and Food (DAFWA) letter should only be considered regarding its comments on lime quality and resources within a greater context of the region and the State. It is not a letter of support for this particular proposal as more detail was requested on impacts of the proposal over the life of the project
 - The original amendment over area CZ1 from Rural zone to Conservation zone was supported by the Environmental Protection Authority on the proviso that 'Extractive Industry' uses were removed from the permissible uses.
33. A number of public submissions have also noted that approval of the application would result in an undesirable precedent being set for development within the Conservation zone. Approval of the development would not automatically create a precedent, as there are very specific elements which are required to be in place for a precedent to be applicable. However, it is considered that approval of the proposed use would create a risk of precedent within all conservation zones which would not otherwise exist. If a lime pit is approved on the basis of environmental acceptability in conjunction with an environmentally based monetary contribution, it is not inconceivable that that other land uses inconsistent with the zone may follow.

Impact on Amenity

34. A majority of the submissions against the proposal raised concerns with noise, dust and vibration resulting from the operations and the impact it will have on residents adjacent to the subject site.
35. Amenity is defined within Local Planning Scheme No.1 as
- “All those factors which combine to form the character of an area and include the present and likely future amenity”*
36. The *Extractive Industry and Mining Policy* requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements - the Environmental Protection Authority's Separation Distances between

Industrial and Sensitive Land Uses guidelines. The closest dwelling is approximately 1200 from haul road on the subject site.

37. The Department of Environment Regulation is the responsible body for the assessment of the emissions and buffers for screening and crushing plants. The applicant is therefore responsible and obligated to ensure that they have the required licences from DER prior to any activity onsite.
38. A number of landowners within the CZ1 zone have raised the issue that irrespective of separation distances, they have purchased properties (at a significant cost) within the conservation zone, on the reasonable expectation of a high level of amenity, and on the basis that the zone would not be shared with an extractive industry or similar uses.

Road Realignment and Vehicle Movements

39. The applicant has proposed to re-align and construct the western portion of Lee Road and utilise the connection as a haulage route.
40. In respect to the construction of Lee road, the applicant has advised that “*subject to the continual operation of the lime pit, the proponent will undertake to upgrade Lee Road at a rate of 500 metres a year*” and has subsequently advised it would upgrade the entire Lee Road extension prior to commencement of operations. In the event of approval being granted, the City of Albany would require all necessary upgrades (including but not limited to Lee Road) to be made prior to the commencement of operation.
41. A large number of submissions have stated that there are concerns that if the proposed land use is approved that the road network would not be able to safely operate.
42. If the applicant was to be granted approval they would be required to fully construct Lee road and upgrade associated roads/infrastructure along the route to accommodate trucks. Upgrades may be substantial as it could potentially involve bridges and road widening. If approved, it is recommended the applicant be required to undertake a road infrastructure audit to identify roads and infrastructure that require upgrading to accommodate the proposal.
43. Concerns were raised by both the community and Government agencies regarding the proposed use and realignment of Lee Road.
44. The Department of Parks and Wildlife and the Bibbulmun Track Foundation raised significant concerns in relation to the potentially detrimental impact the realignment and use of Lee road would have on the track and associated facilities. The concerns related to the following matters;
 - The extension of Lee Road comes to within approximately 140m of an overnight track Shelter, 80 metres from the emergency helicopter extraction point and will cross over the Bibbulmun Track;
 - If the proposal was to proceed the Bibbulmun Track Shelter would need to be relocated. Relocation of the Bibbulmun Shelter and possible track re-alignments would be at a significant cost due to not only the physical removal and relocation but the rehabilitation of existing site and alteration of associated publications (maps, guidebooks).
45. The potential amenity impact on Bibbulmun Track and the impact of the road alignment on the overnight shelter form an important consideration for the matter.

Lime Availability

46. The need for a readily available lime source was raised in a number of submissions on the proposal.
47. The applicant has submitted a copy of previous correspondence from DAFWA in respect to lime availability in the Great Southern. The submission outlines that soil acidity is a major degradation issue across the Western Australia. It is then outlined that the application of lime is the most cost effective way to manage acidic soils.

48. The correspondence also details that lime within the Nullaki resource possesses a high neutralising value.
49. While at the time of preparation of the proposal the Denmark pit was closed, it has been recently publicised that the Denmark Lime pit is reopening.
50. While it is acknowledged the availability lime is key resource for construction and soil management, the shortage or abundance and quality of a commodity is not a consideration within the planning framework. Furthermore, noting the Department of Planning advice, it also does not justify the extraction of a resource on inappropriately zone land.

GOVERNMENT & PUBLIC CONSULTATION

51. The proposal was advertised for public comment, in accordance with clause 64 – *Advertising Applications* of part two of the *Planning and Development (Local Planning Schemes) Regulations*.
52. A total of 75 submissions were received during the advertising period. Sixty-nine submissions objected to the proposal and six submissions had no objections and supported the proposal. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed above under the relevant issue heading.
53. As discussed within an earlier section of this report in greater detail, the Department of Planning made a submission to the City of Albany on the matter, recommending the City of Albany not support the proposal.
54. The matter was referred to the EPA by the applicant. The EPA advised that the proposal would not be assessed, and could be considered under the standard clearing permit process. The EPA process and response will be discussed further within the environmental consideration section of this report.
55. In addition to the public consultation and EPA referral, the proposal was also sent to the applicable government agencies for comment.
56. Advice was received from the Department of Water stating that they had no objections that in the event of approval being granted that the rehabilitation plan is strictly adhered to.
57. The Department of Environmental Regulation has advised that depending on operational output, the proposal may be a prescribed activity and require a licence. It should be noted that screening and crushing are subject to a separate licence and assessment through the Department of Environment Regulation.
58. DER advice has also be reaffirmed by the EPA outcomes. That is, the proposal does not benefit from an exemption under clearing controls, and will require a clearing permit.
59. The Department of Parks and Wildlife has advised that they object to the proposal on the basis of the following;
 - Proximity of the proposal to the Bibbulmun track
 - Potential impact on the Bibbulmun track and the amenity of the users, noting that there is a campsite in the proximity of the proposed haulage road.
60. The Bibbulmun Track Foundation has also supported the abovementioned matters raised by the Department of parks and Wildlife in a separate submission.
61. The Department of Mines have advised that they had previously supported in principle a now defunct Scheme amendment request to include extractive industry as a discretionary land use within the zone, on the basis of the continued supply of lime is an important resource. The Department has noted the proposal falls outside of the *Mining Act 1978*.
62. The Department of Aboriginal Affairs (DAA) has advised that there are no reported Aboriginal sites or heritage places within the area of the proposal. However, the DAA recommends the developers utilise the Aboriginal Heritage Due Diligence guidelines when undertaking developments.

63. As per the SAT orders dated 1 June, 2018, the City of Albany has referred the submitted Bushfire Management Plan to the Department of Fire and Emergency Services for comment. At the time of writing this report, a submission had not been received. A copy of the submission will be attached to the item upon receipt.

STATUTORY IMPLICATIONS

64. The land use of Extractive Industry is not identified as either a permissible or prohibited use within the CZ1 Conservation Zone. On this basis, and the proposal has been processed as a 'use not listed' and advertised accordingly.
65. Cl 4.4.2 of *Local Planning Scheme No.1* provides guidance for the assessment of a use not listed. Consideration of such a land use is largely dependent on the consistency with the objectives of the zone.
66. Further to the above, the City of Albany currently has an omnibus scheme amendment (AMD 29) pending consideration at the WAPC statutory planning committee. A provision of this amendment in respect to the CZ1 zone clarifies that only the land uses specifically listed within CZ1 are capable of consideration and approval. In accordance with this amendment, the land use of Industry (Extractive) would be considered a prohibited land use. It is noted that as per Schedule 2, Part 9, Clause 67 (b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, that the Scheme Amendment 29 is a relevant planning consideration. It is considered that approval of the proposed use would be contrary to the interests of orderly and proper planning given the likely (and imminent) approval of Amendment 29.
67. It is necessary to consider that the EPA decision on the matter does not alter or remove the Council decision making process of the matter against *Local Planning Scheme No.1* and the associated policies.
68. The Department of Planning has advised that the approval of the application could potentially create an undesirable precedent.
69. Furthermore, the Department of Planning has advised that approval of the application could give rise to a representation being made to the Minister for Planning under s211 of the *Planning and Development Act* on the basis of a failure by the City to enforce or implement effectively the observance of its Local Planning Scheme
70. Voting requirement is a **Simple Majority**.

POLICY IMPLICATIONS

71. The primary assessment criteria for the application are set out in the City of Albany *Extractive Industry and Mining* local planning policy. The proposal is broadly compliant with the policy.
72. The Policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The Environmental Protection Authority's *Separation Distances between Industrial and Sensitive Land Uses* guidelines do not set out a specific buffer for this type of extraction and therefore the proposal was referred to the Department of Environment Regulation who have advised that they have no comments on the proposal. It should be noted that a separate licence through DER is required to be obtained for screening and crushing plants and therefore a full assessment by DER will be undertaken at this time.
73. The primary consideration in the determination in this instance is the provisions of *Local Planning Scheme No.1*

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Organisational Operations and Reputation <i>Refusal could result in a shortage of lime within the City of Albany</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Mitigation through the consideration of proposals on suitably zoned land</i>

FINANCIAL IMPLICATIONS

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

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

LEGAL IMPLICATIONS

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

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

ENVIRONMENTAL CONSIDERATIONS

79. The applicant referred the proposal to the Environmental Protection Authority for consideration. As per the EPA Act, the City of Albany was constrained from approving the development until the EPA process was finalised. In order to allow full consideration of the proposal, and the ability to form a decision in either the positive or negative, the matter was deferred until a determination of the environmental acceptability of the proposal was made.

80. In respect to the above, consideration of the proposal was deferred for a number of months while the EPA process was completed.

81. As mentioned previously, the EPA concluded that the proposal does not require formal assessment. The EPA has advising that the substantive environmental considerations can be dealt with through the standard clearing permit process, and in the event planning approval being granted, in conjunction with planning conditions.

82. It is necessary to consider that the EPA advice is in respect to environmental matters only, and is only one consideration within the assessment of the proposal against the statutory framework. In respect to Local Planning Scheme No.1 requirements, officers consider the Department of Planning submission holds significant importance for the determination of the matter.

ALTERNATE OPTIONS

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

- To resolve to approve the proposal subject to conditions.

SUMMARY CONCLUSION

- 84. Through the SAT process the City of Albany has been asked to reconsider the matter.
- 85. The proposal seeks to establish an extractive industry for lime within the Nullaki conservation zone.
- 86. The proposal was advertised to the Community and Government agencies.
- 87. The Department of Planning submission raised a number of issues relevant to the proposal in respect to the planning framework.
- 88. The primary consideration leading to the recommended determination is not whether the proposal complies with the *Extractive Industry and Mining Policy*. Rather, that the application is considered to be inconsistent with the objectives and provisions of the CZ1 zone under Local Planning scheme No.1 and the matters to be considered in the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- 89. While the provision of lime has been identified as a necessary farming resource within the Great Southern region, the current state of supply does not justify the approval of a lime resource within a zone which is not suitable.
- 90. It is therefore recommended that Council refuse the the proposed development, subject to the reasons provided.

Consulted References	:	<ul style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Extractive Industries and Mining local Planning policy</i> 4. <i>Environmental Protection (Noise) Regulations 1997</i> 5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses</i>
File Number (Name of Ward)	:	A200151 (West Ward)
Previous Reference	:	Nil

DIS107: REVIEW OF POLICY-RESPONSE TO APPEALS TO THE STATE ADMINISTRATIVE TRIBUNAL (SAT) POLICY

Proponent / Owner	: City of Albany
Attachments	: Response to Appeals to the State Administrative Tribunal (SAT) Policy
Report Prepared By	: Manager Governance & Risk (S Jamieson)
Responsible Officers:	: Executive Director Development Services (P Camins)

STRATEGIC IMPLICATIONS

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

In Brief:

- The Response to Appeals to the State Administrative Tribunal (SAT) Policy is due for review.
- The Policy has been reviewed by the Responsible Officer and no changes have been recommended.
- Council is requested to review the policy, advise if any amendments are required, and ADOPT the reviewed policy.

RECOMMENDATION

DIS107: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY
MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR DOUGHTY
THAT the reviewed Response to Appeals in the State Administrative Tribunal (SAT) Policy be ADOPTED.
CARRIED 13-0

DIS107: COMMITTEE RECOMMENDATION
MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR GOODE
THAT the Responsible Officer Recommendation be ADOPTED.
CARRIED 11-0

DIS107: RESPONSIBLE OFFICER RECOMMENDATION
THAT the reviewed Response to Appeals in the State Administrative Tribunal (SAT) Policy be ADOPTED.

BACKGROUND

2. The Response to Appeals to the State Administrative Tribunal (SAT) Policy was adopted by Council at the Ordinary Council Meeting held 24 June 2014 (CSF092).
3. At the Ordinary Council Meeting held 23 May 2017 (CCS028) Council chose not to review any specific policy.

DISCUSSION

4. **Purpose:** The Policy was developed to clarify the role, responsibility and accountability of Council and City Officers in respect to decisions made which are the subject of an application to the State Administrative Tribunal for review.
5. A Policy review should ensure that the policy:
 - Reflects current legislative and regulatory requirements, and has a clear intent.
 - Meets the functional and operational requirements for executing the policy;
 - Is responsive and reflective of the needs of the City’s stakeholders, residents and ratepayers; and
 - Is relevant in the local government context.

GOVERNMENT & PUBLIC CONSULTATION

6. No consultation required.

STATUTORY IMPLICATIONS

7. In accordance with the *Local Government Act 1995* section 2.7 (2)(b), it is the role of Council to determine the local government’s policies.

POLICY IMPLICATIONS

8. This policy position complements the current delegated authority to the Chief Executive Officer and Executive Director Development Services.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation Risk: The reviewed policy is not adopted.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Continue with current policy position and re-present to Council for adoption.</i>

FINANCIAL IMPLICATIONS

10. Elected Member attendance at SAT appeals will have a financial implication.

LEGAL IMPLICATIONS

11. There are no legal implications related to this report.

ENVIRONMENTAL CONSIDERATIONS

12. There are no direct environmental considerations relating to this report.

CONCLUSION

13. It is recommended that the reviewed policy be adopted.

Consulted References	:	<i>Local Government Act 1995 Local Government (Administration) Regulations 1996</i>
File Number (Name of Ward)	:	All Wards
Previous Reference	:	CSF092 OCM 24/06/2014 CCS028 OCM 23/05/2017

DIS108: REGIONAL ROAD GROUP FUNDING SUBMISSIONS

Proponent / Owner	: City of Albany
Attachments	: Attachment 1 - Regional Road Group Funding Application List
Report Prepared By	: Manager City Engineering (D King)
Responsible Officers:	: Executive Director Infrastructure & Environment (M Thomson)

STRATEGIC IMPLICATIONS

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

In Brief:

- The Great Southern Regional Road Group (GSRRG) administers a number of State and Federal road funding scheme. These include State Road Project funding, State and Federal Blackspot and State Commodities Funding.
- Approval is sought to make annual applications for funding these proposed works.

RECOMMENDATION

DIS108: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY
MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR HOLLINGWORTH
THAT Council APPROVE the 2019/20 Great Southern Regional Road Group Funding Applications.
CARRIED 13-0

DIS108: COMMITTEE RECOMMENDATION
MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR DOUGHTY
THAT the Responsible Officer Recommendation be ADOPTED.
CARRIED 11-0

DIS108: RESPONSIBLE OFFICER RECOMMENDATION
THAT Council APPROVE the 2019/20 Great Southern Regional Road Group Funding Applications.

BACKGROUND

2. Main Roads WA, in cooperation with Local Government, develops and manages the road network to meet the needs of the community. The State provides road funds for a number of programs administered by the State Road Funds to Local Government Advisory Committee. The Great Southern Regional Road Group (GSRRG) coordinates an annual application process to determine the distribution of these funds. Currently there are four sources of road funding available through this process.
3. Identified Roads of Regional Significance (Roads 2030) are eligible for Road Project Grants. State funding is spread across 10 WA Regional Road Groups and is based on a percentage (27%) of the vehicle licence fee revenue which varies from year to year.

4. Funding for Road Project Grants provides two thirds (67%) of total project costs with the other third coming from Council's own resources. The GSRRG has also enacted a cap of 20% which limits the amount that any one Council can receive from the funding pool each year.
5. The GSRRG Policy and Procedure Guideline and Project Prioritisation Guidelines govern the assessment of projects for Road Project Grants put forward for funding. Projects are scored and then ranked into four broad categories – preservation, concluding, continuing, and new projects.
6. 2018/19 GSRRG Road Project Grant pool indicatively totals \$5,954,564 and Local Government funding is capped at 20% of the Pool (\$1,190,912) for each council. The City of Albany are likely to be successful in securing \$937,200 for Albany Highway reconstruction for the 2018/19 Financial Year.
7. Black Spot Program funds are also allocated to individual Regional Road Groups for distribution. The GSRRG also processes the National Black Spot Program which sources federal funding for complying projects.
8. State Blackspot Program funding covers two thirds (67%) and the National Program covers all (100%) of total project costs. For the national program crash criteria is required to demonstrate a benefit cost ratio (BCR) of over 2 to comply. For the state program either a BCR or a road safety audit are required to comply.
9. The Great Southern Technical Working Group members each assess the applications and rank them on being the most appropriate and cost effective.
10. 2018/19 GSRRG State Blackspot pool indicatively totals \$354,296 with no capping for individual Local Governments. The City of Albany are likely to be successful in securing \$95,084 for various local black spot projects.
11. Commodity Routes Supplementary Funding (CRSF) is provided for roads which are not Roads of Regional Significance (Roads 2030) but where there is a significant high priority transport task associated with the transport of a commodity.
12. Commodities Routes Funding is distributed according to project ranking with no regional constraints. CRSF funding provides two thirds (67%) of total project costs and is limited to a maximum of \$250,000 per submitted project.
13. The City of Albany were unsuccessful in obtaining any commodities route funding for the 2018/19 financial year.

DISCUSSION

14. With the preparation and annual review of the Long Term Financial and Asset Management Plans a 10 year Forward Capital Works Program has been prepared identifying projects and allocating grant funding and the City's own resources in successive financial years.
15. RRG Road Projects are the most likely to secure funding as the scoring system more heavily weights traffic volumes and the City is well placed in this regard compared with other Local Government areas in the Great Southern. However, the ranking system of placing new projects last can mean that new projects that score well can still miss out on funding.
16. In the 2018/19 submissions, the City missed out on funding for a number of 'new' project as a large quantity of 'preservation' project were submitted by other Local Governments in the pool.
17. To maximise the funding potential for Road Project grants, the City of Albany proposes to submit preservation projects (highest priority) for the 2019/20 submissions.

18. The State Black Spot funding allocation for the Great Southern has been dramatically reduced in the last couple of years (based on accident statistics) and now equates to approximately \$350k. This funding is aimed at low cost - high benefit safety improvements, for which the City has been reasonably successful in recent years. Each year the City reassesses possible projects and has road safety audits conducted on those short listed as being suitable. With new projects being identified and considered, applications can vary from year to year.
19. Attachment 1 Details the proposed funding applications for 2019/20 financial year.

GOVERNMENT & PUBLIC CONSULTATION

20. No consultation required.

STATUTORY IMPLICATIONS

21. Under section 3.18 of the *Local Government Act 1995*, the City of Albany is to satisfy itself that the services and facilities it provides are managed effectively and efficiently.

POLICY IMPLICATIONS

22. This document complies with the Council adopted Asset Management Policy, Strategy and Plan – Roads along with the Long Term Financial Plan.
23. The annual application (document) complies with the rules and guidelines governing the Great Southern Regional Road Group allocations for road funding and therefore no additional government consultation has been conducted.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Finance. Failure to make funding application would result in the City of Albany missing out on a state funding contribution to the road renewal program.</i>	<i>Almost Certain</i>	<i>High</i>	<i>Extreme</i>	<i>Forward planning through adoption of 10 year financial plan to identify opportunities for funding in advance. Note: Consequence high due to effected</i>
<i>Opportunity: To maximise road funding through the GSRRG</i>				

FINANCIAL IMPLICATIONS

25. Cost associated with this item will be included in the 2019/20 review of the ten year financial plan and will be incorporated into the 2019/20 budget.

LEGAL IMPLICATIONS

26. There are no legal implications related to this report.

ENVIRONMENTAL CONSIDERATIONS

27. There are no direct environmental considerations relating to this report.

CONCLUSION

28. It is recommended that the proposed funding list in Attachment 1 be adopted.

Consulted References	:	<i>Local Government Act 1995</i>
File Number (Name of Ward)	:	All Wards
Previous Reference	:	WS121

DIS109: MOUNT ELPHINSTONE TO CBD CYCLE LINK – COLLIE TO MELVILLE STREET

Land Description	: Grey Street West road reserve & Reserve No R2681, Mount Melville
Attachments	: Attachment 1 – Mount Elphinstone to CBD Cycle Link
Proponent / Owner	: City of Albany
Business Entity Name	: City of Albany
Report Prepared By	: Manager City Engineering (D King)
Responsible Officers:	: Executive Director Infrastructure & Environment (M Thomson)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** 3 - Clean, Green and Sustainable.
 - **Objective:** 3.2 - To build, maintain and renew city assets sustainably.
 - **Community Priority:** 3.3.2 - Design, construct and maintain infrastructure cost effectively in a manner that maximises its life, capacity and function.

Maps and Diagrams:

Location Plan - extent of project is indicated by the red dashed line.



In Brief:

- At the December Ordinary Council Meeting the tender was awarded to commence Stage 1 excluding the section from Melville to Parade Street pending a design review and further consultation.
- The initial design review, and following consultation with the Department of Transport (Funding Partner), demonstrated the need to delay the construction of Parade to Melville Streets in addition to Melville to Collie Street. This is because both these sections included the dedicated separated cycle lane treatment that resulted in loss of Parking.
- Following the consultation with the adjacent residences it is recommended that the section of pathway from Collie Street to Melville Street remains as currently exists.

RECOMMENDATION

**DIS109: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR STEPHENS
SECONDED: COUNCILLOR TERRY**

THAT Council NOTE the following:

- 1. That the section of pathway between Collie Street and Melville Street will remain as currently constructed at this time.**
- 2. Pathway usage following completion of the Mt Elphinstone link will be monitored.**
- 3. Application will be made to Main Roads Western Australia to post a speed zone of 50km/hr between Parade Street and Maxwell Street.**

CARRIED 13-0

DIS109: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR GOODE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

DIS109: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council NOTE the following:

1. That the section of pathway between Collie Street and Melville Street will remain as currently constructed at this time.
2. Pathway usage following completion of the Mt Elphinstone link will be monitored.
3. Application will be made to Main Roads Western Australia to post a speed zone of 50km/hr between Parade Street and Maxwell Street.

BACKGROUND

2. City of Albany published the Cycle City Albany 2014-2019 Strategy in October 2014. The strategy has a bold vision 'to transform Albany into one of Australia's best cycling destinations, including both on and off road cycling'. To achieve this, the strategy 'aims to improve cycling infrastructure, encourage cycling as a legitimate mode of transport, improve the culture surrounding cycling by encouraging 'sharing the road' and provide more cycle tourism'.
3. The need for a safe route between the suburb of Mount Elphinstone and the CBD for pedestrians and cyclists was highlighted in the strategy. A feasibility study was undertaken the following year, with a route being recommended from a number of options. The recommendations of the feasibility study were adopted by Council in October 2015 and was the basis for funding.

4. The implementation of the project has been split into two stages:
 - Stage 1 runs along the north side of Grey Street West from the intersection of Collie Street through to Carlisle Street.
 - Stage 2 goes from Carlisle Street through the bush above Princess Royal Drive providing a gentle gradient down to a crossing point to the east of the Frenchman Bay Road intersection. The route then crosses Princess Royal Drive and the railway line, continuing alongside the eastern side of Frenchman Bay Road to Woolstores Place where it joins up with the existing shared path which goes through to Little Grove.
5. Grant funds have been secured from the State Government through the Western Australia Bicycle Network (WABN) Grants Program to undertake the construction of Stage 1 in the 2017-18 financial year, and Stage 2 in 2018-19.
6. Staff and elected members attended a site meeting on Grey Street between Parade Street and Collie Street on the 18th December to discuss concerns regarding the planned cycle path.
7. Residents cited issues regarding the general safety of the street and the loss of parking resulting from the cycle infrastructure. It was felt that by removing parking bays on the northern side for the cycle path, additional pressure would be placed on the southern side for parking, exacerbating a historic problem with parking obscuring the vision of driveways.
8. As a result, at the December Ordinary Council Meeting the tender was awarded to commence State 1 excluding the section from Melville to Parade Street pending a design review and further consultation.
9. The initial design review, and following consultation with the Department of Transport (Funding Partner), demonstrated the need to delay the construction of Parade to Melville Streets in addition to Melville to Collie Street. This is because both these sections included the dedicated separated cycle lane treatment that resulted in loss of Parking. The remaining scope incorporated a shared path type treatment providing two distinct sections.

DISCUSSION

10. During the Design review, investigation into the feasibility of relocating power poles was undertaken to determine the validity of this design constraint. In receipt of the Western Power Quote it was found to not only cost prohibitive but also unviable due to the proximity of critical water corporation assets.
11. Given the site constraints three options were feasible. Pros and Cons for each is outlined below:
12. **Option 1** – Construct the separated cycle path on the North in the area currently occupied by parking bays as per original design.

Pros	Cons
Improved visibility for driveways to the north because converting the parking bays into the 2 way cycle pathway will prevent parking which causes visibility issues when pulling out of driveways	Loss of parking to the North
Retains cycle separation and reduces pedestrian and cyclist conflict	Increased frequency of parking to the South resulting in visibility issues for driveway users to the South
Continuity of design. Improved safety for pedestrians and cyclist by reducing crossing points	
Preferred side of the road for connectivity to Town Square amenity	
Road safety benefit of passive traffic calming via reduction in carriageway width	

13. **Option 2** – Construct the separated cycle path on the South Side of the Carriageway in the area currently occupied by parking bays.

Pros	Cons
Improved visibility for driveways to the south because converting the parking bays into the 2 way cycle pathway will prevent parking which causes visibility issues when pulling out of driveways	Increased conflict for cyclists as there are multiple driveways on the south and few on the north
Retains cycle separation and reduces pedestrian and cyclist conflict	Loss of parking to the South
Road safety benefit of passive traffic calming via reduction in carriageway width	Crossing points required at Melville Street and Collie street for access to the town square and visitors centre

14. **Option 3** – No geometric change – renewal to more appropriate surface when required

Pros	Cons
Change to laws mean that cyclists are allowed on the path resulting in continued continuity of cycle link through to Town Square amenity	Pathway would have to be unmarked (no separation) as width do not conform to standard allowing separation marking
No loss of parking	Inevitable Increased cycle activity will increase pedestrian and cyclist conflict emphasised by limited visibility when exiting residences to the North
Lowest cost option	No Road Safety Benefit

GOVERNMENT & PUBLIC CONSULTATION

15. A letter was sent out on 08/05/2018 to all the residents and property owners on Grey Street West between Collie Street and Melville Street.
16. The letter included the discussion outlined above and requested feedback on the options including a request to indicate the preferred option.
17. A site meeting was also held on the 16/05/2018 to provide clarity on the options and to discuss any other issues relating to the proposed cycleway.
18. In total, 64 letters were send out with 23 respondents.
19. A total of nine (9) respondents preferred Option 1 — Construct the separated cycle path on the North in the area currently occupied by parking bays as per original design.
20. A total of fourteen (14) respondents preferred Option 3 - No geometric change – renewal to more appropriate surface when required.
21. No respondents indicated Option 2 as the preferred design.
22. A number of comments were made relating to the design not addressed in the above options as summarised below:

Summarised Design Comments	Response
Extending the 50km/hr speed zone.	Speed Limits are regulated by Main Roads WA. However, the City have assessed the warrants for reducing the speed limit through this section and shall apply to MRWA to extend the 50km/hr zone to include the section from Parade Street to Maxwell Street.
Implementing a 40km/hr speed zone.	40km/hr speed zoning is inappropriate from Collie to Melville Streets and does not comply with Main Road Warrants and therefore unsupported. From Town Square to Collie Street the traffic speeds are low and not considered dangerous.

Bike track to Mount Elphinstone should not be located on Grey Street West	A feasibility study, funded by the Department of Transport, was undertaken in 2015 that investigated all the potential options and engaged with all the major stakeholders. The Grey Street West link was recommended. The study was adopted by Council at the Ordinary Council Meeting on the 29 th September 2016 (WS085) and can be found in attachment 1 to this report.
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STATUTORY IMPLICATIONS

23. There are no statutory implications associated with this recommendation.

POLICY IMPLICATIONS

24. There are no policy implications associated with this recommendation.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation: Not constructing the pathway has the potential to cause discontent for some local residences and the cycling community.</i>	Possible	Moderate	Medium	<i>Continue to keep stakeholders well informed of decisions. Commit to monitoring the pathway post completion of State 2 in order to further assess risk of pedestrian and cyclist conflict.</i>

FINANCIAL IMPLICATIONS

26. Funding for the Melville to Collie Street section has been reallocated to fund the Warden Avenue pathway construction as resolved by Council in May. This is because the external funding has to be utilised in the 2017/18 financial year.

27. If Council resolve to implement Options 1 or 2 officers will need to come back to council with a recommendation to approve the necessary expenditure.

LEGAL IMPLICATIONS

28. There are no legal implications related to this recommendation.

ENVIRONMENTAL CONSIDERATIONS

29. There are no direct environmental considerations relating to this recommendation.

ALTERNATE OPTIONS

30. Council could resolve to proceed with design and construction of Options 1 or 2.

CONCLUSION

31. It is recommended that Option 3 be supported and volumes of cyclists and pedestrians be monitored following the completion of Stage 2.

Consulted References	: Local Government Act 1995 Local Government (Administration) Regulations 1996
File Number (Name of Ward)	: All Wards
Previous Reference	: WS085 - MOUNT ELPHINSTONE TO CENTRAL BUSINESS DISTRICT CYCLE LINK FEASIBILITY STUDY DIS072 - TENDER C17029 – MOUNT ELPHINSTONE TO CBD CYCLE LINK (STAGE 1) DIS098 – WARDEN AVENUE PATHWAY CONSTRUCTION

DIS110: ALISON HARTMAN GARDENS ENHANCEMENT PROJECT

Land Description	: Lot 1374 239 – 259 York Street - Alison Hartman Gardens
Proponent / Owner	: City of Albany
Attachments	: Concept Plan Package Community Consultation Summary
Supplementary Information & Councillor Workstation	: N/A
Report Prepared By	: Manager Major Projects (A McEwan)
Responsible Officers:	: Executive Director Infrastructure & Environment (M Thomson) Chief Executive Officer (A Sharpe)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** 4: Community Health & Participation
 - **Objective:** 4.2: To create interesting places, spaces and events that reflect our community's identity, diversity and heritage
 - **Community Priority:** 4.2.2 Maintain infrastructure and deliver programs that promote Albany's unique heritage, engender civic pride and leave a lasting legacy

In Brief:

- In June 2017 funding from Lotterywest and GSDC Royalties for Regions was approved the enhancement of Alison Hartman Gardens.
- Funding contributions required by City of Albany have been allocated in the 2018/19 budget.
- The first stage of the Alison Hartman Gardens Enhancement project was completed in April 2018 as part of the Albany Tourism and Information Hub project.
- The officer recommendations deal with the endorsement of the concept design plans for stage 2 works.

RECOMMENDATION

**DIS110: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DOUGHTY
SECONDED: COUNCILLOR SHANHUN**

THAT Council:

1. **ADOPT** the Concept Designs for *Alison Hartman Gardens Enhancement Project*.
2. **APPROVE** the commencement of Stage 2 works; and

Staff are to provide a further report to Council regarding design alternatives for the precinct furniture.

CARRIED 13-0

DIS110: COMMITTEE RECOMMENDATION (WITH MINOR AMENDMENT)

**MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR TERRY**

THAT Council:

1. **ADOPT** the Concept Designs for *Alison Hartman Gardens Enhancement Project*.
2. **APPROVE** the commencement of Stage 2 works; and

Staff are to provide a further report to Council regarding design alternatives for the precinct furniture.

CARRIED 11-0

DIS110: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. ADOPT the Concept Designs for *Alison Hartman Gardens Enhancement Project*.
2. APPROVE the commencement of Stage 2 works.

BACKGROUND

2. The City has commenced design development for the second stage of the Alison Hartman Gardens Enhancement Project, having confirmed budget allocations, undertaken community and stakeholder engagement, and completing the first stage of works within the Albany Tourism & Information Hub in early 2018.

DISCUSSION

3. Alison Hartman Gardens is an important cultural and historical site for the Albany community with significant potential to contribute to a vibrant and sustainable City Centre. The park does not meet the current and future needs of the City, and has been identified for key improvements under the adopted Central Area Master Plan. A project based upgrade of the grounds has been included in several state and federal funding applications encompassing the Town Square, Town Hall and Library precinct facilities:
 - Royalties for Regions Southern Investment Initiative - Growing our South 'Great Southern Regional Education and Information Hub' 2016
 - National Strong Regions Fund 'Albany Tourism and Information Hub' Feb 2016
 - Building Better Regions Fund Round 1 'Amazing South Coast City Centre' 2017
4. Alison Hartman Gardens is a keystone in the City Hub precinct being located on York Street between the historic education site (Student Housing development) and newly completed Albany Tourism & Information Hub (Albany Visitors Centre + Library Enhancement). Redevelopment of the park grounds has been identified as a key opportunity to identify and celebrate our local community, history, environment, and visitor economy. Key benefits of the Alison Hartman Gardens Enhancement include:
 - Activation of the city centre and cultural precinct;
 - Improved capacity to host events & performances;
 - Promotion of intergenerational activity;
 - Preservation and interpretation of heritage;
 - Improved safety, lighting and amenity at night;
 - Improved community facilities and levels of comfort;
 - Linking students and library information services;
 - Linking visitors to local community assets values;
 - Enhanced planting & tree preservation strategies;
 - Increased capacity to host, link and promote local and regional trails.
5. At the June 2016 OCM Council noted the Proposed Heritage Listing of the old School Site (including Alison Hartman Gardens) by the Heritage Council of WA.
6. At the September 2016 OCM Council supported an application to the Royalties for Regions Great Southern Regional Grants Scheme (RGS) through Great Southern Development Commission, for enhancing Alison Hartman Gardens.
7. Following a visit by Lotterywest in late 2016, at the June 2017 OCM Council noted the City's proposed application to Lotterywest for enhancing Alison Hartman Gardens and repurposing Albany Town Hall, and resolved to support the application.

8. Grant funding of \$1,600,000 was confirmed on the 30 May 2017 by Lotterywest - \$1million was allocated to the repurposing of the Albany Town Hall and \$600,000 towards the enhancement of Alison Hartman Gardens.
9. RGS funding of \$150,000 was subsequently awarded to Alison Hartman Gardens by GSDC and confirmed on 19 June 2017.
10. City of Albany has confirmed \$200,000 in approved council fund contributions to Alison Hartman Gardens which is required by the two external grant agreements. The working total budget is \$950,000.
11. The first stage of the Alison Hartman Gardens Enhancement was delivered in April 2018 as a key outdoor public space component of the Albany Tourism and Information Hub project, costing in the order of \$328,000 to implement in the 2017/18 financial year. This leaves approximately \$622,000 being carried forward to implement the balance of the project (Stage 2) in the 2018/19 financial year.
12. Additional funding of \$36,364 has been pledged by Department of Planning, Lands & Heritage through Public Open Space Contributions, and a further \$38,382 in redirected Community Chest Funding from Great Southern Development Commission (originally intended for XPD Adventure Race which was cancelled). Final agreements for both funds are currently being confirmed by City officers.
13. Including the additional funding, the Project Budget 2018/19 for Stage 2 is \$696,746 including all design, specialist consultants, preliminaries, approvals, project overheads, construction and contingencies.
14. Above budget allocations do not include future trailhead facilities by Department of Biodiversity, Conservation and Attractions Parks & Wildlife Service, and the interfaces with Student Housing development.
15. Project works which interface with the adjacent Student Housing development have been conceptually designed in consultation with the developer Advance Housing / Department of Education. Advance Housing are expected to make allowances in their construction budget to fund any future additional landscape interface works.

GOVERNMENT & PUBLIC CONSULTATION

16. Relevant Government departments have been consulted on the project including : Department of Planning, Lands and Heritage / Heritage Council of Western Australia; Department of Education; Department of Environmental Regulation; Department of Aboriginal Affairs; Department of Conservation, Biodiversity and Attractions.
17. The enhancement of Alison Hartman Gardens was identified in the City Centre Master Plan 2010 which undertook extensive consultation.
18. The initial vision for the project was developed by a CBD working group led by the City in 2013/14 to prepare for the Centenary of Anzac, and subsequently advanced within the various funding applications and business cases undertaken for the precinct.
19. Community Engagement activities were undertaken in November 2017 which focussed on engaging the public and ensuring the broader community and surrounding businesses were provided an opportunity to provide comment and suggestions.
20. Community members were informed of the consultation period in local newspaper displays, direct distribution of community bulletins and feedback forms and to Elected Members, and the City of Albany website. Staffed displays were set up in Town Square and at the Albany Show, with opportunities to provide comment through written feedback forms, social media comment, and verbal engagements. Consultation sessions were held with the City of Albany Youth Advisory Group and Frederickstown Progress Association.

21. Key elements of the project were identified as historical / of heritage significance and therefore to stay “as is” including Mokare’s Statue, Oak tree, Norfolk Pine tree and historical alignment of path leading to the Head Masters House. Other opportunities to enhance social, cultural and recreational qualities of the park were identified by theme.
22. Consultation with the local aboriginal community revealed strong support for improvements to the setting and interpretation of the Mokare Statue in Alison Hartman Garden, the creation of a commemorative setting on Mokare’s burial site on the corner of Collie Street and Grey Street West, and greater recognition and interpretation of key values and stories in the broader Town Square Civic Precinct.
23. Consultation was conducted via a number of workshops with invited members of the local aboriginal community, facilitated jointly by City of Albany and the Albany Heritage Reference Group Aboriginal Corporation (AHRGAC).
24. In response to the workshops, the creation of a small memorial garden on Mokare’s burial site has been included in the conceptual planning for the precinct for consideration by Council. Whilst some opportunities for funding may be available through Aboriginal Cultural Heritage bodies, the City of Albany currently has no capital works budget allocation for this project and seeks endorsement to continue with further advocacy.
25. Heritage Approval will be required due to the placement of the Old School Site on the Interim State Heritage. Heritage Council of WA has previously supported the Alison Hartman Gardens (letter received November 2017).

STATUTORY IMPLICATIONS

26. Nil

POLICY IMPLICATIONS

27. An allocation for Public Art is not required for this project under City of Albany *Art in the Public Domain Policy* since the project is under \$1,500,000 in value, however in recognition of the value of Public Art in enhancing the quality of the built environment and a sense of place, a precinct wide strategy has been developed in accordance with the *City Guideline – Art in the Public Domain*.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Finance <i>Risk: Expectations of funding partners not being reached.</i>	Possible	Moderate	Medium	Implement the project in accordance with approved concept.
Reputation <i>Risk: Community benefit not realised by the project not being implemented and not being consistent with expectations.</i>	Possible	Moderate	Medium	Concept plans are approved enabling works to be scheduled.
Opportunity: To implement infrastructure enhancements which contribute to a more vibrant and sustainable City Centre.				

FINANCIAL IMPLICATIONS

29. Funding will be carried forward into the 2018/19 budget for Stage 2 of the project.

LEGAL IMPLICATIONS

30. The project will be subject to approvals under the *Heritage of Western Australia Act 1990*.

ENVIRONMENTAL CONSIDERATIONS

31. The Department of Environmental Regulation has confirmed the site has not been reported to DER as a known or suspected contaminated site either prior to or after the commencement of the Contaminated Sites Act 2003.

ALTERNATE OPTIONS

32. Council may elect not to approve the concept designs.
33. This may impact on the ability to meet funding obligations and deliver the project.

CONCLUSION

34. The concept plans are at a stage for the City to implement. To ensure that the projects are completed in a timely manner in accordance with funding partnerships, it is recommended that council adopt the concept design for the Alison Hartman Gardens Enhancement Project. Further, community consultation has confirmed close ties between key elements of the project i.e. the *Mokare Statue*, and those of the broader precinct i.e. the *Mokare Burial Site*, therefore the Precinct Plan has been updated and is presented for further consideration, development and funding advocacy.

Consulted References	:	City of Albany Community Strategic Plan Albany 2030
File Number (Name of Ward)	:	Frederickstown Ward PR.DEC.33
Previous Reference	:	OCM 24 October 2016 PD143 Development and Infrastructure Services Committee Briefing 15 February 2017 Elected Members Briefing Note, 8 May 2017 - Lotterywest Funding Submission - Town Hall and Alison Hartman Gardens OCM 27 June 2017 CCCS035 Elected Members Strategic Briefing 19 June 2018 – Albany City Centre Projects

DIS111: PLANNING AND BUILDING REPORTS JUNE 2018

Proponent / Owner : City of Albany.
Attachments : Planning and Building Reports June 2018
Report Prepared By : Administration Officer – Planning (V Martin)
Administration Officer – Development Services (Z Sewell)
Responsible Officers: : Executive Director Development Services (P Camins)

RECOMMENDATION

DIS111: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR SMITH

THAT Council NOTE the Planning and Building Reports for June 2018.

CARRIED 13-0

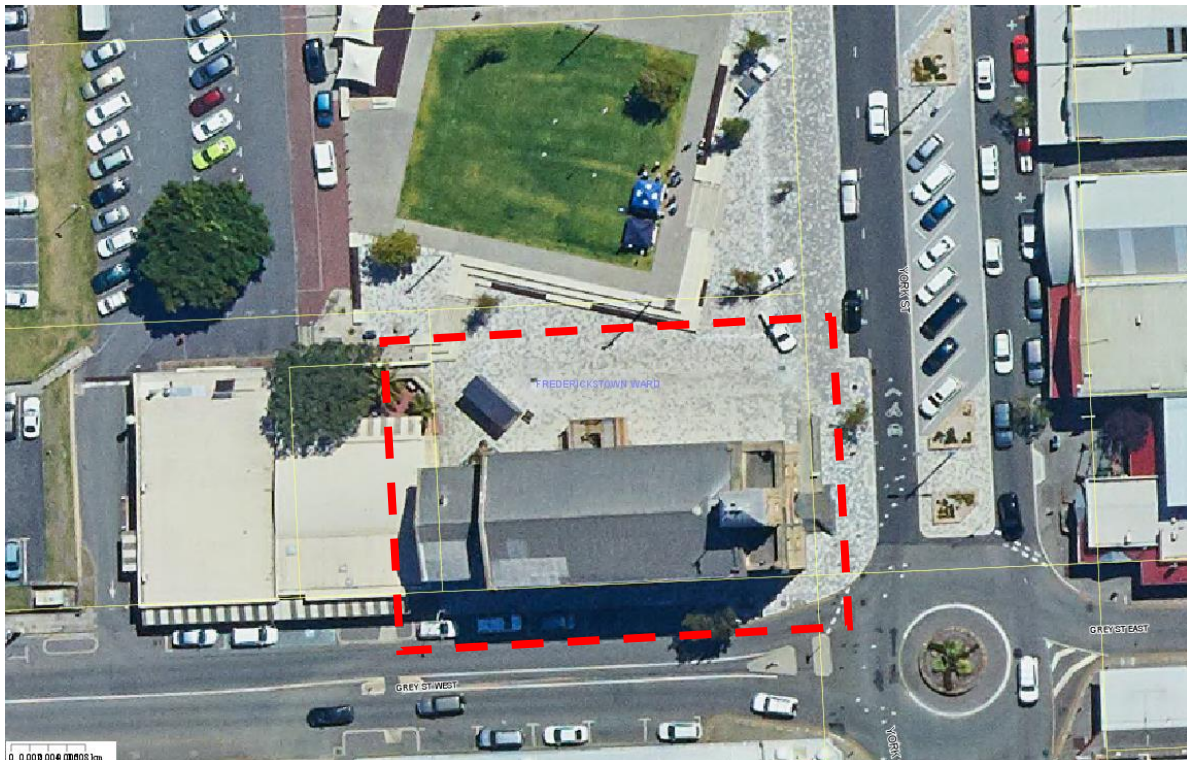
DIS112: C18008 TENDER AWARD ARCHITECTURAL CONSULTANCY SERVICES - ALBANY TOWN HALL REPURPOSING PROJECT

Land Description	: Albany Town Hall
Proponent / Owner	: City of Albany
Report Prepared By	: Executive Director Infrastructure & Environment (M. Thomson)
Responsible Officers:	: Executive Director Infrastructure & Environment (M. Thomson)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Theme:** Community Health and Participation
 - **Objective:** To create interesting places, spaces and events that reflect our community's identity, diversity and heritage.
 - **Community Priority:** Maintain infrastructure and deliver programs that promote Albany's unique heritage, engender civic pride and leave a lasting memory.

Maps and Diagrams:



In Brief:

- Following a competitive tender process, Council approval is sought to award the tender for the Contract C18008 Architectural Consultancy Services; Albany Town Hall Repurposing to Griffiths Architects in collaboration with PTX Architects.

**DIS112: RESOLUTION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

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

THAT Report DIS112: C18008 Tender Award Architectural Consultancy Services - Albany Town Hall Repurposing Project be ACCEPTED for consideration by Council as an urgent item in accordance with clause 3.5 of the Standing Orders Local Law 2012 (As amended).

**CARRIED 13-0
ABSOLUTE MAJORITY**

Reason: It is preferable to award the contract and commence works at the earliest possible time to ensure practical completion in accordance with funding requirements.

RECOMMENDATION

**DIS112: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR HOLLINGWORTH**

THAT Council ACCEPT the tender from Griffiths Architects / PTX Architects and AWARD contract C18008 Architectural Consultancy Services; Albany Town Hall Repurposing Project.

CARRIED 13-0

BACKGROUND

2. Tenders were called for Architectural Consultancy Services - Albany Town Hall Repurposing Project, which includes a contract administration period and an approximate 40 week construction period.
3. Given the high profile nature of the Albany Town Hall, all efforts were made to attract Architectural firms with the relevant experience and key personnel to appropriately address the iconic heritage asset.
4. Tenders were advertised state-wide and locally, opening on the 30 May 2018 and closing on the 27 June 2018.
5. A total of 48 tender documents were downloaded from the City's website, resulting in 9 completed submissions.

DISCUSSION

6. It is preferable to award the contract and commence works at the earliest possible time to ensure practical completion in accordance with funding requirements.
7. At the time of award only the Architectural Consultancy Services (Architect) will be appointed.
8. The appointed Architect will be the lead consultant and in consultation with the City prepare the scope and evaluation to appoint the 'Sub Consultant Team'.
9. This appointment of the Sub Consultant Team will be administered as a variation to the lead Architectural consultant's contract, in accordance with the Council's Procurement Policy.

Evaluation of Tenders:

10. The tender panel evaluated tenders using the weighted criteria methodology. Criteria and weighting were evaluated in four key areas.

Criteria	% Weighting
Key Personnel Skills, Experience and Capacity	40%
Demonstrated Understanding	35%
Corporate Social Responsibility	5%
Cost	20%
Total	100%

11. The following table summarises the tenderers and the overall evaluation scores applicable.

Tenderer	Total	Rank
Griffiths Architects with PTX Architects	726.34	1
Tenderer B	700.51	2
Tenderer C	695.27	3
Tenderer D	665.71	4
Tenderer E	663.84	5
Tenderer F	657.47	6
Tenderer G	621.10	7
Tenderer H	615.57	8
Tenderer I	468.03	9

12. Griffiths Architects with PTX Architects ranked highest with the highest total weighted score.

GOVERNMENT & PUBLIC CONSULTATION

13. The usual tender processes, as defined by the Local Government Act & Regulations, were applied, with state-wide notice given.
14. There is no government consultation required for the award of Architectural Consultancy Services for the Albany Town Hall Repurposing Project.
15. The funding body and public will be notified with regard to the outcome of the award and time frame for implementation.

STATUTORY IMPLICATIONS

16. Regulation 11 of the *Local Government (Functions and General) Regulations 1996* (Regulations) requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$150,000.
17. 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.
18. Regulation 19 of the Regulations requires Council to advise each tenderer in writing of Council's decision.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Organisation’s Operations <i>Failure to deliver project within specified timeframe</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Award architectural consultancy services tenderer as soon as possible to satisfy funding conditions for project completion.</i>
Business Interruption <i>Council rejects/fails to support recommendation for tender award</i>	<i>Possible</i>	<i>Major</i>	<i>Medium</i>	<i>Council makes a timely decision and awards the tender to the recommended tenderer</i>
Opportunity: <i>Project developed and delivered on time for the benefit of the community use and precinct activation.</i>				

FINANCIAL IMPLICATIONS

21. The recommended tender is within budget.

LEGAL IMPLICATIONS

22. Contractual terms for all aspects of this project will need to be rigorously applied.

ENVIRONMENTAL CONSIDERATIONS

23. There are no environmental considerations for this tender.

ALTERNATE OPTIONS

24. The options are:

- Council can elect to accept the recommended tender;
- Not approve any tender; or
- Appoint a different submitted tender.

CONCLUSION

25. Based on the evaluation scoring and the subsequent reference checks, Griffiths Architects in collaboration with PTX Architects are the preferred tender and consequently it is recommended that their tender be accepted and the contract awarded.

Consulted References	:	<ul style="list-style-type: none"> • <i>Local Government Act 1995</i> • <i>Local Government (Functions and General) Regulations 1996 Council Policy</i> • <i>Council Policy: Purchasing Policy (Tenders and Quotes)</i> • <i>Tender/Contract Procedure</i> • <i>Evaluation Procedure (Tenders and Quotations)</i> • <i>City of Albany Buy Local Policy (Regional Price Preference)</i>
File Number (Name of Ward)	:	CP.PLA.9
Previous Reference	:	N/A

BFAC006: BUSHFIRE MANAGEMENT IN CONSERVATION, SPECIAL RESIDENTIAL AND RURAL RESIDENTIAL (SPECIAL RURAL) ZONED LAND POLICY AND REVIEW OF ANNUAL FIRE MANAGEMENT NOTICE.

Land Description	: City of Albany
Attachments	<ol style="list-style-type: none"> 1. Draft <i>Bushfire Management in Conservation, Special Residential and Rural Residential (Special Rural) Zoned Land Policy</i>. 2. Draft <i>Fire Management Notice 2018/19</i> 3. Australian Government Department of the Environment and Energy fact sheet <i>Bushfire management and national environment law</i>.
Report Prepared by	: Manager Development Planning and Land Information Services (J van der Mescht)
Responsible Officer	: Executive Director Development Services (P Camins)

STRATEGIC IMPLICATIONS

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

- **Theme:** Clean, Green & Sustainable
- **Objective:** Objective 3.1: To protect and enhance our natural and built environment in a changing climate
- **Community Priority:** 3.1.1 Deliver effective practices that reduce risk to property, infrastructure and the natural environment and improve community awareness and resilience.

In Brief:

- Please note that this item was prepared well before the recent bushfires and is not to be taken as a direct response in relation to this. This is a strategic proposal to improve community safety within the urban and peri-urban areas.
- Members of the Development Services Directorate recently reviewed the annual fire management notice and its implementation/application.
- As a result of the review, areas of improvement have been identified for the following types of properties:
 - Urban residential, industrial and commercial zoned land where the area of land is 4,000m² or less;
 - All Land between 4,000 m² and 100 Ha;
 - Land over 100Ha;and
 - Conservation, Special Residential and Rural Residential (Special Rural) zoned land.
- In addition to the review, it was identified that the following actions be undertaken;
 - Modifications to the annual *Fire Management Notice* (the Notice); and
 - The development of the draft *Bushfire Management in Conservation, Special Residential and Rural Residential (Special Rural) Zoned Land Policy* (The Policy).
- Modifications to the Notice are required in order to ensure that bushfire mitigation work appropriate to the intended use of the properties are in place and maintained in order to improve community safety.
- The Notice for 2018/2019 has been prepared and includes a number of modifications. This notice will be assessed by the Bushfire Advisory Committee (BFAC).The Local Planning

Scheme (LPS1) includes Conservation, Special Residential and Rural Residential (Special Rural) zoned land. These zones are generally in areas which are heavily vegetated or have high fuel loads.

- The LPS1 recognises the importance of preserving the natural environment in these areas. However, these needs are required to be balanced against bushfire risk.
- The review found that there are a number of properties which have not implemented suitable bushfire mitigation measures.
- The Policy has been prepared to provide guidance and clarity on the application of bushfire mitigation measures on properties in Conservation, Special Residential and Rural Residential (Special Rural) Zoned Land.
- Council is requested to adopt the *Bushfire Management in Conservation, Special Residential and Rural Residential (Special Rural) Zoned Land Policy*.

RECOMMENDATION

BFAC006: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR MOIR

THAT Council:

1. **ADOPT the Bushfire Management in Conservation, Special Residential and Rural Residential (Special Rural) Zoned Land Policy.**
2. **NOTE that the Draft Fire Management Notice 2018/2019 will be reviewed and adopted through the Bushfire Advisory Committee (BFAC).**

CARRIED 13-0

BFAC006: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR SMITH

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

BFAC006: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. **ADOPT the Bushfire Management in Conservation, Special Residential and Rural Residential (Special Rural) Zoned Land Policy.**
2. **NOTE that the Draft Fire Management Notice 2018/2019 will be reviewed and adopted through the Bushfire Advisory Committee (BFAC).**

BACKGROUND

1. The City of Albany reviews its practices on an ongoing basis to ensure that it can effectively reduce the risk to property, infrastructure and the natural environment and improve community awareness and resilience.
2. Members of the Planning, and Emergency Management teams of the Development Services Directorate reviewed the annual *Fire Management Notice* and its practical implementation/application outcomes.

3. Areas of improvements have been identified for the following types of properties:
 - a. Urban residential, industrial and commercial zoned land where the area of land is 4,000m² or less;
 - b. All Land between 4,000 m² and 100 Ha;
 - c. Land over 100Ha; and
 - d. Conservation, Special Residential and Rural Residential (Special Rural) zoned land.
4. Further research and work has been completed in relation to;
 - a. Proposed modifications to the annual *Fire Management Notice*; and
 - b. The development of the draft *Bushfire Management in Conservation, Special Residential and Rural Residential (Special Rural) Zoned Land Policy* (the Policy).

DISCUSSION

5. As a result of the review, modifications to the *Fire Management Notice* and a new policy for Conservation, Special Residential and Rural Residential (Special Rural) zoned land is required.

The greatest improvement can be made in relation to the following types of properties:

- a. All undeveloped Urban residential, industrial and commercial zoned land where the area of land is 4,000m² or less:
 - i. The current Notice includes a requirement for all developed land below 4,000m² or less to have an asset protection zone in place, but undeveloped lots are only required to manage their fuel load to an 8 tonne per hectare level.
 - ii. The 8 tonnes per hectare level is not the appropriate level for urban areas. The appropriate level is 2 tonnes per hectare, which is similar to the Asset protection Zone standard.
 - iii. A number of undeveloped lots sized 4,000m² or less located in these zones have not appropriately reduced their fuel loads to this level and have therefore created an increased risk of and spread of fire within these areas.
 - iv. Appropriate reduction of fuel will result in a greater level of protection for the community and urban infrastructure.
 - v. Staff also recommend organizing community education sessions for reducing fuel to an APZ standard with the least environmental harm.
6. **All Land between 4,000 m² and 10 Ha.**
 - a. Undeveloped and developed land over 4,000 m² are not currently required to have low fuel loads (current level is 8 tonnes per hectare).
 - b. A number of lots sized between 4,000m² and 10,000m² are located within, or are located on the periphery, of the urban area. These lots are mainly used for rural living purposes and smaller rural pursuits. Reduced fuel levels on these properties will provide greater protection for existing dwellings and infrastructure and also have community safety benefits with reduced fuel levels on the periphery of the built up areas.
 - c. A requirement for a low fuel load i.e. 8 tonnes per hectare, and an APZ standard around dwellings is appropriate for this type of lot.
7. **Land over 100Ha**
 - a. Perimeter fire breaks or an approved variation to requirements supported by a fire management plan that provides evidence of your capacity to prevent and control the outbreak and spread of bushfire.

- b. Clear a bare earth 3 metre wide firebreak within 100 metres of all buildings, haystacks, stockpiled flammable matter and fuel dumps by removing all flammable matter and vegetation within the 3 metre wide firebreak between the ground and 5 metres above the ground so that the firebreak provides unrestricted vehicular access.

8. Conservation, Special Residential and Rural Residential (Special Rural) zoned land.

- a. The Local Planning Scheme includes Conservation, Special Residential and Rural Residential (Special Rural) zoned land. These properties are generally created in areas of natural flora.
- b. The Local Planning Scheme recognizes the importance of preserving the natural environment in these areas. However, these environmental factors must be balanced against the need for bushfire safety.
- c. The Scheme includes requirements for bush fire mitigation works, including the installation of Asset Protection Zones (APZ) (formerly known as building protection zone and hazard separation zones) and fire access tracks or fire breaks.
- d. The required bush fire mitigation works are not in place as required on a number of properties in these areas for various reasons.
- e. The reasons behind this non-compliance most commonly revolves around either a lack of understanding of the potential risk, the cost of doing the works, or environmental reasons.
- f. In some cases, there is a perception that bushfire risk mitigation cannot be implemented because of the various planning scheme controls.
- g. A specific section dealing with the interface between the planning scheme requirements and the annual notice will be included in the annual fire management notice.
- h. The policy has also been prepared to provide guidance and clarity to all stakeholders in order to improve implementation and lower the bushfire risk in these areas.
- i. The policy also includes focus areas for annual compliance inspections.

GOVERNMENT & PUBLIC CONSULTATION

9. A number of fire management notices from other local governments were reviewed as part of the research.
10. Local volunteer bush fire brigade representatives were consulted and provided input.
11. A local fire management specialist was also consulted as part of the research and document preparation.
12. The policy will be made available to the public.
13. Staff also recommend organising and facilitating APZ clearing workshops.
14. The policy and the Fire Management Notice provide guidance on how to apply for variations to the Notice where the requirements cannot be met.

STATUTORY IMPLICATIONS

15. There are no statutory implications relating to endorsing the proposed policy.
16. City is responsible for issuing an annual Fire Management Notice as a direction under s.33 (1) of the *Bush Fires Act 1954*.
17. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

18. The proposed policy has been prepared to provide guidance and clarity to stakeholders, and to improve implementation, compliance rate and an overall reduction in the risk of bushfires in these areas.

19. RISK IDENTIFICATION & MITIGATION

20. The following indicates the risk to the City in making a decision to support or not support the Policy:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation.</i> <i>Policy position may have an impact on property owners</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>The Policy and the Fire Management Notice provide guidance on how to apply for variations to the Notice where the requirements cannot be met. These variations can be considered on its merits.</i>
Opportunity: Increase risk mitigation and consistency reduced risk to Community				

FINANCIAL IMPLICATIONS

21. There are no financial implications beyond what has already been budgeted.

LEGAL IMPLICATIONS

22. City is responsible for issuing an annual fire management notice as a direction under s33 (1) Bush Fires Act 1954.

ENVIRONMENTAL CONSIDERATIONS

23. The proposed changes to the Fire Management Notice and Bushfire Management in Conservation, Special Residential and Rural Residential (Special Rural) zoned land Policy will have an impact on the environment. This impact, on balance, is acceptable in the context of managing the risk and consequences of bushfires.

24. The policy and notice requirements generally relate to actions that may be exempt activities under Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) (refer to the attached fact sheet Bushfire Management and National Environment Law).

25. Staff also recommend organising community education sessions for reducing fuel to an APZ standard with the least environmental harm.

ALTERNATE OPTIONS

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

- To resolve that the draft policy is unacceptable and refuse to endorse it;
- To resolve to endorse the policy subject to modifications; and/ or
- To resolve to amend the proposed fire management notice;

CONCLUSION

27. Staff have reviewed current practices to ensure that the City of Albany can effectively reduce the risk to property, infrastructure and improve community awareness and resilience.

28. By implementing the policy in conjunction with the modified Fire Management Notice, the City will be reducing the bushfire risk to the community. Council is therefore requested to adopt the policy and note that there will be changes made to the Fire Management Notice.

Consulted References	:	1. <i>Local Planning Scheme 1</i> 2. <i>Planning and Development (Local Planning Schemes) Regulations 2015.</i> 3. Bush Fires Act 1954 4. Australian Government Department of the Environment and Energy fact sheet "Bushfire management and national environment law."
File Number (Name of Ward)	:	All
Previous Reference	:	Nil

**LEMC015: RECEIVE THE MINUTES OF THE LOCAL EMERGENCY
MANAGEMENT COMMITTEE – MARCH 2018**

Proponent : City of Albany
Attachment : LEMC Minutes 15 March 2018
Report Prepared By : Administration Coordinator-Rangers & Emergency Services
(S Lees)
Responsible Officer(s): : Executive Director Planning & Development (P Camins)

In Brief:

- Receive the confirmed minutes of the Local Emergency Management Committee meeting held on 15 March 2018.

RECOMMENDATION

LEMC015: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SHANHUN
SECONDED: COUNCILLOR HOLLINGWORTH

THAT the confirmed minutes of the Local Emergency Management Committee meeting held on 15 March 2018 be RECEIVED.

CARRIED 13-0

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

DIS112: C18008 TENDER AWARD ARCHITECTURAL CONSULTANCY SERVICES-
ALBANY TOWN HALL REPURPOSING PROJECT

15. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN Nil

16. REPORTS OF CITY OFFICERS Nil

17. MEETING CLOSED TO PUBLIC Nil

18. CLOSURE

There being no further business the Mayor declared the meeting closed at **8.26PM**.



Dennis W Wellington
MAYOR

TABLED ADDRESS BY MS LINDA MATTHEWS

Good evening. My name is Linda Matthews and I live in La Perouse Road in Goode Beach.

Thank you to the Mayor and Councillors for listening to me.

I am speaking with regard to the building of a resort at Lot 660 in Goode Beach.

Of particular interest to me in the DISC Agenda of 11th July is the reference that the developers make to a “Managed Retreat” in the event of rising sea levels making the resort untenable. This is Point No 40, section H.

Who will pay for this retreat? It is quite common for resorts of this nature to change ownership in their lifetime – even several ownership changes may take place. If this occurs then how can future generations of Goode Beach residents be assured that this will be managed appropriately? Could an Environmental Bond be established before construction commences to ensure there is a fund available to accomplish what the developers say will happen at the end of the lifetime of this resort?

I do not have faith that the developers, or their successors, will remove or relocate this resort with all its infrastructure, roads and swimming pool. It is an empty promise and a cost that they will not want bear as there is nothing in it for them. Any half-decent accountant will tell you to siphon off the profits to another, associated company over the life of the project and to leave the capital cost i.e. the buildings, in a company that will be run down into bankruptcy as the time for closure draws near. In fact, the capital cost will be retained on the books to ensure a loss is declared and carried forward for the next three to five years. If the accountant is really good they will even get a tax refund courtesy of the Australian taxpayer.

But Tax Law that will govern this scenario is not the same as Judicial Law which will ensure that the City of Albany will be unable to sue a bankrupt company to clean up their site. Once again, the accountants come to the fore and set up a kind of firewall that will protect the parent company from litigation. It is a modern, and successful variant on the old ‘Bottom of the Harbour Schemes’ so popular in the 80’s and early 90’s.

The damage caused by this resort will start from the very first day of construction. An Environmental Bond will at least make certain there is some possibility of remediation of the site at the end of the life of this resort. The resorts demise will not happen in our lifetime, but our children and grandchildren do deserve better stewardship from this generation who govern. A derelict site in the future will only occur if you are derelict in your duties now so please ensure the developers are compelled to make a substantial financial provision to fully restore the site.

Thank You

BY

JOHN TONKIN AFSM

Dear Mayor Wellington and fellow Councillors,

I wish to raise some important issues with respect to the proposed development at Lot 660 Goode Beach. These observations are based upon my practical experience gained during many years fighting and managing bush fires on the south coast.

Firstly in terms of SPP 3.7 this development would be categorised as a "Vulnerable Land Use" and should be treated as such. The vulnerability arises because people who may use the proposed resort may be unaware of their surroundings and may require assistance or direction in the event of a bushfire. Accordingly there is a need to ensure that a comprehensive evacuation plan is in place. This is easy to say, but in reality the practicalities may well be very difficult when a rapidly advancing fire fanned by coastal winds runs towards the resort and panic sets in. Coastal heath fuels surrounding the proposed resort are highly responsive to wind and can occur at any time throughout the year; the recent uncontrollable fires in May this year bears testament to this fact. Moreover a prescribed burn conducted in the adjoining area last year, which was conducted under mild conditions, broke containment lines and ran unimpeded into the dune system. I have grave fears concerning the welfare of residents of the proposed resort under such circumstances.

Bush fire fighting requires considerable amounts of water. From memory the resort development proposal plans to use the exiting scheme water for its requirements including fire fighting. However, it must be remembered that in the event of a bush fire in the Goode Beach area, residents of the Goode Beach settlement would be using scheme water to wet down around their homes and attending fire agencies would also be drawing from the mains. In such circumstances the finite resource of the Goode Beach water tank may well be exhausted and the water pressure would definitely suffer. Given its physical location, I assume that the proposed resort will be at the "end of the line" in terms of scheme water, and therefore its water supply may well be compromised leaving attendant fire fighters in a difficult situation.

Given a bush fire threatening the resort, it will most likely fall to the City's wonderful Bush Fire Brigades to respond and protect life and property. However, given the proposed development's location fire-fighters themselves may well be placed at risk. Although the proposed development provides for an internal entry road, and alternative emergency access way, I have misgivings concerning the internal entry road as it could quite easily be made impassable by a bush fire driven by a North West wind. Should the Brigades need to deviate off the hardstand to attack the bush fire they will be confronted by very boggy land (quite often inundated with water) in proximity to the lake, and sand dunes to the north and east of the proposed development. The attendant fire fighters could so easily come to grief under such circumstances and I believe that we owe them a duty of care by refusing to allow this development in such precarious location.

I note that some of the City's **GENERAL PRINCIPLES & ETHICAL STANDARDS** include requirements to:

- *Act with reasonable care and diligence*
- *Base decisions on relevant and factually correct information*
- *Ensure that decision-making takes into account the interests of the City of Albany ratepayers and residents as a whole*

In view of the above, I sincerely request that Council considers the information provided above when making its decision lest people's lives be put at risk.

Council Meeting 24/7/18

Item DIS104 Local Structure Plan N^o 9

Good evening, my name is Melanie Price of Aurora Environmental. I am the environmental scientist who has been working with the team for planning of the holiday accommodation at Lot 660 Goode Beach.

I would like to clarify some misinformation regarding the presence and distribution of flora and fauna on the site as I have been very concerned about claims been made by some people, some of which have been reported in the media.

As recently as last week, a newspaper item claims that foraging habitat for Threatened species of Black Cockatoo will be cleared. This is not the case. While some foraging habitat for Cockatoos occurs on the western portion of the lot, there is no significant foraging habitat in the area proposed to be cleared. An assessment has ^{been} undertaken on the site, in according to the referral guidelines for the Cockatoo species. This information is available in the Structure Plan, should anyone like to read it.

In addition, it is claimed that the proposal is not going to be referred to the Department of Environment and Energy under the Environment Protection and Biodiversity Conservation Act. This is not true. The environmental assessment and Structure Plan does recommend referral due to the presence of habitat for the Western Ring-tail Possum. So, the landowner will be undertaking referral as part of the rezoning process.

Equally, claims that *Drosera paleacea* ^{the} (dwarf sundew) is found only at this site and two others (Little Grove) are untrue. The species is not listed as Threatened and is known from up to 17 populations in the south west of WA.

The community must be very confused by all the claims that have been made which is unfortunate. Possibly few have read about the management measures that are proposed to protect the environment. Despite invitations from the project team, only one person from Goode Beach has contacted me to talk about the project.

I would like to thank the City of Albany for its thoroughness in assessing this project to date as they have understood that this project will have a number of checks and balances to ensure that impacts to the environment will be adequately managed.

Melanie Price 76 Festings St Albany
6330
0447446343
melanie.price@auroraenvironmental.com.au

FloraBase

the Western Australian Flora

Plants → Magnoliophyta → Magnoliopsida → Caryophyllales → Droseraceae Salisb. → Drosera L.
→ Drosera paleacea DC.

***Drosera paleacea* DC. Dwarf Sundew**

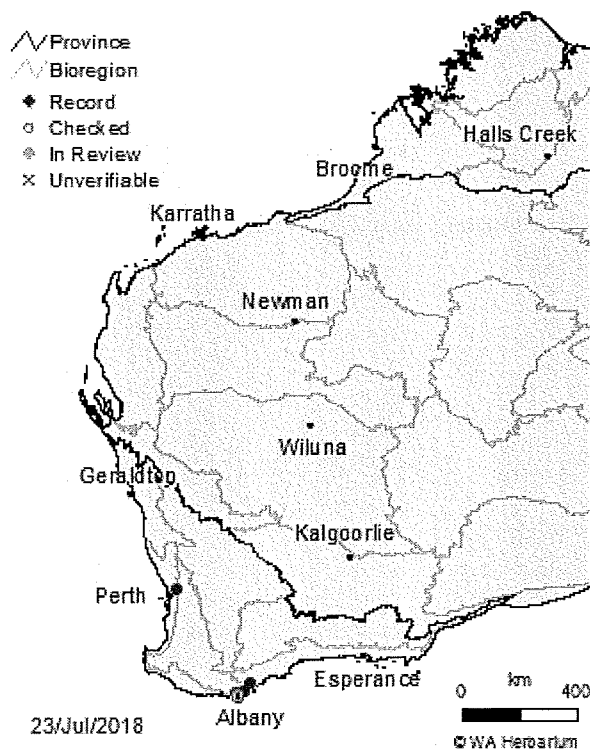
Prodr. 1:318 (1824)

Conservation Code: Not threatened

Naturalised Status: Native to Western Australia

Name Status: Current

Drosera paleacea



Brief Description

Amanda Spooner, Friday 10 September 1999

Fibrous-rooted, rosetted perennial, herb, to 0.03 m high, to 0.015 m wide. Fl. white-cream, Sep to Dec or Jan. White sand, sandy clay.

Distribution

Beard's Provinces: South-West Province.

IBRA Regions: Esperance Plains, Geraldton Sandplains, Jarrah Forest, Mallee, Swan Coastal Plain, Warren.

IBRA Subregions: Eastern Mallee, Fitzgerald, Lesueur Sandplain, Northern Jarrah Forest, Perth, Recherche, Southern Jarrah Forest, Warren, Western Mallee.

NatureMap

Mapping Western Australia's biodiversity

Drosera paleacea (Dwarf Sundew)

Printed by Guest user on 24/7/2018

Query details : Name=Drosera paleacea; Current Names Only=Yes; Core Datasets Only=Yes



Search Results

Selected

- Selected Species

All Results

- Default
- Confirmed
- Corrected
- Reported

Reference Layers

- State Borders

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



R. Paver address on Structure Plan No 9 item at OCM 24th July 2018

Mr Mayor,

The planning officer's report is reflective of a level of bias in favour of the Structure Plan that is unacceptable in a decision making process that is quasi-judicial in nature.

Prior to its endorsement in 2014, the EPA informally assessed LPS1 and determined that it was not necessary to impose any environmental conditions on the scheme. Note that the City of Albany prepared the scheme and imposed environmental conditions on Lot 660 in clear recognition of its environmental fragility. Note also that the EPA was aware of this when it made its determination. When the planning officer presents these facts in paragraphs 7 and 40 b) of his report, he begins by saying, correctly, that the EPA assessed the scheme, but then goes on to say, inappropriately, that "the assessment undertaken by the EPA did not declare the Lot 660 to be environmentally sensitive". This statement cannot be justified on rational grounds. It is a gratuitously invented statement of negative fact carrying the preposterous implication that the EPA does not regard Lot 660 as environmentally sensitive.

In paragraph 9 of the report the officer draws Council's attention to the fact that the definition of chalet in the scheme does not restrict its size or the number of persons that may stay in it. The reason he does so can be found in the agenda and minutes of the DISC Meeting of 6th December where it was said: "The current Special Use site permits 10 chalets to be developed without specific limitations on bedrooms or beds, the proposed development proposes a specific number of beds that could be considered as a marginal increase to what is already allowed".

This again is inappropriate advice. The officer knows or ought to know that Council is not free to make arbitrary decisions about the size of chalets. He has failed to point out that the City's Tourism Accommodation Planning Strategy defines a chalet as 'a use characterised by the development of self-contained building(s) generally comprising a maximum of two bedrooms'. More importantly he has failed to point out that when Council has approved chalets as an additional or special use in the scheme, it has invariably imposed restrictions on the size of the chalets. It has consistently specified that their total floor area be no more than 110 square meters excluding carport,

verandah and storage areas, or alternatively 140 square meters including these non-habitable areas. This is in fact the way Council dealt with the chalets on SU2 Lot 200 Haynes Road, Goode Beach. To suggest that Council can treat the chalets on SU1 Lot 660 La Perouse Road, Goode Beach differently, is to invite Council ~~is free~~ to make an inconsistent arbitrary decision.

I have dealt with just two statements in the report: one has regard for irrelevant considerations; the other fails to have regard for relevant considerations.

I have time for one more. In paragraph 40 h) of the report the officer says that the proponents' 'coastal report has been reviewed and accepted by the Department of Planning ... '. This is a thoroughly misleading statement because it may encourage Councillors to believe that the Department of Planning has approved proposals in the Structure Plan that DoWER has criticised and described as negligent. Councillors need to be disabused. The Department of Planning has approved nothing. As the Department said in an email to me : 'The coastal report will be assessed as part of the overall assessment of the Structure Plan'. In other words, the proponents' coastal report has not yet been assessed by the Department let alone approved.

I am confident that when it does assess the Structure Plan it will have greater regard for relevant considerations than has been demonstrated to date by the proponents and the City's planning officers.

Address by Roley Paver to DIS Committee Meeting, Albany, 11th July 2018

I endorse everything Tony Kinlay has said about the failure of the Structure Plan to comply with state requirements regarding wetland and coastal setbacks. You have seen that the proposed development is hard up against the wetland to the west and against the proponents 50 year erosion hazard line to the east. There is no wetland buffer zone beyond the wetland and there is no 30 meter foreshore reserve beyond the proposed erosion hazard zone.

These fundamental flaws in the Structure Plan are clearly identified by DWER in its submissions to the City of Albany. (See No's 68 and 84 in the Schedule of Submissions which I urge you to read).

Firstly, in relation to the wetland setback, I will paraphrase what DWER said expressly and by implication. It said 1) that what needs protecting is not only the lake but also the wetland around it, 2) that this is to be done by way of a buffer zone surrounding and measured from the edge of the identified wetland, and 3) that this buffer zone must be managed not to permit development within it but to protect the wetland. The proponents, and the planning officers in their report, have responded to all this with arguments that are totally spurious. I do not need to go into them. It is sufficient for me to say that they treat the wetland as the wetland buffer zone, a totally absurd proposition that flies in the face of not only state policy statements but also the provisions of the City's own LPS.

Secondly in relation to the costal setback, DWER has this to say and I quote: "For the proponents of this development to dismiss state policies and instead state that they will plan and manage for a 50 year sea level rise is negligent to future owners and investors in the property as well as local and state government authorities that may be expected to protect the infrastructure from erosion. Managed retreat is not an option for this site which is constrained by the presence of Lake Vancouver. Further additions to the coastal reserve should be secured at this stage". The response to this by the proponents and the planning officers, is to impose a caveat on the title of Lot 660, to treat this caveat as if it were a hard and fast guarantee against the consequences of erosion, and to throw the environmental and financial cost of the consequences on the state and hence the community in the event of bankruptcy. And they say nothing about the required additional 30m coastal buffer west of the 50 year erosion hazard line other than to assert ambiguously that the proponents' "coastal report has been reviewed and accepted by the

Department of Planning Lands and Heritage and the Department of Transport". What, pray, is meant by this? Accepted in form or in substance? If these Departments have accepted it in substance one would expect written proof of this to be laid out in the Schedule of Submissions. It is not there.

Mr Chairman, Tony Kinlay has shown that having rational regard for the state's policy statements and guidelines on wetland and coastal setbacks Council cannot support the proposed development. I will say no more on this.

But there are other cogent reasons for rejecting the Structure Plan that need airing. The planning officers have made much of the environmental approval given by the Minister for the Environment to Loire Nominees' in 1993. What they have not disclosed in their report is 1) that this approval was conditional on planning consent, 2) that the Minister for Planning withheld his consent to the subdivision of that part Lot 401 now known as Lot 660 and 3) that he did so expressly to preserve the natural landscape features of the site and the visual amenity of the area. These reasons are as cogent today as they were in 1998/9.

Now, having failed to draw attention to these relevant considerations, the planning officers did draw attention to something the Minister said when he declined to allow special residential subdivision on Lot 660. What he said, however, is not recounted in full; so I will make good their omission. He said that Loire Nominees might like to consider an amendment for, and I quote, "a well designed low key holiday development (10 Chalets) clustered in an area of the site clear of steep slopes". I emphasise the last 4 words "clear of steep slopes" for two reasons. Firstly they are consistent with his determination to preserve the naturally vegetated parabolic dunes, which he referred to as the natural landscape features of the site. Secondly they inform the provisions of SU1 in LPS1 which require the Structure Pan to achieve a low key holiday accommodation development of up to 10 chalets, and here I quote, "commensurate with the fragile coastal nature of the area".

Now, planning officers and City Councillors are or should be aware that the proposed development envisages the clearing of natural vegetation and the flattening and re-contouring of parabolic dunes. It is not, in the words of the Minister, "clear of steep slopes". Nor is it "commensurate with the fragile coastal nature of the area". It is in fact environmental vandalism and should be rejected out of hand.

APPENDIX A
Added at
public
question
time
OCM
24/07/2018.

Presentation on Cockatoos at Lot 660 Goode Beach to City of Albany

Ordinary Council Meeting 24th July 2018

Professor Stephen D. Hopper AC

BSc (Hons 1st Class) PhD Hon DSc (UWA) Hon DSc (USussex)

Professor of Biodiversity, The University of Western Australia, Albany WA

Strategic Consultant in Biodiversity • Environment • Botanic Gardens • Cultural Heritage • Ecotourism

Mr Mayor, Councillors, City staff,

I am Professor Steve Hopper, a resident at 23 La Perouse Court, Goode Beach since 2013. I wish to address Agenda item DIS 104 LOCAL STRUCTURE PLAN NO. 9 Lot 660 GOODE BEACH.

Specifically, I want to table new evidence that materially changes the advice received by Councillors two weeks ago at the DISC meeting regarding threatened black cockatoos on Lot 660 and their foraging habitat.

My academic credentials for speaking to this matter are given in the transcript of this presentation, and also include four decades of research, policy development and administration on threatened species at State and international levels, culminating in being awarded in 2012 Australia's highest civilian honour, Companion of the Order of Australia (AC), particularly for '*delivery of world class research programs contributing to the conservation of endangered species and ecosystems*'.

Carnaby's Cockatoo is a threatened species listed under the Commonwealth's Environment Protection and Biodiversity Conservation Act 1999 and the Western Australian Wildlife Conservation Act 1950 as amended.

Contrary to the advice given by the Proponents and City Planners, Carnaby's Cockatoo does occur on the proposed construction site for buildings under Local Structure Plan 9.

Moreover, Carnaby's Cockatoo does have substantial winter feeding habitat on Lot 660, Goode Beach, including on the proposed construction site for buildings under Local Structure Plan 9, comprising WA peppermint trees with significant numbers of wood boring longicorn beetle larvae, as well as parrot bush (*Banksia sessilis*), who's seeds are eaten by the cockatoos.

I submit to Council for the public record two pages of photographic and written professional evidence on this matter together with the transcript notes I'm reading now.

Contrary to advice provided by the Proponents for LPS 9 and the City Planners in the agenda papers, this new evidence triggers both (1) a need for further fauna and flora surveys on all of Lot 660 and (2) a need for the existence of Carnaby's Cockatoo, a listed threatened species, and its feeding habitat to be referred to the Commonwealth for legal consideration.

Discoveries made over the past fortnight relate to identifying and directly observing Carnaby's Cockatoos stripping bark and chewing wood of WA peppermints to excavate burrows of wood-boring beetle larvae. Such feeding behaviour leaves unmistakable scars on the trees over at least two years, while the presence of beetle larvae causes local swelling of branches as well as tubular burrows in wood with circular exit holes for sawdust waste.

I commend Councillors at the last DISC meeting on their successful amendment regarding Structure Plan 9 requiring extra survey of groundwater movements on Lot 660 and the Lake Vancouver city reserve.


I recommend that a similar amendment now be moved regarding the need for new flora and fauna surveys on Lot 660 to map the abundance and feeding habitat of black cockatoos and other threatened species including ring-tailed possums, Main's assassin spider and the Albany Wetlands Sundew (*Drosera paleacea*).

Until such work is funded and completed at an adequate level by the proponents, it would be reasonable for Councillors to either reject Structure Plan 9 or seek more time from the WA Planning Commission to reconsider the matter when adequate survey data are available on threatened species.

This new evidence on threatened Cockatoos further serves to indicate how exceptional Lot 660 is from an environmental conservation point of view.


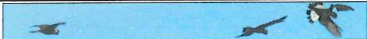
I hope that Councillors will see the wisdom of their predecessors and the many government departments who, two decades ago, resolved that development of a tourist resort on Lot 660 is and, I submit, remains environmentally unacceptable.

24/07/2018



Substantial black cockatoo foraging habitat does exist on the area to be cleared under Structure Plan 9 on Lot 660 Goode Beach



Professor S.D. Hopper AC, PhD Hon DSc
17th July 2018

Structure Plan 9 statements about Black Cockatoo foraging habitat

- 'The area to be cleared to accommodate development within the Structure Plan does not contain suitable foraging, nesting or roosting habitat for black cockatoos' (pg 24)
- '... surveys indicated that the footprint of the proposed development does not contain foraging, nesting or roosting habitat suitable for the three Threatened species of Black Cockatoo.' (pg 28 of Appendix 6 - Targeted Survey for Western Ringtail Possum, Main's Assassin Spider and Black Cockatoo by Aurora Environmental)


Aurora Environmental's Plate D (pg 17 of 33) shows the 'site' surveyed for Black Cockatoo habitat on Lot 660 (most access roads omitted)

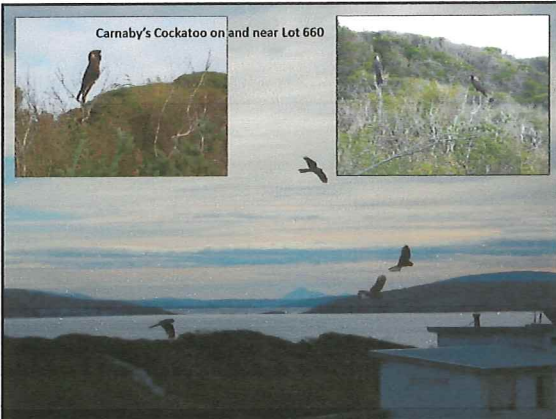
Aurora Environmental's Cockatoo survey on Lot 660

- In section 5.3.2 of appendix 6 LPS 9 (pg 24 of 33) it is reported : "The vegetation of the proposed clearing area is in excellent condition, but contains few species which are likely to provide high quality foraging for the three species of black cockatoos.
- Popular foraging species such as Marri (*Corymbia calophylla*), Jarrah (*Eucalyptus marginata*), Sheoak (*Allocasuarina fraseriana*), Balga (*Xanthorrhoea* species) and Banksia species are absent in the development footprint.
- Other foraging species (i.e. Pine trees, Hakea, Grevillea, Callistemon and Erodium) are also absent from the development footprint."
- This summary does not consider records from the Swan Coastal Plain Great Cocky Count (Shah 2006, Report Birds Australia WA) and WA Museum pamphlets of 'insect grubs' as black cockatoo food from bark/wood of WA Peppermints (*Agonis flexuosa*)

Flocks of up to 50 Black Cockatoos are regularly observed on and over Lot 660



Carnaby's Cockatoo on and near Lot 660



24/07/2018

The proponents of LPS9 did not consider wood-boring beetle larvae in peppermint wood (*Agonis flexuosa*) as a cockatoo food source

Recent photographic evidence unequivocally showing that Carnaby's Cockatoos have been feeding on large wood boring beetle larvae in tough branches of peppermints this winter and earlier in the "funnel region" of Lot 660 immediately coastwards of where the centre of the proposed resort is to be located

Undamaged borer hole →

← Earlier cockatoo foraging damage

July 2018 cockatoo foraging damage

Banksias are present in Aurora Environmental's cockatoo survey 'site' area

- *Banksia (Dryandra) sessilis* occurs as scattered individuals in Aurora's cockatoo survey 'site' area on Lot 660
- Moreover, Carnaby's cockatoo have been photographed within 100 m to the south of the survey area feeding on *Banksia sessilis* seeds (picture)
- I have observed cockatoos feeding on *Banksia sessilis* fruits in the southern part of the Cockatoo Survey 'site' area close to the present sand track in vegetation that will be destroyed by the development on Lot 660

The City planners summary statement in their paper to Albany City Councillors (DIS 104 pg 13):

- "It is not necessary to undertake additional [fauna] surveys for the following reasons:
- "... Potential foraging habitat for Black Cockatoos was identified in a targeted fauna survey as occurring immediately around Lake Vancouver (McBl) and to the west of the lake (AfEmt and Mt). This vegetation type is not proposed to be cleared."
- **New evidence changes this assessment materially, both for the development 'site' and the access road routes on Lot 660**
- **The now confirmed presence of listed Threatened Species and foraging habitat (peppermint bark and wood) on the building 'site' are key assets and environmental constraints overlooked by the proponents of Structure Plan 9, needing further survey**

New evidence refutes the proponents' assessment regarding Black Cockatoo presence and foraging habitat on Lot 660

- **Plant species providing food to Carnaby's cockatoos as seed (Parrot Bush *Banksia sessilis*) or wood-boring longicorn beetle larvae (WA Peppermint *Agonis flexuosa*) do occur east of the Lake Vancouver wetlands on the 'site' to be cleared for the proposed development (see map)**
- The matter requires State and Commonwealth Governments' consideration as Carnaby's Cockatoos are listed as **Threatened Species** under the Wildlife Conservation Act and EPBC Act

Base map Aurora Environmental's Phase D (pg 17 of 33)

Carnaby's Cockatoos chewing through peppermint bark and wood for beetle larvae at Goode Beach near Lot 660 15th July 2018

The City Planner's following summary statement regarding fauna on Lot 660 (DIS 104 pg 13) is incorrect in light of new evidence not recorded by Aurora Environmental

- "No Threatened or Priority species were recorded on site." **Now incorrect**
- "In addition, no species listed as Threatened under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* were recorded." **Now incorrect**

Mayor, Councillors,

I am Tony Kinlay, a resident at 10 La Perouse Road, Goode Beach since 2012. I wish to address Agenda item DIS 104 LOCAL STRUCTURE PLAN NO. 9 Lot 660 GOODE BEACH.

For the records I wish to table this talk, as well as re-tabling a report on Buffers, and the Map of the site.

Councillors, the proposed resort WILL NOT FIT. It can only fit if you choose to ignore or breach State policies

If the developers are denied the opportunity to develop their land, will the City possibly be risking a claim for injurious affection? And if the City's planners misguidedly gave undue encouragement to the proponent in 2015, they may have possibly exposed the City and its ratepayers to serious financial risk. Or did the proponent knowingly proceed at their own risk?

You may well ask how did we get to this?

Was the 2014 rezoning flawed? 'Did the boundaries of SU1 take into account a wetland buffer and a coastal setback? Most likely not. And how do you correct a flawed beginning?

Three years ago, the City's planners could and should have done their proper due diligence, and then said "Mrs Developer, your resort will not fit into the available space, and does not comply with the current scheme, so go away and come back if you wish with one that does comply, and we will consider that".

But obviously this did not happen. And it is very evident the due diligence has still not been carried out.

We have two fundamental issues with the proposed buffers:

Issue No. 1 relates to the wetland buffer:

At the DISC meeting, the City's planners confirmed that they had referenced SPP 2.9 to calculate the buffer.

Put simply, SPP 2.9 does NOT deal with wetland buffers. It deals with waterways and estuaries, not wetlands.

The correct document is the EPA's document called:

“Environmental Guidance for Planning and Development” dated May 2008, in particular Chapter B4, and Attachment B4-3, which directs a 50m minimum buffer to Category C wetlands.

Consequently there is no buffer at all. This contradicts the requirements of the guidelines.

Issue No. 2 relates to the coastal setback.

The 1st flaw here is that the proponents have considered a 50 year time frame instead of a 100 year time frame to determine the setback.

This is not justified in any known policy, past practice or planning decisions and is not consistent with the State's Coastal planning policy that clearly requires consideration of a 100 year time frame.

The 2nd flaw here is that they have made no allowance for a foreshore reserve, as required by SPP 2.6

Using a 100 year time frame, and correctly including a 30m wide foreshore reserve, the setback wipes out most of the proposed development footprint.

This means there is no room for the proposed resort.

Councillors, don't think that a catastrophic erosion event won't happen here. The most recent coastal erosion event in Australia happened only 2 years ago, in Collaroy, NSW. Google “Collaroy Erosion”, and you will see some spectacular images of collapsed houses and swimming pools.

Let me say one thing about coastal setback calculations. It is not up to you as Councillors to debate whether or when erosion of the coastline will happen. You do not have the knowledge or experience to debate it, or to make any judgement about it, least of all let it influence your vote. There is a process and procedure in the SPP 2.6 used to calculate it.

To summarise, in the worst case scenario, the resort cannot fit. In the best case scenario, any development will be confined to a much smaller footprint.

The buffer issue is just one of many which show the Structure Plan and the Officers' report to be flawed.

How can Council take the RISK of making decisions based on flawed information, which again may expose the City to a further claim?

Or is there another agenda happening, that we don't know about?

The minimum requirement is to get it right. Seek more time from the WA Planning Commission to properly assess the issues, and consider legal advice.

Otherwise you would also risk losing the trust of your community.

Tony Kinlay

Mayor D Wellington
Cr G Stocks
Cr R Hammond
Cr T Sleeman
Cr J Shanahun
Cr A Goode
Cr R Sutton
Cr P Terry
Cr R Stephens
Cr E Doughty
Cr B Hollingworth
Cr S Smith
Cr A Moir

Dear Councillor,

I wish to draw your attention to the following extract of the DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE AGENDA & MINUTES – 06/12/2017:

“5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Mr Robin Budden, 94 La Perouse Rd, Goode Beach

• QUESTION ON NOTICE – **“What new environmental information has emerged that supports such a radical change to size of the resort? The site has long been recognised as being fragile so why is it now less fragile and able to cope with a larger impact.”**

RESPONSE: The Minister for Environment 1993 EPA Bulletin 672 previously concluded that a proposal to subdivide the land into 15 lots and to develop onsite effluent disposal is environmentally acceptable subject to conditions.

The current Special Use site permits 10 chalets to be developed without specific limitations on bedrooms or beds, the proposed development proposes a specific number of beds that could be considered as a marginal increase to what is already allowed. This **proposal is therefore not considered a ‘radical’ change.”**

The FBA is dismayed at the apparent bias reflected by the City Planners in their response to Mr Budden’s question.

Mr Budden asked for “new environmental information”. The City Planners responded by drawing attention to an EPA approval for subdivision of “the land” in 1993.

This is not “new environmental information” and is misleading.

The environmental approval given by the Minister for Environment in 1993 has long since lapsed and is void (refer Clause 5.1 of his Ministerial Statement of 11 August 1993). The City Planners knew or ought to have known this.

The City Planners know that a proposed 15 Special Residential Lot subdivision of Lot 401 is very different to a proposed resort comprising 51 accommodation units, a caretaker’s cottage, a function centre and a restaurant on Lot 660.

The latter proposal has yet to be subjected to an environmental impact assessment by the EPA. It is inappropriate to suggest that the environmental acceptability of the former proposal implies the environmental acceptability of the latter proposal.

In his Ministerial Statement, the Minister for the Environment expressly stated that his environmental approval "does not signify planning approval".

Final planning approval was never given for the 15 special residential lot subdivision proposed for Lot 401.

In 1999 the Minister for Planning refused to approve the rezoning of that part of Lot 401 that is now comprised by Lot 660. Importantly he did so on the advice of the Planning Commission which had regard to environmental considerations. The failure of the City Planners to point this out to Councillors is misleading.

The City Planners' argument that the proposed resort is not a "radical change" from the development permitted under the provisions for SU1 in LPS1 is a conclusion that defies reason.

The Tourism Accommodation Planning Strategy prepared by Pracsys for the City of Albany in 2008 defines a "Chalet/Cottage Unit" as "a self-contained building generally comprising a maximum of two bedrooms". While it is true that the definition of a chalet in LPS1 makes no mention of a maximum number of bedrooms, where chalets are permitted under the scheme (as an additional or special use) the maximum floor area is limited to either 140 or 110 square meters, depending on whether it includes or excludes carports, verandas and storage areas. On the assumption that that this facilitates three bedrooms per chalet, each containing a double bed or two single beds, the 10 chalets permitted under SU1 yield a maximum occupancy of 60 people. The proposed Structure Plan for Lot 660 envisages 51 accommodation units which are ambiguously stated in the Structure Plan to comprise "61 beds". If these are single beds so that the 51 units yield a maximum occupancy of 61 people, it could be argued that this is a "marginal increase". But they are not all single beds. It is reasonable to assume that at least 51 of them are double beds. On this assumption the 51 units will yield a maximum occupancy of 112 people (51 x 2 plus 10 x 1). The proponents in fact state that the maximum occupancy of the resort will be 122 people including employees. How the City's planners can rationally regard this as a "marginal increase" is beyond comprehension.

In assessing whether or not the proposed resort constitutes a radical change from the development permitted under the scheme, one must also take into account the scale of the resort as a whole which includes a caretaker's cottage, a function centre, and a restaurant/café. When this is done it defies belief that the City Planners should maintain that the proposed resort is not a radical change from the development permitted under the scheme.

Since Councillors place reliance on the information presented to them by the City Planners, care should be taken to ensure that such information is not misleading and biased. The FBA sincerely requests that Councillors consider the facts that have been presented above, and resist the temptation to place complete reliance on the response to Mr Budden's question.

Yours respectfully,

Tony Kinlay
President, FBA
Mob 0488 117 747

10 January 2018

Lot 660 - Coastal Setback and Wetland Buffer

Frenchman Bay Association, 11 July 2018

Introduction and Summary

Careful examination of LSP9 and of WA planning guidelines shows that the proposed resort cannot be built on Lot 660 without bending the rules on keeping development a suitable distance from the wetlands, and back from the beach.

The drawing on the following page shows how Lot 660 surrounds Lake Vancouver on three sides. The only part of it designated for development is the so-called Special Use Zone SU1, shown in pale brown with a dashed black line border. The proposed footprint for the resort is indicated by the grey hatched area, which spills out of SU1 on the east and west sides.

Wetland Buffer

The open water of the lake is surrounded by wetland. A principle of WA planning is that new developments should be separated from wetlands (especially pristine ones such as the Lake Vancouver wetland) by an appropriate “buffer” - undeveloped land between the edge of the wetland and the edge of the developed area.

In WA, Australian and international practice, the wetland buffer *begins* at the edge of the wetland, defined as the boundary of characteristic wetland vegetation and/or soil types. This is what the WA Planning Commission guideline says. On the map this is the outer edge of the green speckled area. The Environmental Protection Authority recommends a minimum 50m wetland buffer (shown by the left-hand of the two solid yellow lines), and 100m or more is often required (the right-hand of the two dotted yellow lines). Obviously even a 50m wetland buffer takes out a large part of SU1 and the proposed footprint.

The proponents’ solution is to measure from the water’s edge, not the edge of the wetland, in breach of the WAPC guideline. They state in the Structure Plan that the measurement is 100m, but in fact it scales off as 60m. This is unacceptable.

Coastal Setback

State Coastal Planning Policy for sites such as this calls for the development to be set back from the shoreline’s permanent vegetation by, broadly speaking:

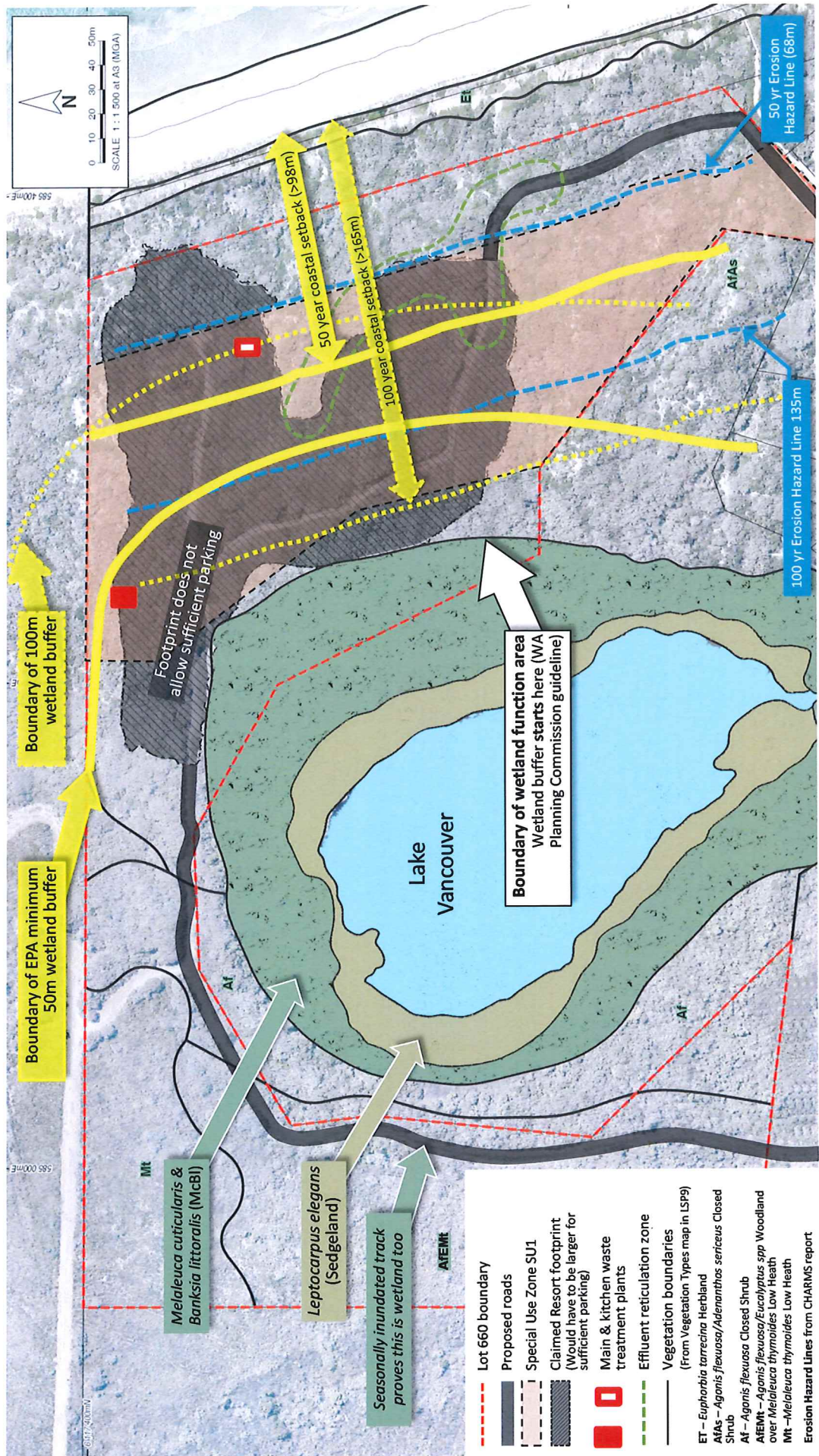
- (a) enough distance to allow for all the erosion that might happen in the lifetime of the development, which is normally taken to be 100 years
- (b) a further distance so that should all this erosion happen there would still be an appropriate foreshore reserve between the development and the shoreline. Currently there is about 30m of public foreshore reserve and a further 30m between the Lot 660 boundary and SU1.

With a 100-year horizon, the proponents’ consultants calculate the erosion hazard line would be 135m inland (the left hand dashed blue line). Add even 30m to that to maintain a foreshore reserve and the coastal setback, in its own right, would occupy almost all of SU1 (the left-hand dotted yellow line). For this reason if no other, the proponents chose a 50-year horizon. Here,

the erosion hazard line is 68m from the permanent vegetation, and the coastal setback would be at least 30m further inland (right hand solid yellow line).

To allow proper wetland buffer and coastal setback, development must be confined to the area between the solid yellow lines.

Lot 660 showing resort footprint, wetland buffers, coastal setback etc.



Boundary of 100m wetland buffer

Boundary of EPA minimum 50m wetland buffer

Footprint does not allow sufficient parking

Boundary of wetland function area
Wetland buffer starts here (WA Planning Commission guideline)

Mt
Melaleuca cuticularis &
Banksia littoralis (McBl)

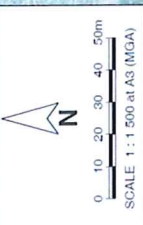
Leptocarpus elegans
(Sedgeland)

Seasonally inundated track
proves this is wetland too

- - - Lot 660 boundary
 - ▬ Proposed roads
 - ▬ Special Use Zone SU1
 - ▬ Claimed Resort footprint (Would have to be larger for sufficient parking)
 - Main & kitchen waste treatment plants
 - ▬ Effluent reticulation zone
 - ▬ Vegetation boundaries (From Vegetation Types map in LSPs)
 - ET - *Euphorbia tarrecina* Herbland
 - AFAS - *Agonis flexuosa*/*Adenanthos sericeus* Closed Shrub
 - AF - *Agonis flexuosa* Closed Shrub
 - AEMK - *Agonis flexuosa*/*Eucalyptus* spp Woodland over *Melaleuca thymoides* Low Heath
 - Mt - *Melaleuca thymoides* Low Heath
- Erosion Hazard Lines from CHARMS report

50 yr Erosion Hazard Line (68m)

100 yr Erosion Hazard Line 135m



Coastal Setback

Coastal Planning Context

The top level WA Government document is the *Planning and Development Act 2005* (as amended), with a succession of lower level policies and guidance below it.

HIERARCHY OF DOCUMENTS:

Planning and Development Act 2005



State Planning Policy 2.6: State Coastal Planning Policy (SPP2.6)



State Coastal Planning Policy Guidelines (SPP2.6 Guidelines)



Coastal Hazard Risk Management and Adaptation Planning Guidelines (CHRMAP Guidelines)

Draft Planned or Managed Retreat Guidelines (PMR Guidelines)

In addition there are:

- The *Coastal Planning and Management Manual* published jointly by the Department of Planning, Lands and Heritage and the WA Planning Commission (WAPC). This is not relevant here because (as it says in section 1.1) it does not directly address such questions as “foreshore reserves and coastal development setbacks, urban drainage disposal [and] groundwater impacts”.
- **Development Control Policy DC6.1**, which is referenced throughout Albany’s *Tourism Accommodation Planning Strategy* (2008) and, through that, in LSP9. This is the former *Country Coastal Planning Policy* adopted by WAPC in 1989 and rescinded in 2013. It appears to be the source of the idea that planning policy specifies an arbitrary minimum coastal setback of 100m or some other distance.

SPP2.6 Objectives

The objectives of State Planning Policy 2.6 (SPP2.6) are set out at S.4:

1. *ensure that development and the location of coastal facilities takes into account coastal processes, landform stability, coastal hazards, climate change and biophysical criteria;*
2. *ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities;*
3. *provide for public coastal foreshore reserves and access to them on the coast; and*
4. *protect, conserve and enhance coastal zone values, particularly in areas of landscape, biodiversity and ecosystem integrity, indigenous and cultural significance.*

The lower-level documents must be read as implementing these objectives. They are incorporated in the CHRMAP Guidelines with the rider that

CHRMAP objectives should be aligned to a decision-maker’s strategic plans based on the principle of sustainable land use and development for current and future generation. (p9, emphasis added).

Coastal Setback Policy

There is nothing in SPP2.6 and its subsidiary guidelines specifying a 100m or any other fixed setback. Rather, there is a framework for determining the setback appropriate for the particular development. A key part of this involves calculating the allowance that should be made for the action of coastal processes - in effect, potential erosion - over the lifetime of a development. For coastal situations such as Lot 660's, the CHRMAP Guidelines specify that allowance for erosion should be based on:

S1 Erosion: Allowance for the current risk of erosion

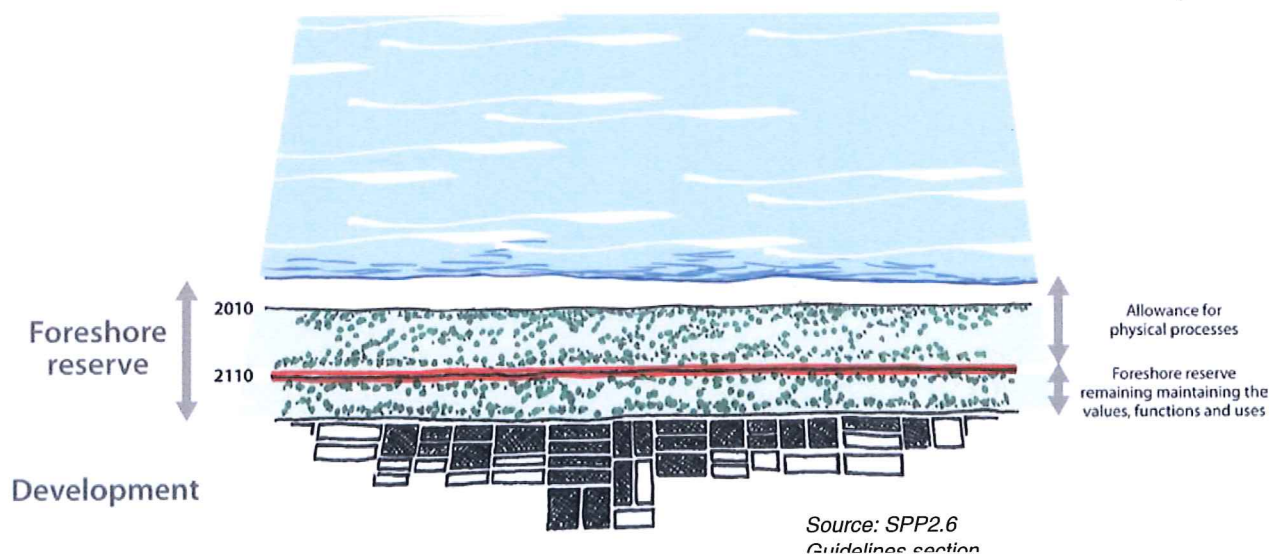
S2 Erosion: Allowance for historic shoreline movement trends

S3 Erosion: Allowance for erosion caused by future sea level rise.

In addition there is **S4 Inundation** - "Allowance for the current risk of storm surge inundation" - which is a separate issue.

The depth of coastline at risk from erosion over a given period is taken to be S1+S2+S3 plus an allowance of 0.2m per year for uncertainty. The figures for S2 and S3 also get larger as the time horizon gets longer.

In addition to allowing for potential erosion, the framework also requires that the setback be deep enough for an "appropriate" foreshore reserve to remain at the end of the planning timeframe:



This appears in SPP2.6 Section 5.9 and Schedule 1 Clause 1, and also in the SPP2.6 Guidelines, which specify:

An appropriate coastal foreshore reserve will include the allowance for physical processes [i.e. erosion etc.] ... and appropriate width to ensure a coastal foreshore reserve is maintained should the physical processes impacts be realised over the planning timeframe. In determining an appropriate foreshore reserve width, the intent is that all the values, functions and uses prescribed for current foreshore reserves today will be available at the end of the planning timeframe.

Albany's Local Planning Strategy also requires the City to:

Identify during the planning process land to be set aside ... as a foreshore reserve for conservation, management, public access and recreation... (p47).

In his submission to the City on LSP9, Albany resident Chris Gunby (a former active manager of the Water and Rivers Commission in Albany) states that this was done long ago:

During the initial Scheme Amendment that provided the present subdivision plan ... the existing 30m wide Parks and Recreation Reserve was reviewed and agreement was reached through the planning and environmental processes that a widening of the reserve to some 70-80m was required. This widening was based on State Government requirements, based on a site assessment and use of relevant policy. In addition controls were recommended and incorporated into the present Local Planning Scheme to ensure development of the adjacent SU1 was to be low density in nature and limited to 10 cabins, with no development to take place close to the extended coastal reserve. This was in order to protect the very steep and fragile dunal system. I recall the above as I was involved in this assessment and final planning outcome, through employment at the Water and Rivers Commission [now the Department of Water and Environmental Regulation].

To sum up:

- Previous planning identified the need for a 70-80m coastal foreshore reserve.
- At present the effective coastal foreshore reserve at Lot 660 is about 60m, comprising
 - a) The approximately 30m of Reserve R281117763 between the lot and the beach
 - b) A further 30m (approximately) between the boundary of the lot and the boundary of special use zone SU1. In the process that led to the designation of SU1 it was intended that the remainder of Lot 660, including this 30m strip, should become a reserve.

LSP9's CHARMS

LSP9 includes a Coastal Hazard Assessment and Risk Management Strategy (CHARMS) prepared by consultants MP Rogers & Associates. It explains in detail the process it uses to produce the following estimates for the four erosion components above (p22ff of CHARMS, p77ff of the LSP9 consultation document PDF):

S1 Severe storm erosion: 21m horizontally, based - reasonably it appears - on the 1984 storm that damaged Middleton Beach with adjustments for the different location.

S2 Historical shoreline movement: 2m horizontally per 50 years, based on aerial photography between 1961 and 2016.

S3 Sea level rise induced by climate change: 0.35m over 50 years, 0.9m by over 100 years. This is the DoT guidance adopted by SPP2.6. From this the potential horizontal movement of the shoreline can be estimated: 35m over 50 years, 90m over 100 years. The consultants note that owing to the particular configuration of King George Sound, Frenchman Bay and Goode Beach these figures are likely to be overestimates, and that this is supported by the historical shoreline movement.

Summing these with the uncertainty allowance gives a total of 68m over 50 years and 135m over 100 years; details in the table below.

Table 3.4 Summary of Allowances for Coastal Erosion Hazards

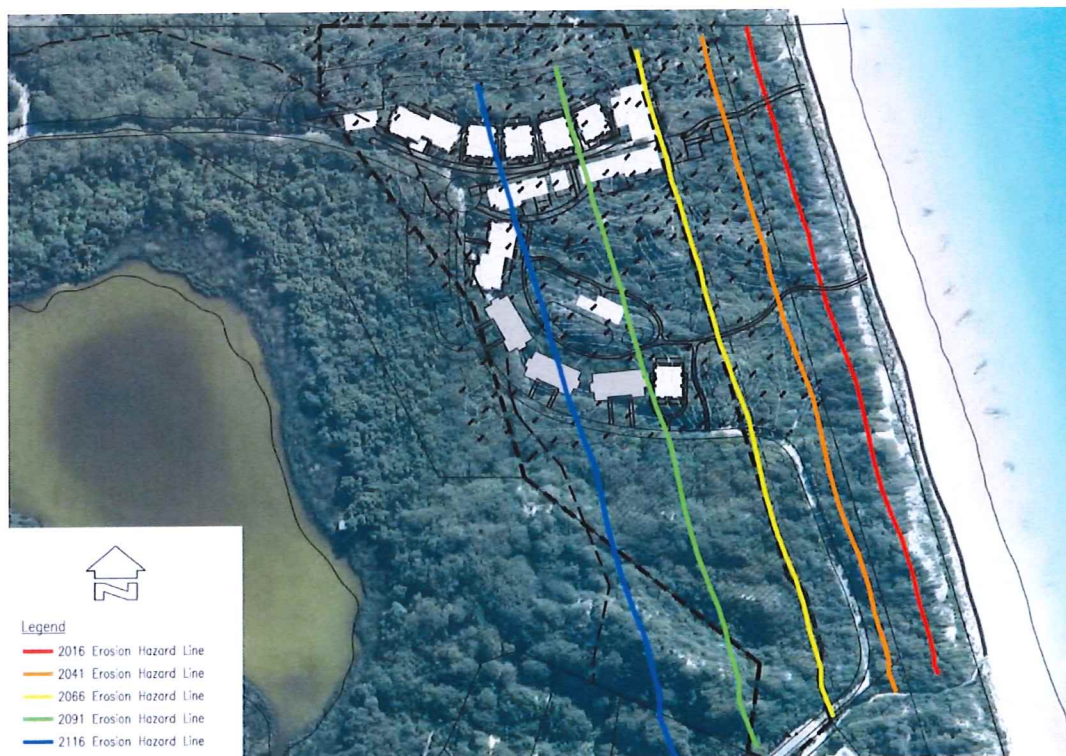
Timeframe	S1 (m)	S2 (m)	S3 (m)	Uncertainty (0.2 m/yr)	Total Allowance (m)
2016	21	0	0	0	21
2041	21	1	13	5	40
2066	21	2	35	10	68
2091	21	3	63	15	102
2116	21	4	90	20	135

Source: Vancouver Beach Resort Coastal Hazard Assessment & Risk Management Strategy p28 (LSP9 p83).

S4 Inundation: The consultants calculate that this could reach 2.39m above Australian Height Datum by 2066, or 2.94m by 2116. LSP9 proposes to keep the floor levels of the development higher than this.

Insufficient Allowance for Coastal Setback

It is at this point that the problems start. The proponents have taken the 68m fifty-year erosion hazard line from CHARMS and used this as the coastal setback for the resort.



The above illustration (CHARMS figure 4.2) shows the 2066 erosion hazard line in yellow and the buildings right up to it. The dashed black line shows the boundary of SU1: the 2066 line is right up against it.

As we have seen, this does not comply with SPP2.6:

An appropriate coastal foreshore reserve will include a component to allow for coastal processes and be of an appropriate width to ensure a coastal foreshore reserve continues to provide the values, functions and uses prescribed should the coastal processes be realised over the planning timeframe.

If a 60, 70 or 80 metre coastal foreshore reserve was appropriate when Lot 660 was created, the presumption must be that it is appropriate now and would continue to be so into the future. But LSP9 proposes building right up to the 50-year erosion hazard line. That is, if for whatever reason severe erosion were to occur, the resort's buildings would be poised on the edge of the beach and there would be zero foreshore reserve.

As the map demonstrates, however, if even 30m is allowed for foreshore reserve behind the erosion hazard line there is not enough space in SU1 to build a resort.

Design Life and Managed Retreat

The presumption throughout the SPP9 framework is that coastal setbacks will be calculated using a 100-year timeframe. If that applies to Lot 660 the resort cannot be built even with no foreshore reserve behind the erosion hazard line.

The proponents avoid this problem by assuming that the resort would have to be rebuilt anyway before 50 years simply to keep up with market requirements. That is a reasonable assumption given the nature of the tourist resort business. As CHARMS puts it:

*Beyond the initial 50 year planning horizon it is likely that the built form will need to be replaced. This replacement of the built form will provide an opportunity for a **managed retreat** of the infrastructure. Under this scenario the replacement infrastructure should be relocated to an area that is deemed to be safe for the ensuing planning horizon based on the results of a coastal hazard assessment completed at that time. The design of the new layout for the resort will therefore need to respond to the results of that coastal hazard assessment.*

Commenting on this, DWER stated:

*For the proponents of this development to dismiss state policies and instead state that they will plan and manage for a 50-year sea level rise is negligent to future owners and investors in the property as well as local and state government authorities that may be expected to protect the infrastructure from erosion.**

The problem is that, as the map on page 3 demonstrates, **there is nowhere to retreat to**. The resort is already right up against the edge of the wetland vegetation. If after 40 or 50 years substantial erosion has taken place and the resort needs rebuilding to keep it going in a competitive market, it won't be an attractive investment. The result will be decline, decay and ultimate abandonment. Does anyone expect that the then owners of the site will be able to pay for remediation?

* Great Southern Weekender, 5 July 2018, p1.

Coastal Foreshore Management Plan

LSP9 proposes that a Foreshore Management Plan would be prepared and submitted with the eventual Development Application. This is not satisfactory: SPP2.6 calls for a foreshore management plan to be prepared at an early stage:

Coastal strategies and management plans

- (i) *Ensure that at rezoning, structure planning, subdivision, strata subdivision or development - whichever arises first and is appropriate in scale, a coastal planning strategy or coastal foreshore management plan is prepared and implemented, by the local government and/or proponent, for the coastal foreshore reserve and any abutting freehold land with conservation values of the subject land.*
- (ii) *Any structure plan, zoning, subdivision, strata subdivision or development proposal for public purposes, residential, industrial, commercial, tourist, special rural and similar uses on the coast is only approved based on or in conjunction with a current detailed coastal planning strategy or foreshore management plan (whichever is appropriate for the stage and scale of development).*
- (iii) *Ensure that the coastal planning strategy or foreshore management plan is developed in consultation with the broad community and relevant public authorities, and achieve the approval of the local land manager and the WAPC if appropriate. (SPP2.6 Section 5.10(i))*

Albany's Local Planning Strategy (ALPS) also requires preparation of a foreshore management plan (p47).

The circumstances of Lot 660 make early preparation of a foreshore management plan particularly important:

- The proposed emergency access/egress road through the dunes is extremely close to the gazetted foreshore reserve and actually within the area that was meant to extend it.
- Construction of the resort itself would also require extensive clearing and earthmoving close to the gazetted foreshore reserve and extending beyond SU1 into the "reserve" part of the lot.

Wetland Buffer

As with coastal setback, the proposed resort can only be built by ignoring the usual rules on separating developments from sensitive wetlands.

The principle is that there should be an adequate "buffer" of land between a wetland and a development. The actual size of the buffer is determined on a case by case basis and is typically at least 100m in the case of a rare unspoilt wetland system like that surrounding Lake Vancouver.

Always, the rule is that **the wetland buffer is measured from the edge of the wetland vegetation.*** International and Australian scientific practice is to define wetlands by their vegetation (because the ground may be wet one season or one year but not the next). This is spelt out in WA policy documents including the following. Relevant extracts are included in the appendix to this document.

- EPA Guidance Statement 33 *Environmental Guidance for Planning and Development*
- WA Planning Commission *Guideline for the Determination of Wetland Buffer Requirements*
- *Draft Government Sewerage Policy.*

The *Guideline for the Determination of Wetland Buffer Requirements* explains it this way:

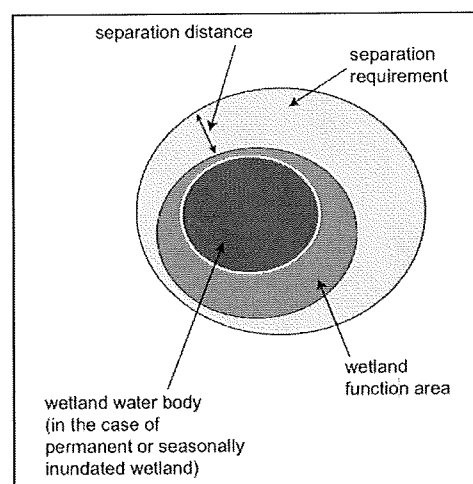
THE CONCEPT OF WETLAND BUFFERS

Figure 1 shows the proposed buffering concept in terms of the three basic areas requiring definition to provide separation for the wetland:

- the wetland water body;
- the wetland function area; and
- the separation requirement.

The wetland function area is the area which needs to be protected to ensure the important functions and values of the wetland can be maintained. The wetland function area is the spatial boundary of the wetland. It normally would include the wetland itself and the wetland vegetation...

The wetland function area often will require additional separation from surrounding land use(s) to ensure its protection and compatibility with the land use.



And the EPA specifies

Wetlands that are to be protected require a minimum 50 metre buffer distance. (Attachment B4-3, p18)

But the map on page 3 shows that the proposed development is right up against the edge of the wetland vegetation (the mottled green area) and that the minimum 50m buffer (the left hand solid yellow line) eats up a large part of the proposed footprint. A 100m buffer (the right-hand dotted yellow line) takes almost all of it.

The proponents' and planners' response to this problem is to ignore it. They claim a 100m buffer but only by ignoring the wetland vegetation and the rules and measuring from the edge of the water in the lake to the edge, not of the developed area but of the buildings.

The justification appears to be that if the proper buffer was allocated the proposed resort could not be built. Which is rather the point: it may be possible to build up to ten low-key chalets on Lot 660 with appropriate setbacks and buffers, but not a 51-unit five star resort.

Effluent Disposal

The Draft Government Sewerage Policy states (section 6.4(1)(e):

* In the case of an extensively damaged wetland where the vegetation can no longer be recognised, from a point where changing soil types indicate the wetland vegetation used to be: but this is not the case at Lake Vancouver.

- e) *An on-site sewage disposal system should not be located within 100m of a significant wetland. The separation distance for wetlands should be measured outwards from the outer edge of wetland vegetation. Setbacks may also be required from other wetlands identified for protection or rehabilitation through relevant planning or environmental plans or strategies. These will be determined on a case-by-case basis. The Department of Parks and Wildlife may provide advice.*

But as the plan shows, the main waste treatment plant is proposed to be located within about 50m of the outer edge of the wetland vegetation. Both treatment plants and a substantial part of the reticulation zone into which the treated effluent will be piped are within 100m. Almost all of the reticulation zone is also in front of the 50-year erosion hazard line (which, strangely, does not appear to be a problem under either SPP2.6 or the Draft Government Sewerage Policy).

Appendices

Excerpts from City and State Documents

Excerpt from Local Planning Scheme No. 1

LPS1 (Schedule 4, page 156) designates part of Lot 660 as Special Use Zone 1, "Holiday Accommodation (Chalets)". It imposes the following conditions on proposed developments:

1. Prior to commencement of development of the special uses on the site, the owner/developer shall submit an overall Development Guide Plan to the Local Government for endorsement.
2. The Development Guide Plan shall provide details on the development for the site including:
 - (a) Achieving a low-key holiday accommodation development commensurate (maximum 10 Chalet/Cottage Units) with the fragile coastal nature of the area;
 - (b) Buildings being clustered together;
 - (c) Siting of buildings and access roads within degraded/cleared areas to minimise clearing required for servicing and built development;
 - (d) The buildings to be sited away from the eastern boundary with the coastline to protect coastal processes and the significant sand dunes in this area;
 - (e) Building density, design, colours and materials to blend the buildings within the site;
 - (f) Coastal setbacks and Foreshore Management Plan;
 - (g) On-site stormwater drainage, effluent disposal methods and impacts on Lake Vancouver hydrology;
 - (h) Potable water supply;
 - (i) Implementation of a Fire Management Plan incorporating the existing fire access tracks within the area; and
 - (j) Any additional controls required to be implemented to ensure the proposal complies with the objective of providing low-key holiday accommodation on the site.

Excerpts from Guidelines for Planning in Bushfire Prone Areas

DEFINITIONS

Precautionary principle: The presumption against approving further strategic planning proposals, subdivision and development applications or intensification of land uses, where there is a lack of certainty that the potential for significant adverse impacts can be adequately reduced or managed in the opinion of the decision maker. Strategic planning proposal: Any strategic-level planning proposal including: region scheme amendments; district structure plans; local planning strategies; local planning schemes and amendments; and structure plans and master plans - but does not include subdivision and development applications.

Unavoidable development: Development that, in the opinion of the decision-maker, represents exceptional circumstances where full compliance with this policy would be unreasonable; no alternative location exists; it is not minor development; and it is not contrary to the public interest. Examples of what constitutes unavoidable development are provided in these Guidelines.

Vulnerable land use: A land use where persons may be less able to respond in a bushfire emergency. Examples of what constitutes a vulnerable land use are provided in these Guidelines.

5.7 UNAVOIDABLE DEVELOPMENT IN A BUSHFIRE PRONE AREA

SPP 3.7 policy measure 6.7.2 states there is a presumption against approving any strategic planning proposal, subdivision or development application* that will result in the introduction or intensification of development or land use in an area that has or will, on completion, have an extreme bushfire hazard level and/ or where BAL-40 or BAL-FZ applies unless it meets the definition of unavoidable development.

* Excluding development applications for single houses and ancillary dwellings on a lot or lots less than 1,100m²

For the purposes of this policy, unavoidable development is defined as “development that in the opinion of the decision-maker represents exceptional circumstances where full compliance with SPP 3.7 would be unreasonable as no alternative location exists and it can be proven that it is not contrary to the public interest”. In all instances, the intent of the bushfire protection criteria, as outlined in these Guidelines, should be met.

There would be an extremely limited number of proposals deemed unavoidable development. For example, proposals for intensification of development or land uses, such as rural-residential development or an increase in residential densities would not be considered unavoidable development.

Unavoidable development may include critical State infrastructure such as railway lines, telecommunication facilities, electricity infrastructure and associated development, development associated with the preservation of historical or cultural sites, or emergency services such as evacuation centres, fire stations/ brigades, police or ambulance facilities.

Applications for unavoidable development will only be supported where they meet the policy requirements of SPP3.7. It is the landowner/proponent’s responsibility to justify why their proposal should be considered as unavoidable development. In such cases the proponent must also identify how significant reductions in the bushfire risk level to the community can be achieved. In addition, provide a clear indication of the benefits and how these outweigh the costs to adjacent landowners/proponents, government and the general community. The application must also be accompanied by a Bushfire Management Plan jointly endorsed by the relevant local government and the Department of Fire and Emergency Services. In the absence of sufficient justification the proposal will not be supported.

Excerpts from EPA Guidance Statement 33 *Environmental Guidance for Planning and Development*

GLOSSARY (Appendix 1)

Buffer: In relation to a significant natural area, the adjoining area in which general development is prohibited and special measures are applied to maintain the ecosystem health of the significant natural area.

IDENTIFYING WETLAND BOUNDARIES (Attachment B4-3, page 18)

Identification and delineation of a wetland is reliant upon characteristics of hydrology, hydric soils and wetland vegetation (Hill et al. 1996). Wetland vegetation reflects hydrology and hydric soils and in particular obligate wetland species (i.e. those plants generally restricted to wetland habitats) are considered reliable wetland indicators (Tiner 1999). However, when wetland vegetation has been altered or removed and the hydrology is difficult to determine hydric soils may be the only reliable wetland indicator remaining...

Wetlands that are to be protected require a minimum 50 metre buffer distance.

KEY ENVIRONMENTAL PRINCIPLES

1. The precautionary principle

Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, decisions should be guided by:

- careful evaluation to avoid, where practicable, serious or irreversible damage to the Environment
- an assessment of the risk-weighted consequences of various options.

2. Intergenerational equity

The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

Conservation of biological diversity and ecological integrity

Conservation of biological diversity and ecological integrity should be a fundamental consideration.

BROAD SCALE PLANNING (A1.4.1)

When development has the potential to have adverse environmental impacts, field survey work, modelling, assessment, and advice by experts may be appropriate early in planning. If this is not done or if sufficiently detailed information is not available, this should be clearly noted to assist future information gathering and

assessment, and a precautionary approach taken. Some, if not most, issues will need to be considered in a context that is larger than the immediate planning area, as environmental issues may extend beyond the study area boundaries.

EPA'S BROAD PRINCIPLES FOR THE PROTECTION OF WETLANDS (B4.2)

Avoid impacts on wetlands

... The EPA's position is that it is preferable to avoid direct, indirect and cumulative impacts that may adversely affect the attributes and functions of wetland areas. In all cases where some loss of any wetland value or function is unavoidable, the EPA recommends that compensatory actions are implemented, with a view to achieving 'no net loss of wetland values'.

Excerpt from State Planning Policy 2.6 (State Coastal Planning Policy)

5.11 Precautionary principle

- (i) Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason to postpone measures to prevent environmental degradation.
- (ii) The onus is on any proponent to show that development does not pose any likelihood of serious or irreversible harm to the environment.
- (iii) If the proponent cannot demonstrate there is not a likelihood of such harm, the onus is on the development proponent to show that the harm can be managed

Excerpts from WA Planning Commission *Guideline for the Determination of Wetland Buffer Requirements*

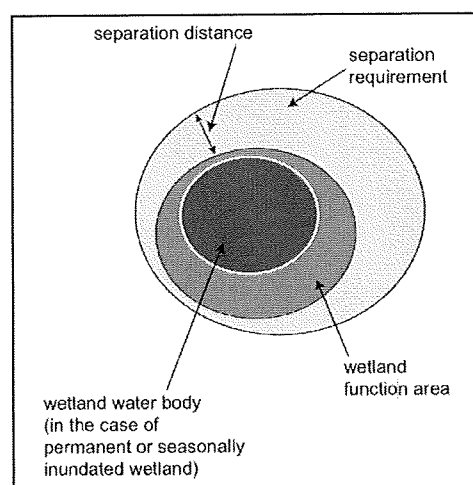
THE CONCEPT OF WETLAND BUFFERS

Figure 1 shows the proposed buffering concept in terms of the three basic areas requiring definition to provide separation for the wetland:

- the wetland water body;
- the wetland function area; and
- the separation requirement.

The wetland function area is the area which needs to be protected to ensure the important functions and values of the wetland can be maintained. The wetland function area is the spatial boundary of the wetland. It normally would include the wetland itself and the wetland vegetation...

The wetland function area often will require additional separation from surrounding land use(s) to ensure its protection and compatibility with the land use.



6.1 CATEGORY C WETLANDS

Attributes identified as having high importance relative to achievement of the aims of the conservation (C category) management category are:

- Ecological**
- presence of rare, endangered, restricted, endemic or vulnerable species and/or communities;
 - supports high habitat diversity;
 - important for maintaining species and/or ecological diversity;
 - supports extensive areas of emergent and fringing wetland vegetation;
 - water quantity and quality; and
 - drainage (to and from the wetland) and presence of nutrient sources.
- Other Criteria**
- rare or unusual wetland within a region;

- Australian heritage commission criteria – important for natural or cultural history (4 separate criteria); and
 - unaltered or unusual wetland vegetation, fauna or processes.
- Human Use**
- aesthetics;
 - wilderness function;
 - research resource/scientific importance; and
 - educational significance.

Table 8: Category C wetlands: Separation and management

Key threatening process	Recommended Separation and/or management	Separation area management
Alteration to the water regime	Regulation of groundwater abstraction as catchment management measure	<ul style="list-style-type: none"> • Area to be vegetated with deep-rooted perennial vegetation
Habitat modification	<ul style="list-style-type: none"> • 100 m weed infestation • Up to 100 m for bird habitat dependent on extent of use • 6-50 m firebreak • Fence for controlling exotic fauna access • ≥100 m to minimise edge effects 	<ul style="list-style-type: none"> • Preferably native plant communities • 6m firebreak minimum, inside of fence • Fence to limit vehicle, stock, exotic fauna access
Inappropriate recreational use	<ul style="list-style-type: none"> • ≥ 50 m to improve aesthetics • ≥ 50 m for barrier • Fence, paths for controlling access 	<ul style="list-style-type: none"> • Clear perimeter outside of fence (path, firebreak, road. • Fire control to maintain habitat and species diversity
Diminished water quality	<ul style="list-style-type: none"> • Drainage inflows eliminated or managed • Where a proposal may affect wetland water quality, particularly through un-channelised flow, detailed site specific work should be undertaken to determine the specific separation measures required, including management measures 	<ul style="list-style-type: none"> • Minimise track access/clearing, maximise native vegetation • Management for water quality outcomes as required

(Source: Welker Environmental Consultancy, 2002)

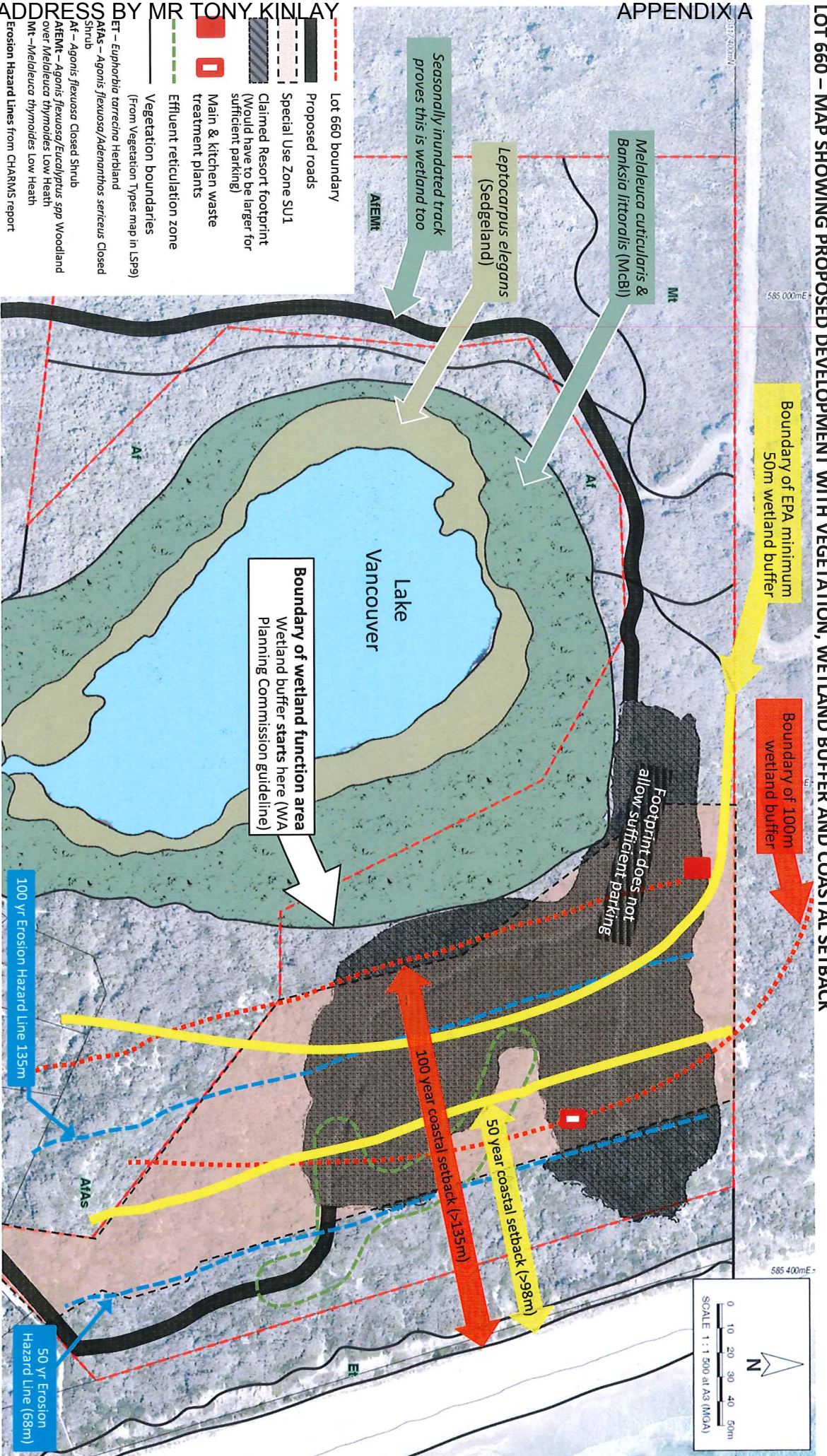
Excerpt from Draft Government Sewerage Policy

Section 6.4(1)(e):

An on-site sewage disposal system should not be located within 100m of a significant wetland. The separation distance for wetlands should be measured outwards from the outer edge of wetland vegetation. Setbacks may also be required from other wetlands identified for protection or rehabilitation through relevant planning or environmental plans or strategies. These will be determined on a case-by-case basis. The Department of Parks and Wildlife may provide advice.

LOT 660 – MAP SHOWING PROPOSED DEVELOPMENT WITH VEGETATION, WETLAND BUFFER AND COASTAL SETBACK

APPENDIX A



ADDRESS BY MR TONY KINLAY

WETLAND BUFFER

WA Planning Commission, EPA and Government Sewerage Policy all say that the wetland buffer is measured from the edge of the wetland vegetation (speckled green area). EPA guideline says minimum 50m buffer (left hand yellow line). Proponents measure from the edge of the open water to the actual buildings – so the actual buffer between wetland vegetation and developed area is less than 5 metres in places.

COASTAL SETBACK

Coastal planning policy SPP2.6 says setback must allow for potential erosion with a foreshore reserve remaining afterwards (right hand yellow line). But proponents want to build right up to the 50 year erosion hazard line (right hand dashed blue line) with no allowance for foreshore reserve. SPP 2.6 says timeframe should be 100 years (left hand dotted red line).

Proponents say resort would have to be rebuilt before 50 years anyway, and if erosion was occurring would build further inland ("managed retreat"). But because of the lake and wetland there is no space into which to retreat.

Applying the policies means the resort would have to fit between the yellow lines.