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# MINUTES

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## SPECIAL COUNCIL MEETING

Tuesday 01 February 2022

**6.00pm**

City of Albany  
Council Chambers



## STRATEGIC COMMUNITY PLAN 2032



SPECIAL COUNCIL MEETING  
MINUTES – 01/02/2022

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1. **DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS:**
2. **OPENING PRAYER:**

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

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

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

3. **PUBLIC QUESTION AND STATEMENT TIME:**

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

*Clause 5) The Presiding Member may decide that a public question shall not be responded to where—*

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

**Tim Baird**

**Speaking against item SCM025 43 Wylie Crescent**

Mr Baird is opposed to the extension of 43 Wylie Crescent. Mr Baird believes the development will have a negative impact on his residence, and will impact other properties also.

**Darryl Byatt**

**Speaking in support of SCM024 Building Better Regions Fund – Funding for a Surf Reef**

Mr Byatt has lived in Albany for 53 years and believes that the Surf reef will provide something positive for the youth of Albany. Mr Byatt also believes that it would encourage tourism and therefore economic growth in the region. Will encourage kids to be more active and to get outdoors, which will in turn promote positive mental health. Mr Byatt reminded councillors that this project is in line with the City of Albany's Strategic Community Plan.

**Peter Bolt**

**Speaking in support of SCM024 Building Better Regions Fund – Funding for a Surf Reef**

Mr Bolt believes that Middleton Beach is an ideal location for a surf reef as you do not require a 4x4 drive to access the beach and if there are any incidents it is close to any emergency services. Mr Bolt reminded council, this project has a great deal of support from the community, as can be seen by the numbers in attendance this evening. Some people here have supported this project for over 20 years. Mr Bolt believes that once the project is completed there will be virtually no ongoing costs, however, lots of benefits.

**Narelle Wakefield**

**Speaking in support of SCM024 Building Better Regions Fund – Funding for a Surf Reef**

Ms Wakefield is a member of "Albany Surfing Mums". The group meet to surf once a week, often the locations chosen require 4x4 drive access, and the beaches take time to travel to. Some of the beaches are dangerous. Having a reef at Middleton would be safer, closer and more accessible; it would also be helpful to have reliable mobile phone coverage. It would an ideal location to teach youth how to surf. Reiterated comments made about the mental and physical health benefits for the community.

**Tony Harrison**

**Speaking in support of SCM024 Building Better Regions Fund – Funding for a Surf Reef**

Mr Harrison would like to echo comments made by the previous speakers in support of a proposed surf reef at Middleton. Mr Harrison advised that he provided, to the City of Albany Executive Team, a model of Middleton Beach including a surf reef which showed that the reef would positively impact the. Mr Harrison believes that while is an initial cost to the City of Albany, the project would eliminate future costs that may

be incurred trying to repair Ellen Cove. Mr Harrison would like the opportunity to present his model and workings to Councillors.

**David Beeck**

**Speaking in support of SCM024 Building Better Regions Fund – Funding for a Surf Reef**

Representing the Albany Board Riders Association which currently has 150 members. Mr Beeck believes that the reef will benefit the community as a whole and not just surfers. The reef will protect the beach from erosion and will create a fish habitat that people can snorkel along. The Albany Board Riders Association is a not for profit organisation, and have committed funds to support the project, if successful. Mr Beeck advised that the association would hold competitions at the reef attracting people into the town to stay and spend money.

**Rebecca Stephens MLA Member for Albany**

**Speaking in support of SCM024 Building Better Regions Fund – Funding for a Surf Reef**

Thank you to those here tonight and those to the staff who have worked on this project for many years. The State Government are very supportive of this project and believe that there will be an increase in jobs both during construction and long term. Congratulations to the Council on being progressive. This can be a positive project showing what can be achieved if all levels of Government work together. Would like to offer support for the City of Albany's application to the BBRF round 6.

**Carl Richardson**

**Speaking in support of SCM024 Building Better Regions Fund – Funding for a Surf Reef**

Mr Richardson is the Vice President of the Albany Surf Club and would like to support the City submitting an application for the BBRF round 6 funding. The Surf club's highest priority is safety and as such having a surf reef at Middleton Beach is ideal. It will provide safe access for all and is a positive project.

**4. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED):**

**Mayor**

D Wellington

**Councillors:**

Breaksea Ward

P Terry

Breaksea Ward

A Cruse

Frederickstown Ward

G Stocks

Frederickstown Ward

M Traill

Kalgan Ward

M Benson-Lidholm JP

Kalgan Ward

T Brough

Vancouver Ward

J Shanhun

Vancouver Ward

D Baesjou

West Ward

A Goode JP

West Ward

S Smith

Yakamia Ward

R Sutton

Yakamia Ward

C Thomson

**Staff:**

Chief Executive Officer

A Sharpe

Executive Director Corporate and Commercial Services

D Olde

Executive Director Community Services

N Watson

Manager, Major Projects

A McEwan

Manager, Planning and Building Services

J Van Der Mescht

Manager, Community Relations

L Paterson

Meeting Secretary

D Clark

45 Members of the public were in attendance.

Apologies: Nil

SPECIAL COUNCIL MEETING  
MINUTES – 01/02/2022

5. DECLARATIONS OF INTEREST:

Name	Report Number	Nature of Interest
Councillor Chris Thomson	SCM024	<b>Financial:</b> The nature of the interest being that Councillor Thomson is employed by the Federal Government which administer the Building Better Regions Fund. Councillor Thomson left the Chamber and was not present during the discussion and vote for this item.

## SCM024: BUILDING BETTER REGIONS FUND (BBRF) ROUND SIX APPLICATION

<b>Proponent / Owner</b>	: City of Albany.
<b>Business Entity Name</b>	: Office of CEO
<b>Attachments</b>	: Elected Member Briefing Note (Commercial in Confidence)
<b>Supplementary Information &amp; Councillor Workstation</b>	: <ul style="list-style-type: none"><li>• Commercial-in-Confidence:</li><li>• Southern Ocean Surf Reef, Building Better Regions Round 6 Funding Application</li></ul>
<b>Report Prepared By</b>	: Executive Director Infrastructure Development & Environment (P Camins) Manager Major Projects (A McEwan)
<b>Responsible Officers:</b>	: Chief Executive Officer (A Sharpe)

### CONFIDENTIAL ATTACHMENT

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

6:30pm: Councillor Thomson declared a Financial Interest in this item. Councillor Thomson left the Chamber and was not present during the discussion and vote for this item.

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany *Strategic Community Plan 2032*:

**Pillar:** Place

- **Outcome:** Interesting, vibrant and welcoming places.

**Pillar:** Prosperity

- **Outcome:** A strong, diverse and resilient economy with work opportunities for everyone.
- **Outcome:** A highly sought-after tourist destination.

#### In Brief:

- BBRF Round 6 was announced by the Australian Government on 13 December 2021 and will close 5pm AEDT 10 February 2022.
- Council are requested to review and approve the proposed Southern Ocean Surf Reef project (formerly known as Albany Artificial Surf Reef).

### RECOMMENDATION

#### SCM024: RESOLUTION

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR STOCKS**

**SECONDED: COUNCILLOR SMITH**

**THAT Council:**

(1) **NOTE** that the Chief Executive Officer will make an application on behalf of the City of Albany to the Building Better Regions Fund (BBRF) Round Six (6), for the Southern Ocean Surf Reef project, in accordance with Delegation 009 of the Register of Delegations and Authorisations 2021-2022.

(2) **NOTE** the City's financial commitment (Option C in attached Confidential Briefing Note) required should the BBRF application be successful.

(3) **NOTE** that should the BBRF application be successful:

- a. The City will advocate for further funding to minimise the City's direct financial commitment to the project;
- b. Further reports to Council will be prepared regarding financial allocations and to amend the budget; and
- c. Further consultation will be undertaken with key community stakeholders through the implementation processes.

**CARRIED 10-2**

**Record of vote:**

Against the motion: Councillors Goode and Shanahun

**SCM024: AUTHORISING OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

- (1) NOTE that the Chief Executive Officer will make an application on behalf of the City of Albany to the Building Better Regions Fund (BBRF) Round Six (6), for the Southern Ocean Surf Reef project, in accordance with Delegation 009 of the Register of Delegations and Authorisations 2021-2022.
- (2) NOTE the City's financial commitment (Option C in attached Confidential Briefing Note) required should the BBRF application be successful.
- (3) NOTE that should the BBRF application be successful:
  - a. The City will advocate for further funding to minimise the City's direct financial commitment to the project;
  - b. Further reports to Council will be prepared regarding financial allocations and to amend the budget; and
  - c. Further consultation will be undertaken with key community stakeholders through the implementation processes.

**BACKGROUND**

2. The Building Better Regions Fund (BBRF) supports the Australian Government's commitment to create jobs, drive economic growth and build stronger regional communities into the future.
3. The Australian Government has committed a total of \$1.38 billion over eight years from 2017-18 to 2024-25 to the Building Better Regions Fund (the program). The Round Six grant opportunity was announced in the 2021-22 Budget Paper 2, Securing Australia's Recovery.
4. BBRF Round 6 was announced on 13 December 2021 and will close 5pm EDT 10 February 2022.
5. Grant funding is available through two funding streams:
  - The Infrastructure Projects stream will support investment ready projects for new infrastructure, or the upgrade or extension of existing infrastructure, that provide economic and social benefits to regional and remote areas
  - The Community Investments Stream will fund new or expanded local events, strategic regional plans, or leadership and capability strengthening activities that provide economic and social benefits to regional and remote areas. Infrastructure projects are not eligible under the Community Investments stream.
6. The Australian Government announced \$250 million in the 2021-22 Budget towards a sixth round of the BBRF.

7. Across both funding streams most project(s) funding is up to 50% of the project total cost (with some noted exceptional circumstances). Applicants can make multiple applications.
8. Announcement of decisions are likely in April/May 2022 prior to the upcoming Federal election. Projects must be completed by 31 December 2024 – both funding Streams.
9. The City of Albany unsuccessfully made applications to Round One (1) of this Funding Program for the Middleton Beach Foreshore Enhancement Project and the Amazing South Coast City Centre Project (which incorporated the Albany Town Hall).
10. The City of Albany made two applications to Round Two (2) of this Funding Program for the Middleton Beach Foreshore Enhancement Project and the Albany: Kinjarling Connect 2026 Project. The Middleton Beach Foreshore Enhancement Project application was successful.
11. The City of Albany made four applications to Round Three (3) of this Funding Program for the Albany Town Hall, Amazing South Coast Surf Reef, Great Southern Youth Challenge Park and the National Anzac Centre Butterflies of Corbie Projects. The National Anzac Centre Butterflies of Corbie Project application was successful.
12. The City of Albany did not submit any applications to Round Four (4) of this Funding Program, as it had a funding focus on regional communities impacted by drought.
13. The City of Albany made three applications to Round Five (5) of this Funding Program for the Albany Artificial Surf Reef, Albany Motorsport Park (both Infrastructure Projects Stream - Tourism-Related Infrastructure); and Albany 2026 – Discover Kinjarling (Community Investment Stream Project). The Albany Motorsport Park and Albany 2026 – Discover Kinjarling project applications were successful.
14. The City of Albany also supported three community led applications in Round Five (5). All three were infrastructure projects and all were unsuccessful:
  - (LGSTA): Albany Tennis Centre
  - (RFSC): Railways Football and Sporting Club
  - (GSCORE): Great Southern Adventure Trails
15. The City has been successful with other applications to Federal Government Regional Funding Programs - Centennial Park Sporting & Event Precinct, Tourism & Information Hub and Anzac Albany Programs.
16. An Elected Member Strategic Workshop was held with City Officers on Wednesday 15 December 2021, where it was requested that Officers prepare a report, to allow Council to formally consider the project for a Round Six (6) BBRF application from the City.
17. A further briefing to Elected Members was held on 20 January 2022.

## **DISCUSSION**

18. Since 2015, the City of Albany has been working to fulfil the vision of creating a consistent, surfable wave that maximises available swell conditions and is central to Albany, driving benefits in tourism, economic development and retention of Albany's younger age demographic.
19. The City of Albany commissioned detailed design for the Albany Artificial Surf Reef as externally funded by Department of Primary Industries and Regional Development (DPIRD)
20. A comprehensive detailed design process was completed for the Albany Artificial Surf Reef that meets the needs of target users, was accurately costed, with all risks appropriately identified and completed to a standard suitable to be released to the market for construction.
21. The reef will deliver an optimised 'left-hander' surfing wave in the target range for beginner and intermediate surfers, providing surfing rides of up to 100m during average conditions with surfable waves expected for 41 per cent of the year over the reef with further increase in surfing opportunities inshore of the structure.

22. The City of Albany commissioned a revision to the Business Case for the project based on the detailed design outcome, and as a condition of DPIRD funding and requested viability assessment for the pledged \$4.5m implementation funding.
23. The Business Case considered that the project will respond to the need to diversify and grow the regional economy. The potential tourism benefits from hosting surfing events are clear, but a more general uplift in visitation and length of stay would also be expected, including:
  - Complementing a number of initiatives to further develop adventure tourism assets and position Albany as the Adventure Capital of Western Australia, such as various mountain bike, hiking and trail running developments, Albany Youth Challenge Park and the 'Snake Run' skate park. These recreational outlets are particularly vital during the ongoing COVID-19 pandemic, providing unstructured and socially distant avenues for physical activity and participation.
  - The project also complements a number of key private and public developments stretching from Albany Golf Club and Surfers Beach to Middleton Beach and Ellen Cove, including the proposed hotel development, Middleton Beach Activity Centre development, and recently completed Middleton Beach foreshore enhancement. Together, these initiatives significantly enhance the public realm and amenity for residents and visitors to the region.
  - The project also complements other initiatives in the city, such as the development of student accommodation to attract younger people to the region to take advantage of tertiary educational opportunities (such as at the UWA Albany campus). The overlap with marine science and ecological courses held at UWA in Albany are evident.
  - The facilitation of a recognised outdoor recreation and surfing hub in Albany will provide substantial benefit both economically and socially, which is identified as of critical importance to overcoming economic and social challenges faced by the current and ongoing COVID-19 pandemic.
24. Detailed designs and the comprehensive business case have been completed and Council endorsed the design outcome and the business case at OCM September 2020.
25. Council supported for funding advocacy to continue for the implementation of the Albany Artificial Surf Reef and at Special OCM February 2021 supported an application to BBRF Round Five (5). This application was unsuccessful.

#### **Preparation of BBRF Six (6) Application**

26. Given the level of detail and complexity involved in the preparation of the application, a professional consultant quotation has been sought to assist in preparing and compiling the submission.
27. The following information has been detailed within the Confidential Briefing Note for consideration:
  - Specific feedback on the application from the BBRF assessment panel
  - Options for funding and contribution
  - Summary of Business Case changes and outcomes
  - Consultancy services

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

28. **Government:** The City has undertaken consultation and engagement with a significant number of Government agencies across all proposed applications including but not limited to:
  - Regional Development Australia;

- Local Members - State and Federal;
  - Key State Government Agencies;
    - Department of Local Government, Sport and Cultural Industries;
    - Department of Planning, Lands and Heritage;
    - Department of Primary Industries and Regional Development;
    - Department of Biodiversity, Conservation and Attractions;
    - Department of Water and Environmental Regulation;
    - Great Southern Development Commission; and
  - Federal Department of Agriculture, Water and the Environment.
29. **Community Groups:** Various levels of consultation with community and relevant stakeholder groups has been undertaken across the lifecycle of the project. This will be detailed in the application.
30. Should the BBRF application be successful, further consultation will be undertaken with key community stakeholders through the detailed design and implementation process.

### STATUTORY IMPLICATIONS

31. The voting requirement of Council is **Simple Majority**.

### POLICY IMPLICATIONS

32. Should the project be supported and funding become available, Federal, State and Local policies would apply to the project implementation.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation.</b> Application is not supported by Council.	Possible	Major	High	City staff to continue to seek other funding streams.
<b>Financial and Reputation.</b> Application is not supported by Council and BBRF funding is not available.	Possible	Major	High	City staff to continue advocating for alternative funding sources.
<b>Reputation.</b> Community expectations are not met if project is not delivered.	Possible	Major	High	City staff continue to advocate for and seek alternative funding sources.

34. This application will be supported by a comprehensive Risk Identification and Mitigation Strategy.

### FINANCIAL IMPLICATIONS

#### Funding Recommendation:

35. The financial allocation requirement from the City of Albany should the funding application be successful is identified within the attached confidential briefing note, and will require further reporting to Council to amend the Budget.

## LEGAL IMPLICATIONS

36. Each project will be subject to relevant approvals under the relevant Act and subject to the decisions of the relevant approval Authority.

## ENVIRONMENTAL CONSIDERATIONS

37. There are no direct environmental implications related to this report, noting the project will be subject to relevant approvals under the relevant Act and subject to the decisions of the relevant approval Authority.
38. The project will rely on contracted service providers to conduct themselves in accordance with requisite standards in order to minimise risk to the environment.

## ALTERNATE OPTIONS

39. Council may choose not to support this application.

## CONCLUSION

40. In summary:
- The South Coast Surf Reef Project has the potential to stimulate and attract and encourage new investment and expenditure as well as contribute to the economic diversification of the region.
  - Council endorsement of the Officer's recommendation will support the preparation and submission of the BBRF Round Six (6) application as well as enable further project funding advocacy and development.
  - Stakeholder and Community feedback demonstrates strong support for all aspects of the project and consultation continues.
  - The timing of this work allows tie-in with current State Government financial commitments for the project.
  - Should the work not be undertaken, current financial commitments from the State Government will enable the City to continue to advocate for further funding for implementation. It should be noted that the current financial commitment from the State Government does not extend beyond 2023-24.

<b>Consulted References</b>	:	<u><a href="#">Building Better Regions Fund (BBRF) (regional.gov.au)</a></u>
<b>File Number (Name of Ward)</b>	:	(All Wards)
<b>Previous Reference</b>	:	Elected Member Strategic Workshop – 15 <sup>th</sup> December 2021

Cr Thomson returned to the Chamber at 6:57pm.

**SCM025: AMENDMENT TO DEVELOPMENT APPROVAL P2200286  
(SINGLE HOUSE - ADDITION AND ALTERATIONS) – 43 (LOT 105)  
WYLIE CRESCENT, MIDDLETON BEACH**

<b>Land Description</b>	: Lot 105, 43 Wylie Crescent, Middleton Beach
<b>Owner</b>	: Jonathon Whittle
<b>Proponent/Business Entity Name</b>	: Benson Design (Builder) Business Name Holder being The Trustee for Benson Family Trust Pty Ltd Representative: Keiron Benson
<b>Attachments</b>	: 1. Development application plans (revised – submitted December 2021) 2. Applicant justification and supporting information – October 2021
<b>Supplementary Information &amp; Councillor Workstation</b>	: Original submitted development application plans – October 2021
<b>Report Prepared By</b>	: Planning Officer (J Dallimore)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development & Environment (P Camins)

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. This item relates to the following elements of the City of Albany *Strategic Community Plan 2032*:

**Pillar:** Place

**Outcome:** Responsible growth, development and urban renewal.

3. The proposal is consistent with the strategic objectives identified in the City of Albany Local Planning Strategy 2019 (the Planning Strategy), that Council is required to consider when exercising its discretion in relation to planning matters, including:
  - a) Plan for predicted population growth to 2026.
  - b) Consolidate existing urban form and improve land use efficiency.
  - c) Deliver a diverse and affordable housing market.

**Maps and Diagrams:** 43 (Lot 105) Wylie Crescent, Middleton Beach



**In Brief:**

- The City has received an application to amend development approval granted for a Single House at 43 (Lot 105) Wylie Crescent, Middleton Beach.
- The amendment proposes an additional storey above the garage at the rear of the dwelling and minor internal alterations to the first floor. The original plans submitted for the amendment incorporated a flat roof design for the addition to the garage, and Discretion is sought to the maximum building height requirements of the R-Codes in relation to the addition.
- The proposed amendment was advertised to adjoining landowners. Four submissions were received; three of the submissions objected to the proposal, in relation to the proposed variation to building height, the remaining submission in support of the proposal.
- Following advertising, the applicant submitted revised plans incorporating a revised skillion roof design for the proposed additional storey to the garage, in an attempt to address the concerns raised during advertising in relation to bulk, scale and height.
- The application is presented to Council for determination, due to the concerns raised during advertising.
- The development has been assessed on its merit, with relevant concerns raised during advertising taken into consideration. Further assessment and discussion of the proposal is outlined below.
- Staff consider that the application in its current form meets the relevant design principles contained under the R-Codes in relation to building height.
- It is recommended that Council approve the proposed amendment for addition and alterations to previous Development Approval P2200286 (Single House) at 43 (Lot 105) Wylie Crescent, Middleton Beach.

**RECOMMENDATION**

**SCM025: RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR THOMSON**

**SECONDED: COUNCILLOR SMITH**

**THAT Council resolves to ISSUE a notice of determination granting development approval, for the amendment to Development Approval P2200286 (Single House) at 43 (Lot 105) Wylie Crescent, Middleton Beach, subject to compliance with the previous approval dated 13 August 2020 (including remaining conditions).**

**CARRIED: 13-0**

**SCM025: AUTHORISING OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council resolves to ISSUE a notice of determination granting development approval, for the amendment to Development Approval P2200286 (Single House) at 43 (Lot 105) Wylie Crescent, Middleton Beach, subject to compliance with the previous approval dated 13 August 2020 (including remaining conditions).**

**BACKGROUND**

4. The proposed amendment to the previously approved Single House involves:
  - a) An additional storey constructed above the garage, incorporating two bedrooms, a bathroom and study; and
  - b) Deletion of one bedroom from the main living floor of the originally approved development, resulting in four bedrooms in total.

5. The applicant provided justification for the proposed amendment to the approved Single House – refer to Attachment 2 of this report.

6. Site details:

<b>Local Planning Scheme</b>	City of Albany Local Planning Scheme No. 1
<b>Zone &amp; R-Code</b>	Residential R25
<b>Use Class &amp; Permissibility (LPS1 Table 3):</b>	Single House - P
<b>Lot Size:</b>	726m <sup>2</sup>
<b>Existing Land Use:</b>	Single House – under construction
<b>Applicable Local Planning Policies:</b>	LPP Residential Development on Steep Sites Policy

7. Original Development Approval P2200286 (Single House) was granted on 13 August 2020. The approved development is currently under construction.
8. The original development approval complied with the building height requirements contained under the R-Codes, with the height datum determined in accordance with the Steep Sites Policy.
9. The site is located on the northern face of Corndarup/Mt Clarence. Existing development adjoining the site consist of multi-level single dwellings, designed to address the topography of the area and take advantage of views to the north west, north and north east, including to Middleton Beach and Lake Seppings.
10. The subject site has a significant upward slope of approximately 18m from the street to the rear boundary.
11. The original approved design uses a combination of cut, associated retaining and pole construction to respond to the steep slope on site, including significant cut and associated retaining undertaken to the rear of the lot to create a level area for the garage, and the vehicle turnaround area shared with the northern adjoining property at 45 (Lot 57) Wylie Crescent.
12. Due to the topography of the area, and the development on the subject and adjoining sites, the finished floor level (FFL) at the rear of the development is significantly lower than natural ground level of the adjoining sites to the rear (fronting Hare Street).
13. The ground level of the rear adjoining property at the boundary with the subject site sits significantly higher, and is retained by a retaining wall approximately 4.3m in height.
14. An additional supporting retaining wall has been constructed on the subject site, setback approximately 3.6m from the rear boundary and constructed to a maximum height of approximately 1.9m.
15. Vehicle access is provided to the garage at the rear of the dwelling via a compliant but steep driveway from Wylie Crescent.
16. There is a right of carriageway easement in place at the benefit and burden of both the subject site and the northern adjoining property.
17. The easement provides shared vehicle access from the street to the rear of each property, via a crossover to be constructed across the verge and front setback area of 45 Wylie Crescent.
18. Following discussions with City officers, the applicant submitted revised plans in December 2021 that incorporated a revised roof design for the proposed additional storey to the garage.
19. The revised skillion design results in a reduction in height to a portion of the addition, however a section of the addition still incorporates a variation to the permitted building height requirements, as discussed below.

## DISCUSSION

### Proposal

20. The proposed amendment has been assessed against the relevant provisions contained under LPS1, the R-Codes and Local Planning Policies. The proposed amendment complies with the relevant provisions of the R-Codes including overshadowing, visual privacy and lot boundary setbacks, with the exception of building height.
21. A variation to the maximum designated building height is proposed in relation to the revised skillion roof design of the rear addition to the garage, as set out under clause 5.1.6 and Table 3 Category B the R-Codes:

Maximum total building height (Gable, skillion and concealed roof)	Proposed
8m	9.1m (as measured from 33.9 AHD height datum determined under Steep Sites Policy)

22. In relation to the revised skillion roof design:

- At its highest, the roof will sit approximately 600mm above the top of the retaining wall to the adjoining neighbour.
- The actual wall height of the skillion roof when measured from natural ground level (NGL) (versus height datum) is between 5.2m and 6.4m.

23. The applicant provided the following justification in regards to the proposed variation to building height requirements, and in response to the objections received during advertising:

- The proposed addition is set to the rear of the site and will be barely noticeable from the street, and is designed to be 'nestled' into the directly surrounding built form.
- In the context of adjoining properties, and other properties in the area, the building is in balance with the neighbours. Adjoining developments on Wylie Crescent and Hare Street (behind) are also multi-level developments with similar or greater height, and have an overall mass and form. Adjoining development facing Wylie Crescent also provide similar front and side setbacks.
- The proposed amendment complies with all other relevant provisions of the R-Codes.
- The site is extremely steep which creates extra height from the NGL to the floor levels.
- The considerable cross fall of the site exaggerates the perceived height. Cut has been used as much as possible to help minimise the effect of the cross fall.
- All properties on the high (southern) side of Wylie Crescent have views looking northeast to Middleton Beach. As a result of this the primary living areas are on the front elevation and will not be dominated by the proposed addition as it is to the rear.
- The proposal would be compliant with the building height requirements of the R-Codes, if the alternative methodology contained under the Steeps Sites Policy wasn't applied.

### Public Consultation

24. The proposed amendment was advertised to adjoining landowners for a period of 19 days, in relation to the variation sought to building height requirements of the R-Codes.
25. During the advertising period, the City received four submissions; three of the submissions objected to the proposal, in relation to the proposed variation to building height, the remaining submission in support of the proposal. The objections raised the following concerns:

- a) Building bulk and scale – private balcony will be overpowered with monolithic structure
  - b) In contrary to the policy and over height
  - c) Not in keeping with existing roof scape
  - d) Detracts from visual amenity
  - e) Loss of views
26. The revised plans were not referred to the adjoining landowners, as staff considered that the changes adequately addressed the concerns initially raised during advertising.
27. The concerns that were raised during advertising and comment are summarised below:

Issue raised	Officer comments
<p><i>Variation to building height and impact from bulk and scale</i></p> <ul style="list-style-type: none"><li>• Bulk and scale of proposal is excessive.</li><li>• A private balcony will be overpowered by monolithic structure.</li><li>• Proposal is over height, contrary to the policy and R-Codes, and is not a minor relaxation to the height provisions.</li><li>• The height of the development will create a feeling of being “closed in”, compounded by other recent development on adjoining properties.</li><li>• The overall height should be lowered to comply with requirements – adjoining landowner reduced the original proposed height of their development to accommodate neighbour concerns and expect similar consideration of their concerns.</li><li>• The height variation is an afterthought to accommodate two more bedrooms. The opportunity was missed at initial design phase, and therefore other options should be investigated.</li><li>• Detracts from visual amenity</li><li>• Not in keeping with the existing roofscape of the street</li><li>• Loss of views</li></ul>	<ul style="list-style-type: none"><li>• The building height variation was assessed against the Design Principles under clause 5.1.6 of the R-Codes – for further assessment and discussion in relation to the variation to building height provisions, refer to the Planning Assessment section below.</li><li>• The City is required to assess a development application on its merit, taking into consideration the requirements of the Local Planning Scheme and other relevant state and local policies. An assessment takes into consideration plans and information presented at the time, the overall context of the lot and adjoining development, and relevant submissions received during advertising.</li><li>• There is an existing streetscape of varying roof forms within direct proximity to the subject site.</li><li>• There are also no specific design requirements contained under LPS1 or local planning policy in relation to roof form or design in this precinct.</li><li>• The revised skillion roof has been designed to assist mitigating loss of views from adjoining properties.</li><li>• A portion of views (specifically across Lake Seppings) will be lost at lower levels from the adjoining developments facing Hare Street, however the view over Middleton Beach and beyond for all rear neighbours will be predominantly unaffected.</li></ul>
<p>Visual privacy – although compliant, concerned that the windows from Bedroom</p>	<ul style="list-style-type: none"><li>• Noted. However, openings that are compliant with the deemed-to-comply requirements of clause 5.4.1 Visual Privacy of the R-Codes cannot be</li></ul>

3 and the study may look straight into windows of adjoining property	required or conditioned to be altered or amended via a planning approval.
Depreciation of property value	<ul style="list-style-type: none"><li>This is not a relevant planning consideration.</li></ul>

### Planning Assessment

28. The Design Principles outlined under clause 5.1.6 Building Height of the R-Codes aim to ensure proposed building height creates no adverse impact on the amenity of adjoining properties or the streetscape, and where appropriate, maintains adequate access to direct sun into buildings and appurtenant open spaces, adequate daylight to major openings and access to views of significance.

29. In assessing the proposed variation to the building height against the Design Principles of clause 5.1.6 of the R-Codes, the following additional officer comments are made:

- The revised roof design aims to:
  - Mitigate the perception of bulk and mass impacts from the proposed addition to adjoining properties;
  - Match the lines of the roof into the existing approved development; and
  - Minimise the loss of access to views from rear adjoining properties.
- Following a site visit, staff concluded that the proposed height variation will not impact views of significance, due to
  - the subject site being significantly below the lots to the rear;
  - the dwellings to the rear being significantly elevated, and;
  - the location of the proposed addition being located at the rear of the dwelling and designed to step with the prevailing slope and existing development.
- The height variation and associated potential detrimental impact of bulk and scale on adjoining development is considered minimal in the context of the site, and is unlikely to result in significant loss of access to direct sunlight to the adjoining properties.
- The development incorporates a combination of flat and skillion roof designs. The existing streetscape on Wylie Crescent and rear adjoining buildings to Hare Street behind, incorporate varying roof forms.
- The proposed skillion roof to the rear second storey addition is considered consistent with the existing built form within the streetscape and the locality. Furthermore, although the initial proposed flat roof design was also not out of character with existing development within the area, it is noted that the revised skillion roof design is consistent with the skillion roof form of the original approval.
- The revised skillion roof design, in conjunction with the proposed materials, finishes and minor openings, to provide sufficient articulation to mitigate any detrimental impact from building bulk and mass of the proposed addition on adjoining properties.
- It is considered that the development will therefore not result in excessive bulk and scale on the lot to the adjoining properties.

### **GOVERNMENT & PUBLIC CONSULTATION**

30. The application was advertised to adjoining landowners on 5 October 2021 for a period of 19 days via a direct mail out.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail Out	15/10/2021 to 03/11/2021	4 submissions received	Yes

31. Through this process the City received four submissions in total; three submissions raising objections to the proposal, and one submission supporting the proposal.

32. The concerns raised during advertising, staff comment and the applicant's justification for the proposal and variation to the building height requirements are summarised and discussed above.
33. Although the revised plans submitted by the applicant in December 2021 were not referred to the adjoining landowners, staff consider that the amendments proposed adequately address the concerns raised during advertising.
34. The proposal was not advertised to any state government agencies.

### STATUTORY IMPLICATIONS

35. A Single House within the residential zone is exempt from requiring a planning approval if it meets the deemed-to-comply provisions of the R-Codes.
36. The proposal does not meet the deemed-to-comply provisions of the R-Codes in relation to building height, and is therefore not exempt from requiring a development approval.
37. In accordance with the R-Codes, a skillion roof design is measured at its highest point where the line of the wall meets the top of the roof, to the identified point - which is the height datum at the middle of the block for the subject development, in accordance with the Steep Sites Policy.
38. Voting requirement for this item is **SIMPLE MAJORITY**

### POLICY IMPLICATIONS

39. The proposal has been assessed against the requirements of the R-Codes, and using the alternative methodology to determine height outlined under the Steep Sites Policy.
40. The development site falls within an area identified under the City's *Local Planning Policy Steeps Sites Policy* (Steep Sites Policy).
41. The Steep Sites Policy establishes the height datum for the lot at the centre point of the site. This height datum is then used to calculate the building height in accordance with the R-Codes.
42. Although a variation is sought to the maximum permitted building height, this does not constitute a variation to the policy requirements as such, as variations to the permitted height are assessed against the relevant design principles set out in the R-Codes.
43. In accordance with the Steep Sites Policy, as the subject site rises away from Wylie Crescent, the height datum is to be established at the centre point of the block. Therefore, the height datum for the development is set at 33.9m AHD.
44. It should be noted that although development is assessed using the methodology outlined under the Residential Development on Steep Sites Policy, the policy also states that the height datum shall generally be established in the centre of the block.
45. Were the assessment methodology for building height contained under the R-Codes (measured from NGL to the top of wall at any point) be used instead, the revised skillion roof would now be compliant, with a 400mm variation sought for the original flat roof design.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation</b> The approval may generate unacceptable impacts on the amenity on the area.	Unlikely	Minor	Low	Revised plans were submitted during assessment of the proposal, to mitigate potential impacts from the variation sought to policy requirements. The application, including revised plans, was assessed against the relevant statutory framework.

## FINANCIAL IMPLICATIONS

47. All costs associated with the development will be borne by the proponent
48. 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 (SAT), the City could be liable for costs associated with defending the decision at a SAT hearing.

## LEGAL IMPLICATIONS

49. 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*.
50. 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

51. There are no environmental implications directly relating to this item

## ALTERNATE OPTIONS

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

## CONCLUSION

53. The proposed amendment to the previously approved Single House has been assessed against the relevant provisions contained under LPS1, the R-Codes and Local Planning Policy.
54. The proposed variation to building height has been assessed against and is considered to address the Design Principles outlined under clause 5.1.6 of the R-Codes, in relation to:
- a) The proposed addition is designed to be consistent with the existing built form, mass and scale of development within the streetscape and locality;
  - b) The revised skillion roof design mitigates the potential loss of significant views from adjoining properties; and
  - c) The revised skillion roof design, in conjunction with the proposed materials, finishes and minor openings of the proposed development, provides sufficient articulation to mitigate any detrimental impact from building bulk and mass of the proposed addition on adjoining properties.
55. It is therefore recommended that Council approve the amendment for the proposed addition and alterations to Development Approval P220028643 (Single House) at 43 Wylie Crescent, Middleton Beach, subject to compliance with remaining conditions.

<b>Consulted References</b>	:	1. Local Planning Scheme No.1 2. City of Albany Residential Development on Steep Sites local planning policy 3. State Planning Policy 7.3 – Residential Design Codes Volume 1
<b>File Number (Name of Ward)</b>	:	A186711 (Frederickstown Ward)
<b>Previous Reference</b>	:	P2200286

**SCM026: ANNUAL REPORT 2020 - 2021**

<b>Proponent</b>	: City of Albany
<b>Attachments</b>	: City of Albany Annual Report 2020/21 (which includes the City of Albany Annual Financial Report & Independent Auditors Report conducted by KPMG on behalf of the Office of the Auditor General for the year ended 30 June 2021)
<b>Report Prepared By</b>	: Manager Community Relations (L Paterson) Communications Coordinator (L Condon)
<b>Authorising Officers:</b>	: Executive Director Community Services (N Watson) Executive Director Corporate & Commercial Services (D Olde)

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan:
  - **Pillar:** Leadership
  - **Outcome:** A well informed and engaged community.

**In Brief:**

- Consider the acceptance of the City of Albany Annual Report 2020/21
- Approve the proposed date for the conduct of the Annual Electors Meeting.

**RECOMMENDATION**

**SCM026: RESOLUTION**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**  
**MOVED: COUNCILLOR BROUGH**  
**SECONDED: COUNCILLOR TERRY**

**THAT Council:**

1. In accordance with the requirements of section 5.54 of the Local Government Act 1995 **ACCEPT** the City of Albany Annual Report 2020/21 (which includes the Auditors Report for the period ending 30 June 2021).
2. In accordance with section 5.27 of the Act, the Annual Electors Meeting for the purpose of receiving the City of Albany Annual Report 2020/21 and other General Business will be held at 6.30pm on Tuesday 15 March 2022 at the City of Albany Council Chambers, 102 North Rd, Albany.

**CARRIED 13-0**

**SCM026: AUTHORISING OFFICER RECOMMENDATION**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT Council:**

1. In accordance with the requirements of section 5.54 of the Local Government Act 1995 **ACCEPT** the City of Albany Annual Report 2020/21 (which includes the Auditors Report for the period ending 30 June 2021).
2. In accordance with section 5.27 of the Act, the Annual Electors Meeting for the purpose of receiving the City of Albany Annual Report 2020/21 and other General Business will be held at 6.30pm on Tuesday 15 March 2022 at the City of Albany Council Chambers, 102 North Rd, Albany.

## BACKGROUND

2. The City of Albany is required to prepare annual financial reports in accordance with the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.
3. There are also statutory annual reporting requirements under the Local Government (Administration) Regulations, such as the disclosure of the number of employees within certain salary bands.
4. In meeting these legal requirements, the City of Albany also takes the opportunity to provide the community with a broad report profiling their activities and achievements for the financial year.

## DISCUSSION

### Annual Financial Report for year ended 30 June 2021

5. The complete Financial Annual Report was presented to Council on 14 December 2021, with a signature from the Auditor General on the Memorandum confirming that the City's audit was complete and satisfactory.
6. In accordance with Section 5.27 of the Act, an Annual Electors Meeting must be held no later than 56 days after the local government has been accepted, and that 14 days public notice of the meeting must be given.
7. An Annual Financial Report is required to be compiled and subsequently audited, under the *Local Government Act 1995* (the Act) and various Local Government regulations.
8. The Annual Electors Meeting will be scheduled for 15 March 2022 at the City of Albany Council Chambers, 102 North Rd, Albany. Staff will ensure that local public notice is given 14 days in advance of the Annual Electors Meeting in accordance with Section 5.27 of the Act.
9. Annual Report: In accordance with the Act, in addition to the Annual Financial Report, the annual report must contain:
  - a) A report from the Mayor and CEO;
  - b) An overview of the plan for the future of the district made in accordance with section 5.56 of the Act, including major initiatives that are proposed to commence or to continue in the next financial year; and
10. The following prescribed matters, must be included in the Annual Report:
  - a) Payments made to employees;
  - b) *Disabilities Services Act 1993* – Report made under sections 29(2);
  - c) Number of Complaints recorded in the Register of Complaints.
11. The 2020-21 Annual Report follows a similar structure to recent years, with a look and feel that is consistent with the City's Corporate Business Plan and Community Strategic Plan that celebrates our people, facilities, achievements and our region and community through a wide array of updates, images and key highlights.

## GOVERNMENT & PUBLIC CONSULTATION

12. Post acceptance of the Annual Financial Report, Council is required to convene an Annual Electors Meeting as soon as practicable after the Local Government has accepted the report.
13. The CEO is to ensure the annual report is published on the local government's official website within 14 days after the Local Government has accepted the report.
14. Electors' general meetings: Section 5.27 of the Act, requires that a Meeting of the electors of a district be held once every financial year, not more than 56 days after the local government accepts the annual report for the previous financial year, and any other nominated general business.
15. The CEO is required to give at least 14 days local public notice of an electors meeting.

**STATUTORY IMPLICATIONS**

16. In accordance with section 7.9 of the Act, an audit is required to examine the accounts and Annual Financial Report prepared for the Mayor, the CEO and the Minister.
17. Under the Audit and Risk Committee – Terms of Reference, the committee is to review the audit report and make appropriate recommendations to Council.
18. Section 5.54 of the Act, states in part: The Annual Report (which includes auditor's report) is to be accepted by the local government no later than 2 months after the auditor's report becomes available.
19. Section 5.27 of the Act, requires that a Meeting of the Electors of a district be held once every financial year, not more than 56 days after the local government accepts the annual report for the previous financial year, and any other nominated general business.
20. The CEO is required to give at least 14 days local public notice of an electors meeting.
21. The voting requirement for acceptance of the Annual Report is **Absolute Majority**.

**POLICY IMPLICATIONS**

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

**RISK IDENTIFICATION & MITIGATION**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<b>Operational.</b> Management Audit Report not accepted by the Audit & Risk Committee.	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	Audit & Risk Committee and Officers work with the auditors to address areas of concern to come to position of acceptance.
<b>Statutory Non-Compliance:</b> Council does not accept the Annual Report	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	City Officer will work with Council to come to a position of acceptance. Council set an alternate date to ensure compliance with the prescribed time period in accordance with the Act.
<b>Reputation:</b> Lack of community engagement	<i>Possible</i>	<i>Insignificant</i>	<i>Low</i>	Notice of Annual Electors Meeting published, but not limited to, newspapers circulating throughout the district, on the City's website and notices placed on community notice boards.

**FINANCIAL IMPLICATIONS**

24. There are no budget financial implications related to this report.

**LEGAL IMPLICATIONS**

25. The City has received an unqualified auditor's report, therefore there are no legal implications related to this report.
26. In accordance with section 29(2) of the *Disability Services Act 1993*, a local government that has a disability access and inclusion plan must include in its annual report prepared under section 5.53 of the Act, a report about the implementation of the plan.

**ENVIRONMENTAL CONSIDERATIONS**

27. There are no environmental considerations related to this item

**ALTERNATE OPTIONS**

28. The Council may accept as presented, accept with modification, or reject the Annual Report.

**SUMMARY CONCLUSION**

29. As no matters of concern have been noted in the auditor's report, it is recommended that the Responsible Officer's Recommendation be adopted.

<b>Consulted References</b>	:	<i>Local Government Act 1995 (the Act); Local Government (Administration) Regulations 1996</i>
<b>File Number (Name of Ward)</b>	:	IM.PUB.24 (All Wards) – Publication - Annual Budget – City of Albany FM.MEE.3 (All Wards) – Meetings – Audit & Risk Committee
<b>Previous Reference</b>	:	OCM: AR085 15/12/2020 Annual Electors Meeting 3/2/2021

## **6.0 CLOSURE OF MEETING**

There being no further business the Mayor declared the meeting closed at 7.06pm.

*(Unconfirmed Minutes)*

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Dennis W Wellington  
**MAYOR**