



MINUTES

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING

Wednesday 14 August 2024

6.00pm

Council Chambers

The Five Strategic Pillars



Development & Infrastructure Services Committee
Terms of Reference

Functions:

This Committee is responsible for:

- Sustainable management of natural areas, balancing conservation with responsible access and enjoyment.
- Shared responsibility for climate action.
- Responsible growth, development, and urban renewal.
- Creating interesting, vibrant, and welcoming places.
- Valuing and preserving local history, heritage, and character.
- Ensuring a safe, sustainable, and efficient transport network.

It accomplishes this by:

- Developing policies and strategies.
- Creating progress measurement methods.
- Receiving progress reports.
- Considering officer advice.
- Debating current issues.
- Offering advice on effective community engagement and progress reporting.
- Making recommendations to Council.

Membership: Open to all elected members.

Meeting Schedule: Monthly Meeting

Location: Council Chambers

Executive Officers:

- Executive Director Infrastructure, Development & Environment Services
- Manager Development Services
- Manager Engineering & Sustainability

Delegated Authority: None

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE
MINUTES – 14/08/2024

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DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE
MINUTES – 14/08/2024

1. **DECLARATION OF OPENING** - The Chair declared the meeting open at 6.01pm.

2. **PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**

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

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

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

3. **RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE**

Mayor	G Stocks
Councillors:	
Deputy Mayor Councillor	P Terry
Councillor	T Brough
Councillor	R Sutton
Councillor	D Baesjou
Councillor	S Grimmer
Councillor	M Traill (Deputy Chair)
Councillor	L MacLaren
Councillor	C McKinley
Councillor	M Lionetti
Staff:	
Chief Executive Officer	A Sharpe
Executive Director Infrastructure, Development & Environment	P Camins
Manager Development Services	J van der Mescht
Meeting Secretary	N Banyard
Apologies:	
Councillor	A Cruse (Apology)

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest
Councillor Sutton	DIS407	<p>Impartiality: The nature of the interest being that the owner of the property is Councillor Sutton's nephew.</p> <p>Councillor Sutton remained in the Chamber and participated in the discussion and the vote for this item.</p>

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

During Public Question Time at the Development & Infrastructure Services Committee Meeting held on 12 July 2024, Ms Miler asked the following questions which were taken on notice. The Manager Development Services has provided the following responses.

- What does sensitive uses mean and why don't they like to put towers near those places?
The telecommunication industry refers to Community sensitive sites, a community sensitive includes residential areas, childcare centres, schools, aged care centres, hospitals, playgrounds and regional icons. Australian Communications and Media Authority (ACMA) considers a number of factors prior to issuing a facility installation permit the most pertinent one includes;
 - (g) where the facility is proposed to be located near a community sensitive site, including residential areas, childcare centres, schools, aged care centres, hospitals, playgrounds and regional icons:*
 - (i) the community has been fully consulted, and wherever possible, has agreed to the facility; and*
 - (ii) alternative less sensitive sites have been considered; and*
 - (iv) efforts have been made to minimise electromagnetic radiation exposure to the public.**The best practice is to minimise exposure to any source of radiation as much as possible.*
- If they are considered sensitive, why aren't residences near them considered sensitive?
Residential areas are regarded as sensitive, while childcare centres and aged care facilities are considered even more sensitive due to the higher concentration of people typically present in these places. Please find the following example of close proximity and immediate vicinity from the code of conduct
https://www.commsalliance.com.au/_data/assets/pdf_file/0010/66997/Graphics-Guidance-S5.2-Oct-2019-1.pdf

The following response has been provided to Ms Miler by email. (Synergy reference EF24318355)

6. PUBLIC QUESTION TIME

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

Clause 4 (6) The total time allowed for public question time will be no more than 30 minutes.

Any extension to the time period defined by the City of Albany Standing Orders Local Law 2014 (as amended) will be at the discretion of the Presiding Member.

In accordance with the 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.*

6.06pm Tony Evers – 58 Bindaree Rd, Cuthbert.

Summary of key points:

Mr Evers addressed Council regarding education-based information and the censorship of educational books at the Albany Public Library.

6.07pm Chief Executive Officer Andrew Sharpe left the Chamber.

6.08pm Chief Executive Officer Andrew Sharpe returned to the Chamber.

There being no further speakers the Chair declared Public Question time closed at **6:10pm**

7. PETITIONS AND DEPUTATIONS – Nil

8. CONFIRMATION OF MINUTES

RESOLUTION

**MOVED: COUNCILLOR BROUGH
SECONDED: COUNCILLOR SUTTON**

THAT the minutes of the Development and Infrastructure Services Committee meeting held on 10 July 2024 as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 10-0

9. PRESENTATIONS - Nil

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS - Nil

DIS405: OLD GAOL AND MORETON BAY FIG TREES

Land Description	: Landgate Reserve No R52838
Proponent / Owner	: City of Albany
Attachments	: Old Gaol Wall Damage Structural Assessment Report (Stantec) Old Gaol Fig Tree Arborist Report (Greenman Trading Co)
Report Prepared By	: Manager City Reserves (J Freeman)
Authorising Officer:	: Executive Director Infrastructure, Development and Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** 3. Place. 3.2 Interesting, Vibrant and welcoming places.
 - **Outcomes:** 3.2.2 Provide attractive, well-maintained streetscapes, verges and trees.

Maps and Diagrams:



Aerial showing 2 x Fig Trees adjacent to the Old Gaol.

In Brief:

- The Albany Historical Society expressed concerns that the Old Gaol was being damaged by tree roots from the large Moreton Bay Fig (Fig tree) adjacent to the building.
- A Structural Engineer's report was commissioned which states that the Fig tree is responsible for structural damage to the Old Gaol.
- An Arborist report was also commissioned to explore any options available to protect both the Fig tree and the Old Gaol.
- Both reports recommend the removal of the Fig tree.
- To prevent further damage to the building, both fig trees on this lot are planned to be removed and replaced with more suitable tree species.

RECOMMENDATION

DIS405: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR MACLAREN
SECONDED: COUNCILLOR TERRY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 8-2

Record of the Vote

Against the Motion: Councillors Lionetti and Baesjou.

DIS405: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

1. NOTE that two Fig Trees adjacent to the Old Gaol will be removed.
2. NOTE that Red-flowering Gum trees (*Corymbia ficifolia*) will be planted on the lot.

BACKGROUND

2. The Old Gaol building was constructed in 1852 and comprises clay brick and stone walls on stone footings and a timber framed roof with metal roof sheeting. The original building was extended in 1873 when it was changed from a convict gaol to a public prison. The building is currently operated as a museum.
3. The City of Albany holds a management order over crown land on which the Old Gaol is located (Landgate Reserve No R22375). The Old Gaol is leased to the Albany Historical Society.
4. The City of Albany also holds a management order over crown land on the lot adjacent to the Old Gaol on which two large Fig trees were planted in the late 1980's (Landgate Reserve No R52838).
5. There have been concerns raised regarding the large Fig adjacent to the Old Gaol since 2008. Initially this was in relation to roots being a trip hazard outside the gaol.
6. At the time, it was determined the tree had no historical significance in relation to the gaol and approval was provided to the Historical Society for removal at their own cost.
7. In 2009, records indicate that neither the Albany Historical Society nor the City of Albany had the budget to remove the Fig tree, resulting in its retention.
8. In 2012, the removal of the Fig was raised again when the toilets in the area were removed due to their poor condition. No action was taken with the tree at this time.
9. In 2018, following a meeting with the Albany Historical Society, an arborist's report was commissioned. The report recommended trimming back the tree roots from the Old Gaol, providing the tree with a mulched area to enhance pedestrian safety and installing a root barrier. At that time, there was no conclusive evidence that the tree roots were causing damage to the Old Gaol.

DISCUSSION

10. This year, the Albany Historical Society again expressed their concerns that the Old Gaol was being damaged by tree roots. It became evident that the actions taken in 2018 did not prevent the tree roots from causing structural issues to the Old Gaol building.
11. Recently Stantec was commissioned to undertake a Structural Inspection Report of the Old Gaol. The report states that the damage to the Old Gaol has occurred due to roots growing under the building foundations, creating upward pressure, and roots absorbing moisture from the soil, leading to excessive foundation movement.

12. Roots that extend under the building must be severed from the Fig trees and any further root growth prevented. Permanent removal of the Fig trees is recommended.
13. As Stantec are not experts in tree health an Arborist's report was also commissioned from Greenman Trading. The scope of the report was to explore options to retain the tree whilst protecting the Old Gaol and to provide recommendations for replacement tree species.
14. It has been noted that the tree stem has increased in size since 2018 by 14% and both trees are healthy and show vigorous growth.
15. The Tree Protection Zone (TPZ) required for a tree this size is 20.52m. The Old Gaol falls within the TPZ, being 16m away from the base of the Fig tree.
16. The TPZ is the principal means of protecting and ensuring that trees have adequate space for healthy growth during and after site development works in Australia.
17. Based on the species' growth habit and spatial requirements for healthy development and growth (TPZ), the amount of space available for the tree is inadequate.
18. Effective isolation of root growth from the building footprint under prevailing conditions are unlikely to be completely effective and would be prohibitively expensive to install and maintain.
19. The Arborist's recommendation is to remove the Fig tree and replace with more suitable species.
20. Suitable replacement species have been recommended based on their potential to thrive in the location and develop a similar stature and significant growth habitat to the Fig trees.
21. The Polyphagous Shot-hole Borer (PSHB), an invasive ambrosia beetle native to Southeast Asia, has recently been detected in the Perth metropolitan area. It causes extensive damage to various tree species, often necessitating complete removal. Notably affected species include Box Elder Maples, Coral Trees, Plane Trees and Moreton Bay Fig trees.
22. Although the PSHB has not been detected in Albany, proactive measures are necessary to protect our trees in the future. Therefore, native species local to WA's South are preferred.
23. Based on the arborist's recommendation and to mitigate the future threat of PSHB, it is proposed that Red-flowering Gums are planted in place of the Fig trees.

GOVERNMENT & PUBLIC CONSULTATION

24. Prior to the removal of the Fig trees, a communication plan will be developed to inform the public and key stakeholders.

STATUTORY IMPLICATIONS

25. N/A

POLICY IMPLICATIONS

26. N/A

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Property. <i>Risk: If the Fig is not removed there will be further damage to the Old Gaol</i>	Likely	Severe	Extreme	Remove the Fig Tree
Reputation. <i>Risk: The community will be passionate about retaining the tree and/or the Old Gaol.</i>	Likely	Moderate	High	Implement a communications plan to inform the community
Opportunity: To protect Albany’s heritage buildings.				

FINANCIAL IMPLICATIONS

28. The cost of removal of the two Fig trees and replanting is in the order of \$10,000. The Reserves Operational Budget will be utilised for this.

LEGAL IMPLICATIONS

29. N/A

ENVIRONMENTAL CONSIDERATIONS

30. While all trees are valuable, the Fig trees in this location are not considered a native species that provides significant environmental benefits.

ALTERNATE OPTIONS

31. Council may choose not to support the removal of the Fig trees.

CONCLUSION

32. To protect the Old Gaol from further damage, it is recommended the Fig trees are removed and replaced with more suitable species.

Consulted References	:	<ul style="list-style-type: none"> • Old Gaol Wall Damage Structural Assessment Report (Stantec) • Old Gaol Fig Tree Arborist Report (Greenman Trading Co) • Synergy Records
File Number	:	A96861
Previous Reference	:	N/A

DIS406: PROPOSED PERMANENT ROAD CLOSURE – PORTION CUTHBERT STREET ALBANY ADJOINING LOT 13 NO. 5 CUTHBERT STREET

Land Description	: Portion Cuthbert Street Albany
Proponent / Owner	: Mr Neville Davidson
Report Prepared By	: Lands Officer (A Veld)
Authorising Officer:	: Executive Director Infrastructure Development and Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Place. A safe, sustainable and efficient transport network
 - **Outcomes:** 10.1 Improve road safety, connectivity and traffic flow

Maps and Diagrams:



In Brief:

- The owner of Lot 13 No. 5 Cuthbert Street has approached the City of Albany to purchase portion of Cuthbert Street, adjoining their property.
- Council resolution is required to permanently close this portion of Cuthbert Street in order for this land to be amalgamated with the adjoining freehold lot.

RECOMMENDATION

DIS406: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY

SECONDED: COUNCILLOR MCKINLEY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

DIS406: AUTHORISING OFFICER RECOMMENDATION

THAT Council RESOLVES to permanently close a 135m² portion of Cuthbert Street pursuant to section 58 of the Land Administration Act 1997 contingent to this land being amalgamated with Lot 13 No. 5 Cuthbert Street, Albany.

BACKGROUND

2. The landowner of Lot 13 No 5 Cuthbert Street wrote to the City of Albany in December 2023 to purchase portion of Cuthbert Street, adjoining their property.
3. This land has been used by the current and previous landowners of this property as a driveway and garden since the 1970's.

DISCUSSION

4. The City of Albany investigated the request to purchase portion of Cuthbert Street Road reserve and determined this land is not required to upgrade or widen Cuthbert Street.
5. Pursuant to Regulation 9 of the *Land Administration Regulations 1998*, the City of Albany publicly advertised the proposed road closure. No submissions were received.
6. The City now presents this matter to Council for resolution.

GOVERNMENT & PUBLIC CONSULTATION

7. The proposed road closure was advertised in the Extra on the 24 May 2024 for a period of 35 days. The proposal was also made publicly available via the Public Comments page on the City of Albany website.
8. Submissions closed Friday 28 June. No responses were received.
9. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Newspaper	24 May – 28 June 2024	District reach	yes
Consult	City of Albany website	24 May – 28 June 2024	Open to the public	yes

STATUTORY IMPLICATIONS

10. Section 58 of the *Land Administration Act 1997*.
11. Regulation 9 of the *Land Administration Regulations 1998*.

POLICY IMPLICATIONS

12. There are no policy implications relating to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Operational Risk: <i>Deciding to dispose of the land at this stage is premature and could potentially hinder future planning and expansion of the road.</i></p>	<i>Rare</i>	<i>Insignificant</i>	<i>Low</i>	<i>Considering the current historical developments and the character of the street a widening is not required nor feasible.</i>
<p>Opportunity: <i>Resolve land tenure to align with current and projected use of this land into the future.</i></p>				

FINANCIAL IMPLICATIONS

14. All costs to close the road are to be borne by the proponent. Final disposal of the land will be the responsibility of the Department of Planning Lands & Heritage.

LEGAL IMPLICATIONS

15. There are no legal implications relating to this item.

ENVIRONMENTAL CONSIDERATIONS

16. There are no environmental considerations relating to this item.

ALTERNATE OPTIONS

17. Council may choose to:
- Refuse the proposal
 - Support the proposal with modifications.

CONCLUSION

18. The owner of Lot 13 No. 5 Cuthbert Street has approached the City of Albany to purchase portion of Cuthbert Street, adjoining their property.
19. The City of Albany has determined that this land is not required for use as a public road.
20. The City of Albany has advertised the proposal with no submissions received.
21. Council resolution is required to permanently close this portion of Cuthbert Street in order for this land to be amalgamated with the adjoining freehold lot

Consulted References	:	<i>Land Administration Act 1997</i> <i>Land Administration Regulations 1998</i>
File Number	:	RD.RDC.2
Previous Reference	:	Nil

DIS407: PROPOSED PERMANENT ROAD CLOSURE – PORTION CUTHBERT STREET ALBANY ADJOINING LOT 2 NO. 18 CUTHBERT STREET

Land Description	:	Portion Cuthbert Street Albany
Proponent Owner/ Business Entity Name	:	Lauxes Pty Ltd
	•	Director and Secretary being Brett Robert Sutton.
Report Prepared By	:	Lands Officer (A Veld)
Authorising Officer:	:	Executive Director Infrastructure Development and Environment (P Camins)

Councillor Sutton declared an Impartiality Interest for this item. Councillor Sutton 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:
 - **Pillar:** Place. A safe, sustainable and efficient transport network
 - **Outcomes:** 10.1 Improve road safety, connectivity and traffic flow

Maps and Diagrams:



In Brief:

- The owner of Lot 2 No. 18 Cuthbert Street has approached the City of Albany to purchase a portion of Cuthbert Street, adjoining their property.
- Council resolution is required to permanently close this portion of Cuthbert Street for this land to be amalgamated with the adjoining freehold lot.

RECOMMENDATION

DIS407: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR LIONETTI

SECONDED: COUNCILLOR MCKINLEY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 8-2

Record of the Vote

Against the Motion: Councillors Baesjou and MacLaren.

DIS407: AUTHORISING OFFICER RECOMMENDATION

THAT Council RESOLVES to permanently close a 450m² portion of Cuthbert Street pursuant to section 58 of the Land Administration Act 1997 contingent to this land being amalgamated with Lot 2 No. 18 Cuthbert Street, Albany.

BACKGROUND

2. The landowner of Lot 2 No 18 Cuthbert Street wrote to the City of Albany in December 2023 to purchase portion of Cuthbert Street, adjoining their property.
3. This portion of Cuthbert Street has remained as vacant land since the 1970's.

DISCUSSION

4. The City of Albany investigated the request to purchase portion of Cuthbert Street and determined this land is not required to upgrade or widen the current Cuthbert Street road reserve.
5. Pursuant to Regulation 9 of the *Land Administration Regulations 1998*, the City of Albany publicly advertised the proposed road closure. No submissions were received.
6. The City now presents this matter to Council for resolution.

GOVERNMENT & PUBLIC CONSULTATION

7. The proposed road closure was advertised in the Extra on the 24 May 2024 for a period of 35 days. The proposal was also made publicly available via the Public Comments page on the City of Albany website.
8. Submissions closed Friday 28 June. No responses were received.
9. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Newspaper	24 May – 28 June 2024	District reach	Yes
Consult	City of Albany website	24 May – 28 June 2024	Open to the public	Yes

STATUTORY IMPLICATIONS

10. Section 58 of the *Land Administration Act 1997*.
11. Regulation 9 of the *Land Administration Regulations 1998*.

POLICY IMPLICATIONS

12. There are no policy implications relating to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Operational Risk: Deciding to dispose of the land at this stage is premature and could potentially hinder future planning and expansion of the road.</p>	Rare	Insignificant	Low	Considering the current historical developments and the character of the street a widening is not required nor feasible.
<p>Opportunity: Resolve land tenure to align with current and projected use of this land into the future.</p>				

FINANCIAL IMPLICATIONS

14. All costs to close the road are to be borne by the proponent. Final disposal of the land will be the responsibility of the Department of Planning Lands & Heritage.

LEGAL IMPLICATIONS

15. There are no legal implications relating to this item.

ENVIRONMENTAL CONSIDERATIONS

16. There are no environmental considerations relating to this item.

ALTERNATE OPTIONS

17. Council may choose to:
- Refuse the proposal
 - Support the proposal with modifications.

CONCLUSION

18. The owner of Lot 2 No. 18 Cuthbert Street has approached the City of Albany to purchase portion of Cuthbert Street, adjoining their property.
19. The City of Albany has determined that this land is not required for use as a public road.
20. The City of Albany has advertised the proposal with no submissions received.
21. Council resolution is required to permanently close this portion of Cuthbert Street in order for this land to be amalgamated with the adjoining freehold lot

Consulted References	:	<i>Land Administration Act 1997</i> <i>Land Administration Regulations 1998</i>
File Number	:	RD.RDC.2
Previous Reference	:	Nil

DIS408: DRAFT LOCAL PLANNING POLICY 1.2: SHIPPING CONTAINERS

Land Description	: City of Albany
Proponent / Owner	: City of Albany
Business Entity Name	: City of Albany
Attachments	: Draft Local Planning Policy 1.2: Shipping Containers
Supplementary Information & Councillor Workstation	: Non-Habitable Structures Local Planning Policy Proposed LPS2 Shipping Container Exemptions
Report Prepared By	: Senior Planning Officer (D Ashboth)
Authorising Officer:	: Executive Director Infrastructure, Development and Environment (P Camins)

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making its decision, Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2019* (the Planning Strategy) and *Strategic Community Plan – Albany 2032*.
3. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Place
 - **Outcomes:**
 - Interesting, vibrant and welcoming places.
 - Responsible growth, development and urban renewal.
 - Local history, heritage and character is valued and preserved.

In Brief:

- To assist the implementation of LPS2, staff have identified specific provisions under LPS2 that may require further guidance through the preparation of a new local planning policy.
- LPS2 outlines the requirement to obtain development approval from the local government for the temporary or permanent placement and/or development of a shipping container.
- Draft Local Planning Policy 1.2 Shipping Containers (LPP 1.2) has been prepared to guide the assessment of applications for the permanent or temporary placement of shipping containers in accordance with LPS2.
- Council is requested to endorse the draft LPP1.10 for advertising.

RECOMMENDATION

DIS408: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR BROUGH
SECONDED: COUNCILLOR SUTTON**

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 9-1

Record of the Vote

Against the Motion: Councillor McKinley

DIS408: AUTHORISING OFFICER RECOMMENDATION

THAT Council resolves to ADVERTISE Local Planning Policy 1.2 Shipping Containers, in pursuance of Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

BACKGROUND

4. The City of Albany Local Planning Scheme No. 2 (LPS2) was published in the Government Gazette in February 2024.
5. LPS2 requires development approval from the local government for the temporary or permanent placement and/or development of a shipping container, irrespective of the permissibility of the land use and/or any existing approved use on site.
6. Officers have also prepared draft LPS2 exemptions from the requirements to obtain development approval for shipping containers in the Rural and Priority Agriculture Zones. These exemptions will form part of a proposed omnibus amendment to LPS2 and will be subject to the approval of Council and the Western Australian Planning Commission (refer Councillor Workstation).
7. Prior to the preparation of LPS2, shipping containers were assessed against provisions applicable to the overarching land use (e.g. storage) with no additional criteria specific to the assessment of the structure (shipping container).
8. One exception to this statement relates to shipping containers proposed for use as outbuildings under the City's Non-habitable Structures Local Planning Policy which required applications involving shipping containers to be advertised to adjoining landowners and redevelopment measures to be undertaken.
9. The content of the *Non-Habitable Structures Local Planning Policy*, minus the specific provisions relating to shipping containers, has been incorporated into LPS2 and the policy has subsequently been revoked.
10. It was proposed that the provisions concerning shipping containers be expanded to cover a broader range of land uses, not just outbuildings, and be managed through a Local Planning Policy.
11. In addition to development approval, a building permit is required for the permanent (and sometimes temporary) placement of shipping containers to ensure the structure is placed on appropriate foundations and tied down for safety.
12. There is, however, a common misconception within the community that no approvals are required for the placement of shipping containers.
13. This misconception has resulted in a significant compliance burden for City of Albany Compliance Officers and has safety implications with several unapproved shipping containers being placed on uneven ground / foundations and/or constructed without tie downs.

DISCUSSION

14. Developing a specific Local Planning Policy for shipping containers will clarify approval requirements, thereby reducing compliance burdens and safety concerns.
15. With the rising number of shipping containers being installed on properties without proper approvals, the City frequently finds them in inappropriate locations, such as over services or easements, which obstructs access to and the functionality of these services and easements.
16. Shipping containers are often placed across designated parking bays or vehicle manoeuvring areas required by site development approvals. This reduces parking availability, negatively impacts vehicle manoeuvrability and sight lines, and can lead to conflicts with development approval conditions.

17. Shipping containers can also affect local amenity when placed in front setback areas, required landscaping zones, designated bin storage areas (forcing bins to be relocated to unsuitable locations), or on sites lacking approved buildings or dwellings.
18. Considering the need for development approval and the common issues with the placement of shipping containers identified, it is appropriate for draft LPP1.2 to include assessment criteria for the on-site location of shipping containers.
19. Additional safety concerns arise with shipping containers because they cannot be opened from the inside, leading to potential entrapment.
20. To address this, it is proposed that shipping containers be modified to allow interior access, in line with requirements from other local governments. This condition will be applied to development approvals.
21. Draft LPP1.2 includes provisions requiring redevelopment measures to improve the appearance and minimise the amenity impacts of shipping containers, given their industrial nature.
22. These measures will be necessary only if the container is visible from adjoining properties or public areas and must be detailed in any development approval application.
23. Due to their industrial nature, shipping containers are generally consistent with the expected amenity of industrial zones.
24. Therefore, redevelopment measures may be waived by the City of Albany for containers in industrial zones unless they are visible from adjoining properties or public spaces in non-industrial zones.
25. Consistent with the former *Non-Habitable Structures Policy*, draft LPP1.2 requires that proposals for permanent shipping containers in residential zones be advertised to address amenity concerns.
26. Outside residential zones, advertising may be at the discretion of the City of Albany if the proposal might negatively impact neighbouring landowners.
27. Draft LPP1.2 proposes to exempt the temporary placement of shipping containers from development approval requirements, including for construction sites or temporary loading/unloading purposes.
28. Instead of a development application, the City will accept a formal request for temporary approval of a shipping container, provided the temporary nature and need for the structure are confirmed.
29. A site plan will be required to show that the shipping container meets required setbacks, does not impact pedestrian or vehicle movement, and does not obstruct vehicle sight lines.
30. The site plan will also ensure containers are located within property boundaries, as temporary containers are often placed on verges outside lot boundaries without approval, affecting verge maintenance, obstructing footpaths, and creating hazards.
31. Draft LPP1.2 allows the City to consider waiving redevelopment measures for the temporary placement of shipping containers at the officer's discretion. Redevelopment measures would be required only if the container is prominently located and needed for an extended period.
32. Further exemptions for shipping containers in Rural and Priority Agriculture Zones will be addressed through an omnibus amendment to LPS2 (refer to Councillor Workstation).
33. It is recommended that the Council endorse the *draft Local Planning Policy 1.2 Shipping Containers* for the purpose of advertising.

GOVERNMENT & PUBLIC CONSULTATION

34. Approval is sought to advertise the draft LPP2.1 in accordance with Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

35. If the Council resolves to support the draft LPP2.1 for advertising, a notice of the proposed policy will be placed in a newspaper circulating in the LPS1 area for 2 consecutive weeks.
36. The policy will also be published on the City of Albany website for 21 days.
37. Both the newspaper and the website will give details of:
 - a) Where the draft Local Planning Policy can be inspected.
 - b) The subject and nature of the draft Local Planning Policy; and
 - c) In what form and during what period (21 days from the day the notice is published) submissions may be made.
38. A copy of the policy will also be made available for inspection at the City of Albany.
39. After expiry of the period within which submissions may be made, the Local Government is to:
 - a) Review the draft Local Planning Policy in light of any submissions made; and
 - b) Resolve to adopt the Local Planning Policy with or without modification, or not to proceed with the Local Planning Policy.

STATUTORY IMPLICATIONS

40. Consideration of draft new LPPs requires resolution of Council for endorsement to advertise and final adoption following advertising, with or without modifications, in accordance with the Planning Regulations.
41. Should Council resolve to adopt draft LPP2.1, with or without modification, a notice must be published as per cl.87 of the Planning Regulations.

POLICY IMPLICATIONS

42. There are no policy implications relating to endorsing the proposed LPP1.2 for advertising.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Operational <i>Not approving draft LPP1.2 for advertising could result in inconsistent advice and/or assessment of applicable development proposals, leading to undesired outcomes.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>Policy provisions are consistent with the scheme standards and requirements, to provide guidance and supporting information for the consideration of applicable proposals.</i>
Opportunity: <i>To ensure shipping containers do not detract from the amenity of the area in which they are situated, or effect the existing operation of the site.</i>				

FINANCIAL IMPLICATIONS

44. There are no financial implications beyond what will be used for advertising.

LEGAL IMPLICATIONS

45. There are no legal implications relating to endorsing the proposed draft LPP1.2 for advertising.

ENVIRONMENTAL CONSIDERATIONS

46. There are no environmental implications relating to endorsing the proposed draft LPP1.2 for advertising.

ALTERNATE OPTIONS

47. Council has the following alternate options in relation to this item, which are:
- To resolve to proceed with advertising the policy without modification;
 - To resolve to proceed with advertising the policy subject to modification; and
 - To resolve not to proceed with advertising the policy.

CONCLUSION

48. Staff recommend Council resolve to endorse the draft LPP 1.2 Shipping Containers for advertising.
49. Upon agreement, a notice of the proposed policy will be placed in a newspaper and on the City's website for 21 days.
50. After expiry of the period within which submissions may be made, the Local Government is to:
- a) Review the draft local planning policy considering any submissions made; and
 - b) Resolve to adopt policy positions with or without modification, or not to proceed.

Consulted References	:	1. Draft <i>Local Planning Scheme No. 2</i> 2. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> 3. <i>City of Albany Non-Habitable Structures Local Planning Policy.</i>
File Number	:	LP.POL.2
Previous Reference	:	Nil

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN - Nil

12. MEETING CLOSED TO THE PUBLIC 7.01pm

13. CLOSURE – 7:01pm

(Unconfirmed Minutes)

Councillor Malcolm Traill
DEPUTY CHAIR