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# AGENDA

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**PLANNING AND DEVELOPMENT COMMITTEE**

**03 September 2014**

5.30pm

City of Albany Council Chambers

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

**VISION**

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

**VALUES**

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

**Focused: on community outcomes**

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

**United: by working and learning together**

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

**Accountable: for our actions**

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

**Proud: of our people and our community**

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

PLANNING AND DEVELOPMENT COMMITTEE

AGENDA –03/09/2014

\*\* REFER DISCLAIMER \*\*

**TERMS OF REFERENCE**

**(1) Function:**

The Planning and Development Committee will be responsible for the delivery of the following Liveable Environmental Objectives contained in the City of Albany Strategic Plan:

- (a) To advocate, plan and build connected, liveable communities;
- (b) To create a community that supports people of all ages and backgrounds;
- (c) To create vibrant neighbourhoods which are safe yet retain our local character and heritage.

**(2) It will achieve this by:**

- (a) Developing policies and strategies;
- (b) Establishing ways to measure progress;
- (c) Receiving progress reports;
- (d) Considering officer advice;
- (e) Debating topical issues;
- (f) Providing advice on effective ways to engage and report progress to the Community ; and
- (g) Making recommendations to Council.

**(3) Chairperson:** To be elected from the Committee

**(4) Membership:** Open to all elected members, who wish to be members

**(5) Meeting Schedule:** 1<sup>st</sup> Wednesday of the Month

**(6) Meeting Location:** Council Chambers

**(7) Executive Officer:** Executive Director Planning & Development Services

**(8) Delegated Authority:** None

PLANNING AND DEVELOPMENT COMMITTEE

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**1. DECLARATION OF OPENING**

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

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

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

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

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

**Mayor** Mayor D Wellington (Deputy Chair)

**Councillors:**

Member	V Calleja JP (Chair)
Member	A Hortin JP
Member	A Goode JP
Member	R Hammond
Member	R Sutton
Member	G Gregson
Member	S Bowles
Member	N Williams
Member	B Hollingworth

**Staff:**

Executive Director Planning & Development Services	D Putland
Manager Planning	J van der Mescht
Senior Strategic Planner	A Nicol
Senior Planning Officer	Craig McMurtie
Senior Planning Officer /Statutory Planning and Compliance	Tom Wenbourne
Minutes	J Cobbold

**Apologies:**

PLANNING AND DEVELOPMENT COMMITTEE

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\*\* REFER DISCLAIMER \*\*

**4. DISCLOSURES OF INTEREST**

<b>Name</b>	<b>Committee/Report Item Number</b>	<b>Nature of Interest</b>

**5. REPORTS OF MEMBERS**

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

**7. PUBLIC QUESTION TIME**

**8. APPLICATIONS FOR LEAVE OF ABSENCE**

**9. PETITIONS AND DEPUTATIONS**

**10. CONFIRMATION OF MINUTES**

**DRAFT MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the minutes of the Planning and Development Committee Meeting held on 06 August 2014, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**11. PRESENTATIONS**

Unsightly Sites – Tom Wenbourne

Update - Yakamia Structure Plan – Adrian Nicol

**12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

**PD049: ADOPT 'RESIDENTIAL BUILDING' POLICY**

<b>Land Description</b>	: City of Albany
<b>Proponent</b>	: City of Albany
<b>Owner</b>	: City of Albany
<b>Business Entity Name</b>	: N/A
<b>Attachments</b>	: 'Residential Building' Policy
<b>Appendices</b>	: Nil
<b>Councillor Workstation</b>	: Nil
<b>Report Prepared by</b>	: Senior Planning Officer / Strategic Planning (Adrian Nicol)
<b>Responsible Officer(s)</b>	: Executive Director Planning & Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

**Key Theme:** 3 A connected built environment

**Objective:** 3.3 To develop vibrant neighbourhoods which retain local character and heritage

**Strategy:** 3.3.1 Develop and implement a contemporary local planning strategy

**In Brief:**

Council is requested to adopt the attached Residential Building Policy which aims to more clearly define the purpose and rules associated with residential buildings that house people who do not comprise a family

**RECOMMENDATION**

**PD049: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council Adopts the 'Residential Building' policy.**

## **BACKGROUND**

1. In February 2014, an application for a 'Residential Building' at Lot 21, 19 Premier Circle, Spencer Park was advertised to the local community. 184 submissions were received by the City and objected to the proposal for reasons including:
  - a. Change to the ambience of the local area;
  - b. Inadequate on-site parking;
  - c. Increased traffic flow;
  - d. Increased potential for disruptive behaviour;
  - e. Decline in property values; and
  - f. Without a live-in supervisor, disruptive issues would be difficult to deal with.
2. On the 25 February 2014, Council resolved to develop and adopt a Residential Housing Policy to support persons in housing crisis while protecting the amenity of neighbourhoods.
3. In response to Council's resolution, the City developed a draft 'Residential Building' policy.
4. In June 2014 Council resolved to advertise the draft 'Residential Building' Policy for public comment.
5. No submissions were received.

## **DISCUSSION**

6. The Policy seeks to regulate use and development of 'Residential Buildings' as a means to appease community concerns and maintain the character of a neighbourhood by ensuring that:
  - a. A Residential Building intended to be used for a temporary period by two or more persons has a live in manager appointed to care and manage the Residential Building and its tenants;
  - b. The design of a 'Residential Building' is compatible with the character of existing developments in the locality;
  - c. Management plan standards are implemented to the satisfaction of the City;
  - d. Tenants of a Residential Building agree to the terms of tenancy in accordance with the Residential Tenancies Act 1987;
  - e. The lessor provides a copy of the agreement to each tenant;
  - f. A lessor of a Residential Building gives notice of termination to the tenant upon the ground that the tenant has breached a term of the agreement and the breach has not been remedied in accordance with the Residential Tenancies Act 1987; and
  - g. One (1) car-parking space is provided for every two beds.



## GOVERNMENT & PUBLIC CONSULTATION

7. A notice of the proposed Policy was placed once a week for two consecutive weeks in a newspaper circulating in the Scheme area, giving 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 (being not less than 21 days from the day that the first notice is published) submissions may be made.
8. After expiry of the period within which submissions may be made, the City had not received any submissions.

## STATUTORY IMPLICATIONS

### Residential Building

9. A 'Residential Building' is defined within the *Residential Design Codes* as follows;

*"A building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:*

  - a. *Temporarily by two or more persons; or*
  - b. *Permanently by seven or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school."*
10. The 'Residential Building' policy defines a 'temporary period' as being 'no more than 6 months'. For the purpose of this policy, an application for permanent accommodation (greater than 6 months) for no more than six persons who do not comprise a family, falls under the use class 'Single House' and therefore does not relate to this policy.

### Residential Tenancies Act 1987

11. The *Residential Tenancies Act 1987* regulates the relationship of leasing authorities and tenants of a 'Residential Building'.
12. The Act enables a lessor to give notice of termination to the tenant upon the ground that the tenant has breached a term of an agreement, such as disruptive behaviour, and the breach has not been remedied.
13. An application for a Residential Building is to be assessed in accordance with normal procedures set by the Local Planning Scheme.
14. A 'Residential Building' is not permitted in the 'Residential', 'Tourist Residential' and 'Regional Centre' zones unless the Local Government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the *Local Planning Scheme 1*.
15. Voting requirement for this item is **ABSOLUTE MAJORITY**

**POLICY IMPLICATIONS**

16. The State Governments *Affordable Housing Strategy: 2010-2020 Opening Doors to Affordable Housing* relates somewhat to the development of ‘Residential Buildings’. A key initiative of this strategy is the delivery of more housing for low income earners.
17. A Local Planning Policy may be revoked by:
- a. The adoption by the Local Government of a new Policy that is specifically expressed to supersede the existing Local Planning Policy; or
  - b. Publication of a notice of revocation by the Local Government once a week for two consecutive weeks in a newspaper circulating in the Scheme area.
18. The following Acts have some bearing on the development and use of ‘Residential Buildings’:
- a. The *Housing Act 1980*, which looks to improve existing housing conditions and to govern the letting of housing;
  - b. The *Disability Services Act 1993*, which ensures that services are provided for people with disabilities;
  - c. The *Mental Health Act 1996*, which looks to provide for the care, treatment and protection of persons who have mental illness;
  - d. The *Residential Tenancies Act 1987*, which regulates the relationship of leasing authority’s and tenants; and
  - e. The *Building Act* and *Building Regulations*, which requires developments to cater for people with disabilities and to provide, hardwired smoke alarms.

**RISK IDENTIFICATION & MITIGATION**

19. The following indicates the risk to the City in making a decision to support or not support the ‘Residential Building’ Policy:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Adopting the proposed policy could give rise to objections from the general public, who have previously voiced strong objection to supporting a ‘Residential Building’.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>Provisions have been included in the policy to address community concerns such as the impact of disruptive behaviour.</i>

**FINANCIAL IMPLICATIONS**

20. There are no financial implications relating to this item.

**LEGAL IMPLICATIONS**

21. There is no legal implication relating to this item.

**ENVIRONMENTAL CONSIDERATIONS**

22. There are no environmental considerations pertaining to this item.

**ALTERNATE OPTIONS**

23. The Council may choose to refuse to adopt the ‘Residential Building’ policy; or defer the decision until further information is provided.

**SUMMARY CONCLUSION**

24. ‘Residential Buildings’ have potential to change the ambience of a neighbourhood by increasing traffic flow and introducing disruptive behaviour.

25. The proposed policy is intended to ensure that appropriate management and design measures are implemented to reduce the potential impact that a ‘Residential Building’ may have on a neighbourhood.

26. It is recommended that Council adopt the ‘Residential Building’ Policy.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme 1</i></li> <li>2. <i>Local Planning Scheme 1 Policy Manual</i></li> <li>3. <i>Housing Act 1980,</i></li> <li>4. <i>Disability Services Act 1993,</i></li> <li>5. <i>Mental Health Act 1996,</i></li> <li>6. <i>Residential Tenancies Act 1987,</i></li> <li>7. <i>Building Act and Building Regulations</i></li> <li>8. <i>Affordable Housing Strategy: 2010-2020 Opening Doors to Affordable Housing</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	N/A
<b>Previous Reference</b>	:	<p>OCM 19/04/11 - Item 1.1 Final Adoption of Policy Manual OCM 24/06/14 – Item PD038 Advertise draft Residential Building Policy</p>

## PD050: ADOPT 'HOLIDAY ACCOMMODATION' POLICY

<b>Land Description</b>	: City of Albany
<b>Proponent</b>	: City of Albany
<b>Owner</b>	: City of Albany
<b>Business Entity Name</b>	: N/A
<b>Attachments</b>	: 'Holiday Accommodation' Policy
<b>Appendices</b>	: Nil
<b>Councillor Workstation</b>	: Nil
<b>Report Prepared by</b>	: Senior Planning Officer / Strategic Planning (Adrian Nicol)
<b>Responsible Officer(s)</b>	: Executive Director Planning & Development Services (D Putland)

Responsible Officer's Signature:



### STRATEGIC IMPLICATIONS

**Key Theme:** 3 A connected built environment

**Objective:** 3.3 To advocate, plan and build friendly and connected communities

**Strategy:** 3.3.1 Develop and implement a contemporary local planning strategy

### In Brief:

Council is requested to adopt the attached update to the Holiday Accommodation Policy which increases the maximum number of holiday guests from 6 to 12 at any one time provided they comply with required health standards

### RECOMMENDATION

#### PD050: RESPONSIBLE OFFICER RECOMMENDATION

**THAT Council Adopts the 'Holiday Accommodation' policy.**

### BACKGROUND

1. The City's existing 'Holiday Home' policy supports a maximum of six (6) persons staying at any one time within a dwelling.
2. Anecdotal evidence suggests that holiday accommodation within Albany is currently booked out for the Centenary of Anzac, beginning in November 2014.
3. In anticipation of a high number of tourists seeking accommodation to commemorate the Centenary of Anzac to be held from 2014 to 2018, operators of holiday accommodation requested that the City support more than the current maximum six (6) persons that can stay in a dwelling used for holiday accommodation purposes at any one time.
4. In response to requests made by operators of holiday accommodation, the City developed a draft 'Holiday Accommodation' policy.
5. In June 2014 Council resolved to advertise the draft 'Holiday Accommodation' Policy.

6. There were no submissions received.

## DISCUSSION

7. The new policy is titled 'Holiday Accommodation' rather than 'Holiday Home' in accordance with the defined use in the *Local Planning Scheme 1*; which defines Holiday Accommodation as:

*'any land and/or building providing accommodation and recreation facilities for guests/tourists on a short-term commercial basis and may include a shop or dining area incidental to the function providing limited services to patrons.'*

8. The new 'Holiday Accommodation' policy supports an increase in the amount of persons that can stay at any one time to a maximum of twelve (12). Subject to the premises meeting required health standards.
9. The health standards that apply include:
- 4 square metres being available per person in each bedroom utilising beds; and
  - 2.5 square metres being available per person in each bedroom utilising bunks.

10. The proposed change to the policy as it relates to the number of people that can occupy a holiday accommodation unit is in accordance with the Western Australian Planning Commission Planning Bulletin 99 (Holiday Home Guideline), which states:

*'Holiday home (large) means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.'*

11. The increase in the maximum amount of persons to twelve (12) is expected to increase the potential supply of short stay accommodation.

## GOVERNMENT & PUBLIC CONSULTATION

12. A notice of the proposed Policy was placed once a week for two consecutive weeks in a newspaper circulating in the Scheme area, giving details of:
- Where the draft Local Planning Policy can be inspected;
  - The subject and nature of the draft Local Planning Policy; and
  - In what form and during what period (being not less than 21 days from the day that the first notice is published) submissions may be made.

13. No submissions were received.

## STATUTORY IMPLICATIONS

14. An application for Holiday Accommodation is to be assessed in accordance with normal procedures set by the *Local Planning Scheme 1*.
15. 'Holiday Accommodation' is not permitted in the 'Residential', 'Caravan and Camping', 'Regional Centre', 'Rural Small Holding' and 'Rural Village' zones, unless the Local Government has exercised its discretion by granting planning approval.
16. 'Holiday Accommodation' is not permitted in the 'Yakamia Creek', 'General Agriculture' and 'Priority Agriculture' zones, unless the Local Government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the *Local Planning Scheme 1*.
17. 'Holiday Accommodation' is permitted in the 'Tourist Residential' and 'Hotel/Motel' zones providing the use complies with requirements of the Scheme.
18. Voting requirement for this item is **ABSOLUTE MAJORITY**

## POLICY IMPLICATIONS

19. The policy is consistent with the objectives of the Western Australian Planning Commission *Planning Bulletin 99 – Holiday Homes Guidelines*, which are:
  - a. To facilitate a consistent process for regulating holiday homes;
  - b. To support the tourism industry by the promotion of voluntary accreditation of holiday homes; and
  - c. To encourage good quality, well managed holiday homes.
20. A Local Planning Policy may be revoked by:
  - a. The adoption by the Local Government of a new Policy that is specifically expressed to supersede the existing Local Planning Policy; or
  - b. Publication of a notice of revocation by the Local Government once a week for two consecutive weeks in a newspaper circulating in the Scheme area.

## RISK IDENTIFICATION & MITIGATION

21. The following indicates the risk to the City in making a decision to support or not support a change to the 'Holiday Home' Policy:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>The tourism industry may be impacted if the City resolves not to support the change to increase the amount of potential beds available for holiday accommodation.</i>	<i>Likely</i>	<i>Moderate reputational impact considering the Centenary of Anzac, to be commemorated from 2014 to 2018</i>	<i>Medium</i>	<i>Manage the reputational risk through an appropriate communication strategy.</i>

## FINANCIAL IMPLICATIONS

22. There are no financial implications relating to this item.

## LEGAL IMPLICATIONS

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

## ENVIRONMENTAL CONSIDERATIONS

24. There are no environmental implications relating to this item.

## ALTERNATE OPTIONS

25. The Council may refuse to adopt the 'Holiday Accommodation' policy or defer the decision until further information is provided.

## SUMMARY CONCLUSION

26. Anecdotal evidence suggests that holiday accommodation within Albany is currently booked out for the Centenary of Anzac, beginning in November 2014.

27. Operators of holiday accommodation have requested that the City support more than the current maximum six (6) persons that can stay at any one time.

28. It is recommended that Council adopt a new 'Holiday Accommodation' Policy, which supports, subject to health requirements, an increase from six (6) to twelve (12) persons to increase the supply of holiday accommodation in Albany.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme 1</i> 2. <i>Policy Manual</i> 3. Western Australian Planning Commission <i>Planning Bulletin 99 – Holiday Homes Guidelines</i>
<b>File Number (Name of Ward)</b>	:	N/A
<b>Previous Reference</b>	:	OCM 19/04/11 - Item 1.1 Final Adoption of Policy Manual OCM 24/06/14 – Item PD035 Advertise draft Holiday Accommodation Policy

**PD051: INITIATION OF AMENDMENT – PORTION OF LOT 3000 EMU POINT DRIVE, COLLINGWOOD PARK, LOT 3001 ON DEPOSITED PLAN 51548 & PORTION OF LOT 1523 EMU POINT DRIVE, EMU POINT**

<b>Land Description</b>	: Portion of Lot 3000 Emu Point Drive, Collingwood Park, Lot 3001 on Deposited Plan 51548 and portion of Lot 1523 Emu Point Drive, Emu Point
<b>Proponent</b>	: Harley Dykstra
<b>Owner</b>	: Western Australian Land Authority & City of Albany (vested Crown Land)
<b>Business Entity Name</b>	: Not applicable
<b>Attachments</b>	: Location plan : Zoning plan : Draft Structure Plan (ODP008) : Local Planning Scheme Amendment No.2 report
<b>Appendices</b>	: NIL
<b>Councillor Workstation</b>	: NIL
<b>Report Prepared by</b>	: Planning Officer (Craig McMurtrie)
<b>Responsible Officer:</b>	: Executive Director Planning and Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

**Key Theme:** 3 A connected built environment

**Objective:** 3.1 To advocate, plan and build friendly and connected communities

**Strategy:** 3.1.2 Create consistent and connected streetscapes

**In Brief:**

Council is requested to initiate a proposed scheme amendment to reserve a portion of Lot 3000 Emu Point Drive Collingwood Park and Lot 3001 on Deposited Plan 51548 and a portion of Lot 1523 Emu Point Drive for the purpose of 'Parks and Recreation'

**RECOMMENDATION**

**PD051: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council in pursuance of section 75 of the Planning and Development Act 2005, RESOLVES to initiate Local Planning Scheme Amendment No. 2 to Local Planning Scheme No. 1 for the purposes of:**

- a) Reserving a portion of Lot 3000 Emu Point Drive, Collingwood Park and Lot 3001 on Deposited Plan 51548 and a portion of Lot 1523 Emu Point Drive, Emu Point for 'Parks and Recreation'; and
- b) Amending the Scheme Maps accordingly.



## BACKGROUND

1. A Structure Plan (ODP008) over the subject land was lodged with Council in 2010 to guide subdivision and development of the land.
2. Council considered ODP008 at its Ordinary Meeting on 17 August 2010 and resolved to adopt the ODP for advertising subject to some modifications.
3. The ODP was also assessed concurrently by the Environmental Protection Authority (EPA) under the Public Environmental Review process, which identifies any environmental issues that may impact on the ODP proposal.
4. In April 2011, the City received draft conditions from the EPA pertaining to the proposal, which included the following condition 5.3:

*“The proponent shall submit a rezoning application under the City of Albany Town Planning Scheme for the portions of Lots 1523 and 3000 located outside of the development envelope shown in Figure 1 as ‘Parks and Recreation’ prior to approval of a subdivision diagram of survey.”*

5. Town Planning Scheme Amendment No. 177, which was designed to address this condition, was presented to Council at its Ordinary Meeting on 17 August 2010 and the following resolution was reached:

*“THAT Council:*

1. *In pursuance of section 75 of the Planning and Development Act 2005 RESOLVES to initiate Amendment No. 177 to Town Planning Scheme No. 1A with modification for the purposes of:*
  - a) *Reserving a portion of Lot 3000 Emu Point Drive, Collingwood Park and Lot 3001 on Deposited Plan 51548 (currently zoned ‘Future Urban’) and a portion of Lot 1523 Emu Point Drive, Emu Point (currently zoned ‘Residential’) for ‘Parks and Recreation’; and*
  - b) *Amending the Scheme Maps accordingly.*
2. *When referring the scheme amendment to adjoining owners, community members and government agencies for comment and when placing advertisements in local newspapers, in accordance with the Planning and Development Act 2005, include a notation that the 16.3 ha of the site subjected to the amendment is to be transferred to the Department of Environment and Conservation in perpetuity for conservation purposes.”*
6. However, it transpired that the Department of Environment and Conservation (DEC – now the Department of Parks and Wildlife – DPaW), had not committed to accepting the responsibility for the ongoing management of the land to be reserved for conservation purposes and that this element of the amendment report was factually incorrect.
7. While subsequent discussions were taking place to secure a management authority for the reserve land, LPS No. 1 was adopted by Council and finally approved by the Minister for Planning. As a result Amendment No. 177, which had not yet been granted final approval, ‘fell away’, when TPS No. 1A was superseded.
8. Amendment No. 2 has been prepared to finalise transfer of this affected land into the appropriate reserves.

## **DISCUSSION**

9. Local Planning Scheme (LPS) Amendment No. 2 proposes to amend LPS No. 1 by reserving a portion of Lot 3000 Emu Point Drive, Collingwood Park and Lot 3001 on Deposited Plan 51548 (currently zoned 'Future Urban') and a portion of Lot 1523 Emu Point Drive, Emu Point (currently zoned 'Residential') for 'Parks and Recreation'.
10. The subject land is located approximately 5km north-east of Albany town centre and has a total area of 33.8ha, with Lot 3000 being 25.9ha, Lot 15223 being 7.2ha and Lot 3001 being 7,566m<sup>2</sup> in area.
11. It consists of coastal heath over an old dune system and is bounded by Griffiths Street and the residential area around Hope Street to the south west, Middleton Beach to the south, tourist development and residential development to the north east and Emu Point Drive to the north.
12. The area has previously been identified partly as 'Existing Urban' and partly as being suitable for 'Future Urban' development, with a priority 2 coding in the *Albany Local Planning Strategy* (ALPS). Its proposed development in accordance with ODP008 would be broadly consistent with the objectives of Sections 8.3.1 and 8.3.2 of the ALPS.
13. Arrangements have now been made for the reserved land to be vested in the City of Albany for management in perpetuity, on condition that a payment of \$240,000, based on estimated cost to manage the reserve over the next 15 years, is made to the City by Landcorp to cover ongoing management costs. The reserve would be protected by a conservation covenant established under the *Soil and Land Conservation Act 2005*, which is a requirement of the Federal Department of Sustainability, Environment, Conservation, Population and Communities (SEWPaC). A reserve management plan would be prepared by Landcorp and the City of Albany, to the satisfaction of SEWPaC.
14. Given that the proposal is complimentary to ODP008 and consistent with the objectives of the ALPS, staff recommend that Council initiate Local Planning Scheme Amendment No. 2 without modification.
15. *It should be noted that if this rezoning proposal is not progressed, ODP008 will also not be able to progress.*

## **GOVERNMENT & PUBLIC CONSULTATION**

16. Should Council initiate the Amendment, the amendment will be referred to the EPA who will determine if a formal environmental assessment is required. (Note that formal assessment is unlikely as the EPA has previously formally assessed the proposal)
17. If the EPA decides not to assess the proposal, the Amendment will be referred to all relevant Government agencies for assessment and comment. The proposal will also be publicly advertised and a specific notice will be given to all affected and surrounding landowners.
18. Advertising of an Amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the Amendment is environmentally acceptable.

## **STATUTORY IMPLICATIONS**

19. All scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
20. Section 75 of the Planning and Development Act 2005 allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning. Council resolution is sought for the initiation of a local planning scheme amendment.

21. *Regulation 25 of the Town Planning Regulations 1967* sets out the process for amending the LPS.

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

**POLICY IMPLICATIONS**

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

**RISK IDENTIFICATION & MITIGATION**

24. The following risk matrix is presented for consideration:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Funds for management of the reserve may not be sufficient to manage the reserve</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>The management costs are based on realistic estimates and have been reviewed by ED Works and Services and the Deputy CEO</i>

**FINANCIAL IMPLICATIONS**

25. A payment of \$240,000, based on estimated cost and escalated by Consumer Price Index (CPI), will be made to the City of Albany by Landcorp, to cover the ongoing costs of managing the reserved land.

**LEGAL IMPLICATIONS**

26. Under Part 5 of the *Planning and Development Act 2005*, and specifically section 75, Council can amend its Local Planning Scheme.

**ENVIRONMENTAL CONSIDERATIONS**

27. The proposal has previously been assessed by the EPA by means of a Public Environmental Review, due to potential impacts on significant fauna species and native vegetation. Following assessment, the EPA reported on these matters and concluded that the proposed residential subdivision was acceptable, on the basis that the native vegetation outside of the development footprint (the 16.3ha to be reserved) would be protected for conservation purposes in perpetuity and approval was granted, subject to conditions.

28. The proposal has also been assessed by SEWPaC, as it was considered to have a significant impact on listed threatened species and communities; specifically the Western Ringtail Possum and Baudin’s and Carnaby’s White-tailed Black Cockatoos.

29. In October 2012, SEWPaC released the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) *Environmental Offsets Policy*, which outlines the Australian Government’s approach to the use of environmental offsets under the EPBC Act.

30. The *Environmental Offsets Policy* defines offsets as “*measures that compensate for the residual adverse impacts of an action on the environment*”. These residual impacts are then defined as the unavoidable impacts that remain, even if avoidance and mitigation measures have been employed in the first instance. In some instances, avoidance and mitigation measures can reduce or eliminate the need for offsets if the residual impact is insignificant. Assessments under the EPBC only require offsets if residual impacts are significant; an

impact that is important, notable, or of consequence, having regard to its context or intensity. The retention of the remnant native vegetation on the land to be reserved, and its protection in perpetuity by means of a conservation covenant, may negate the need for any further offsets under the *Environmental Offsets Policy*.

### ALTERNATE OPTIONS

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

- To initiate the scheme amendment with modifications; or
- Not to initiate the scheme amendment.

### SUMMARY CONCLUSION

32. It is recommended that Council initiate Local Planning Scheme Amendment No. 2, on the basis that reserving of the land will satisfy the condition 5.3 of the EPA's response to the Public Environmental Review process, allowing ODP008 to be progressed.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. Local Planning Scheme No. 1</li> <li>2. Albany Local Planning Strategy 2010</li> <li>3. City of Albany Strategic Community Plan 2023</li> <li>4. City of Corporate Business Plan 2013-2017</li> <li>5. WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 &amp; SPP 3</li> <li>6. Town Planning Scheme No. 1A (superseded)</li> </ol>
<b>File Number (Name of Ward)</b>	:	LAMD2 (Breaksea Ward)
<b>Previous Reference</b>	:	OCM 17/08/2010 – Item 1.9 OCM 21/02/2012 – Item 2.9

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