



---

# AGENDA

---

**PLANNING AND DEVELOPMENT COMMITTEE**

**04 February 2015**

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.

**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:** Councillor V Calleja
- (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  
AGENDA –04/02/2015

**TABLE OF CONTENTS**

	Details	Pg#
1.	<b>DECLARATION OF OPENING</b>	4
2.	<b>PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS</b>	4
3.	<b>RECORD OF APOLOGIES AND LEAVE OF ABSENCE</b>	4
4.	<b>DISCLOSURES OF INTEREST</b>	5
5.	<b>REPORTS OF MEMBERS</b>	5
6.	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b>	5
7.	<b>PUBLIC QUESTION TIME</b>	5
8.	<b>APPLICATIONS FOR LEAVE OF ABSENCE</b>	5
9.	<b>PETITIONS AND DEPUTATIONS</b>	5
10.	<b>CONFIRMATION OF MINUTES</b>	5
11.	<b>PRESENTATIONS</b>	5
12.	<b>UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS</b>	5
13.	<b>MINUTES AND RECOMMENDATIONS OF COMMITTEES</b>	5
PD066	CONSIDERATION OF SCHEME AMENDMENT – LOT 104 ROCKY CROSSING ROAD, WILLYUNG	6
PD067	CONSIDERATION OF SCHEME AMENDMENT – LOTS 1 AND 973 NANARUP ROAD, LOWER KING	13
PD068	INITIATION OF AMENDMENT – PORTIONS OF LOT 3000 EMU POINT DRIVE, COLLINGWOOD PARK, LOT 3001 ON DEPOSITED PLAN 51548 & PORTION OF LOT 1523 EMU POINT DRIVE, EMU POINT	18
PD069	CONSIDERATION OF SCHEME AMENDMENT – LOCAL PLANNING SCHEME NO. 1, FIRST OMNIBUS AMENDMENT	24
PD070	CONSIDERATION OF SCHEME AMENDMENT – LOTS 105 AND 106 NANARUP ROAD, LOWER KING	30
PD071	CONSIDERATION OF SCHEME AMENDMENT – LOT 11 ON DIAGRAM 42859 NANARUP ROAD, NANARUP	35
PD072	DEVELOPMENT APPLICATION – TELECOMMUNICATIONS INFRASTRUCTURE –LOT 29, 64 BARRASS RD, LITTLE GROVE	39
PD073	DEVELOPMENT APPLICATION – TELECOMMUNICATIONS INFRASTRUCTURE –LOT 105, 241 ROBINSON RD, ROBINSON	48
14.	<b>NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL</b>	57
15.	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	57
16.	<b>REPORTS OF CITY OFFICERS</b>	57
17.	<b>MEETING CLOSED TO PUBLIC</b>	57
18.	<b>CLOSURE</b>	57

PLANNING AND DEVELOPMENT COMMITTEE  
AGENDA –04/02/2015

**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	S Bowles
Member	A Hortin JP
Member	A Goode JP
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
Planning Officer	C McMurtrie
Senior Planning Officer	A Bott
Minutes	J Cobbold
Strategic Planning Officer	C Simpson

**Apologies:**

Member	R Hammond
--------	-----------

PLANNING AND DEVELOPMENT COMMITTEE  
AGENDA –04/02/2015

**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 03 December 2014, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**11. PRESENTATIONS**

Update on ALPS – Cindy Simpson

**12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

**PD066: CONSIDERATION OF SCHEME AMENDMENT – LOT 104  
ROCKY CROSSING ROAD, WILLYUNG**

**Land Description** : Lot 104 Rocky Crossing Road, Willyung  
**Proponent** : Harley Dykstra Pty Ltd  
**Owner** : Achillies Pty Ltd  
**Business Entity Name** : Shuttleworth & Associates; Great Southern Sands;  
Spinifex Crushing & Screening Pty Ltd  
**Attachments** : 1. Albany Local Planning Strategy Excerpts  
: 2. Local Planning Scheme Amendment No. 4 report  
**Supplementary Information & Councillor Workstation:** : NIL  
**Report Prepared by** : Planning Officer (C McMurtrie)  
**Responsible Officer** : Executive Director Planning and Development Services  
(D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the Albany Local Planning Strategy (ALPS).
3. This proposal is broadly consistent with the strategic direction set in the ALPS and SPPs 2.5 and 4.1.

**In Brief:**

- A request has been submitted for Council to initiate a Local Planning Scheme Amendment to designate an Additional Use site over Lot 104 Rocky Crossing Road, Willyung, to permit the additional uses of plant and equipment storage and maintenance; office (incidental); crushing; and storage of building/construction materials/products, over and above those uses normally permissible in the 'General Agriculture' zone.
- As the proposal will retain the base zoning over the lot, it will not preclude the future use of the land for agricultural purposes. However, it will allow the relocation of the Great Southern Sands (GSS) group of companies from their current site at John Street, Milpara.
- City planning staff support the proposal, as it is broadly consistent with the current strategic direction set within the ALPS and SPPs 2.5 and 4.1.

## RECOMMENDATION

### PD066: RESPONSIBLE OFFICER RECOMMENDATION

**THAT Council, in pursuance of section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967, resolves to initiate Amendment No. 4 to**

**City of Albany Local Planning Scheme No. 1 for the purposes of:**

- (1) Designating an Additional Use Site over Lot 104 Rocky Crossing Road, Willyung including additional uses of Plant and Equipment Storage and Maintenance, Office (Incidental), Crushing, Mobile Asphalt Plant, and Storage of Building/Construction Materials/Products and amending the Scheme Maps accordingly; and**
- (2) Amending Schedule 2 – Additional Uses within the Scheme Text to incorporate provisions relating to Lot 104 Rocky Crossing Road, Willyung (AU31).**

## BACKGROUND

4. Local Planning Scheme No. 1 was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. Amendment No. 4 has been prepared to seek the designation of an Additional Use site over Lot 104 Rocky Crossing Road, Willyung to permit a number of additional uses, over and above those uses that are normally permissible in the 'General Agriculture' zone.
6. The subject lot is located approximately 7.2km north-north-west of Albany town centre and has an area of 46.8ha. The land slopes gently upward from Rocky Crossing Road for approximately 360m, before starting to rise more steeply into a hillock toward the western extent of the lot. This hillock dips into a valley, approximately 475m north of Menang Drive, before the land rises steeply again toward the base of Willyung Hill, which stands approximately 1km to the north-north-west of the lot.
7. All of the land surrounding the subject lot is zoned 'General Agriculture' or is occupied by the Menang Drive road reserve. Rural Residential area no. 12 lies approximately 185m to the south of the subject lot. The closest house to the subject lot is on Lot 3 Rocky Crossing Road, approximately 50m from the common boundary; however, this is approximately 320m from the proposed development area.
8. The amendment document states that:

*"The primary purpose of the proposed amendment is to allow the GSS group of companies to expand the activities on the site to include the storage and maintenance of all its own plant and equipment. Secondly, it will allow the occasional crushing and recycling of construction materials to create useable road/building*



*products (subject to approval from the Department of Environment Regulation). The operations proposed to be undertaken on the subject site include:*

*Workshop;*

*Office (incidental);*

*Machine Washdown Bay;*

*Receipt Point for Non-Asbestos Containing Materials (Non-ACM);*

*Proposed Crushing Area and Mobile Asphalt Plant; and*

*Laydown/Hardstand Area.”*

## DISCUSSION

9. The City's planning Staff support the designation of an Additional Use site over Lot 104 Rocky Crossing Road, Willyung, to permit the additional uses of plant and equipment storage and maintenance; office (incidental); crushing; and storage of building/construction materials/products, as it is broadly consistent with the current strategic direction set by the ALPS (see Attachment 1) and SPPs 2.5 and 4.1.
10. The ALPS indicates potential for the future expansion of the Pendeen Industrial Area to the west, along the north side of Menang Drive. Although the subject land is approximately 2.6km west of the existing Pendeen Industrial Area, it is envisaged that development will gradually expand into this area in the future. It is also significant that the proposal does not seek to rezone the land to the 'General Industry' zone, but rather it seeks to create an Additional Use site for a number of specific land uses, which build on the existing extractive industry on the site. The Additional Use site will retain the base zoning of 'General Agriculture' and so will not preclude the use of the land for agricultural purposes in future. This is seen as a more appropriate solution to GSS' needs for a larger site where it can consolidate its operations and undertake particular activities, such as screening and crushing, without undertaking a spot rezoning.
11. The location of the subject land is well-suited to GSS' operations, as it is adjacent the Menang Drive heavy freight route and is partly within the Willyung Hill hard rock quarry noise buffer area, which is identified in the ALPS. GSS' activities are not sensitive land uses and are considered to be compatible with this buffer area.
12. The proposal is considered to be consistent with the objectives of SPP 2.5, as it designates an Additional Use Site for uses allied to the existing extractive industry on the subject land, thereby providing an ongoing economic opportunity on the land. It will also help to minimise land use conflict, by allowing the GSS group to relocate from their present John Street premises, which are within 300m of a residential area. Furthermore, it will place the land uses most likely to create nuisance through noise and dust emissions within the existing Willyung Hill hard rock quarry noise buffer area.
13. The proposed land uses of crushing, screening and asphalt production are all listed in *Part 1 of Schedule 1 of the Environmental Protection Regulations 1987 as Prescribed Premises* for the purposes of *Part V of the Environmental Protection Act 1986*. These activities are all subject to a works approval and licence from the Environmental Protection Authority.

## GOVERNMENT & PUBLIC CONSULTATION

14. The Town Planning Regulations 1967 require that a Local Planning Scheme amendment is initiated by a resolution of Council and that the consent of the Environmental Protection Authority and the Department of Planning is obtained, prior to the proposal being advertised for public comment. Consequently, no consultation has been undertaken at this stage.

## STATUTORY IMPLICATIONS

15. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
16. 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.
17. *Regulation 25* of the *Town Planning Regulations 1967* sets out the process for amending the LPS.
18. Voting requirement for this item is **SIMPLE MAJORITY**

## POLICY IMPLICATIONS

19. The proposal is considered to be consistent with the key policy measures identified in Western Australian Planning Commission *Statement of Planning Policy (SPP) 2.5 – Agriculture and Land Use Planning*. It is also considered to be consistent with the objectives of *SPP 4.1 – State Industrial Buffer Policy*.
20. *SPP 2.5* was gazetted in 2012 and has provided a comprehensive review and refinement of the previous DC Policy *3.4 Rural Land Use Planning* (1989). The WAPC and Local Government are required to have regard to *SPP 2.5* in planning for the development of rural areas.
21. The key objectives of *SPP 2.5* are summarised as follows:
  - a) To protect rural land from incompatible uses by:
    - i) Requiring comprehensive planning for rural areas;
    - ii) making land use decisions for rural land that support existing and future primary production and protection of priority agricultural land, particularly for the production of food; and
    - iii) Providing investment security for the existing and future primary production sector.
  - b) To promote regional development through provision of ongoing economic opportunities on rural land.
  - c) To promote sustainable settlement in, and adjacent to, existing urban areas.
  - d) To protect and improve environmental and landscape assets.
  - e) To minimise land use conflicts.
22. The relevant overarching policy requirements are:
  - a) land use change from rural to all other uses is to be planned and provided for in a planning strategy or scheme;

- b) land identified as priority agricultural land in a planning strategy or scheme is to be retained for that purpose; and
  - c) beyond its principle function for primary production, rural land is also required for public purposes, natural resource management, biodiversity conservation and protection of landscapes and views.
23. *SPP 4.1* was gazetted in 1997 and its key objectives of *SPP 4.1* are summarised as follows:
- a) To provide a consistent Statewide approach for the definition and securing of buffer areas around industry, infrastructure and some special uses.
  - b) To protect industry, infrastructure and special uses from the encroachment of incompatible land uses.
  - c) To provide for the safety and amenity of land use surrounding industry, infrastructure and special uses.
  - d) To recognise the interests of existing landowners within buffer areas who may be affected by residual emissions and risk, as well as the interests, needs and economic benefits of existing industry and infrastructure which may be affected by encroaching incompatible land uses.
24. The Environmental Protection Authority's *Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses* prescribes a generic 1000m buffer to sensitive land uses for crushing and screening and the production of asphalt. Although the proponent has not provided any specific studies to justify a lesser buffer distance and the nearest house is approximately 350m from the proposed crushing area, the land uses of crushing, screening and asphalt production are all listed in *Part 1 of Schedule 1* of the *Environmental Protection Regulations 1987* as *Prescribed Premises* for the purposes of *Part V* of the *Environmental Protection Act 1986*. As such, these activities are all subject to a works approval and licence from the Environmental Protection Authority.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Organisational Operations and Reputation</b> Supporting this proposal could set an undesirable precedent and lead to other landowners seeking to rezone or develop agricultural land for industrial purposes.</p>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<p>The proposal does not seek to rezone land, but rather designate an additional use site limited to a number of specific land uses allied to the existing extractive industry on the subject lot. The land is also identified in the ALPS as having potential for future industrial development. The ALPS, as the principal land use planning strategy for the City,</p>

				<i>would guide Council's decision-making in other instances.</i>
<p><b>Organisational Operations and Reputation</b> <i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i></p>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>If not supported by the WAPC or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.</i>
<p><b>Community, Organisational Operations and Reputation</b> <i>The proposal may attract objections from members of the public or other Government agencies.</i></p>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Widely consulting with all parties who may be affected and all government agencies should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.</i>
<p><b>Community, Environment and Reputation</b> <i>This proposal could generate impacts on the amenity of adjoining properties through emissions of noise, dust and/or odour.</i></p>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Consulting with the relevant environmental agencies and ensuring that necessary safeguards are put in place will mitigate any risk of unwanted impacts on amenity.</i>

**FINANCIAL IMPLICATIONS**

26. Nil.

**LEGAL IMPLICATIONS**

27. Nil.

**ENVIRONMENTAL CONSIDERATIONS**

28. The lot is largely cleared, with stands of parkland cleared trees remaining only in the north-eastern corner and on the hillock to the west. There are also a number of individual trees dispersed across the central and southern parts of the lot. A wetland, containing a pond and edged by paperbark trees, lies at the end of the valley to the north-western extent of the lot.

29. An access track from Rocky Crossing Road traverses the lot in a westerly direction, before turning 90 degrees to the north across the hillside. It then follows the hillock around to the west, to an operational gravel pit near the northern lot boundary and areas to the north and west that have previously been used for gravel extraction. These areas have not been rehabilitated and have been used for turning vehicles,

stockpiling gravel and the open-air storage of used earthmover tyres. There is a dam on each side of the extraction area and a third in the north-west corner of the lot. An older and now partly overgrown sand extraction area lies to the eastern side of the lot, adjacent to the south-west corner of Lot 3 Rocky Crossing Road. This area is accessed by a narrow track that runs to the north from the main access track.

**ALTERNATE OPTIONS**

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

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

**SUMMARY CONCLUSION**

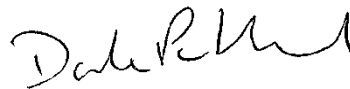
31. It is recommended that Council initiate Local Planning Scheme Amendment No. 4, as it is broadly consistent with the current strategic direction set within the ALPS and SPPs 2.5 and 4.1.

<b>Consulted References</b>	:	1. Local Planning Scheme No. 1 2. Albany Local Planning Strategy 2010 3. City of Albany Strategic Community Plan 2023 4. City of Corporate Business Plan 2013-2017 5. WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP 1, SPP 2.5 and SPP 4.1
<b>File Number (Name of Ward)</b>	:	LAMD4 (Kalgan Ward)
<b>Previous Reference</b>	:	NIL

**PD067: CONSIDERATION OF SCHEME AMENDMENT – LOTS 1 AND 973 NANARUP ROAD, LOWER KING**

**Land Description** : Lots 1 and 973 Nanarup Road, Lower King  
**Proponent** : Ayton Baesjou Planning  
**Owner** : S C Lucas, G A & P M Clark  
**Business Entity Name** : NIL  
**Attachments** : 1. Albany Local Planning Strategy Excerpts  
: 2. Local Planning Scheme Amendment No. 7 report  
**Supplementary Information & Councillor Workstation:** : NIL  
**Report Prepared by** : Planning Officer (C McMurtrie)  
**Responsible Officer** : Executive Director Planning and Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the Albany Local Planning Strategy (ALPS).
3. This proposal is consistent with the strategic direction set in the ALPS.

**In Brief:**

- A request has been submitted for Council to initiate a Local Planning Scheme Amendment to rezone Lots 1 and 973 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Rural Residential' zone and designating a portion of Lot 973 as an 'Additional Use Site' for the purpose of holiday accommodation.
- City planning Staff support the proposal, as it is consistent with the current strategic direction set by the ALPS and SPP 2.5.

**RECOMMENDATION**

**PD067: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967, resolves to initiate Amendment No. 7 to City of Albany Local Planning Scheme No. 1 for the purposes of:**

- (1) Rezoning Lots 1 and 973 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Rural Residential' zone and incorporating them within area No. RR11, as set out in Schedule 14 – Rural Residential Zone of the Scheme text;
- (2) Designating a portion of Lot 973 as an Additional Use Site and incorporating it within Schedule 2 – Additional Uses of the Scheme Text; and
- (3) Amending the Scheme Maps accordingly.

## BACKGROUND

4. Local Planning Scheme No. 1 was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. Amendment No. 7 has been prepared to seek the rezoning of Lots 1 and 973 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Special Residential' zone and the designation of an additional use site over a portion of Lot 973. The 'Special Residential' zone is intended to provide for large residential lots of between 2000m<sup>2</sup> and one hectare in area and is considered a form of rural living.
6. The subject lots are located approximately 11.1km north-east of Albany town centre and have an area of approximately 60.7ha.
7. The land to the east and west of the subject lots is zoned 'Rural Residential', while the land to the south, on the opposite side of Nanarup Road, is zoned 'Special Residential' and 'General Agriculture'. The land to the north is also zoned 'General Agriculture'.
8. The amendment document states that:

*"In accordance with ALPS, it is proposed to rezone Lot 973 Nanarup Road from the 'General Agriculture' zone to 'Rural Residential' zone. As the adjoining lots in the south-west corner, Lot 1, is a defacto rural residential lot, it has also been included in the rezoning proposal at the request of the City."*

*"A 4 ha lot is proposed in the north east corner of the property for short stay tourist accommodation. The elevated land, attractive views over Johnson Creek and trough to Oyster Harbour, together with the remnant vegetation, provide an opportunity to provide an alternative land use to rural residential development. It is noted that Nanarup Road is a significant tourist route, providing access to attractions around King River, Oyster Harbour, the Kalgan River, Nanarup and Two Peoples Bay. It is recommended that up to twelve chalets could comfortably be accommodated on the site with appropriate setback from the remnant vegetation."*

## DISCUSSION

9. The City planning Staff support the rezoning of Lots 1 and 973 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Rural Residential' zone and the designation of a portion of Lot 973 as an 'Additional Use Site' for holiday accommodation, as it is consistent with the current strategic direction set by the ALPS (see Attachment 1) and SPP 2.5.
10. The western portion of the land, where the majority of the proposed lots would be located, is identified in the ALPS as suitable for Rural Residential Development. The lower-lying land adjacent to Johnson Creek is not identified in the ALPS for development and has been designated as a development exclusion area. This is proposed due to poor land capability to support development, protection of the creekline with adequate development setbacks and to protect a view corridor across Lot 973.

11. Similarly, the proposed lots on the eastern extent of Lot 973 are not identified in the ALPS for development. However, the remaining land would not be large enough to host a productive agricultural use. Its development for Rural Residential purposes would also be consistent with the adjacent land to the eastern side of Mead Road.
12. It is proposed to designate the largest of the proposed lots, at 4ha, as an Additional Use site for holiday accommodation. It is recognised that potential exists for the development of short-stay accommodation in this location due to its amenity, rural setting and proximity to a primary tourist route that connects Albany to Gull Rock National Park, Nanarup Beach, Two People's Bay and South Coast Highway.

### GOVERNMENT & PUBLIC CONSULTATION

13. During informal discussions, the Department of Planning has advised that the proposal should be referred to the Department of Mines and Petroleum, as there are known to be high quality silica sand deposits in the area. This will occur during the formal consultation phase.

### STATUTORY IMPLICATIONS

14. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
15. 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.
16. *Regulation 25* of the *Town Planning Regulations 1967* sets out the process for amending the LPS.
17. Voting requirement for this item is **SIMPLE MAJORITY**

### POLICY IMPLICATIONS

18. The proposal is considered to be consistent with the key policy measures identified in Western Australian Planning Commission *Statement of Planning Policy (SPP) 2.5 – Agriculture and Land Use Planning*.
19. *SPP 2.5* was gazetted in 2012 and has provided a comprehensive review and refinement of the previous DC Policy *3.4 Rural Land Use Planning* (1989). The WAPC and Local Government are required to have regard to *SPP 2.5* in planning for the development of rural areas.
20. The key objectives of *SPP 2.5* are summarised as follows:
  - a) To protect rural land from incompatible uses by:
    - i) Requiring comprehensive planning for rural areas;
    - ii) making land use decisions for rural land that support existing and future primary production and protection of priority agricultural land, particularly for the production of food; and
    - iii) Providing investment security for the existing and future primary production sector.
  - b) To promote regional development through provision of ongoing economic opportunities on rural land.
  - c) To promote sustainable settlement in, and adjacent to, existing urban areas.



- d) To protect and improve environmental and landscape assets.
- e) To minimise land use conflicts.

21. The overarching policy requirements are:

- a) land use change from rural to all other uses is to be planned and provided for in a planning strategy or scheme;
- b) land identified as priority agricultural land in a planning strategy or scheme is to be retained for that purpose;
- c) beyond its principle function for primary production, rural land is also required for public purposes, natural resource management, biodiversity conservation and protection of landscapes and views;
- d) the use of rural land for intensive or emerging primary production land uses does not warrant creation of new or smaller rural lots on an unplanned, ad hoc basis; and
- e) Creation of new rural lots will be by exception and in accordance with Development Control Policy 3.4 – Subdivision of rural land, or planned in a strategy or scheme.

#### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Organisational Operations and Reputation</b> <i>Supporting this proposal could lead to other landowners seeking to rezone agricultural land for rural residential purposes.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>The ALPS, as the principal land use planning strategy for the City, would guide Council's decision-making in other instances.</i>
<b>Organisational Operations and Reputation</b> <i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>If not supported by the WAPC or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.</i>
<b>Community, Organisational Operations and Reputation</b> <i>The proposal may attract objections from members of the public or other Government agencies.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Widely consulting with all parties who may be affected and all government agencies should mitigate any risk in this regard. If necessary, further information can be requested from the</i>

				<i>proponent as part of the amendment process.</i>
--	--	--	--	--

### FINANCIAL IMPLICATIONS

23. Nil.

### LEGAL IMPLICATIONS

24. Nil.

### ENVIRONMENTAL CONSIDERATIONS

25. Lot 1 and the western extent of Lot 973 cover a hillside that falls in a moderate slope to the east and south. Much of this hillside is covered by vegetation and a small house stands on the cleared lower slopes just to the south-west of the centre of Lot 973. A house and large shed stand near the top of the slope on Lot 1, amongst the trees.
26. Lot 1 levels out at approximately 120m north of Nanarup Road, with only a slight fall to the east. The lower reaches of the lot are vegetated and partly occupied by a pond, set back approximately 55m from Nanarup Road. Access to the lot is by means of two driveways; one from Milne Close to the west and the other from Nanarup Road.
27. Lot 973 levels out around its central axis, with only a slight fall to Johnson Creek, which traverses the lot in a north-north-west to south-south-east direction, approximately 170m from the eastern lot boundary. The creekline is edged by a thin band of trees, while most of the lot is cleared. The land in the north-east corner of Lot 973, slopes upward to a stand of trees. The remainder of the lot is dotted with dams, mostly on the lower-lying land around the creek. Access is by means of a track from Nanarup Road at the centre of the lot frontage, which runs to the north, before curving in a north-westerly direction to the house. A shed stands to the north of the curve in the access track.

### ALTERNATE OPTIONS

28. Council has the following alternate options in relation to this item, which are:
- To initiate the scheme amendment with modifications; or
  - Resolve not to initiate the scheme amendment.

### SUMMARY CONCLUSION

29. It is recommended that Council initiate Local Planning Scheme Amendment No. 7, as the proposal is consistent with the strategic direction currently set within the ALPS and SPP 2.5.

<b>Consulted References</b>	:	1. Local Planning Scheme No. 1 2. Albany Local Planning Strategy 2010 3. City of Albany Strategic Community Plan 2023 4. City of Corporate Business Plan 2013-2017 5. WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 & SPP 2.5
<b>File Number (Name of Ward)</b>	:	LAMD7 (Kalgan Ward)
<b>Previous Reference</b>	:	NIL

**PD068: INITIATION OF AMENDMENT – PORTIONS OF LOT 3000 EMU POINT DRIVE, COLLINGWOOD PARK, LOT 3001 ON DEPOSITED PLAN 51548 & PORTION OF LOT 1523 EMU POINT DRIVE, EMU POINT**

**Land Description** : Portions of Lot 3000 Emu Point Drive, Collingwood Park, Lot 3001 on Deposited Plan 51548 and portion of Lot 1523 Emu Point Drive, Emu Point

**Proponent** : Harley Dykstra

**Owner** : Western Australian Land Authority & City of Albany (vested Crown Land)

**Business Entity Name** : Not applicable

**Attachments** :  
: Location plan  
: Draft Structure Plan (ODP008)  
:

**Appendices** :

**Supplementary Information & Councillor Workstation:** : Local Planning Scheme Amendment No. 2 Report

**Report Prepared by** : Planning Officer (C McMurtrie)

**Responsible Officer** : Executive Director Planning and Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the Albany Local Planning Strategy (ALPS).
3. This proposal is consistent with the strategic direction set in the ALPS.

**In Brief:**

- To re-initiate Local Planning Scheme Amendment No. 2, to allow a portion of Lot 3000 Emu Point Drive, Collingwood Park to be transferred from the 'Parks and Recreation' local scheme reserve to the 'Future Urban' zone, in order to accord with the extent of the development area allocated in ODP008
- Local Planning Scheme Amendment No. 2 also seeks 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, Emu Point for 'Parks and Recreation'.
- It is recommended that Council initiate the scheme amendment without modification.

## RECOMMENDATION

### PD051: RESPONSIBLE OFFICER RECOMMENDATION

**THAT Council,**

**in pursuance of section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967, resolves to initiate Amendment No. 2 to Local Planning Scheme No. 1 for the purposes of:**

- a) Transferring a portion of Lot 3000 Emu Point Drive, Collingwood Park from the 'Parks and Recreation' local scheme reserve to the 'Future Urban' zone;**
- b) 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**
- c) Amending the Scheme Maps accordingly.**

## BACKGROUND

4. A Structure Plan (ODP008) over the subject land was lodged with Council in 2010 to guide subdivision and development of the land.
5. Council considered ODP008 at its Ordinary Meeting on 17 August 2010 and resolved to adopt the ODP for advertising subject to some modifications.
6. 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.
7. 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."*

8. 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.”*
9. 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.
10. 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.
11. A new amendment (Amendment No. 2) under Local Planning Scheme No. 1 was initiated by Council on 3 September 2014, with the following resolution being reached:
- “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.”*
12. However, the Department of Planning subsequently identified that the section of ‘Parks and Recreation’ local scheme reserve adjacent to Emu Point Drive on lot 3000 Emu Point Drive is shown in Local Planning Scheme No. 1 as being 80m wide, rather than the 60m indicated on ODP008.
13. Without a Council resolution to transfer a portion of Lot 3000 Emu Point Drive, Collingwood Park from the ‘Parks and Recreation’ local scheme reserve to the ‘Future Urban’ zone, the amendment cannot achieve its aim, meaning that ODP008 would have to be comprehensively redesigned.
14. Council’s resolution to re-initiate the scheme amendment, incorporating this additional element, is now sought.

## **DISCUSSION**

15. Local Planning Scheme (LPS) Amendment No. 2 proposes to amend LPS No. 1 by:
- Transferring portion of Lot 3000 Emu Point Drive, Collingwood Park from the ‘Parks and Recreation’ local scheme reserve to the ‘Future Urban’ zone; and
  - 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’.

16. 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.
17. 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.
18. 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.
19. 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 and escalated by Consumer Price Index (CPI), 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.
20. 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.
21. *It should be noted that if this rezoning proposal is not progressed, ODP008 will also not be able to progress.*

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

22. 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)
23. 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.
24. 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**

25. All scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
26. Council's resolution under *Section 75(b)* of the *Planning and Development Act 2005* is required to amend the LPS.
27. *Regulation 25* of the *Town Planning Regulations 1967* sets out the process for amending the LPS.
28. Voting requirement for this item is **SIMPLE MAJORITY**

**POLICY IMPLICATIONS**

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

**RISK IDENTIFICATION & MITIGATION**

30. The following risk matrix is presented for consideration:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Financial</b> <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 cost are based on realistic estimates and have been reviewed by ED Works and Services and the Deputy CEO</i>

**FINANCIAL IMPLICATIONS**

31. 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**

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

**ENVIRONMENTAL CONSIDERATIONS**

33. 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.

34. 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.

35. 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.

36. 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**

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

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

**SUMMARY CONCLUSION**

38. It is recommended that Council re-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>	:	<p>OCM 17/08/2010 – Item 1.9          OCM 21/02/2012 – Item 2.9          OCM 03/09/2014 – Item PD051</p>



**PD069: CONSIDERATION OF SCHEME AMENDMENT – LOCAL PLANNING SCHEME NO. 1, FIRST OMNIBUS AMENDMENT**

**Land Description** : City of Albany / Local Planning Scheme No.1 area  
**Proponent** : City of Albany  
**Owner** : Various  
**Business Entity Name** : NIL  
**Attachments** : 1. Local Planning Scheme Amendment No. 13 report  
**Supplementary Information & Councillor Workstation:** : NIL  
**Report Prepared by** : Planning Officer (C McMurtrie)  
**Responsible Officer** : Executive Director Planning and Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the Albany Local Planning Strategy (ALPS).

**In Brief:**

- This is a request for Council to initiate an omnibus Local Planning Scheme Amendment prepared by the City planning staff, which will:
  - a. Alter various parts of the Scheme Text to correct identified anomalies and errors, improve the functionality of some clauses, sub-clauses and provisions; and to bring about greater consistency with model provisions; and
  - b. Alter various parts of the Scheme Maps to correct identified anomalies and errors, and to rezone some portions of land to reflect recent changes in cadastral boundaries and associated land use.

**RECOMMENDATION**

**PD069: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967, resolves to initiate Amendment No. 13 to Local Planning Scheme No. 1 for the purposes of:**

- (1) Altering various parts of the Scheme Text to correct identified anomalies and errors; improve the functionality of some clauses, sub-clauses and provisions; and to bring about greater consistency with model provisions; and**
- (2) Altering various parts of the Scheme Maps to correct identified anomalies and errors, and to rezone some portions of land to reflect recent changes in cadastral boundaries and associated land use.**

## BACKGROUND

3. Local Planning Scheme No. 1 was Gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
4. Since coming into effect, the City planning staff have identified numerous minor errors in the Scheme Text and Maps and a number of areas where the functionality of the Scheme could be improved or better aligned with the model provisions prescribed in the *Town Planning Regulations 1967* and draft *Planning and Development (Local Planning Scheme) Regulations 2014*.
5. Amendment No. 13 has been prepared as an omnibus to address all of those disparate matters that have been identified to date in a single Local Planning Scheme amendment.

## DISCUSSION

6. The alterations to the Scheme Text proposed as part of Amendment No. 13 can be grouped into the following broad themes:
  - a. Alterations 1, 19, 20, 21, 22, 26, 28, 30, 37, 42, 43, 47, 48, 50 and 53 relate to the correction of typographical errors;
  - b. Alterations 2, 3, 8 and 49 deal with improvements to the user-friendliness and wording of the Scheme;
  - c. Alterations 8, 19, 32, 33, 40, 45 and 52 are corrections to referencing and cross-referencing errors throughout the Scheme, whether in relation to other parts of the Scheme or lots within the Scheme area;
  - d. Alterations 4-16, 46 and 54 deal with changes to land use permissibility in certain zones or sites;
  - e. Alterations 17, 18, 19, 29, 31, 34, 38, 47, 48, 49 and 51 relate to the clarification of clauses, sub-clauses or provisions;
  - f. Alterations 7, 15, 23, 24, 25, 27, 34, 35, 36, 39, 40, 41 and 44 are new clauses, sub-clauses, provisions, notes or definitions to improve the functionality of the Scheme; and
  - g. Alterations 7, 15, 41, 42, 43 and 44 are changes that will better align the Scheme with model provisions.
7. The alterations to the Scheme Maps proposed as part of Amendment No. 13 can be grouped into the following broad themes:
  - a. Alterations 1, 3, 4, 5, 6, 7, 9 and 10 deal with the correction of mapping errors;
  - b. Alterations 2, 8 and 11 involve changes to the Scheme Maps to reflect recent cadastral changes and associated land use; and
  - c. Alteration 12 is a change to the Scheme Maps to represent new information.

8. A number of the above changes to Local Planning Scheme No. 1 proposed as part of amendment no. 13 are particularly significant. These are summarised as follows:
- a. Alterations 6, 12, 14 and 16 seek to make the 'Exhibition Centre', 'Reception Centre', 'Restaurant' and 'Tavern' land uses discretionary, subject to public advertising, in the General and Priority Agriculture zones. These lands uses are currently prohibited in the Agriculture zones; however, staff recognise that opportunities exist for agricultural diversification and 'value adding' to primary production by allowing the development of facilities that produce extra income for producers and/or can be used to retail their products. Many of these facilities also cater to tourists and it is considered that by permitting their development in the rural hinterland close to primary transport routes, there is added potential to boost the City's tourism economy.
  - b. Alterations 7 and 41 seek to include a new land use classification – 'Holiday House' – within the Scheme. This use is defined as "a single dwelling on one lot used to provide short-term accommodation for not more than 6 persons but does not include a bed and breakfast/farmstay, a boarding/guest/lodging house, a chalet/cottage unit, or holiday accommodation". The intent of this change is to include a land use in the Scheme that better describes the use of a single house for the provision of short-term accommodation. 'Holiday Accommodation', which is currently used to describe such a use, is defined 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". This definition, although broad, is clearly intended to describe unit or resort-type developments that incorporate recreational facilities and potentially other amenities for guests, and is not best suited to describing a single house used to provide short-stay accommodation. The proposed definition for a 'Holiday House' should rectify this issue.
  - c. Alterations 15 and 44 seek the inclusion of 'Small Bar' as a new land use classification in the Scheme. The issue of Small Bar licenses is becoming more prevalent. It is considered that a 'Small Bar', with its cap of 120 patrons on the premises at any given time, may be a more suitable land use in localities where other more traditional forms of licensed premises, such as taverns or hotels, would have a negative impact on amenity. By introducing the land use classification of 'Small Bar' into the Scheme, the City will be able to maintain the synergy between land use classifications and license classes.
  - d. Alterations 18, 25, 34 and 38 seek to introduce greater powers to recommend against the subdivision of land without an overarching guide plan. Alterations 18 and 38 relate to the 'Future Urban' zone and any other area where the City considers that an overall plan is required to guide subdivision and development, while alterations 25 and 34 relate to the Rural Residential and Special Residential zones respectively. These proposed alterations would ensure that land capability is assessed and that a subdivision guide plan is developed for any land zoned Rural Residential or Special Residential that is not already the subject of such a plan.
  - e. Alterations 17, 22, 23, 26, 27, 30 and 31 seek to correct and strengthen a number of clauses and sub-clauses within the Scheme (in accordance with the *Planning for Bush Fire Protection Guidelines*). to ensure that adequate building protection zones and water supplies for fire-fighting are put in place on lots that are at risk of bushfire.
  - f. Alteration 19 seeks to correct an error in Table 2: Floorspace Limits for Neighbourhoods Centres in the Scheme by removing the reference to Lots 1003, 1004 and 1005, which were included in error and do not form part of the Neighbourhood Centre zone that covers Brooks Garden Shopping Centre. This change will mean that the floorspace limit applied to the Highway Commercial

zoned Lots 1003, 1004 and 1005 would no longer apply and would allow the existing unit adjacent to Harvey Norman to be occupied.

- g. Alteration 46 seeks to expand the range of uses permissible on the Albany Waterfront, which will make the Scheme more consistent with the Albany Waterfront Structure Plan. Currently, the Scheme omits a number of uses in certain precincts that are permitted by the Structure Plan. The changes that form part of alteration 46 will also allow greater flexibility in the types of licensed premises that may be approved, allowing the City to maintain the synergy between land use classifications and licence classes.
- h. Scheme map alteration 2 seeks to rezone Reserve 25385 Drummond Street, Lockyer from the Parks and Recreation local scheme reserve to the Clubs and Institutions zone, which reflects its disposal by the Department of Regional Development and Lands to the City of Albany and subsequent lease and licence to Parklands School for their use and future expansion. The leasing and licencing of the land was determined by Council at its Ordinary Meetings on 19 March 2013 (Item 4.5) and 16 July 2013 (Item 4.5).
- i. Scheme map alteration 11 seeks to rezone a portion of Lot 214 Parker Brook Road from the General Agriculture zone to the Public Use local scheme reserve, which reflects a recent boundary realignment that was made to facilitate the extension of the runway at Albany Regional Airport. The reservation of the land under the Scheme will more accurately reflect its use.
- j. Scheme map alteration 12 seeks to delineate a Public Drinking Water Sources Special Control on the Scheme Maps showing the extent of the Angove Creek Public Drinking Water Source Area (PDWSA). This change is necessary to protect the newly identified Angove Creek PDWSA from incompatible development.

## GOVERNMENT & PUBLIC CONSULTATION

9. During informal discussions, the Department of Planning has agreed, in principle, to most of the proposed alterations. A number of remaining items required further justification, which staff are confident has now been provided.

## STATUTORY IMPLICATIONS

10. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
11. *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.
12. *Regulation 25* of the *Town Planning Regulations 1967* sets out the process for amending a scheme.
13. *Local Planning Scheme No. 1* is the principal statutory planning document used in the assessment of development applications within the City of Albany. The proposed amendment to the LPS will ensure that decision-making is consistent and in line with current best practice.
14. Voting requirement for this item is **SIMPLE MAJORITY**

## POLICY IMPLICATIONS

15. The proposed alterations to make 'Exhibition Centre', 'Reception Centre', 'Restaurant' and 'Tavern' permissible land uses in the General and Priority Agriculture zones should be guided by a planning policy. It is proposed that this policy will be developed while this amendment progresses, with a view to having the policy adopted prior to finalisation of the amendment.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Organisational Operations and Reputation</b> <i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Although unlikely, the possibility exists that the proposal may not be accepted by the WAPC or the Minister for Planning. Should this eventuate, the City will revisit the proposal with a reduced scope, focussing on minor modifications, and deal with the more contentious matters through separate scheme amendments.</i>
<b>Community, Organisational Operations and Reputation</b> <i>The proposal may attract objections from members of the public or other Government agencies.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Widely consulting with all parties who may be affected and all relevant government agencies should mitigate any risk in this regard.</i>

## FINANCIAL IMPLICATIONS

17. Nil.

## LEGAL IMPLICATIONS

18. Nil.

## ENVIRONMENTAL CONSIDERATIONS

19. The reinstatement of the Parks and Recreation local scheme reserve over portions of Lot 12 Bushby Road and Lots 21, 23, 24 and 25 Shell Bay Road, Lower King will ensure the ongoing protection of the riparian environment on the King River foreshore.

**ALTERNATE OPTIONS**

20. Council has the following alternate options in relation to this item, which are:
- To initiate the scheme amendment with modifications; or
  - Resolve not to initiate the scheme amendment.

**SUMMARY CONCLUSION**

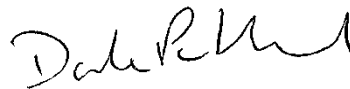
21. It is recommended that Council initiate Local Planning Scheme Amendment No. 13, as the proposal will improve the functionality of Local Planning Scheme No. 1, thereby ensuring consistent decision-making in line with current best practice.

<b>Consulted References</b>	:	1. Local Planning Scheme No. 1 2. Albany Local Planning Strategy 2010 3. City of Albany Strategic Community Plan 2023 4. City of Corporate Business Plan 2013-2017 5. WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 and SPP2.5.
<b>File Number (Name of Ward)</b>	:	LAMD13 (All Wards)
<b>Previous Reference</b>	:	OCM – 19/03/2013 – Item 4.5 OCM – 16/07/2013 – Item 4.5

**PD070: CONSIDERATION OF SCHEME AMENDMENT – LOTS 105  
AND 106 NANARUP ROAD, LOWER KING**

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

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the Albany Local Planning Strategy (ALPS).
3. This proposal is consistent with the strategic direction set in the ALPS.

**In Brief:**

- A request has been submitted for Council to initiate a Local Planning Scheme Amendment to rezone Lot 105 and a portion of Lot 106 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Special Residential' zone and to reserve a portion of Lot 106 for 'Parks and Recreation'.
- City planning Staff support the proposal, as it is consistent with the current strategic direction set by the ALPS and SPP 2.5.

**RECOMMENDATION**

**PD070: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council, in pursuance of section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967, resolves to initiate Amendment No. 6 to City of Albany Local Planning Scheme No. 1 for the purposes of:**

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

## BACKGROUND

4. Local Planning Scheme No. 1 was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. Amendment No. 6 has been prepared to seek the rezoning of Lot 105 and a portion of 106 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Special Residential' zone and to reserve a portion of Lot 106 for 'Parks and Recreation'.
6. The subject lots are located approximately 10.6km north-east of Albany town centre and have an area of approximately 6.88ha.
7. The land to the east and west of the subject lots is zoned 'Special Residential', while the land to the north, on the opposite side of Nanarup Road, is zoned 'Rural Residential'. The land to the south is reserved for 'Parks and Recreation' and forms the Oyster Harbour foreshore reserve.
8. The amendment document states that:

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

## DISCUSSION

9. The City planning Staff support the rezoning of Lots 105 and 106 Nanarup Road, Lower King from the 'General Agriculture' zone to the 'Special Residential' zone and 'Parks and Recreation' local scheme reserve, as it is consistent with the current strategic direction set by the ALPS (see Attachment 1) and SPP 2.5.
10. The subject land is identified in the ALPS as being suitable for Special Residential development and is located between two existing components of Special Residential zone No. 10 to its east and west. The land to the north has also been rezoned and subdivided into larger Rural Residential zoned lots.
11. Fire management implications on the subject land are minimal; much of the area has been parkland cleared and further stands of vegetation will see limited clearing to locate development envelopes and facilitate hazard reduction measures. The extension of Kula Road and its connection to a right-of-way over existing driveways to the west by means of an 8m wide pedestrian access way will also provide significantly improved emergency access or egress.
12. The lower reaches of Lot 106 will be transferred into the Parks and Recreation local scheme reserve, thereby enhancing the reserve network and increasing the depth of the Oyster Harbour foreshore reserve.

## GOVERNMENT & PUBLIC CONSULTATION

13. The Town Planning Regulations 1967 require that a Local Planning Scheme amendment is initiated by a resolution of Council and that the consent of the Environmental Protection Authority and the Department of Planning is obtained, prior to the proposal being advertised for public comment. Consequently, no consultation has been undertaken at this stage.



**STATUTORY IMPLICATIONS**

14. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
15. 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.
16. *Regulation 25* of the *Town Planning Regulations 1967* sets out the process for amending the LPS.
17. Voting requirement for this item is **SIMPLE MAJORITY**

**POLICY IMPLICATIONS**

18. The proposal is considered to be consistent with the key policy measures identified in Western Australian Planning Commission *Statement of Planning Policy (SPP) 2.5 – Agriculture and Land Use Planning*.
19. *SPP 2.5* was gazetted in 2012 and has provided a comprehensive review and refinement of the previous DC Policy *3.4 Rural Land Use Planning* (1989). The WAPC and Local Government are required to have regard to *SPP 2.5* in planning for the development of rural areas.
20. The overarching policy requirements of *SPP 2.5* are:
  - a) land use change from rural to all other uses is to be planned and provided for in a planning strategy or scheme;
  - b) land identified as priority agricultural land in a planning strategy or scheme is to be retained for that purpose;
  - c) beyond its principle function for primary production, rural land is also required for public purposes, natural resource management, biodiversity conservation and protection of landscapes and views;
  - d) the use of rural land for intensive or emerging primary production land uses does not warrant creation of new or smaller rural lots on an unplanned, ad hoc basis; and
  - e) Creation of new rural lots will be by exception and in accordance with Development Control Policy 3.4 – Subdivision of rural land, or planned in a strategy or scheme.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Organisational Operations and Reputation</b> <i>Supporting this proposal could lead to other landowners seeking to rezone</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>The ALPS, as the principal land use planning strategy for the City, would guide Council's decision-making in other instances.</i>

<i>agricultural land for rural residential purposes.</i>				
<b>Organisational Operations and Reputation</b> <i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>If not supported by the WAPC or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.</i>
<b>Community, Organisational Operations and Reputation</b> <i>The proposal may attract objections from members of the public or other Government agencies.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Widely consulting with all parties who may be affected and all government agencies should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.</i>

#### FINANCIAL IMPLICATIONS

22. Nil.

#### LEGAL IMPLICATIONS

23. Nil.

#### ENVIRONMENTAL CONSIDERATIONS

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

#### ALTERNATE OPTIONS

27. Council has the following alternate options in relation to this item, which are:
- To initiate the scheme amendment with modifications; or
  - Resolve not to initiate the scheme amendment.

**SUMMARY CONCLUSION**

28. It is recommended that Council initiate Local Planning Scheme Amendment No. 6, as the proposal is consistent with the strategic direction currently set within the ALPS and *SPP 2.5*.

<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 2.5</li> </ol>
<b>File Number (Name of Ward)</b>	:	LAMD6 (Kalgan Ward)
<b>Previous Reference</b>	:	NIL

**PD071: CONSIDERATION OF SCHEME AMENDMENT – LOT 11 ON  
DIAGRAM 42859 NANARUP ROAD, NANARUP**

**Land Description** : Lot 11 Nanarup Road, Nanarup  
**Proponent** : Harley Dykstra Pty Ltd  
**Owner** : R C Buegge and J L Buegge  
**Business Entity Name** : Not Applicable  
**Attachments** : 1. Location plan  
2. Site Plan  
3. Local Planning Scheme Amendment No. 10  
report  
**Supplementary Information & Councillor Workstation:** : Nil  
**Report Prepared by** : Senior Planning Officer (Alex Bott)  
**Responsible Officer** : Executive Director Planning and Development  
Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.

When exercising its discretion in relation to planning matters, the pertinent strategic document is the Albany Local Planning Strategy (ALPS).

The proposal is consistent with the strategic direction set in ALPS.

**In Brief:**

- A request has been submitted for Council to initiate a Local Planning Scheme Amendment to rezone Lot 11 Nanarup Road, Nanarup from Residential R1 to Residential R5.
- Staff support the rezoning on the basis that it is in minor increase in density in accordance with the low density lot size of the area.

**RECOMMENDATION**

**PS071: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967, resolves to initiate Amendment No. 10 to City of Albany Local Planning Scheme No. 1 for the purposes of:**

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

## BACKGROUND

1. Local Planning Scheme No. 1 was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
2. Amendment No. 9 has been prepared to seek the rezoning of the existing Residential R1 zoning on Lot 11 Nanarup Rd, Nanarup to Residential R5.
3. The subject lot is 1.45ha in size and located approximately 11.5 Kilometres from the Albany town centre.
4. The subject lot is surrounded by Caravan and Camping zoned land to the north, Public Use (School) to the south west and Residential R1 to the East.
5. The amendment document states that:

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

## DISCUSSION

6. The ALPS designates the site as Rural Residential.
7. A submission was made to the City during the preparation of *Local Planning Scheme No.1 (LPS1)* regarding the zoning of the land. The submission stated that the Rural Residential designation was not consistent with the low density residential development of the area. During preparation of LPS1, it was determined that a zoning of R1 would be a more appropriate for the land.
8. It was advised during the preparation of LPS1 that an increase in density beyond R1 would need to be supported and justified via a land capability report.
9. The proposed lot sizes are compliant with the minimum size of 2000m<sup>2</sup> for R5 zoned land as per *SPP 3.1 - Residential Design Codes*.
10. The applicant has supported the application with a land capability report.
11. An increase in density to R5 will be consistent with the lot sizes of the adjoining 3 properties.
12. The *Draft Country Sewerage Policy* states that unsewered subdivision can be supported if it does not result in lots which are less than 2000m<sup>2</sup> or at a density greater than R5. The proposal is compliant with this policy.
13. City of Albany Environmental Health officers have reviewed the land capability report and agree with the finding that the land is capable of supporting on site effluent disposal. However, officers recommend, given the proximity to the Kalgan River, that it be a requirement for all lots to utilise nutrient retaining Alternative Treatment Units.

## GOVERNMENT & PUBLIC CONSULTATION

14. The Town Planning Regulations 1967 require that a Local Planning Scheme amendment is initiated by a resolution of Council and that the consent of the Environmental Protection Authority and the Department of Planning is obtained, prior to the proposal being advertised for public comment. Consequently, no consultation has been undertaken at this stage.

## STATUTORY IMPLICATIONS

15. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
16. 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.
17. Regulation 25 of the *Town Planning Regulations 1967* sets out the process for amending the LPS.
18. Voting requirement for this item is **SIMPLE MAJORITY**

## POLICY IMPLICATIONS

19. The proposal is consistent with *SPP 3.1 - Residential Design Codes* for lot sizes of an R5 density.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Organisational Operations and Reputation</b> <i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>If not supported by the WAPC or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.</i>
<b>Community, Organisational Operations and Reputation</b> <i>The proposal may attract objections from members of the public or other Government agencies.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Widely consulting with all parties who may be affected and all government agencies should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.</i>

## FINANCIAL IMPLICATIONS

21. Nil

**LEGAL IMPLICATIONS**

22. Nil.

**ENVIRONMENTAL CONSIDERATIONS**

23. The Lot is largely cleared of vegetation with the exception of a row of trees along the southern boundary. The Kalgan River is located within a short distance of the southern and eastern boundaries.

**ALTERNATE OPTIONS**

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

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

**SUMMARY CONCLUSION**


25. It is recommended that Council initiate Local Planning Scheme Amendment No. 10 on the basis that the proposal is for a minor increase in density which is consistent with the low density objectives for the area set out within ALPS.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. Planning and Development Act 2015</li> <li>2. Local Planning Scheme No. 1</li> <li>3. Albany Local Planning Strategy 2010</li> <li>4. City of Albany Strategic Community Plan 2023</li> <li>5. City of Corporate Business Plan 2013-2017</li> <li>6. Draft Country Sewerage Policy</li> <li>7. WA Planning Commission (WAPC) State of Planning Policy (SPP) SPP 3.1 Residential Design Codes</li> </ol>
<b>File Number (Name of Ward)</b>	:	LAMD10 (Kalgan Ward)
<b>Previous Reference</b>	:	NIL

**PD072: DEVELOPMENT APPLICATION – TELECOMMUNICATIONS  
INFRASTRUCTURE – LOT 29, 64 BARRASS RD, LITTLE GROVE**

**Land Description** : Lot 29, 64 Barrass Road, Little Grove WA 6330  
**Proponent** : Daly International  
**Owner** : C and M Slynn  
**Business Entity Name** : NIL  
**Attachments** : Area Plan  
Schedule of Submissions  
**Supplementary Information & Councillor Workstation:** : Letters of submission from the public  
**Report Prepared by** : Senior Planning Officer (A Bott)  
**Responsible Officer** : Director Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

Council is required to exercise its quasi-judicial function in this matter.

This is a statutory planning matter that is assessed against the Local Planning Scheme No.1 (LPS1) and any relevant planning policies. As such there are no strategic implications. Notwithstanding this, the most relevant strategic document is the Albany Local Planning Strategy (ALPS).

The item relates to the following Strategic Objective of the Albany Local Planning Strategy (ALPS):

**6.4.4 Telecommunications**

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

**In Brief:**

- Council is asked to consider a proposal for Telecommunications Infrastructure at Lot 29, 64 Barrass Rd, Little Grove WA 6330.
- The proposal has been advertised to the public, with 17 letters of representation received. 16 of these submissions have objected to the proposal. The objections are discussed later in the report
- Staff recommend that Council approve the proposal subject to conditions.

**RECOMMENDATION**

**PD072: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for Telecommunication Infrastructure at 64 Barrass Road, Little Grove; subject to the following conditions:**

- (1) Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur in accordance with the stamped, approved plans.**



- (2) A construction management plan shall be submitted for approval in writing and implemented to the satisfaction of the City of Albany.
- (3) Stormwater from the lot shall be managed to the satisfaction of the City of Albany.
- (4) Lighting devices are to be positioned and shielded so as not to cause any direct, reflected or incidental light to encroach beyond the property boundaries, in accordance with Australian Standard AS4282/1997.
- (5) Prior to commencement of development a schedule of materials and colours to be used on the structures hereby approved shall be submitted for approval by the City of Albany.

## BACKGROUND

1. The City has received an application for Planning Scheme Consent for Telecommunication Infrastructure at Lot 29, 64 Barrass Rd, Little Grove WA 6330.
2. The subject site is located approximately 5.5km SSW of the Albany CBD.
3. The subject site is 1.84Ha in area and is zoned Rural Residential No.42 under (LPS1). The site is currently developed with a single dwelling and associated outbuilding.
4. The top of the proposed monopole tower telecommunications will be 45m above natural ground level.
5. The proposed Telecommunication Infrastructure is a component of the National Broadband Network's (NBN) wireless network.
6. Telecommunication Infrastructure is a use listed within LPS1, but is not specifically identified as a permissible use for this zone through Schedule 14 of LPS1. Although not listed for the zone, it is also not prohibited. As such, Telecommunication Infrastructure is considered as an 'A' use, meaning the use is not permitted unless the Local Government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4.
7. During the advertising period a total of 17 submissions were received. 16 objected or raised concerns regarding the proposal.
8. The proposal has been assessed against LPS1 and *State Planning Policy 5.2 – Telecommunications Infrastructure*.
9. When determining telecommunications infrastructure, it is necessary to assess the impact on amenity against the overall public benefit of the infrastructure.
10. It is acknowledged that the proposal will detract from view scapes from a number of properties within the area.
11. The applicant has stated that the proposed telecommunications infrastructure will service at least 190 dwellings within the immediate area.
12. Taking into consideration the nature of public submissions against the significant public benefit of the proposal, it is recommended that the application be approved.

## DISCUSSION

13. The proposal consists of one 45m high monopole. The monopole services one parabolic antenna (located at 38m) and two panel antennas (located at 45m). In addition to the monopole, it is proposed to install two outdoor equipment cabinets within a fenced area of 96m<sup>2</sup>.
14. The proposed infrastructure and compound are proposed to be located in the south east corner of lot 29, setback a minimum of 3.5m of from Barrass Rd.
15. The proposal was initially scheduled to be advertised for a 21 day period with an advertisement appearing in the public notices section of a local paper on 16 October, 2014. Concerns were raised regarding the timeframe to make a submission. The closing date for submissions was consequently extended until 6 December, 2014. The issues raised are covered and addressed in the following section of the report.
16. A number of submissions make reference to the community consultation undertaken by the applicants prior to lodging a Planning Scheme Consent with the City of Albany.
17. The matters raised in the submissions will be discussed in further detail below. In brief, amenity was the main concern raised consistently throughout the submissions, particularly the perceived impact on views of significance and the natural amenity of the area.
18. When assessing impacts on amenity, it is necessary to determine the level of existing amenity within the immediate area and secondly, within wider the locality.
19. The assessment of landscape this report has been undertaken in reference with the Western Australian Planning Commission's *Visual Landscape Planning in Western Australia – a manual for assessment, siting and design*.
20. The existing amenity for Barrass Rd can be classified as a vegetated Rural Residential street directly adjoining the Torndirrup National Park to the east. The overall locality to the south of the subject site is primarily defined by vegetated Rural Residential properties provided with views towards the Harbour and National park. General residential properties are located approximately 450m to the north, across Frenchman Bay Road.
21. The notion of relocating the proposed infrastructure to an alternative location within the area was a consistent comment throughout the consultation process. As a response to these comments, the City of Albany contacted the applicant and enquired if there was scope to review other locations. The applicant advised that a number of sites were reviewed as part of the pre application process. However, they wish to proceed with the site selected.
22. The potential for detrimental health effects from the proposed tower was also regularly raised. It is necessary to note that the City is not a regulatory body in respect to electromagnetic energy (EME). The Federally established Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) enforce the *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300GHz*. The EME report submitted by the applicant states that the maximum calculated EME level from the site will be 0.028% of the maximum public exposure level.
23. Decreased property values were raised during the consultation process. Property values are not within the matters to be considered under LPS1 and therefore are not a valid planning consideration.

## GOVERNMENT & PUBLIC CONSULTATION

24. The proposal was advertised to residents within a 750m radius of the site from 16 October, 2014 to 6 December 2014. A notice was also placed in the local newspaper in accordance with clause 9.4 of LPS1.
25. A total of 17 public submissions were received following the initial advertising period. 1 was in support and 16 objected to the application, below is a summary of those submissions:
- The proposal will detrimentally affect the amenity of the area;
  - The proposal will detrimentally affect views of significance within the area;
  - Property values will be negatively affected;
  - Detrimental health affects;
  - Insufficient public consultation was undertaken by the NBN Co;
26. The content of the submissions is summarised in more detail in the attached schedule of submissions, with officers providing responses to the matters raised.

## STATUTORY IMPLICATIONS

27. The subject land is zoned Rural Residential under the City of Albany Local Planning Scheme No. 1 (LPS1).
28. Telecommunications Infrastructure is classified as an 'A' use under City of Albany Local Planning Scheme No. 1.
29. The proposal has been assessed against the objectives of the Rural Residential area under Clause 4.2.17 of LPS1.
30. The proposal has been assessed against the following relevant matters to be considered under clause 10.2 of LPS1;
- (b) The requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;*
  - (c) Any approved statement of planning policy of the Western Australian Planning Commission;*
  - (i) The compatibility of a use or development with its setting;*
  - (n) The preservation of the amenity of the locality;*
  - (o) The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
  - (x) The potential loss of any community service or benefit resulting from the planning approval;*

## POLICY IMPLICATIONS

31. The proposal has been assessed against the Western Australian Planning Commission's *State Planning Policy 5.2 - Telecommunications Infrastructure* (SPP 5.2). SPP 5.2 provides guiding principles for the assessment of telecommunication infrastructure.

32. The SPP 5.2 provides guiding principles for the location, siting and design of telecommunications infrastructure.

Comment in reference to the guiding principles for the location, siting and design of telecommunications infrastructure are as follows;

***There should be a co-ordinated approach to the planning and development of telecommunications infrastructure, although changes in the location and demand for services require a flexible approach.***

The option of reassessing other suitable sites was consistently raised during the consultation process. The applicant was made aware of this notion after the consultation period had ended. The applicant advised the City that the subject site was the location which was determined to be best suited and this would not be reviewed.

***Telecommunications infrastructure should be strategically planned and co-ordinated, similar to planning for other essential infrastructure such as transport networks and energy supply.***

The proposal forms a component of the National Broadband Network. Telecommunications infrastructure is identified within the Albany Local Planning Strategy.

***Telecommunications facilities should be located and designed to meet the communication needs of the community.***

The application proposes to provide wireless internet coverage to service at least 190 dwellings within the Little Grove area. The applicant has stated that they have selected the site based on technical parameters and the necessary land access agreement being in obtained.

***Telecommunications facilities should be designed and sited to minimise any potential adverse visual impact on the character and amenity of the local environment, in particular, impacts on prominent landscape features, general views in the locality and individual significant views.***

Given the height of the proposed tower, there will be detrimental impacts on views of significance from nearby properties. It is also pertinent to note that a National Park is located immediately to west of the proposed site. As discussed earlier, the existing level of amenity is defined by the secluded and vegetated nature of the area. The applicant has advised that there was no scope to co-locate the proposed infrastructure on an existing tower.

***Telecommunications facilities should be designed and sited to minimise adverse impacts on areas of natural conservation value and places of heritage significance or where declared rare flora are located.***

The site located immediately adjacent to a National park. The application proposes to remove a vegetation to establish a cleared area for the telecommunication infrastructure. The site does not contain any registered places of heritage significance.

***Telecommunications facilities should be designed and sited with specific consideration of water catchment protection requirements and the need to minimise land degradation.***

The proposal will not detrimentally affect groundwater. The proposed removal of vegetation would be required to be appropriately managed to avoid erosion.

***Telecommunications facilities should be designed and sited to minimise adverse impacts on the visual character and amenity of residential areas.***

The applicant has proposed a monopole rather than a lattice style tower as it is less obtrusive. It is also proposed to leave the infrastructure unpainted in a grey colour. Notwithstanding these measures, there will be an impact on the amenity of the area, primarily on views from properties to the south.

***Telecommunications cables should be placed underground, unless it is impractical to do so and there would be no significant effect on visual amenity or, in the case of regional areas, it can be demonstrated that there are long-term benefits to the community that outweigh the visual impact.***

The subject area has not been identified as being feasible for cable connection as part of the NBN rollout.

***Telecommunications cables that are installed overhead with other infrastructure such as electricity cables should be removed and placed underground when it can be demonstrated and agreed by the carrier that it is technically feasible and practical to do so.***

This guiding principle is not applicable in this situation.

***Unless it is impractical to do so telecommunications towers should be located within commercial, business, industrial and rural areas and areas outside identified conservation areas.***

The general area is zoned Rural Residential. There are no business, industrial or rural zoned land within the operating area of the telecommunications infrastructure.

***The design and siting of telecommunications towers and ancillary facilities should be integrated with existing buildings and structures, unless it is impractical to do so, in which case they should be sited and designed so as to minimise any adverse impact on the amenity of the surrounding area.***

In this situation there are no existing buildings or telecommunication infrastructure to utilise. As mentioned previously, while measures have been taken to reduce visual impact, there will still be a level of impact on the existing amenity of the area.

***Co-location of telecommunications facilities should generally be sought, unless such an arrangement would detract from local amenities or where operation of the facilities would be significantly compromised as a result.***

There are no existing facilities which would allow co location to occur while still meeting the operational requirements for the infrastructure.

***Measures such as surface mounting, concealment, colour co-ordination, camouflage and landscaping to screen at least the base of towers and ancillary structures, and to draw attention away from the tower, should be used, where appropriate, to minimise the visual impact of telecommunications facilities.***

The applicant has proposed leaving the monopole unpainted in an effort to reduce visual impact. A landscaping condition can potentially be applied to mitigate street level amenity.

***Design and operation of a telecommunications facility should accord with the licensing requirements of the Australian Communications Authority, with physical isolation and control of public access to emission hazard zones and use of minimum power levels consistent with quality services.***

As stated earlier, the City is not the responsibly authority in applying the abovementioned requirements. If approved these details are subject to separate licensing requirements.

***Construction of a telecommunications facility (including access to a facility) should be undertaken so as to minimise adverse effects on the natural environment and the amenity of users or occupiers of adjacent property, and ensure compliance with relevant health and safety standards.***

Any development would be subject to a construction management plan which would be required to address and mitigate potential amenity impacts i.e. (dust, noise, traffic).

33. The City of Albany Rural Planning Strategy provides policy in respect to visual resource protection. It is necessary to note that the Rural Planning strategy is dated 1996. Many of the provisions are now addressed in greater detail in SPP 5.2. Notwithstanding this, the following provisions are applicable;

Siting

- *Do not detract from significant views;*
- *Are not located on ridge tops;*
- *Are preferably not located on slopes greater than 1 in 10;*
- *Are sympathetic to existing landscape elements.*

34. In response to the above, the proposal will impact the views from private properties to the south. As mentioned previously it is necessary to consider the overall public benefit of the proposal against the any amenity impact. The proposal is not located on a ridge top and the slope on the site is not greater than 1 in 10. The applicant has proposed to leave the monopole unpainted in order to reduce the visual impact of the proposal.

Clearing of native Vegetation

- *Clearing of native vegetation for buildings, infrastructure and essential firebreaks shall be confined to the absolute minimum necessary for open space and garden areas, infrastructure installation and fire protection.*

35. The proposal does propose minimum clearing to facilitate the infrastructure. Unlike a dwelling which is subject to bushfire clearing requirements, the proposal does not require fuel load reduction round the facility.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>COMMUNITY</b> <i>Approving the proposed use could allow additional infrastructure to be attached to the tower without requiring City of Albany approval.</i>	<i>Likely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Consult with telecommunications providers when queried on the site and advise of community concerns regarding additional infrastructure.</i>
<b>COMMUNITY</b> <i>If not approved the NBN may not build a tower in the area.</i>	<i>Likely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Lobby the NBN to seek an alternative site in the area.</i>

## FINANCIAL IMPLICATIONS

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

## LEGAL IMPLICATIONS

38. 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

39. The property is well vegetated. The site adjoining the Torndirrup National park.

40. The site is within a protected drinking water area.

41. There are no additional environmental controls on the property other than those contained within LPS1. It is the applicants responsibility to ensure all obligations under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* are fulfilled.

## ALTERNATE OPTIONS

42. Council has the following alternate option in relation to this item:

THAT Council resolves to ISSUE a Notice of REFUSAL of Planning Scheme Consent for Telecommunication Infrastructure at 64 Barrass Road, Little Grove.

## SUMMARY CONCLUSION

43. The proposal has been assessed against LPS1 and the State policy relating to telecommunications infrastructure.

44. In determining the application it is necessary to consider the impact on amenity against the long term benefit of a secured high speed broadband service.

45. It is recommended the application be approved subject to conditions.

<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. WA Planning Commission (WAPC) State Planning Policy 5.2</li><li>4. Visual Landscape Planning in Western Australia – a manual for assessment, siting and design</li></ol>
<b>File Number (Name of Ward)</b>	:	A49420 (Vancouver Ward)
<b>Previous Reference</b>	:	



**PD073: DEVELOPMENT APPLICATION – TELECOMMUNICATIONS  
INFRASTRUCTURE –LOT 105, 241 ROBINSON RD, ROBINSON**

**Land Description** : Lot 105, 241 Robinson Road, Robinson WA 6330  
**Proponent** : Daly International  
**Owner** : Algean PTY LTD  
**Business Entity Name** : NIL  
**Attachments** : Area Plan  
Schedule of Submissions  
**Supplementary Information & Councillor Workstation:** : Letters of submission from the public  
**Report Prepared by** : Senior Planning Officer (A Bott)  
**Responsible Officer** : Director Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

Council is required to exercise its quasi-judicial function in this matter.

This is a statutory planning matter that is assessed against the Local Planning Scheme No.1 (LPS1) and any relevant planning policies. As such there are no strategic implications. Notwithstanding this, the most relevant strategic document is the Albany Local Planning Strategy (ALPS).

The item relates to the following Strategic Objective of the Albany Local Planning Strategy (ALPS):

**6.4.4 Telecommunications**

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

**In Brief:**

- Council is asked to consider a proposal for Telecommunications Infrastructure at Lot 105, 241 Robinson Road, Robinson WA 6330.
- The proposal has been advertised to the public, with 7 letters of representation received. All of the submissions objected to the proposal. A petition containing 89 signatures against the proposal was also received. The objections are discussed later in the report
- Staff recommend that Council approve the proposal subject to conditions.

## RECOMMENDATION

### PD073: RESPONSIBLE OFFICER RECOMMENDATION

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

- (1) Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur in accordance with the stamped, approved plans.**
- (2) A construction management plan shall be submitted for approval in writing and implemented to the satisfaction of the City of Albany.**
- (3) Stormwater from the lot shall be managed to the satisfaction of the City of Albany.**
- (4) Lighting devices are to be positioned and shielded so as not to cause any direct, reflected or incidental light to encroach beyond the property boundaries, in accordance with Australian Standard AS4282/1997.**
- (5) Prior to commencement of development a schedule of materials and colours to be used on the structures hereby approved shall be submitted for approval by the City of Albany.**

## BACKGROUND

1. The City has received an application for Planning Scheme Consent for Telecommunication Infrastructure at Lot 105, 241 Robinson Rd, Robinson WA 6330.
2. The subject site is located approximately 4.7km West of the Albany CBD
3. The subject site is 6.16Ha in area and is zoned Rural Residential No.29 under (LPS1). The site is currently developed with a single dwelling and associated outbuilding.
4. The top of the proposed monopole tower telecommunications will be 40m above natural ground level.
5. The proposed Telecommunication Infrastructure is a component of the National Broadband Network's (NBN) wireless network.
6. Telecommunication Infrastructure is a use listed within LPS1, but is not specifically identified as a permissible use for this zone through Schedule 14 of LPS1. Although not listed for the zone, it is also not prohibited. As such, Telecommunication Infrastructure is considered as an 'A' use, meaning the use is not permitted unless the Local Government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4.
7. During the advertising period a total of 7 submissions were received. All objected or raised concerns regarding the proposal. A petition against the proposal was also lodged. The petition contains 89 signatures.
8. The proposal has been assessed against LPS1 and *State Planning Policy 5.2 – Telecommunications Infrastructure*.
9. When determining telecommunications infrastructure, it is necessary to assess the impact on amenity against the overall public benefit of the infrastructure.

10. It is acknowledged that the proposal will detract from view scapes from a number of properties within the area.
11. Taking into consideration the nature of public submissions against the significant public benefit of the proposal, it is recommended that the application be approved.

## DISCUSSION

12. The proposal consists of one 40m high monopole. The monopole services two parabolic antennas (located at 37m) and three panel antennas. In addition to the monopole, it is proposed to install two outdoor equipment cabinets within a fenced area of 96m<sup>2</sup>.
13. The proposed infrastructure and compound are proposed to be located centrally on lot 105, setback 125m from Robinson Rd, 96m from the western boundary and 88m to the western boundary.
14. The proposal was initially scheduled to be advertised for a 21 day period with an advertisement appearing in the public notices section of a local paper on 16 October, 2014. Concerns were raised regarding the timeframe to make a submission. The closing date for submissions was consequently extended until 6 December, 2014. The issues raised are covered and addressed in the following section of the report.
15. A number of submissions make reference to the community consultation undertaken by the applicant prior to lodging a Planning Scheme Consent with the City of Albany.
16. The matters raised in the submissions will be discussed in further detail below. In brief, amenity was the main concern raised consistently throughout the submissions, particularly the perceived impact on views of significance and the natural amenity of the area.
17. When assessing impacts on amenity, it is necessary to determine the level of existing amenity within the immediate area and secondly, within wider the locality.
18. The assessment of landscape this report has been undertaken in reference with the Western Australian Planning Commission's *Visual Landscape Planning in Western Australia – a manual for assessment, siting and design*.
19. The existing amenity for Robinson Rd can be classified as typical Rural Residential area defined by sections open paddock and a thick vegetation belt on the south side of Robinson Rd. The overall locality to the south of the subject site is primarily defined by relatively cleared smaller sized Rural Residential properties. The locality to the north is defined by larger cleared rural small holding lots. Overall it can be considered an area of Rural amenity.
20. The notion of relocating the proposed infrastructure to an alternative location within the area was a consistent comment throughout the consultation process. As a response to these comments, the City of Albany contacted the applicant and enquired if there was scope to review other locations. The applicant advised that a number of sites were reviewed as part of the pre application process. However, they wish to proceed with the site selected.
21. The potential for detrimental health effects from the proposed tower was also regularly raised. It is necessary to note that the City is not a regulatory body in respect to electromagnetic energy (EME). The Federally established Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) enforce the *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300GHz*. The EME report submitted by the applicant states that the maximum calculated EME level from the site will be 0.028% of the maximum public exposure level.

22. Decreased property values were raised during the consultation process. Property values are not within the matters to be considered under LPS1 and therefore are not a valid planning consideration.

### GOVERNMENT & PUBLIC CONSULTATION

23. The proposal was advertised to residents within a 1km radius of the site from 16 October, 2014 to 6 December 2014. A notice was also placed in the local newspaper in accordance with clause 9.4 of LPS1.
24. A total of 7 public submissions were received following the initial advertising period. 7 objected to the application. A petition objecting to the proposal was also submitted. The petition contains 89 signatures. below is a summary of those submissions:
- The proposal will detrimentally affect the amenity of the area;
  - Proposal conflicts with historical status;
  - Detrimental to tourism values;
  - The proposal will detrimentally affect views of significance within the area;
  - Property values will be negatively affected;
  - Detrimental health affects;
  - Insufficient public consultation was undertaken by the NBN Co;
25. The content of the submissions is summarised in more detail in the attached schedule of submissions, with officers providing responses to the matters raised.

### STATUTORY IMPLICATIONS

26. The subject land is zoned Rural Residential under the City of Albany Local Planning Scheme No. 1 (LPS1).
27. Telecommunications Infrastructure is classified as an 'A' use under City of Albany Local Planning Scheme No. 1.
28. The proposal has been assessed against the objectives of the Rural Residential area under Clause 4.2.17 of LPS1.
29. The proposal has been assessed against the following relevant matters to be considered under clause 10.2 of LPS1;
- (b) The requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;*
  - (c) Any approved statement of planning policy of the Western Australian Planning Commission;*
  - (i) The compatibility of a use or development with its setting;*
  - (n) The preservation of the amenity of the locality;*
  - (o) The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
  - (x) The potential loss of any community service or benefit resulting from the planning approval;*

## POLICY IMPLICATIONS

30. The proposal has been assessed against the Western Australian Planning Commission's *State Planning Policy 5.2 - Telecommunications Infrastructure* (SPP 5.2). SPP 5.2 provides guiding principles for the assessment of telecommunication infrastructure.
31. The SPP 5.2 provides guiding principles for the location, siting and design of telecommunications infrastructure.

Comment in reference to the guiding principles for the location, siting and design of telecommunications infrastructure are as follows;

***There should be a co-ordinated approach to the planning and development of telecommunications infrastructure, although changes in the location and demand for services require a flexible approach.***

The option of reassessing other suitable sites was raised during the consultation process. The applicant was made aware of this notion after the consultation period had ended. The applicant advised the City that the subject site was the location which was determined to be best suited and this would not be reviewed.

***Telecommunications infrastructure should be strategically planned and co-ordinated, similar to planning for other essential infrastructure such as transport networks and energy supply.***

The proposal forms a component of the National Broadband Network. Telecommunications infrastructure is identified within the Albany Local Planning Strategy.

***Telecommunications facilities should be located and designed to meet the communication needs of the community.***

The application proposes to provide wireless internet coverage Robinson area. Over recent years there have been a number of new rural residential subdivisions within the area which have increased demand for broadband services. The applicant has stated that they have selected the site based on technical parameters and the necessary land access agreement being in obtained.

***Telecommunications facilities should be designed and sited to minimise any potential adverse visual impact on the character and amenity of the local environment, in particular, impacts on prominent landscape features, general views in the locality and individual significant views.***

Given the height of the proposed tower, the tower will be able to be seen from nearby properties and Robinson Rd. The applicant has provided a photo merge which shows that the large setback from the Robinson Rd screens the lower half of the tower. As discussed earlier, the existing level of amenity is defined by the rural nature of the area.

***Telecommunications facilities should be designed and sited to minimise adverse impacts on areas of natural conservation value and places of heritage significance or where declared rare flora are located.***

The application proposes to remove a vegetation to establish a cleared area for the telecommunication infrastructure. It is proposed to utilise an existing firebreak. The site does not contain any registered places of heritage significance.

***Telecommunications facilities should be designed and sited with specific consideration of water catchment protection requirements and the need to minimise land degradation.***

The proposal is located within a water protection area within LPS1. Given the nature of the proposal it will not detrimentally affect groundwater. The proposed removal of vegetation would be required to be appropriately managed to avoid erosion.

***Telecommunications facilities should be designed and sited to minimise adverse impacts on the visual character and amenity of residential areas.***

The applicant has proposed a monopole rather than a lattice style tower as it is less obtrusive. It is also proposed to leave the infrastructure unpainted in a grey colour. Notwithstanding these measures, there will be an impact on the amenity of the area, primarily on views from surrounding properties and from Robinson Rd.

***Telecommunications cables should be placed underground, unless it is impractical to do so and there would be no significant effect on visual amenity or, in the case of regional areas, it can be demonstrated that there are long-term benefits to the community that outweigh the visual impact.***

The subject area has not been identified as being feasible for cable connection as part of the NBN rollout.

***Telecommunications cables that are installed overhead with other infrastructure such as electricity cables should be removed and placed underground when it can be demonstrated and agreed by the carrier that it is technically feasible and practical to do so.***

This guiding principle is not applicable in this situation.

***Unless it is impractical to do so telecommunications towers should be located within commercial, business, industrial and rural areas and areas outside identified conservation areas.***

The general area is zoned Rural Residential and Rural Small Holding. There are no business, industrial or rural zoned land within the operating area of the telecommunications infrastructure.

***The design and siting of telecommunications towers and ancillary facilities should be integrated with existing buildings and structures, unless it is impractical to do so, in which case they should be sited and designed so as to minimise any adverse impact on the amenity of the surrounding area.***

In this situation there are no existing buildings or telecommunication infrastructure to utilise. As mentioned previously, while measures have been taken to reduce visual impact, there will still be a level of impact on the existing amenity of the area.

***Co-location of telecommunications facilities should generally be sought, unless such an arrangement would detract from local amenities or where operation of the facilities would be significantly compromised as a result.***

There are no existing facilities which would allow co location to occur while still meeting the operational requirements for the infrastructure.

***Measures such as surface mounting, concealment, colour co-ordination, camouflage and landscaping to screen at least the base of towers and ancillary structures, and to draw attention away from the tower, should be used, where appropriate, to minimise the visual impact of telecommunications facilities.***

The applicant has proposed leaving the monopole unpainted in an effort to reduce visual impact. The proposed tower is well setback from Robinson Rd and other boundaries. The setback serves to screen the lower section of the tower from adjoining properties and Robinson Rd

***Design and operation of a telecommunications facility should accord with the licensing requirements of the Australian Communications Authority, with physical isolation and control of public access to emission hazard zones and use of minimum power levels consistent with quality services.***

As stated earlier, the City is not the responsibly authority in applying the abovementioned requirements. If approved these details are subject to separate licensing requirements.

***Construction of a telecommunications facility (including access to a facility) should be undertaken so as to minimise adverse effects on the natural environment and the amenity of users or occupiers of adjacent property, and ensure compliance with relevant health and safety standards.***

Any development would be subject to a construction management plan which would be required to address and mitigate potential amenity impacts i.e. (dust, noise, traffic).

32. The City of Albany Rural Planning Strategy provides policy in respect to visual resource protection. It is necessary to note that the Rural Planning strategy is dated 1996. Many of the provisions are now addressed in greater detail in SPP 5.2. Notwithstanding this, the following provisions are applicable;

Siting

- *Do not detract from significant views;*
- *Are not located on ridge tops;*
- *Are preferably not located on slopes greater than 1 in 10;*
- *Are sympathetic to existing landscape elements.*

33. In response to the above, the proposal will impact the views from private properties in the surrounding area. As mentioned previously it is necessary to consider the overall public benefit of the proposal against the any amenity impact. The proposal is not located on a ridge top and the slope on the site is not greater than 1 in 10. The applicant has proposed to leave the monopole unpainted in order to reduce the visual impact of the proposal.

Clearing of native Vegetation

- *Clearing of native vegetation for buildings, infrastructure and essential firebreaks shall be confined to the absolute minimum necessary for open space and garden areas, infrastructure installation and fire protection.*

34. The proposal does propose minimum clearing to facilitate the infrastructure. Unlike a dwelling which is subject to bushfire clearing requirements, the proposal does not require fuel load reduction round the facility.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>COMMUNITY</b> <i>Approving the proposed use could allow additional infrastructure to be attached to the tower without requiring City of Albany approval.</i>	<i>Likely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Consult with telecommunications providers when queried on the site and advise of community concerns regarding additional infrastructure.</i>
<b>COMMUNITY</b> <i>If not approved the NBN may not build a tower in the area.</i>	<i>Likely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Lobby the NBN to seek an alternative site in the area.</i>

## FINANCIAL IMPLICATIONS

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

## LEGAL IMPLICATIONS

37. 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

38. . The property is approximately 80% vegetated. The vegetation forms a 200m wide belt from racecourse rd to Robinson rd.

39. The site is classified as a protected drinking water area.

40. There are no additional environmental controls on the property other than those contained within LPS1. It is the applicants responsibility to ensure all obligations under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* are fulfilled.

## ALTERNATE OPTIONS

41. Council has the following alternate option in relation to this item:

THAT Council resolves to ISSUE a Notice of REFUSAL of Planning Scheme Consent for Telecommunication Infrastructure at 241 Robinson Road, Robinson.

## SUMMARY CONCLUSION

42. The proposal has been assessed against LPS1 and the State policy relating to telecommunications infrastructure.

43. In determining the application it is necessary to consider the impact on amenity against the long term benefit of a secured high speed broadband service.

44. It is recommended the application be approved subject to conditions.



<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. WA Planning Commission (WAPC) State Planning Policy 5.2</li><li>4. Visual Landscape Planning in Western Australia – a manual for assessment, siting and design</li></ol>
<b>File Number (Name of Ward)</b>	:	A42985 (Vancouver Ward)
<b>Previous Reference</b>	:	

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**