



AGENDA

Ordinary Meeting of Council

Tuesday 24 February 2015

6.00pm

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.

ORDINARY COUNCIL MEETING
AGENDA –24/02/2015

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1. DECLARATION OF OPENING

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

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

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

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor

Mayor D Wellington

Councillors:

Breaksea Ward

R Hammond

Breaksea Ward

V Calleja JP

Frederickstown Ward

C Dowling

Frederickstown Ward

G Stocks

Kalgan Ward

J Price

Kalgan Ward

B Hollingworth

Vancouver Ward

S Bowles

Vancouver Ward

N Williams

West Ward

G Gregson

West Ward

A Goode JP

Yakamia Ward

R Sutton

Yakamia Ward

A Hortin JP

Staff:

Chief Executive Officer

G Foster

Deputy Chief Executive Officer

G Adams

Executive Director Planning and
Development Services

D Putland

Executive Director Community
Services

C Woods

Executive Director Works and
Services

M Thomson

Minutes

J Williamson

Apologies:

4. DISCLOSURES OF INTEREST

| Name | Committee/Report Item Number | Nature of Interest |
|-------------------------|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Councillor Hollingworth | CSF146 | Impartiality. The nature of the interest being that Councillor Hollingworth is member of the South Coast Natural Resource Management Board. SCNRM lease a building on the lot being discussed. |
| Councillor Stocks | CSF147 | Financial. The nature of the interest being that Councillor Stocks' attendance at Gallipoli is the subject of discussion. |

5. REPORTS OF MEMBERS

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

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 Ordinary Council Meeting held on 16 December 2014, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

11. PRESENTATIONS Nil.

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil.

CSF139: FINANCIAL ACTIVITY STATEMENT – DECEMBER 2014

Proponent : City of Albany
Attachments : Financial Activity Statement
Report Prepared by : Financial Accountant (S Beech)
Responsible Officer : Deputy Chief Executive Officer (G Adams)

Responsible Officer's Signature:



RECOMMENDATION

CSF139: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the Financial Activity Statement for the period ending 31 December 2014.

CSF139: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HORTIN
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 10-0

CSF139: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Financial Activity Statement for the period ending 31 December 2014.

BACKGROUND

1. The Statement of Financial Activity for the period ending 31 December 2014 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Activity, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

DISCUSSION

3. In accordance with section 34(1) of the *Local Government (Financial Management) Regulations 1996*, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.
5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. Variations in excess of \$50,000 are reported to Council.

6. These financial statements are still subject to further yearend adjustments and have not been audited by the appointed auditor.

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

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

8. The City’s 2014/15 Annual Budget provides a set of parameters that guides the City’s financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

FINANCIAL IMPLICATIONS

10. Expenditure for the period ending 31 December 2014 has been incurred in accordance with the 2014/15 proposed budget parameters. Details of any budget variation in excess of \$50,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

| | | |
|-----------------------------------|---|----------------------|
| File Number (Name of Ward) | : | FM.FIR.2 - All Wards |
|-----------------------------------|---|----------------------|

CSF140: LIST OF ACCOUNTS FOR PAYMENT – JANUARY 2015

Proponent : City of Albany
Attachments : List of Accounts for Payment
Report Prepared by : Financial Accountant (S Beech)
Responsible Officer : Executive Director Corporate Services (G Adams)

Responsible Officer's Signature:



RECOMMENDATION

CSF140: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

That Council received the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 January 2015 totalling \$13,050,161.17.

CSF140: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
 SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 10-0

CSF140: RESPONSIBLE OFFICER RECOMMENDATION

That Council received the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 January 2015 totalling \$13,050,161.17.

BACKGROUND

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

DISCUSSION

- The table below summarises the payments drawn from the municipal fund for the period ending 15 January 2015. Please refer to the Attachment to this report for further details.

Municipal Fund

| | |
|---------------------------|-----------------|
| Trust | \$8,374 |
| Credit Cards | \$14,373.71 |
| Payroll | \$1,123,378.95 |
| Cheques | \$120,114.32 |
| Electronic Funds Transfer | \$11,783,920.19 |

TOTAL

\$13,050,161.17

3. As at 15 January 2015, the total outstanding creditors, stands at \$0.00 and made up as follows:-

| | |
|--------------|---------------------|
| Current | \$174,515.97 |
| 30 Days | \$10,075.00 |
| 60 Days | \$0.00 |
| 90 Days | \$0.00 |
| TOTAL | \$184,590.97 |

4. Cancelled cheques: 30330 replaced with 30340.

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

8. Expenditure for the period to 15 January 2015 has been incurred in accordance with the 2014/2015 budget parameters.

FINANCIAL IMPLICATIONS

9. Expenditure for the period to 15 January 2015 has been incurred in accordance with the 2014/2015 budget parameters.

SUMMARY CONCLUSION

10. That list of accounts have been authorised for payment under delegated authority.

| | | |
|-----------------------------------|---|----------------------|
| File Number (Name of Ward) | : | FM.FIR.2 - All Wards |
|-----------------------------------|---|----------------------|

**CSF141: DELEGATED AUTHORITY REPORTS – DECEMBER 2014 AND
JANUARY 2015**

Proponent : City of Albany
Attachments : Executed Document and Common Seal Report
Report Prepared by : Council Liaison Officer (J Williamson)
Responsible Officer : Chief Executive Officer (G Foster)

Responsible Officer's Signature:



RECOMMENDATION

**CSF141: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council RECEIVE the Delegated Authority Reports up until 15 January 2015.

CSF141: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 10-0

CSF141: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Delegated Authority Reports up until 15 January 2015.

CSF142: COUNCIL MEETING AGENDA BRIEFING SESSIONS

Proponent : City of Albany
Attachments : Nil.
Report Prepared By: : Council Liaison Officer (J Williamson)
Responsible Officer(s) : Chief Executive Officer (G Foster)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan (Albany 2023) 2014-2018.
 - a. **Key Theme:** 5. Civic Leadership.
 - b. **Strategic Objectives:**
 - 5.1. To establish and maintain sound business and governance structures.
 - 5.3. To engage effectively with our community.
 - c. **Strategic Initiative:** 5.3.2. Councillor Forums

In Brief:

- Review the necessity of holding Agenda Briefing Sessions.

RECOMMENDATION

CSF142: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council CEASE holding Agenda Briefing Sessions effective March 2015.

CSF142: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR CALLEJA
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-1

Record of Vote

Against the Motion: Councillor Williams

CSF142: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council CEASE holding Agenda Briefing Sessions effective March 2015.

BACKGROUND

2. On 25 June 2013, Council adopted a new Community Strategic Plan (Albany 2023) and Corporate Business Plan.
3. To facilitate this process, Council established a new Council Committee Structure (Standing Committees) to act as a conduit for proposed and reviewed strategy and policy positions.
4. At the Ordinary Council Meeting held on 29 October 2013, Council resolved to open monthly agenda briefing sessions to the public
5. At the Ordinary Council Meeting held on 27 May 2014, Council resolved that meetings of the Economic Development Committee, Community Services Committee, Corporate Services and Finance Committee, Works and Services Committee and Planning and Development Committee be open to members of the public.
6. At the Ordinary Council Meeting held on 27 May 2014, Council resolved to review the necessity of holding Agenda Briefing Sessions following the December 2014 Ordinary Council Meeting.

DISCUSSION

7. It is requested that Council now consider whether the Agenda Briefing Session should continue to be held one week prior to Ordinary Council Meetings.
8. Local Government Operational Guidelines Number 05 deals with Council Forums, and is attached to this report for your information.
9. The Guidelines suggest that for proper decision making, elected members must have the opportunity to understand any issues coming before Council on which they may vote, and be given any additional information required for them to do so.
10. The current Committee structure allows all Elected Members to attend committee meetings as observers, and to obtain further information from staff at those meetings. Members of the public are also able to attend these meetings.
11. Agenda Briefing sessions are currently very short, averaging only ten to fifteen minutes in duration. This would suggest that the current committee system is operating efficiently.
12. Attendance by the public or media at Agenda Briefing Sessions has been very low to nil.
13. Local governments of a similar size to the City of Albany holding Agenda Forums or Briefings are the City of Greater Geraldton and the City of Bunbury. The City of Mandurah does not hold briefing sessions.

GOVERNMENT & PUBLIC CONSULTATION

14. Government guidelines consulted in the preparation of this report.
15. Council may choose to consult with the public on this matter.

STATUTORY IMPLICATIONS

16. In accordance with the *Local Government Act 1995*, s 5.25(1)(g) and as prescribed by the *Local Government (Administration) Regulations 1996*, Regulation 12:

(1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which —
(a) the ordinary council meetings; and

(b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.

(2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in sub-regulation (1).

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|-----------------------------------------------------------------------------------------------------------------------|-------------------|--------------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reputation. <i>Public perception of a lack of transparency and engagement in Council’s decision making.</i> | <i>Possible</i> | <i>Moderate</i> | <i>Medium</i> | <i>Committee meetings remain open to the public. Raise public awareness on their right to attend Committee meetings and address Council on current and future agenda items.</i> |

FINANCIAL IMPLICATIONS

19. A budget line exists for the cost of giving public notice and advertising.

LEGAL IMPLICATIONS

20. Local public notice must be given to ensure legislative compliance, detailing changes to the forecast ordinary meeting schedule.

ENVIRONMENTAL CONSIDERATIONS

21. There are no direct environmental considerations related to this item; however an efficient meeting schedule will reduce wasted resources (time, travel, and office consumables).

ALTERNATE OPTIONS

22. Council may consider retaining the agenda briefing session.

SUMMARY CONCLUSION

23. That Council consider whether agenda briefing sessions should be retained.

| | | |
|-----------------------------------|---|---------------------------------------------------------------------------|
| Consulted References | : | <i>Local Government Act 1995</i> |
| File Number (Name of Ward) | : | <i>(All Wards)</i> |
| Previous Reference | : | <i>OCM 19/02/2013 Report Item 1.3 OCM 27/08/13 Report Item CSF003</i> |

CSF143: REVIEW OF LAND POLICIES

| | | |
|----------------------------|---|-----------------------------------------------------------------------------------------------------------------------------------|
| Attachments | : | Council Policy – Land Acquisition Council Policy – Land Development (Subdivision) Council Policy – Disposal of Council Land |
| Report Prepared by | : | Senior Land Officer (N Crook) |
| Responsible Officer | : | Deputy Chief Executive Officer (G Adams) |

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 5 Civic Leadership
 - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures
 - c. **Strategic Initiative:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations

In Brief:

- Staff have recently undertaken a review of the Council's Policies as they relate to land acquisition, land development and the disposal of land.
- Council is requested to consider the rescission of these policies, as they duplicate (in part) State legislation and are no longer consistent with Council's directions.

RECOMMENDATION

CSF143: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council, pursuant to Clause 2.7(2)(b) of the *Local Government Act 1995*, RESOLVES to rescind the following policies:

- (1) Council Policy – Land Acquisition;**
- (2) Council Policy – Land Development (Subdivision); and**
- (3) Council Policy – Disposal of Council Land.**

CSF143: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR HORTIN**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 10-0

CSF143: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, pursuant to Clause 2.7(2)(b) of the *Local Government Act 1995*, RESOLVES to rescind the following policies:

- (4) Council Policy – Land Acquisition;
- (5) Council Policy – Land Development (Subdivision); and
- (6) Council Policy – Disposal of Council Land.

BACKGROUND

- 2. In April 2006, the Council Policies – Disposal of Council Land and Land Development (Subdivision) were adopted. In May 2008, the Council Policy – Land Acquisition was adopted. These policies were then reviewed and revised at a meeting held in December 2010 and then again under delegated authority in December 2014 (minor changes only).
- 3. These policies outline the Council's intent with regard to the sale, purchase and development of land.

DISCUSSION

- 4. The intent of each policy and how they relate to State legislation and current Council directions is discussed below:

a. Council Policy – Disposal of Council Land

Summary of Policy Statements:

- Outlines the basis on which the decision to sell a property will be made, including that it is surplus to requirements, there are limited opportunities to add value to the land and land values are not expected to rise significantly;
- Outlines the criteria that must be observed before land may be sold, including that it must be zoned appropriately, all development concerns must be made known to the selling agent, the legal concerns must be identified, land shall not be sold for less than a value provided by a licensed professional valuer and compliance with the Major Land Transaction requirements of the *Local Government Act 1995* must be achieved, where they apply;
- Methods of Sale are specified for both land capable and not capable of being independently developed, being primarily by public auction or tender, or thereafter by negotiation. Direct sale to adjoining owners can be considered where land is not capable of being independently developed;
- The policy states that a levy from every land disposal shall be paid into the Reserve for Future Land Acquisition; and
- The policy notes the delegation to the Chief Executive Officer to sell a property which is valued at less than \$50,000 and is not capable of being independently developed and to engage a selling agent to sell a property.

Comment:

- There are very few properties available in the City's land assets that meet the criteria for sale under delegated authority. As such, all other land sales must be reported to and determined by Council. Council is then responsible for determining that land is suitable for sale on a case by case basis and that they are provided with all the information required to make this decision;
- The *Local Government Act 1995* states that land must be sold via public auction or tender, or directly to a purchaser where the Council has first given public

notice of its intent to sell a property and considered any submissions received. This is an open and accountable process that is not greatly enhanced by the provisions of this policy;

- In the case of a Major Land Transaction, the *Local Government Act 1995* specifies that a business case must be prepared and adopted by Council and state-wide public notice of the transaction must occur. Compliance with these requirements is necessary irrespective of the provisions of a Council policy;
- With regard to the planning components of this policy, it is noted that compliance with the *Planning and Development Act 2005* and the City's *Local Planning Scheme No 1* is necessary, irrespective of these provisions;
- It is now the City's practice to place all funds gained from a land sale (after all expenses are deducted) into the Land Acquisition Reserve; and
- No change to the delegation is proposed. This delegation is noted in the policy, though it sits outside of the policy provisions and will not be altered by the rescission of this policy.

b. Council Policy – Land Development (Subdivision)

Summary of Policy Statements:

- The Policy states that the decision to sell must be made by the resolution of Council after considering the requirements of the strategic plans and that the land is deemed surplus to requirements, its value is not expected to significantly rise above normal property increases and that a business plan deems that the development is viable;
- The criteria that must be observed before land may be developed and sold is outlined, including that it must be zoned appropriately, all physical improvements are complete, all development and servicing concerns must be made known to the selling agent, the legal concerns must be identified, land shall not be sold for less than a value provided by a licensed professional valuer and compliance with the Major Land Transaction requirements of the *Local Government Act 1995* must be achieved, where they apply; and
- The method of sale will be in accordance with the adopted business plan, being public auction, tender or the engagement of selling agents.

Comment:

- There are only a few properties available in the City's land assets that are suitable for subdivision and sale. Given Council's past experience with land development, indications are that Council would be unlikely to develop property in the future. Rather, the Council could sell the large land parcels to an independent developer as an option for creating more land for sale in a low risk way. Again these decisions must be reported to and determined by Council. Council is then responsible for determining that land is suitable for sale on a case by case basis and that they are provided with all the information required to make this decision;
- The *Local Government Act 1995* states that land must be sold via public auction or tender, or directly to a purchaser where the Council has first given public notice of its intent to sell a property and considered any submissions received. This is an open and accountable process that is not greatly enhanced by the provisions of this policy;
- In the case of a Major Land Transaction, the *Local Government Act 1995* specifies that a business case must be prepared and adopted by Council and state-wide public notice of the transaction must occur. Compliance with these requirements is necessary irrespective of the provisions of a Council policy; and

- With regard to the planning components of this policy, it is noted that compliance with the *Planning and Development Act 2005* and the City's *Local Planning Scheme No 1* is necessary, irrespective of these provisions.

c. Council Policy – Land Acquisition

Summary of Policy Statements

- This Policy provides the basis on which the Council will acquire and hold land as a basis for long term funding of major infrastructure;
- It states that Council will purchase strategic land parcels within population corridors identified in the Local Planning Strategy, with the view that the land will be developed and sold in the medium to long term as a basis for financing major infrastructure projects and other land acquisition proposals;
- The policy states that land purchases and sales will be designed to encourage residential development in suitable locations.

Comment:

- While the theory of investing in land to create a funding mechanism for projects is recognised, it has not worked in practice. The City has not significantly profited from its recent land developments and Council has indicated that it would be unlikely to develop property in the future;
- There is currently a major over-supply of properties for sale and land zoned for residential development. This has been recognised in the Local Planning Strategy review process;
- Again, any future acquisition of land would be reported to Council and must comply with the provisions of the *Local Government Act 1995*. It is recommended that this occur on a case by case basis and in line with strategic directions.

5. Much of the content of these policies is procedural and a repeat of the requirements of various legislation. They are not considered to provide guidance to the decision making process. Further, they appear to be inconsistent with the current strategic directions of Council and, as such, are no longer considered valid.

GOVERNMENT & PUBLIC CONSULTATION

6. No public consultation has occurred on this matter and no public advertising is required by the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

7. Clause 2.7 of the *Local Government Act 1995* outlines the role of Council, which specifically includes determining the local government's policies (Clause 2.7(2)(b)).
8. Section 3.58 (2) of the *Local Government Act 1995* (Disposing of Property) states that a Local Government can dispose of property to the highest bidder at public auction, or to the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
9. Section 3.58 (3, 4) of the *Local Government Act 1995* allows for the disposal of property other than by public auction or by tender. It requires Council to give local public notice of its intention to dispose of the property and consider any submissions which are received within the specified period.
10. Section 3.59 of the *Local Government Act 1995* (Commercial Enterprises by Local Governments) states if regulations prescribe that the proposed sale is a major land transaction, the local government is required to prepare a business plan, give state-wide public notice of the plan, allow six weeks for public submissions on the plan, and consider any public submissions before determining to proceed with the sale.

11. Regulation 8A of the *Local Government (Functions and General) Regulations 1996* define a Major Land Transaction is defined as any transaction of an amount of \$10 million or 10% of the operating expenditure from the local government’s municipal fund, whichever is the lesser (which would equate to approximately \$5.6 million in the 2013/14 financial year).
12. Regulation 8 of the *Local Government (Functions and General) Regulations 1996* also set out the exempt land transactions for the purposes of section 3.59 of the Act (i.e. where the Minister has declared the transaction to be exempt because the transaction is not intended to produce profit or that another person will not be given the joint or exclusive use of the land).
13. Regulations 30 and 31 of the *Local Government (Functions and General) Regulations 1996* identify dispositions of property to which section 3.58 of the *Local Government Act 1995* does not apply and an anti-avoidance provision about dispositions.
14. Section 5.45(1)(b) of the *Local Government Act 1995* states that if a delegation is revoked, the decision must be resolved by **absolute majority***

POLICY IMPLICATIONS

15. This item deals with three policies that have been examined in detail in the Discussion section above.

RISK IDENTIFICATION & MITIGATION

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

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Reputation: Public perception that the rescission of these policies will reduce the accountability of Council’s decision making with regard to land dealings.</i> | <i>Possible</i> | <i>Minor</i> | <i>Medium</i> | <i>Address any concerns raised to advise that of the provisions of legislation that must be observed, including public notice periods, and that majority of decisions will be made through the Council meeting process, which is open to the public.</i> |

FINANCIAL IMPLICATIONS

17. There are no financial implications associated with this item.

LEGAL IMPLICATIONS

18. This item has been prepared in close consultation with relevant legislation, ensuring all requirements are considered and documented.

ENVIRONMENTAL CONSIDERATIONS

19. There are no environmental considerations associated with this item.

ALTERNATE OPTIONS

20. Council may support the rescission of these policies or not, though if Council would like them to remain then staff request an opportunity to further review these documents. In the event that the policies are to remain, it is proposed that they be amalgamated into one document to reduce repetition.

SUMMARY CONCLUSION

21. The Council’s policies concerning land dealings were prepared in 2006 and 2008 in a very different economic and political environment. In view of dealings since this time, it is considered that these policies are no longer relevant to the current directions of Council.

22. In addition, much of the content of these policies are procedural and repeat the requirements of various State government legislation. Compliance with this legislation is necessary, irrespective of the existence of a Council policy.
23. As majority of land dealing decisions are made at the Council level, these policies are no longer considered necessary and it is recommended they be rescinded.

| | | |
|-----------------------------------|---|--------------------------------------------------------------------------------------------------------------------------------------------------|
| Consulted References | : | <i>Local Government Act 1995</i> <i>Local Government (Functions and General) Regulations 1996</i> <i>Planning and Development Act 2005</i> |
| File Number (Name of Ward) | : | CM.RVW.5 |
| Previous Reference | : | OCM 18/4/2006 Item 12.7.1 OCM 20/5/2008 Item 12.8.3 OCM 14/12/2010 Item 4.3.11 |

CSF144: QUARTERLY REPORT – TENDERS AWARDED – OCTOBER TO DECEMBER 2014

Proponent : City of Albany
Attachments : Quarterly Report – Tenders Awarded – October to December 2014
Report Prepared by : Procurement Officer (H Hutchinson)
Responsible Officer : Deputy Chief Executive Officer (G Adams)

Responsible Officer's Signature:



RECOMMENDATION

CSF144: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the Quarterly Report – Tenders Awarded – October to December 2014.

CSF144: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be Adopted.

CARRIED 10-0

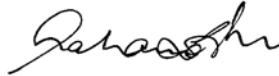
CSF144: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Quarterly Report – Tenders Awarded – October to December 2014.

CSF147: ATTENDANCE BY MAYORAL REPRESENTATIVE AT GALLIPOLI 100 YEAR ANNIVERSARY

Proponent : City of Albany
Report Prepared by : Manager Governance and Risk Management (S Jamieson)
Responsible Officer(s): : Chief Executive Officer (G Foster)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2023](#):
 - a. **Key Theme:** 1. Smart, Prosperous and Growing
 - b. **Strategic Objective:** 1.3. To develop and promote Albany as a unique and sought after visitor destination.
 - c. **Strategic Initiatives:** 1.3.2: Promote Albany as a sought after and iconic tourism destination.

In Brief:

- Endorse the attendance of Deputy Mayor Stocks as the Mayor's representative at Gallipoli 100 Year Anniversary this year.

RECOMMENDATION

CSF147: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ENDORSE the attendance of Deputy Mayor, Councillor Stocks at the Gallipoli 100 Year Anniversary and APPROVE the allocation of the cost of a return flight from the Sister City Visits budget line.

CSF147: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR HORTIN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

CSF147: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ENDORSE the attendance of Deputy Mayor, Councillor Stocks at the Gallipoli 100 Year Anniversary and APPROVE the allocation of the cost of a return flight from the Sister City Visits budget line.

BACKGROUND

2. The City of Albany has a “Friendship Agreement” with Gallipoli based on Albany’s ANZAC military heritage.
3. The Centenary of ANZAC will be commemorated this year on 25 April 2015, which will mark 100 years since the Australian and New Zealand landing on the Gallipoli Peninsula.
4. The Mayor of Gallipoli has extended an invitation to the Mayor of the City of Albany to attend the Gallipoli 100 Year Anniversary.
5. The Mayor is unable to attend, due to presiding over the City of Albany commemorations.
6. Deputy Mayor, Councillor Stocks has offered to attend the Gallipoli Anniversary on behalf of the Mayor.

DISCUSSION

7. Attendance at the Gallipoli 100 Year Anniversary by a City honours the existing agreement.
8. The Mayor will be attending a significant program of events to honour the first ANZACs in Albany over the ANZAC weekend.
9. Deputy Mayor Councillor Stocks is available to attend the Gallipoli 100 Year Anniversary as the City’s representative.

GOVERNMENT & PUBLIC CONSULTATION

10. Nil.

LEGISLATIVE IMPLICATIONS

11. Section 5.34(b) of the *Local Government Act 1995* states in part:
“If the Mayor or President is not available, then the Deputy Mayor may perform the functions of Mayor”.

STATUTORY IMPLICATIONS

12. Nil

POLICY IMPLICATIONS

13. Council Policy: Civic Affiliations, this proposal complements this proposal.

RISK IDENTIFICATION & MITIGATION

14. The risk identification and categorisation relies on the City’s [Enterprise Risk Management Framework](#).

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|--------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------|---------------|--------------------------------------------------------------------------------------------------------|
| <i>Reputation – Non attendance by a representative from the City may be perceived as non commitment to the Friendship Agreement.</i> | <i>Possible</i> | <i>Moderate</i> | <i>Medium</i> | <i>Support the attendance of Deputy Mayor Councillor Stocks at the Gallipoli 100 Year Anniversary.</i> |

FINANCIAL IMPLICATIONS

15. \$5,192 is allocated in the current budget for Sister City visits.
16. The cost of a return flight is expected to be less than \$2,000.
17. The cost of accommodation, meals and transfers will be borne by the host.

LEGAL IMPLICATIONS

18. Nil.

ENVIRONMENTAL CONSIDERATIONS

19. Nil.

ALTERNATE OPTIONS

20. No other alternate options are recommended.

SUMMARY CONCLUSION

21. It is recommended that the attendance is endorsed and the requested contribution be approved.

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

AR010: ACCEPTANCE OF ANNUAL REPORT 2013/2014 & AUDITORS REPORT FOR THE YEAR ENDING 30 JUNE 2014 & ANNUAL GENERAL MEETING OF ELECTORS

Proponent : City of Albany
Attachments : Annual Report 2013/14 (includes: Annual Financial Report for year ended 30 June 2014)
Report prepared by : Manager Finance (D Olde)
Manager Governance & Risk Management (S Jamieson)
Responsible Officer(s): : Deputy Chief Executive Officer (G Adams)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership
 - b. **Strategic Objective:**
 - 5.1. *To establish and maintain sound business and governance structures.*
 - 5.2. *To provide strong, accountable leadership, supported by a skilled and professional workforce.*
 - 5.3. *To engage effectively with our community.*
 - c. **Strategic Initiative:**
 - 5.1.2 *Systems Development and Improvement.*
 - 5.2.1. *By ensuring the City's assets and resources are used to deliver outcomes that are in the best interests of our ratepayers.*
 - 5.3.3. *Community Engagement.*
 - d. **Strategic Outcome:** *Improved financial management.*

In Brief:

- The Committee is required to:
 - Review the Annual Financial Report 2013/14;
 - Review the Management Audit Report for year ended 30 June 2014;
 - Review and Recommend to Council:
 - if the Annual Report 2013/14 be accepted; and
 - determine an appropriate date to hold the Annual General Meeting of Electors.

RECOMMENDATION

**AR010: COMMITTEE RECOMMENDATIONS
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the Committee RECEIVE the Independent Auditor's Report for the year ended 30 June 2014 and ACCEPT the Annual Financial Report 2013/14, which forms part of the Annual Report 2013/14.

THAT Council in accordance with the requirements of:

- (1) Section 5.54 of the *Local Government Act 1995* (the Act) ACCEPT the City of Albany Annual Report for the year ending 30 June 2014.**
- (2) Section 5.27 of the Act an Annual General Meeting of Electors be held in the Council Chambers located at 102 North Road Yakamia WA 6330 at 6.30pm, on Thursday 19 March 2015 for the purpose of receiving the 2013/2014 City of Albany Annual Report and other General Business as listed.**

AR010: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR CALLEJA
SECONDED: MAYOR WELLINGTON**

THAT the Responsible Officer Recommendations be ADOPTED.

CARRIED 5-0

AR010: RESPONSIBLE OFFICER RECOMMENDATIONS

THAT the Committee RECEIVE the Independent Auditor's Report for the year ended 30 June 2014 and ACCEPT the Annual Financial Report 2013/14, which forms part of the Annual Report 2013/14.

THAT Council in accordance with the requirements of:

- (1) Section 5.54 of the *Local Government Act 1995* (the Act) ACCEPT the City of Albany Annual Report for the year ending 30 June 2014.**
- (2) Section 5.27 of the Act an Annual General Meeting of Electors be held in the Council Chambers located at 102 North Road Yakamia WA 6330 at 6.30pm, on Thursday 19 March 2015 for the purpose of receiving the 2013/2014 City of Albany Annual Report and other General Business as listed.**

BACKGROUND

2. An Annual Financial Report is required to be compiled and subsequently audited, under the *Local Government Act 1995* and various Local Government regulations.
3. Post acceptance of the Annual Report (which includes the Annual Financial Report), Council is required to convene an Annual General Meeting of Electors.

DISCUSSION

4. An onsite visit and audit of the Annual Financial Report 2013/2014 was conducted by three employees of UHY Haines Norton (Auditors) during the period 7 to 10 October 2014.
5. Six items listed in the Annual Financial Report required a prior period correction.
6. **Note 36** to the accounts of the Annual Financial Report, lists the six items:
 - a. **Items 1 and 2** relate to the change in treatment of assets, from historical cost to fair value.
 - b. **Item 3** deals with the change in intention regarding ownership of the Albany Entertainment Centre (AEC). After discussion with the auditors, it was agreed that the capital contribution the City made to the construction of this asset, previously carried as an asset by the City, should be adjusted to be simply a cash contribution to a third party.
 - c. **Item 4** is a correction in the accounting treatment of prepaid rates.
 - d. **Item 5** is a change in value of units the City owns in the Local Government Unit Trust, from original cost to fair value.
 - e. **Item 6** is the result of a review of the funds held in trust by the City. After discussion with the auditors, and reviewing the nature of the balances held, an adjustment has been made to show the correct accounting treatment of these funds.
7. The independent auditor's report is shown in the annual financial report. This report is unqualified.

GOVERNMENT & PUBLIC CONSULTATION

8. Public consultation is facilitated by the conduct of the Annual General Meeting of Electors.

STATUTORY IMPLICATIONS

9. In accordance with section 7.9 of the Act, an audit is required to examine the accounts and Annual Financial Report prepared for the Mayor, the CEO and the Minister.
10. Under the Audit and Risk Committee – Terms of Reference, the committee is to review the audit report and make appropriate recommendations to Council.
11. Section 5.54 of the Act, states in part: The Annual Report (which includes auditor's report) is to be accepted by the local government no later than 2 months after the auditor's report becomes available.
12. The auditor's report was made available on 19th December 2014.
13. Section 5.27 of the Act, requires that a General Meeting of the electors of a district be held once every financial year, not more than 56 days after the local government accepts the annual report for the previous financial year, and any other nominated general business.
14. The CEO is required to give at least 14 days local public notice of an electors meeting.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

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

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

18. The City has received an unqualified auditor's report, therefore there are no legal implications related to this report.

ENVIRONMENTAL CONSIDERATIONS

19. There are no direct environmental considerations related to this report.

ALTERNATE OPTIONS

20. Council may chose to accept, accept with minor amendments or reject.

SUMMARY CONCLUSION

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

| | | |
|-----------------------------------|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consulted References | : | <ul style="list-style-type: none"> Local Government Act 1995 (the Act); Local Government (Administration) Regulations 1996, Revised Operational Guideline No. 09 'Audit in Local Government,' available on the Department's website: www.dlg.wa.gov.au (September 2013). |
| File Number (Name of Ward) | : | <ul style="list-style-type: none"> IM.PUB.24 (All Wards) – Publication - Annual Budget – City of Albany FM.MEE.3 (All Wards) – Meetings – Audit & Risk Committee |
| Previous Reference | : | <ul style="list-style-type: none"> SCM 24/11/2013 – Items SCM001, SCM002, SCM003 |

AR011: ANNUAL COMPLIANCE AUDIT RETURN (CAR) 2014

Proponent : City of Albany
Attachments : Compliance Audit Return (CAR) 2014
Report prepared by : Manager Governance & Risk Management (S Jamieson)
Responsible Officer(s): : Deputy Chief Executive Officer (G Adams)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership
 - b. **Strategic Objective:** 5.1. To establish and maintain sound business and governance structure.
 - c. **Strategic Initiative:** Nil

In Brief:

- For adoption by Council following review by the Audit and Risk Committee.

RECOMMENDATION

**AR011: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

- (1) That a Certified Copy of the Compliance Audit Return for the period 1 January 2014 to 31 December 2014 be **ENDORSED** by Council and any additional information explaining or quantifying the compliance audit is to be submitted to the Director General of the Department of Local Government and Communities before 31 March 2015.
- (2) Council **NOTE** the areas of non compliance.

AR011: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR CALLEJA
SECONDED: COUNCILLOR HOLLINGWORTH**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 5-0

AR011: RESPONSIBLE OFFICER RECOMMENDATION

- (1) That a Certified Copy of the Compliance Audit Return for the period 1 January 2014 to 31 December 2014 be ENDORSED by Council and any additional information explaining or quantifying the compliance audit is to be submitted to the Director General of the Department of Local Government and Communities before 31 March 2015.
- (2) Council NOTE the areas of non compliance.

BACKGROUND

2. Each local government is required to carry out a compliance audit in relation to the period 1 January 2014 to 31 December 2014 against the requirements set out in the 2014 CAR.

DISCUSSION

3. The CAR must be reviewed by the Audit and Risk Committee, prior to adoption of the CAR by Council.
4. Areas of non compliance and additional information are detailed below:

| Report Item | Details/Comment/Action taken |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Disclosure of Interest. No. 1.</p> <p>Reference: s5.67</p> <p>Question: If a member disclosed an interest, did he/she ensure that they did not remain present to participate in any discussion or decision making procedure relating to the matter in which the interest was disclosed (not including participation approval granted under s5.68).</p> <p>Response: No</p> | <p>Reference: OCM 25/11/2014, Report Item PD058.</p> <p>The minutes identify that a proximity interest was declared, however the member remained present for the discussion and vote.</p> <p>Council was requested to consider the proposed permanent closure of the intersection of Flynn Way and Lower King Road, Bayonet Head.</p> <p>The subject member resides on one of the subject roads.</p> <p>The Council resolved to close the intersection of Flynn Way and Lower King Road. Carried 12-0.</p> <p>Note: Subject member should have declared an impartiality interest not a proximity interest, as the interest does not qualify as a proximity interest:</p> <p>5.60B. Proximity interest</p> <p>(1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —</p> <p>(a) a proposed change to a planning scheme affecting land that adjoins the person’s land; or</p> <p>(b) a proposed change to the zoning or use of land that adjoins the person’s land; or</p> <p>(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person’s land.</p> <p>(2) In this section, land (the proposal land) adjoins a person’s land if —</p> <p>(a) the proposal land, not being a thoroughfare, has a common boundary with the person’s land; or</p> <p>(b) the proposal land, or any part of it, is directly across a thoroughfare from, the person’s land; or</p> <p>(c) the proposal land is that part of a thoroughfare that has a common boundary with the person’s land.</p> |

| | |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>(3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.</p> <p>Action taken:</p> <p>Council advised to note for future reference: Action required: Council note that if a proximity or financial interest is declared that the member is obligated to leave the meeting or make application to participate in accordance with the <i>Local Government Act 1995</i>.</p> |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

| Report Item | Details/Comment/Action taken |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Disclosure of Interest. No. 12 Reference: s5.46(2)</p> <p>Question: Were all delegations made under Division 4 of Part 5 of the Act reviewed by the delegator at least once during the 2013/2014 financial year.</p> <p>Response: Yes</p> | <p>Additional Information: Reference: OCM 24/06/2014 Report Item CSF094</p> |
| <p>Disclosure of Interest. No. 16 Reference: s5.103(3) Admin Reg 34B.</p> <p>Question: Has the CEO kept a register of all notifiable gifts received by Council members and employees.</p> <p>Response: Yes</p> | <p>Additional Information: Staff are encouraged to report all gifts.</p> |
| <p>Local Government Employees. No. 5 Reference: s5.37(2)</p> <p>Question: Did the CEO inform council of each proposal to employ or dismiss a designated senior employee.</p> | <p>Additional Information: All contract renewals were presented to Council for endorsement.</p> <p>Reference: OCM 16/12/2014 Report Item CSF138 – Executive Director Planning and Development</p> <p>Reference: OCM 25/2/2014 Report Item CSF057 – Deputy Chief Executive Officer</p> |
| <p>Official Conduct. No. 1 Reference: s5.120</p> <p>Question: Where the CEO is not the complaints officer, has the local government designated a senior employee, as defined under s5.37, to be its complaints officer.</p> <p>Response: Yes</p> | <p>Additional Information:</p> <p>Reference: OCM 25/2/2014 Report Item CSF057 – Deputy Chief Executive Officer. Council resolved:</p> <p>That Council:</p> <ul style="list-style-type: none"> • APPOINT the Executive Director Corporate Services, Mr Garry Adams as the Deputy Chief Executive Officer. • ENDORSE the employment title change from: Executive Director Corporate Services to Deputy Chief Executive Officer. • NOTE that the Deputy Chief Executive Officer will perform the prescribed functions of the Chief Executive Officer in his absence. • APPROVE the amendment to the existing contract, enacting a five year term with effect 25 February 2014. • DESIGNATE the Deputy Chief Executive Officer as a "Senior Employee", under the provisions of the Local Government Act 1995, s5.37(1). |

| | |
|--|------------------------------------------------------------------------------------------------------------------------|
| | Notice of Complaints Officer Details Form submitted to the Standards Panel on 9/06/2014. Synergy Reference: EF1489410. |
|--|------------------------------------------------------------------------------------------------------------------------|

GOVERNMENT & PUBLIC CONSULTATION

- Guidance has been communicated by the Department of Local Government & Communities (DLGC) via government circulars, guidelines and direct contact.

STATUTORY IMPLICATIONS

- Compliance audits by local governments.** Prescribed actions are detailed at Regulation 14 of the *Local Government (Audit) Regulations 1996*.
- The return is to be signed by the Mayor and the CEO prior to it being forwarded to the Department by 31 March 2015.

POLICY IMPLICATIONS

- Nil

RISK IDENTIFICATION & MITIGATION

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

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|----------------------------------------------------------------------------------------------------|-----------------|--------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <i>Legal and Compliance.</i> <i>The Compliance Annual Return (CAR) not endorsed by Council.</i> | <i>Unlikely</i> | <i>Minor</i> | <i>Low</i> | <i>Extension of time requested from the Department.</i> <i>CAR represented for adoption once concerns are adequately addressed.</i> |

FINANCIAL IMPLICATIONS

- Nil

LEGAL IMPLICATIONS

- Nil

ENVIRONMENTAL CONSIDERATIONS

- Nil

ALTERNATE OPTIONS

- Nil

SUMMARY CONCLUSION

- Nil

| | | |
|-----------------------------------|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consulted References | : | <ul style="list-style-type: none"> <i>Local Government Act 1995</i> <i>Local Government (Audit) Regulations 1996</i> <i>Department Circular: 35-2014</i> <i>Revised Operational Guideline No. 09 'Audit in Local Government,' available on the Department's website: www.dlg.wa.gov.au (September 2013).</i> |
| File Number (Name of Ward) | : | (All Wards) |
| Previous Reference | : | OCM 25/03/2014 Item AR002 |

AR012: INTERNAL AUDIT FOCUS AREAS 2014/15

Business Entity Name : City of Albany
Attachments : Nil
Report Prepared by : Manager Governance & Risk Management (S. Jamieson)
Manager Finance (D. Olde)
Responsible Officer : Deputy Chief Executive Officer (G. Adams)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership
 - b. **Strategic Objective:** 5.1. To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** Nil.

In Brief:

- Note the internal audit focus areas for 2014/15.

RECOMMENDATION

AR012: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council NOTE the Internal Audit Focus Areas for 2014/15.

AR012: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR CALLEJA

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 5-0

AR012: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council NOTE the Internal Audit Focus Areas for 2014/15.

BACKGROUND

2. Internal audit is an important element of our governance structure. It gives Council and the Executive Management Team independent assurance that a robust internal control structure is in place and our outputs are operating effectively, efficiently and lawfully.
3. The objective of this report is to provide the Audit and Risk Committee with an update on the next round of internal control checks.

DISCUSSION

4. The internal audit complements the Audit & Risk Committee's responsibilities prescribed under Regulation 17 of the *Local Government (Audit) Regulations 1996*.
5. The next internal audit will commence in February 2015 and focus on policy and procedures related to administering the following functions:
 - a. **Revenue**
 - (i) Rates revenue
 - (ii) Government grants and other funding sources
 - (iii) User pays revenue:
 - Albany Visitors Centre (AVC)
 - National Anzac Centre (NAC)
 - Vancouver Arts Centre (VAC)
 - b. **Current Assets**
 - (i) Bank and short term investments
 - (ii) Receivables (Rates and Other Debtors)
 - c. **Procurement**
 - (i) Quotes and tenders
 - d. **Statutory Compliance**
 - (i) Fines and infringement management
 - (ii) Compliance with the *Local Government Act 1995* and local laws.

GOVERNMENT & PUBLIC CONSULTATION

6. Consultation was conducted with the UHY Haines Norton, Senior Advisory Services.

STATUTORY IMPLICATIONS

7. Regulation 17 of the *Local Government (Audit) Regulations 1996* states:

“(1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —

 - (a) risk management; and*
 - (b) internal control; and*
 - (c) legislative compliance.*

(2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.

(3) The CEO is to report to the audit committee the results of that review.”

8. Section 7 of the Department's Western Australian Local Government Accounting Manual provides a comprehensive internal control framework related to internal control and risk management.

POLICY IMPLICATIONS

9. Nil.

RISK IDENTIFICATION & MITIGATION

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

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|-------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Business Interruption. Self evaluation may expose the City to unidentified risk. "You don't know what you don't know!"</i> | <i>Possible</i> | <i>Major</i> | <i>High</i> | <p>An external auditor is engaged to conduct the internal audit to ensure an independent critique.</p> <p>The results of this report are then reported to the Executive Management Team and Audit & Risk Committee to ensure appropriate actions are taken to mitigate identified risks.</p> |

FINANCIAL IMPLICATIONS

11. Nil.

LEGAL IMPLICATIONS

12. Nil.

ENVIRONMENTAL CONSIDERATIONS

13. Nil.

ALTERNATE OPTIONS

14. Nil.

SUMMARY CONCLUSION

15. Nil.

| | | |
|-----------------------------------|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consulted References | : | <ul style="list-style-type: none"> Local Government Act 1995 Local Government (Audit) Regulations 1996 Revised Operational Guideline No. 09 'Audit in Local Government,' available on the Department's website: www.dlg.wa.gov.au (September 2013). |
| File Number (Name of Ward) | : | CM.AUD.1 – Corporate Management – Audit – Internal Audit (All Wards) |
| Previous Reference | : | AR007 |

WS061: COASTWEST FUNDING – EMU POINT COASTAL PARKS – OCEAN SIDE REVEGETATION

Land Description : Emu Beach – R22698
Proponent : City of Albany
Owner : Crown land – Management Order City of Albany
Report Prepared by : Co-ordinator Developed Reserves (J Purvis)
Responsible Officer(s): : Executive Director Works & Services (M Thomson)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2014-2018](#):
 - a. **Key Theme:** 2. Clean, Green & Sustainable.
 - b. **Strategic Objective:** 2.1. To protect and enhance our natural environment.
 - c. **Strategic Initiative:** 2.1.2. Erosion protection and adaption

In Brief:

- Council has received an offer of funding from WAPC Coastwest Grants totalling \$19,000 for revegetation of the coastal dunes at Emu Beach.
- Council is requested to approve the creation of a budget line for the project.

RECOMMENDATION

WS061: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council:

- (1) **NOTE** the offer of funding totalling \$19,000 from WAPC Coastwest Grants for revegetation of the coastal dunes at Emu Beach, and;
- (2) **APPROVES** the creation of an appropriate budget line item for this purpose.

WS061: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BOWLES
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

WS061: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- (1) NOTE the offer of funding totalling \$19,000 from WAPC Coastwest Grants for revegetation of the coastal dunes at Emu Beach, and;
- (2) APPROVES the creation of an appropriate budget line item for this purpose.

BACKGROUND

2. The City of Albany submitted an application to the West Australian Planning Commission for their Coast West Grants in June 2014 for revegetation of the coastal dunes at Emu Beach as part of the Coastal Parks Enhancement Plan (CPEP).
3. This application was successful.

DISCUSSION

4. One of the short term goals within the CPEP is the consolidation of access tracks and revegetation to protect dune vegetation at Emu Beach which will reduce informal access, and address erosion in that location.
5. This project will add value to the CPEP and provide good environmental outcomes as the coastal dune system requires erosion and wind barriers to the Regional Open Space. Higher visitation to these areas is envisaged in the future.
6. The Friends of Emu Point, other community members and local schools will be given opportunities to be involved in planting days and manual weed control. These will be undertaken on significant days such as World Environment Day and National Tree Day.
7. The project is to be completed by February 2016.

GOVERNMENT & PUBLIC CONSULTATION

8. This project was included as part of the consultation undertaken as part of the CPEP.
9. The project has also been referred to the South West Aboriginal Land and Sea Council for consideration and no concerns were raised.

STATUTORY IMPLICATIONS

10. Under the *Local Government Act 1995*, Section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
- Is incurred in a financial year before the adoption of the annual budget by the local government
 - Is authorised in advance by a resolution (absolute majority required) or
 - Is authorised in advance by the Mayor in an emergency.

POLICY IMPLICATIONS

11. There are no policy implications relating to this matter.

RISK IDENTIFICATION & MITIGATION

12. The risk identification and categorisation relies on the City's [Enterprise Risk Management Framework](#).

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|-------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------|---------------|---------------------------------------------------------------------------------------|
| Environment: <i>Revegetation work is not undertaken resulting in further degradation of the dunal systems</i> | <i>Possible</i> | <i>Moderate</i> | <i>Medium</i> | <i>City continues to maintain access tracks within current maintenance resources.</i> |

FINANCIAL IMPLICATIONS

13. The City's contribution to this project comprises in-kind staff time as project manager, chemicals for weed control, as well as \$16,400 monetary component from Reserves Planning 15/16 budget.
14. The amendments to the budget will occur during the budget review process.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

16. An internal City of Albany environmental assessment will be completed once the project is fully scoped. However, it is anticipated that no major concerns will be raised.

ALTERNATE OPTIONS

17. The Council may elect to not accept the funding of \$19,000 from WAPC Coastwest.

SUMMARY CONCLUSION

18. This project will allow for one of the short term goals under the CPEP to be completed within the timeframe set under the plan. It will also add value to the Emu Point Coastal Adaptation Works by protecting the dune system within this location.

| | | |
|-----------------------------------|---|----------|
| Consulted References | : | Nil |
| File Number (Name of Ward) | : | PR.DEC.9 |
| Previous Reference | : | Nil |

WS062: CONTRACT P14021 - WASTE AND RECYCLING COLLECTION SERVICES

Proponent : City of Albany
Attachments : Evaluation Report - Confidential
Report Prepared by : Manager City Operations (M Richardson)
Responsible Officer : Executive Director Works and Services (M Thomson)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 2. Clean, Green and Sustainable
 - b. **Strategic Objective:** 2.3 To advocate for and support “green” initiatives within our region
 - c. **Strategic Initiative:** 2.3.1 Waste Management

In Brief:

- Approval is sought to accept a tender award for Waste and Recycling Collection Services.
- Three complying tenders received with Transpacific Cleanaway being the preferred contractor.
- The contract is to commence 1 July 2015.

RECOMMENDATION

WS062: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ACCEPT the Tender from Transpacific Cleanaway for Contract P14021 Waste and Recycling Collection Services, subject to negotiation of final terms and conditions.

WS062: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

WS062: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ACCEPT the Tender from Transpacific Cleanaway for Contract P14021 Waste and Recycling Collection Services, subject to negotiation of final terms and conditions.

BACKGROUND

2. In 2004 the City awarded contract C02061 to Transpacific Cleanaway for the provision of Waste Minimisation Services. The contract has used all options for extension and expires 30 May 2015.
3. Services within the contract include kerbside waste and recycling collection, management of rural transfer station operations, operation of the Materials Recovery Facility, employment of the City's education officer and the cleaning of public toilets.

DISCUSSION

4. In line with Council's Strategic Waste Management Plan 2013 the current waste contract has been reviewed and a new contract for waste services prepared for quotation utilising the WALGA panel of suppliers.
5. The review established that the services delivered in the current contract would be better delivered if the waste and cleaning components are separated to attract offers from specialist contractors in these fields in particular local contractors.
6. The cleaning contract will be advertised for tender in mid-February 2015.
7. The review also identified services that are potentially better delivered and more cost efficient to be provided in-house better utilising landfill staff. These services include the management of the Tip Shop and the transfer of hook lift bins from the rural transfer stations.
8. Planning has commenced for the handover of these services to the City. The process of procuring a hook lift truck has commenced, staffing requirements and operational processes are being assessed and consideration given to the immediate recruitment of a Waste Project/Education Officer. The Waste Project/Education Officer will oversee the direction of the contractor's education officer and deliver the actions recommended in Council's regional and strategic waste management plans. This role will also maximise the City's opportunities with respect to funding through the Waste Authority.
9. A request for quotations for Waste and Recycling Collection Services was issued through the WALGA panel of suppliers on 11 November 2014 with quotations closing 2pm, 7 January 2015.
10. A mandatory briefing session was held 17 November 2014 with six waste contractors represented.
11. Three contractors, Transpacific Cleanaway, Warren Blackwood Waste and SITA Australia made submissions. SITA Australia also provided an alternative offer.
12. Due to the complex nature of the contract, quotations were evaluated using the WALGA "Value for Money" model. The "Value for Money" model places importance on the compliance with the contract specification rather than obtaining the lowest price, particularly taking into account user requirements quality standards, sustainability, life cycle costing and service benchmarks.

13. Evaluations were conducted by the Executive Director Works and Services, Manager City Operations, Waste Management Operations Coordinator and waste consultant Talis Consultants.
14. While the contract submission format is largely a schedule of rates that can be directly compared, information regarding tenderers capital investment and the development of the Materials Recovery Facility (MRF) required a deeper analysis to ensure value for money.
15. Tenderers were requested to provide a list of upgrades to the MRF to enable it to improve the recycling rate and also allow for a greater capacity to accept commercial recycling. Improvements proposed by tenderers in their submissions included new sorting equipment, extensions to sheds and the construction of new loading areas.
16. All investment costs in the MRF are reflected in the recycling collection rate. The MRF becomes the City's asset at the end of the contract period.
17. The contract tenure is 5 years with options for extension of 2 + 2 + 1 year periods.
18. The following table lists the evaluation criteria and their weighting.

| Criteria | % Weight |
|-------------------------------------|-----------------|
| MRF Operations | 40 |
| Community Education Planning | 5 |
| Relevant Experience | 20 |
| Respondent's Resources | 15 |
| Key Personnel Skills and Experience | 10 |
| Corporate Social Responsibility | 10 |
| TOTAL | 100 |

19. On the basis of the total evaluation score which considers best "value for money" based on price and qualitative criteria Transpacific Cleanaway scored highest and consequently is the preferred contractor.
20. A "Commercial in Confidence" report (Attachment 1) provides further detail to the evaluation process and the individual elements of each submission.
21. Transpacific Cleanaway are the incumbent contractor and have provided a very good service over the life of the current contract.

GOVERNMENT & PUBLIC CONSULTATION

22. Not applicable.

STATUTORY IMPLICATIONS

23. Regulation 11 of the Local Government (Functions and General) Regulations 1996 (Regulations) requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$100,000.
24. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
25. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council's decision.

26. The Waste Avoidance and Resource Recovery (WARR) Act 2007 Part 6 Division 1 requires Local Government to provide a waste management service.
27. Part 4 Division 2 of the City of Albany Health Local Laws 2001 provides for the delivery a waste collection service.

POLICY IMPLICATIONS

28. The City of Albany Tender Policy and Regional Price Preference Policy are applicable to this item.
29. The current delegation allows the Chief Executive Officer to accept tenders up to the value of \$1,000,000 if utilising the WALGA panel of suppliers. On this occasion the contract value exceeds \$1,000,000, therefore a Council resolution is required prior to accepting a tender and entering into Contract.

RISK IDENTIFICATION & MITIGATION

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

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|-----------------------------------------------------------------------------------------------------------|-------------------|--------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| Financial. <i>Significant operational function not providing best value for money outcomes.</i> | <i>Possible</i> | <i>Major</i> | <i>High</i> | <i>Adopt value for money evaluation. Utilise WALGA panel of suppliers under commercially tested contract arrangements.</i> |
| Business Interruption. <i>Non-compliance with contract or business failure</i> | <i>Possible</i> | <i>Major</i> | <i>High</i> | <i>Evaluate contractor business continuity plans and resources' to ensure implemented through Contract processes.</i> |

FINANCIAL IMPLICATIONS

31. The Waste and Recycling Collection contract is funded by Council's annual waste levy and from the Waste Reserve.

LEGAL IMPLICATIONS

32. Not applicable

ENVIRONMENTAL CONSIDERATIONS

33. Not applicable.

ALTERNATE OPTIONS

34. Council can accept or reject the quotations submitted.

SUMMARY CONCLUSION

35. On reviewing the tender the evaluation team assessed that the Transpacific Cleanaway submission offers Council the most competitive "value for money" service based on cost, MRF investment and qualitative criteria.

| | | |
|-----------------------------------|---|---------------------|
| Consulted References | : | NA |
| File Number (Name of Ward) | : | NA |
| Previous Reference | : | OCM 24/9/2013 WS005 |

WS063: ALBANY HIGHWAY SHARED PATHWAY

| | |
|----------------------------|-----------------------------------------------------|
| Land Description | : Albany Highway Shared Pathway |
| Proponent | : City of Albany |
| Owner | : City of Albany |
| Report Prepared by | : Senior Civil Engineering Officer (A Greenwood) |
| Responsible Officer | : Executive Director Works and Services (M Thomson) |

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 2. Clean Green & Sustainable.
 - b. **Strategic Objective:** 2.2. To maintain and renew City assets in a sustainable manner.
 - c. **Strategic Initiative:** 2.2.1. Asset management.

In Brief:

- Through consultation with relevant stakeholders, surface treatment options have been reviewed from that originally proposed for this project resulting in an additional cost.
- The change in surface treatment, in particular the colour, will have a positive impact on the project.

RECOMMENDATION

WS063: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council:

- (1) **ADOPT** the red asphalt surface treatment for the Albany Highway Shared Use Path project,
- (2) **NOTE** the over budget expenditure as detailed in this report.
- (3) **NOTE** the proposed development of a Policy with respect to surface treatments of cycle infrastructure.

WS063: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BOWLES

SECONDED: COUNCILLOR HOLLINGWORTH

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

WS063: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- (1) ADOPT the red asphalt surface treatment for the Albany Highway Shared Use Path project,
- (2) NOTE the over budget expenditure as detailed in this report.
- (3) NOTE the proposed development of a Policy with respect to surface treatments of cycle infrastructure.

BACKGROUND

2. The Albany Highway Share Use Path - Western alignment, involves the construction of an off road shared path from 130 metres northwest of York Street to Chester Pass Roundabout.
3. It has been budgeted for in two parts –
 - a. Job 3387 Albany Highway dual use path – Chester Pass Road to Verdi Street – budget \$460,000, and
 - b. Job 3388 Albany Highway dual use path – Verdi Street to 130m NW of York Street – budget \$220,000;with funding allocated from both the Regional Bicycle Network (RBN) Program and State Initiatives funding (administered by Main Roads WA) and Council funds.
4. The project has been designed in accordance with the funding requirements as an off road asphalt shared use path with a black surface treatment (similar to an urban road surface treatment).
5. Given the prominence of the project, and through more recent consultation with relevant stakeholders, the preferred surface treatment for this project has been identified as “red” asphalt.

DISCUSSION

6. The provision of a shared path along Albany Highway from York Street to Hanrahan Road was identified in the recently adopted Cycle City Albany (2014-2019) Strategy and is one of the most prominent and high priority projects.
7. The project is being outsourced and the procurement process is complete. The current scope of work (ie. black asphalt surface treatment) will see the project completed, although it will be over budget by approximately \$75,000 across the two budget line items. Work is scheduled to commence in February 2015.

8. To surface the path with red asphalt will cost an additional \$60,000, therefore increasing the total projected project over spend to \$135,000 (over the two budget line items).
9. From a technical perspective, the current design is adequate and will conform to current standards for this type of infrastructure. It also complies with the funding agreement.
10. Through the issue of a contract variation, the City can change the colour of the surface treatment without impacting on the project schedule.
11. From a cost benefit perspective there is considerable merit in choosing a red asphalt treatment in lieu of black. These are:
 - a. The red asphalt is considered aesthetically a better option;
 - b. Red asphalt clearly identifies the path as a significant link in the network;
 - c. With the surface treatment carrying through driveways and crossovers, the contrasting colour of the red will provide clear delineation to the path through these points of conflict reducing the confusion of who has right of way.
12. Concrete is another alternative treatment although this was not the selected treatment in the Albany Cycle City strategy and would be at odds with the funding agreement. The capital cost difference is not considerable therefore concrete would be the preferred option on less prominent paths due to its longevity properties.
13. The red asphalt option would have no impact on the funding agreement and on the above basis is considered the most appropriate option.

GOVERNMENT & PUBLIC CONSULTATION

14. Widespread community consultation was undertaken as part of the Cycle City Albany (2014-2019) Strategy with many respondents suggesting that coloured surface treatments be used to enhance the visual impact of cycle infrastructure.
15. City of Albany recently hosted a Project Control Group meeting with representation from the cycling community with the aim of developing a preferred position on the use of coloured surface treatments for cycle infrastructure.
16. It was recommended that Primary Distributor paths (such as Albany Highway), are surfaced with red asphalt to increase their prominence and safety especially as they cross conflict points where there is interaction with motor vehicles. Asphalt surfacing on prominent routes is preferred due to its ride-ability properties.
17. City staff propose to introduce better consistency over the network in this regard and will prepare a policy document for consideration in due course. This will outline the surface treatment options and how they will be applied across the path network.

STATUTORY IMPLICATIONS

18. Local Government Act 1995, Section 33A – projected over budget expenditure will be addressed in the next budget review.

POLICY IMPLICATIONS

19. There is currently no policy with regard to surface treatments of this infrastructure. A policy which will introduce a consistent approach is being prepared by City staff and will be presented for consideration in due course.

RISK IDENTIFICATION & MITIGATION

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

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|--------------------------------------------------------------------------------------------------------------------------|-----------------|--------------|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Community. <i>A constructed path in black asphalt is poorly received by the some sectors of the community.</i> | <i>Likely</i> | <i>Minor</i> | <i>Medium</i> | <i>Re iterate that coloured surface treatments are cost prohibitive and detail the inherent benefits of the path as proposed.</i> <i>Council approves construction in red asphalt.</i> |
| Financial. <i>Budget overruns impacting on delivery of other projects.</i> | <i>Possible</i> | <i>Minor</i> | <i>Medium</i> | <i>Budget overruns occur as well as budget underspends which are addressed during the budget review process.</i> |

FINANCIAL IMPLICATIONS

21. If approved, the over spend of approximately \$135,000 will be covered by savings in other projects which will be detailed in the next budget review.

22. The next budget review is due for presentation to Council in March 2015.

LEGAL IMPLICATIONS

23. The City has signed an agreement with Department of Transport which details timelines, acquittal conditions, construction materials and standards. Any variation to this requires prior written approval.

ENVIRONMENTAL CONSIDERATIONS

24. There are no clearing permits required for the works.

ALTERNATE OPTIONS

25. Council may have a preference for one of the following:
- a. Using the current design (black asphalt) scale the project back through the issue of a contract variation to meet the current budget. This will require approval from the funding agency and may impact on funding provided.
 - b. Using the red asphalt design scale the project back (as above) to meet the current budget. This would mean a more significant reduction in the length of work completed. Again approval from the funding agency will be required.
 - c. Progress the project as per the current scope (black asphalt) and the \$75,000 projected overspend be addressed during the normal budget review process.
 - d. Proceed with the full extent of works with the red asphalt surface treatment and the \$135,000 project budget overspent be addressed as per above. This is the recommended option.

SUMMARY CONCLUSION

26. There is a preference to increase the scope of the current Albany Highway Shared Use Path project to include a coloured (red) asphalt treatment resulting in additional cost. While not critical to the project, there are considerable benefits in Council adopting this approach.
27. This report recommends that the project scope be amended to include red asphalt in lieu of black.

| | | |
|-----------------------------------|---|----------------------------------------------------------------------------|
| Consulted References | : | Adopted Budget 2014-15 <u>Local Government Act 1995</u> |
| File Number (Name of Ward) | : | GS.PRG.16 (All Wards) |
| Previous Reference | : | OCM 22.07.14 item CSF101; OCM 26.08.14 item CSF112 |

**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: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

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).**

PD066: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR HORTIN
SECONDED: COUNCILLOR WILLIAMS**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

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 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Organisational Operations and Reputation <i>Supporting this proposal could set an undesirable precedent and lead to other landowners seeking to rezone or develop agricultural land for industrial purposes.</i> | <i>Possible</i> | <i>Minor</i> | <i>Medium</i> | <i>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, would guide Council's decision-making in other instances.</i> |
| Organisational Operations and Reputation <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> |
| Community, Organisational Operations and Reputation <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> |
| Community, Environment and Reputation <i>This proposal could generate impacts on the amenity of adjoining properties through emissions of noise, dust and/or odour.</i> | <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.

| | | |
|-----------------------------------|---|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consulted References | : | 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 |
| File Number (Name of Ward) | : | LAMD4 (Kalgan Ward) |
| Previous Reference | : | 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: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

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.

PD067: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR HOLLINGWORTH

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

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 'Rural Residential' zone and the designation of an additional use site over a portion of Lot 973. The 'Rural Residential' zone is intended to provide for large residential lots of between 2000m² 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 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Organisational Operations and Reputation <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> |
| Organisational Operations and Reputation <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> |
| Community, Organisational Operations and Reputation <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

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.

| | | |
|-----------------------------------|---|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consulted References | : | <ol style="list-style-type: none"> 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 |
| File Number (Name of Ward) | : | LAMD7 (Kalgan Ward) |
| Previous Reference | : | 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 | : | Nil |
| 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 (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

**PD068: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

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.**

PD068: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR BOWLES
SECONDED: COUNCILLOR WILLIAMS**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

PD068: 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 7,566m² 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 |
|-------------------------------------------------------------------------------------------------------------|-----------------|--------------|---------------|--------------------------------------------------------------------------------------------------------------------------------|
| <i>Financial 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.

| | | |
|-----------------------------------|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consulted References | : | <ol style="list-style-type: none"> 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 3 6. Town Planning Scheme No. 1A (superseded) |
| File Number (Name of Ward) | : | LAMD2 (Breaksea Ward) |
| Previous Reference | : | <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 : 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 (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: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

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.**

PD069: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

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 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Organisational Operations and Reputation <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> |
| Community, Organisational Operations and Reputation <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.

| | | |
|-----------------------------------|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consulted References | : | 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. |
| File Number (Name of Ward) | : | LAMD13 (All Wards) |
| Previous Reference | : | 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 : Albany Local Planning Strategy Excerpts
: 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
(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: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

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.

PD070: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR WILLIAMS
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

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 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Organisational Operations and Reputation <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> |
| Organisational Operations and Reputation <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> |
| Community, Organisational Operations and Reputation <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.

| | | |
|-----------------------------------|---|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consulted References | : | 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 |
| File Number (Name of Ward) | : | LAMD6 (Kalgan Ward) |
| Previous Reference | : | 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 (A Bott)
Responsible Officer : Executive Director Planning and Development
(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

**PD071: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

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.

PD071: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

PD071: 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 2000m² 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 2000m² 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 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Organisational Operations and Reputation <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> |
| Community, Organisational Operations and Reputation <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.

| | | |
|-----------------------------------|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consulted References | : | 1. Planning and Development Act 2015 2. Local Planning Scheme No. 1 3. Albany Local Planning Strategy 2010 4. City of Albany Strategic Community Plan 2023 5. City of Corporate Business Plan 2013-2017 6. Draft Country Sewerage Policy 7. WA Planning Commission (WAPC) State of Planning Policy (SPP) SPP 3.1 Residential Design Codes |
| File Number (Name of Ward) | : | LAMD10 (Kalgan Ward) |
| Previous Reference | : | NIL |

**PD074: PLANNING AND BUILDING REPORTS DECEMBER 2014 AND
JANUARY 2015**

Proponent : City of Albany
Attachment : Planning and Building Reports December 2014 and January
2015
Report Prepared By : Council Liaison Officer (J Williamson)
Responsible Officer(s): : Executive Director Planning & Development Services
(D Putland)

Responsible Officer's Signature:



RECOMMENDATION

PD074: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

**THAT Council NOTE the Planning and Building Reports for December 2014 and January
2015.**

- 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 Nil**
- 17. MEETING CLOSED TO PUBLIC.**

CS017: Funding Request-Albany Senior Citizens Centre

CSF145: Renew Senior Employee Contract-Executive Director Works and Services

CSF146: Proposed Land Sale-Portion 61 Mercer Road, Walmsley

- 18. CLOSURE.**