



AGENDA

PLANNING AND DEVELOPMENT COMMITTEE

08 July 2015

5.30pm

City of Albany Council Chambers

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

VISION

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

VALUES

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

Focused: on community outcomes

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

United: by working and learning together

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

Accountable: for our actions

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

Proud: of our people and our community

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

TERMS OF REFERENCE

(1) Function:

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

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

(2) It will achieve this by:

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

(3) Chairperson: Councillor V Calleja JP

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

(5) Meeting Schedule: 1st Wednesday of the Month

(6) Meeting Location: Council Chambers

(7) Executive Officer: Executive Director Planning & Development

(8) Delegated Authority: None

PLANNING AND DEVELOPMENT COMMITTEE
AGENDA –08/07/2015

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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 (Deputy Chair)

Councillors:

Member

S Bowles

Member

A Hortin JP

Member

R Sutton

Member

S Bowles

Member

N Mulcahy

Member

B Hollingworth

Member

R Hammond

Member

A Goode JP

Staff:

Executive Director Planning & Development

Services

D Putland

Manager Planning

J van der Mescht

Planning Officer

C McMurtrie

Minutes

J Cobbold

Apologies:

Member

V Calleja JP (Chair)

Member

G Gregson

PLANNING AND DEVELOPMENT COMMITTEE
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4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest

5. REPORTS OF MEMBERS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

7. PUBLIC QUESTION TIME

8. APPLICATIONS FOR LEAVE OF ABSENCE

9. PETITIONS AND DEPUTATIONS

10. CONFIRMATION OF MINUTES

DRAFT MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the minutes of the Planning and Development Committee Meeting held on 06 May 2015, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

11. PRESENTATIONS

1. Professor Neal Ryan
The Prospects for Developing an Albany Knowledge Precinct
2. Brian Cole
Albany Innovation Park

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

PD083: PROPOSED REVIEW OF MEMORANDUM OF AGREEMENT AND PLANNING CONTROLS FOR THE ALBANY WATERFRONT PRECINCT

Land Description	:	Albany Waterfront Precinct
Proponent	:	City of Albany
Owner	:	Various land owners
Attachments	:	Albany Waterfront Precinct Plan Albany Waterfront Structure Plan Excerpt from the Albany Local Planning Strategy (LPS1) Memorandum of Agreement Albany Waterfront
Supplementary Information & Councillor Workstation:	:	
Report Prepared by	:	Executive Director Planning and Development (D Putland)
Responsible Officer	:	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 2014-2018:
 - a. **Key Theme:** 3. A connected built environment
 - b. **Strategic Objective:** 3.1 To advocate, plan and build friendly and connected communities
 - c. **Strategic Initiative:** 3.1.3 By strengthening the connections between the CBD, waterfront and surrounding amenities

In Brief:

- Landowners and potential developers have stated that overly restrictive planning controls are constraining development of the Albany Waterfront Precinct and elsewhere.
- It is recommended that Council considers whether it wishes to reconsider the existing planning controls that regulate development within the Albany Waterfront Precinct.
- As this may potentially include removal of the current height limitations and lifting the prohibition on permanent residential accommodation within the Waterfront Precinct, if Council resolves to do so, it is recommended that it undertakes these actions in the following order:
 - a. Advertise its intent to negotiate an amendment to the current agreement with the State Government, revoking the elements in Section 5 “Commitments to the Community” that currently restricts building heights and prohibits permanent residential activity within the Albany Waterfront Precinct, acknowledging its good intent at the time but also its role in restricting investment and employment creation.
 - b. Following consultation, and if community support is evident for the proposed changes to be made, formalise the revised agreement with the State Government.
 - c. Appoint consultants to prepare revised designs for the Albany Waterfront precinct and to prepare the necessary documents to amend the City’s Local Planning Scheme No.1 (LPS1) and revise the Albany Waterfront Precinct Plan and Structure Plan.

- d. Initiate the necessary Local Planning Scheme amendment and advertise the amendment to LPS1 concurrently with the proposed amendments to the Albany Waterfront Precinct Plan and Structure Plan.

RECOMMENDATION

PD083: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

Council RESOLVES to seek public comment and gauge community and State Government opinion as to whether or not Council should seek to amend the current Memorandum of Agreement, between the City of Albany and the State Government, which prohibits permanent residential living and limits the heights of buildings within the Albany Waterfront Precinct.

BACKGROUND

2. The Albany Waterfront Project (AWP) was intended to deliver and integrate with the CBD, a protected boat harbour and land-backed waterfront development incorporating an entertainment/function centre, hotel and function facilities, short-stay serviced tourist apartments and commercial/retail/tourism spaces on the Albany foreshore between the Port to the east and the Anzac Peace Park to the west.
3. Following extensive community consultation, the City adopted the overall Concept Plan for the AWP in June 2005. This was followed by the adoption of the Albany Waterfront Structure Plan in May 2006 and subsequent Precinct Plan in September 2006. Council endorsed modifications to the Albany Waterfront Precinct Plan (Attachment 1) and Structure Plan (Attachment 2) in Oct 2011.
4. The precinct plan provisions were adopted as Scheme provisions in the City's Local Planning Scheme No.1 (LPS1) in April 2014 (Attachment 3).
5. The Precinct Plan, Structure Plan and provisions in the City's Local Planning Scheme (LPS1) provide the planning framework for development, and set out the land use development controls and standards for the AWP. The Structure Plan establishes the strategic background and long-term vision and objectives for the project. The Precinct Plan sets out in detail how the objectives are to be achieved, and includes requirements for the individual precincts, permitted land uses, and planning and design guidelines for each of the subject lots.
6. On the 8th October 2007, the Mayor signed a Memorandum of Agreement with the State Government on behalf of the City of Albany for the planning, funding construction and management of the Albany Waterfront Project (Attachment 4).
7. Part 5 of the Memorandum of Agreement sets out the City and State's "Commitments to the Community" as follows:
 - a. Acknowledgement and respect of 24 hour a day, 7 day a week heavy vehicle haulage access to the Port.
 - b. Prohibition of permanent residential activity.
 - c. Unfettered community access to the foreshore.
 - d. Maintenance of the iconic Princess Royal Harbour vista as seen from the York Street Commercial Precinct.

8. Maintenance of iconic vistas and intent to preserve existing views to Princess Royal Harbour are reflected in the height limits and other planning provisions that regulate building height and placement within the Waterfront development area.
 - a. The key views protected by these limits and provisions include;
 - b. The view down York street;
 - c. The view down Spencer Street ;
 - d. View shed from the Base of York street; and
 - e. View shed from the Rotunda in Stirling Terrace.
9. The City has since received requests from lot owners and potential developers for relaxation of the current height limitations and design provisions, and for removal of the prohibition of permanent residential activity within the Albany Waterfront precinct. The requests are on the basis that the lack of flexibility of these controls makes development of the area economically unviable.

DISCUSSION

10. Concerns have been raised that the current restrictions on building height and strict planning controls over land use that are currently exercised over the Albany Waterfront Precinct, particularly the prohibition of permanent residential accommodation, have severely constrained development in the area.
11. There is some evidence to support this contention, with the land remaining largely undeveloped. While there have been several parties interested in the “hotel lot”, there appears to have been less interest in other lots, and the hotel proposals themselves have not progressed. Lifting of these restrictions may therefore support development within the Waterfront Precinct and make development of the area as a community precinct more likely.
12. Revision of the Albany Waterfront Precinct planning guidelines may also provide an opportunity to reconsider other elements of the Albany Waterfront Structure Plan and Precinct Plan, including; lot layouts, extent and location of commercial uses, road intersections, setbacks and plot ratios. However, as these elements were not included the “Commitments to the Community”, any potential changes to these elements can be addressed in subsequent consultation phases.
13. However, as review of the existing planning controls regulating development within the Albany Waterfront Precinct will include consideration for removal or relaxation of the current height limitations and the current prohibition on residential accommodation within the Waterfront Precinct, it is recommended that Council, if it resolves to revise the Albany Waterfront Precinct planning guidelines, resolves to undertake these actions in the following order:
 - a. Advertise its intent to amend the current agreement with the State Government, revoking the elements in Section 5 “Commitments to the Community” that mandate protection of iconic vistas and prohibit permanent residential activity within the Albany Waterfront Precinct.
 - b. Present any submissions to a future Council Meeting for consideration.
 - c. If there is no strong opposition, appoint consultants to prepare revised design guidelines for the Albany Waterfront precinct and to prepare the necessary documents to amend the City’s Local Planning Scheme (LPS1) and revise the Albany Waterfront Precinct Plan and Structure Plan.

- d. Initiate the necessary Local Planning Scheme amendment and advertise amendment to LPS1 concurrently with the proposed amendments to the Albany Waterfront Precinct Plan and Structure Plan.

GOVERNMENT & PUBLIC CONSULTATION

14. No formal consultation has been undertaken at this stage. However, extensive consultation will be undertaken if Council resolves to advertise its intent to amend the Memorandum of Agreement.

STATUTORY IMPLICATIONS

15. The statutory planning process to amend the City's Local Planning Scheme, Structure Plan and Precinct Plan are outlined in paragraph 11 above. Amendments to these documents will remove the current, restrictive controls and allow Council to consider a broader range of proposals.
16. Following amendment of these documents, Council may consider any proposals based on the provisions incorporated in the revised Local Planning Scheme, Structure Plan and Precinct Plan.

POLICY IMPLICATIONS

17. Policy implications are detailed previously in this report.

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 Proposals to revoke "Commitments to the Community" may raise concerns within some sectors of the local community.	<i>Very Likely</i>	<i>High</i>	<i>High</i>	<i>Conduct a comprehensive consultation process to gauge the views of the Albany community and State Government Agencies prior to making any decisions on whether to revoke the relevant clauses in the Memorandum of Agreement or initiate any amendments to the City's Local Planning Scheme, Structure Plan or Precinct Plan</i>
Community If current restrictions remain in place, then the area might never be developed	<i>Very Likely</i>	<i>High</i>	<i>High</i>	<i>Amendments to current restrictions may facilitate development occurring.</i>

FINANCIAL IMPLICATIONS

18. If the proposal generates community support, the costs for planning consultants to prepare amendments to the Local Planning Scheme, Structure Plan and Precinct Plan are estimated at approximately \$80k.

LEGAL IMPLICATIONS

19. Nil

ENVIRONMENTAL CONSIDERATIONS

20. Potential impacts will be addressed during subsequent stages.

ALTERNATE OPTIONS

- 21. Council may resolve to seek to amend the Memorandum of Agreement without formal community consultation. However, this is not recommended.
- 22. Council may resolve not to amend the Memorandum of Agreement.

SUMMARY CONCLUSION

- 23. Several landowners and potential developers have complained that overly restrictive planning controls are constraining development of the Albany Waterfront Precinct.
- 24. It is recommended that Council, considers whether it wishes to remove the current height limitations and remove the prohibition of residential accommodation within the Waterfront Precinct and, if it resolves to do so, resolves to undertake these actions in the following order:
 - a. Advertise its intent to amend the current agreement with the State Government, revoking the elements in Section 5 “Commitments to the Community” that mandate protection of iconic vistas and prohibit permanent residential activity within the Albany Waterfront Precinct.
 - b. Appoint consultants to prepare revised designs for the Albany Waterfront precinct and to prepare the necessary documents to amend the City’s Local Planning Scheme (LPS1) and revise the Albany Waterfront Precinct Plan and Structure Plan.
 - c. Initiate the necessary Local Planning Scheme amendment and advertise amendment to LPS1 concurrently with the proposed amendments to the Albany Waterfront Precinct Plan and Structure Plan.

Consulted References	:	Albany Waterfront Precinct Plan Albany Waterfront Structure Plan Albany Local Planning Strategy No.1 Memorandum of Agreement for the Albany Waterfront
File Number (Name of Ward)	:	Frederickstown Ward
Previous Reference	:	OCM 19/09/06 - Item 11.1.2 OCM 20/06/06 - Item 11.1.1 OCM 16/05/06 - Item 11.3.1 OCM 21/03/06 - Item 11.3.2 OCM 19/07/11 – Item 2.2 OCM 11/10/11- Item 2.1

**PD084: ADOPTION OF SCHEME AMENDMENT – LOCAL PLANNING
SCHEME NO. 1, FIRST OMNIBUS AMENDMENT**

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

In Brief:

- An omnibus Local Planning Scheme Amendment was 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.
- The Local Planning Scheme Amendment has been advertised for public comment in accordance with the requirements of the *Town Planning Regulations 1967*.
- Council is requested to consider the submissions received following public advertising and adopt the Local Planning Scheme Amendment.

RECOMMENDATION

PD084: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 and Regulation 17(2) of the Town Planning Regulations 1967, resolves to adopt 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; 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.
9. A small number of submissions were received from service providers and Government agencies, expressing no objection to the proposed amendments. Western Power and Water Corporation provided subdivision and development advice, which will be relevant to the future subdivision and development of some of the land that is subject to a zoning change; however, it has no bearing on the proposed zoning changes themselves.

GOVERNMENT & PUBLIC CONSULTATION

10. 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 been provided in the report.
11. The Amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 30 April 2015 to 18 June 2015 by placement of a sign on-site, direct referral to affected and adjoining/nearby landowners and advertisement in the local newspaper.
12. Eight (8) submissions were received from service providers, State Government agencies and affected landowners/members of the public and are summarised in the attached Schedule of Submissions. Staff's comments and recommendations are also provided in the schedule and the broad issues are discussed in paragraph 9 above.

STATUTORY IMPLICATIONS

13. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
14. *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 adoption of a local planning scheme amendment.
15. Regulation *17(2)(a)* of the *Town Planning Regulations 1967* allows Council to adopt the Scheme with or without modification.
16. *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 *Local Planning Scheme No. 1* will ensure that decision-making is consistent and in line with current best practice.
17. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

18. 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

19. 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>

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

21. There are no legal implications directly relating to this item.

ENVIRONMENTAL CONSIDERATIONS

22. 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

23. Council has the following alternate options in relation to this item, which are:
- To resolve to adopt the scheme amendment with modification; or
 - To resolve not to adopt the scheme amendment and advise the Western Australian Planning Commission, in writing, of the reasons for doing so.

SUMMARY CONCLUSION

24. It is recommended that Council adopt 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	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Albany Corporate Business Plan 2013-2017</i> 5. Western Australian Planning Commission State Planning Policy 1 – <i>State Planning Framework Policy (Variation No. 2), State Planning Policy 2.5 – Land Use Planning in Rural Areas</i>
File Number (Name of Ward)	:	LAMD13 (All Wards)
Previous Reference	:	<p>OCM – 19/03/2013 – Item 4.5 OCM – 16/07/2013 – Item 4.5 OCM – 24/02/2015 – Item PD069</p>

PD085: CONSIDERATION OF IMPOSITION OF A MORATORIUM ON INITIATION OF SIGNIFICANT SCHEME AMENDMENTS AFFECTING AGRICULTURAL LAND

Land Description : City of Albany / Local Planning Scheme No. 1 area
Proponent : City of Albany
Owner : Various
Business Entity Name : Nil
Attachments : Nil
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. 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:** A Connected Built Environment
 - b. **Strategic Objective:** 3.3 To develop vibrant neighbourhoods which retain local character and heritage.
 - c. **Strategic Initiative:** 3.3.1 Develop and implement a contemporary Local Planning Strategy.

In Brief:

- The City is currently in the process of reviewing the *Albany Local Planning Strategy*. In order to avoid compromising the review process, planning Staff recommend that the Council impose a moratorium on the initiation of significant Local Planning Scheme amendments that seek to rezone agricultural land for rural living uses.
- A moratorium will allow for consideration of concerns over the ongoing loss of productive agricultural land; oversupply of semi-rural 'lifestyle' lots; and the increasing number of complaints being made to the City over land use conflicts between primary industries and adjacent sensitive land uses (primarily from 'Rural Residential' areas).
- Notwithstanding the above points, planning Staff recommend that Council continue to consider minor amendments over, or in the vicinity of agricultural land where it is considered 'infill development' or allows for ongoing productive use of the land.
- Scattered sub divisions and redevelopments are not conducive to efficiencies in service provision.

RECOMMENDATION

PD085: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- (1) **RESOLVES** to impose a moratorium on initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land, effective from 28 July 2015, until the review of the *Albany Local Planning Strategy* has been completed.

AND

- (2) **ADVISES** local town planning consultancies and advertises publically that they have passed the above resolution.

BACKGROUND

2. *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;
 - Controls the types of uses and development allowed in different zones;
 - Sets out specific controls for heritage and special control areas; and
 - Sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
3. The content of the Scheme, and subsequent amendments to it, are guided by the *Albany Local Planning Strategy* (ALPS) that sets out the long-term planning directions for the City.
4. The *Albany Local Planning Strategy* was endorsed by the Western Australian Planning Commission on 15 June 2010. The Strategy provides the planning direction for the City's adopted vision for future growth and a framework for the new *Local Planning Scheme No. 1*, including the reasoning behind the incorporation of zones and provisions into the Scheme.
5. The *Albany Local Planning Strategy* was prepared at a time when the Nation was undergoing a period of strong economic growth. The strategy predicted rapid population growth for Albany that has not eventuated. The document identifies the potential for extensive areas of land to be developed for fully-serviced urban development, 'Special Residential' development and 'Rural Residential' development, based on the assumption that the economic boom would continue and drive further growth in the Great Southern.
6. Recently, Councillors have raised concerns about the number of Local Planning Scheme amendments that are being presented to them for consideration and the implications that this has in terms of the loss of productive agricultural land, the oversupply of semi-rural 'lifestyle' lots, and the creation of land use conflicts between primary industries and adjacent sensitive land uses.

7. Concerns have also been raised over the environmental impacts of such development, ongoing servicing costs, and that the assessment of scheme amendments is becoming a drain on staff resources within the Development Services directorate.
8. The City is currently preparing background papers to inform a review of the *Albany Local Planning Strategy*. The new strategy is scheduled for public consultation from April to June of 2016, with completion of the process expected by December 2016.
9. It is anticipated that the new strategy will redraw the expected growth boundaries, based on more realistic population growth expectations.

DISCUSSION

10. Urban growth areas identified in the existing *Albany Local Planning Strategy* are assigned priority codes that are intended as a guide for the staging of development. However, the document also contains the following statement:

“The Priority Development hierarchy encourages incremental fully-serviced development. It does not preclude the city or WAPC from considering developer-funded fully-serviced urban nodes within future urban areas that may not be consistent with their current priority classification. However, development proposals of this nature will have to conform to the WAPC State Planning Policy (SPP) No. 3 Urban Growth and Settlement. The policy requires any proposal to detail locations for housing, employment and other uses such as commerce and recreation. This planning must be co-ordinated with efficient and economic transport, essential infrastructure and community services.”
11. Despite a State Government requirement to comply with *State Planning Policy No. 3 – Urban Growth and Settlement*, many proponents have used the above clause as a justification for rezoning land ahead of the existing urban edge. Such proposals often commit to providing infrastructure, incorporating notional plans identifying local shopping, schools, community facilities, etc.
12. There are no staging requirements for areas of land that are identified for ‘Special Residential’ and ‘Rural Residential’ development in the *Albany Local Planning Strategy* and no priority development hierarchy exists for these land uses. As a result, many of these developments ‘leapfrog’ the existing peri-urban edge and create isolated rural living areas. Large areas of land for these uses have been identified in the Strategy, which has led to the ongoing loss of productive agricultural land, particularly as many landowners seek rezoning of their lots to increase the land value.
13. Councillors have expressed concerns that these types of development are potentially creating an oversupply of semi-rural ‘lifestyle’ lots, to the detriment of productive agricultural land uses. This is compounded by the increasing number of complaints received from residents of ‘Special Residential’ and ‘Rural Residential’ zoned areas (predominantly the latter) about primary industries operating on adjoining lots, whether agricultural enterprises or other industries, such as quarrying. The zoning of further land for these purposes has the potential to exacerbate these issues or create new land use conflicts.
14. These types of semi-rural ‘lifestyle’ development can also result in significant environmental impacts, including the clearing of vegetation, loss of visual amenity and the introduction of weeds and feral animals. However, in instances where vegetation is retained for environmental and amenity reasons, it can significantly increase the risk of bushfire.
15. While it is important to balance public safety and environmental stewardship, the creation of additional lots in areas that are at risk from bushfire would be highly dangerous, especially in view of the recommendations made in *A Shared Responsibility; a report of the Perth Hills Bushfire February 2011 Review* (otherwise known as ‘The Keelty Report’) and the provisions of the proposed *Planning and Development (Bushfire Risk Management)*

Regulations 2014. These proposed regulations will be underpinned by draft *State Planning Policy 3.7 – Planning for Bushfire Risk Management*, draft *Planning for Bushfire Risk Management Guidelines* and associated bushfire risk mapping. The policy will offer guidance for the development of land that is at risk of bushfire, the mapping will, at a broad scale, identify its location and the guidelines will set out the requirements for new any development in these bushfire prone areas.

16. The finalised versions of the above regulations, State Planning Policy and guidelines are due to be introduced later this year. It is anticipated that the publication of these documents will complicate the development of some rural living areas, as their requirement to sufficiently mitigate fire risk will necessitate the clearing of vegetation and/or construction to a higher standard. However, in instances where clearing will be required, it may be at odds with environmental interests, meaning that in some circumstances it will be necessary to restrict development because it cannot be adequately protected from bushfire risk.
17. The cost of infrastructure provision and maintenance is also a significant burden on the City and one that is most felt in servicing 'Rural Residential' zoned areas. Due to their low population density, refuse collection and basic road and verge maintenance are more expensive to provide to those areas on a per-capita basis. Furthermore, there is an increasing expectation that "Rural Residential" areas will receive an urban level of service, including kerbed roads and extensive stormwater drainage measures, which entail a greater capital works cost and involve more intensive and costly maintenance regimes. The expansion of rural residential areas also places additional pressure on the local roads network, including bridges at Kalgan, King River and Lower King.
18. The ongoing expansion of rural living areas immediately beyond the existing urban edge has potential to compromise the development of new fully-serviced urban areas in some locations. Further subdivision of these areas in a logical, cohesive manner can be made almost impossible due to the irregular lot layouts often found in peri-urban areas and the provision of services to an urban service standard (roads, stormwater drainage, sewer and often underground power and water) can become prohibitively expensive.
19. The assessment of scheme amendments is also becoming a significant drain on resources within the Development Services directorate, particularly at a time when there is sufficient land zoned to meet demand for 'Residential', 'Special Residential' and 'Rural Residential' lots in the foreseeable future. Resources currently dedicated to assessing scheme amendments, to rezone land where there is no demonstrated demand, can be re-tasked to the review Local Planning Policies, Structure Plans and other proactive planning work.
20. The *Albany Local Planning Strategy* is currently undergoing a review process and, although this is in its early stages, it is likely that the updated Local Planning Strategy will revise the growth boundaries for the town to reflect a more modest growth rate. The updated strategy will also aim to encourage urban infill and redevelopment of brownfield sites, in preference to the expansion of peri-urban areas.
21. On the basis of the above, it is recommended that Council resolve to impose a moratorium on the initiation of any significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, effective from 28 July 2015, until the review of the *Albany Local Planning Strategy* has been completed.

GOVERNMENT & PUBLIC CONSULTATION

22. It is not necessary to undertake formal consultation in this instance. Should Council resolve to impose a moratorium on significant scheme amendments over agricultural land, the decision will be advertised for public information and written advice provided to the local town planning consultancies.

STATUTORY IMPLICATIONS

- 23. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
- 24. *Section 75* of the *Planning and Development Act 2005* allows a Local Government to amend its local planning scheme with the approval of the Minister for Planning.
- 25. *Regulation 25* of the *Town Planning Regulations 1967* sets out the process for amending a scheme.
- 26. *Regulation 12C* of the *Town Planning Regulations 1967* sets out the process for amending or revoking a Local Planning Strategy.
- 27. The imposition of a moratorium is not a legislative requirement but rather an adopted Local Government practice to facilitate transition from an existing Local Planning Strategy to a new Local Planning Strategy.

POLICY IMPLICATIONS

- 28. There are no policy items directly relating to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Organisational Operations and Reputation Supporting this proposal could lead to perceived financial loss by some landowners who will not be able to realise their development aspirations.	Almost certain	Minor	High	Clearly communicate to the community and local town planning consultancies why a moratorium is being imposed.
Organisational Operations and Reputation Supporting this proposal could lead to complaint and criticism from landowners seeking to rezone agricultural land.	Almost certain	Minor	High	Clearly communicate to the community and local town planning consultancies why a moratorium is being imposed.

FINANCIAL IMPLICATIONS

- 30. The loss of planning fee income from a moratorium on Local Planning Scheme amendments will be minimal.

LEGAL IMPLICATIONS

- 31. There are no legal implications, as the imposition of a moratorium is not a legislative requirement but rather an adopted Local Government practice to facilitate transition from an existing Local Planning Scheme or Strategy to a new Local Planning Scheme or Strategy.

ENVIRONMENTAL CONSIDERATIONS

- 32. Rezoning and development of rural-residential lots can lead to a number of significant, adverse environmental effects, such as the clearing of vegetation, loss of visual amenity and the introduction of weeds and feral animals.
- 33. In some circumstances, native vegetation is required to be retained within ‘Special Residential’ and ‘Rural Residential’ zoned areas for environmental and amenity reasons. However, the retention of vegetation within peri-urban areas can also lead to increased risk of bushfire. Since the release of *A Shared Responsibility; a report of the Perth Hills Bushfire February 2011 Review* (otherwise known as ‘The Keelty Report’), the State Government has recognised the need to more effectively manage bushfire risk through the application of appropriate planning controls. It has subsequently produced the proposed *Planning and Development (Bushfire Risk Management) Regulations 2014*, draft *State Planning Policy 3.7: Planning for Bushfire Risk Management*, draft *Planning for Bushfire Risk Management Guidelines* and associated bushfire risk mapping to achieve this aim.

ALTERNATE OPTIONS

- 34. Council has the following alternate options in relation to this item, which are:
 - To resolve to impose a broader moratorium on issues such as initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, for a specified timeframe; or
 - To resolve not to impose a moratorium and continue to initiate significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses.

SUMMARY CONCLUSION

- 35. Councillors have raised concerns about the volume of Local Planning Scheme amendments that are being presented to them for consideration and the implications that this has in terms of the loss of productive agricultural land; the oversupply of semi-rural ‘lifestyle’ lots; and the creation of land use conflicts between primary industries and adjacent sensitive land uses.
- 36. There are also concerns around the environmental impacts of such development; the inherent bushfire risk; ongoing servicing costs; the compromising of potential future urban growth areas; and that the assessment of scheme amendments is becoming a drain on staff resources within the Development Services directorate.
- 37. It is therefore recommended that Council resolve to impose a moratorium on initiation of any significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land, effective from 28 July 2015, until the review of the *Albany Local Planning Strategy* has been completed.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No.1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Albany Corporate Business Plan 2013-2017</i> 5. Western Australian Planning Commission <i>State Planning Policy No. 3 – Urban Growth and Settlement</i> and <i>State Planning Policy No. 5.1 – Land Use Planning in Rural Areas</i>.
File Number (Name of Ward)	:	Nil (All Wards)
Previous Reference	:	Nil

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