



AGENDA

PLANNING AND DEVELOPMENT COMMITTEE

06 April 2016

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.

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 N Mulcahy

(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 –06/04/2016

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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

Councillors:

Member	N Mulcahy (Chair)
Member	B Hollingworth (Deputy Chair)
Member	A Goode JP
Member	G Stocks
Member	R Hammond
Member	J Shanhun
Member	R Sutton

Staff:

Chief Executive Officer	A Sharpe
Manager Planning	J van der Mescht
Planning Officer	C McMurtrie
Minutes	J Cobbold

Apologies:

Mayor	Mayor D Wellington
Executive Director Development Services	D Putland

PLANNING AND DEVELOPMENT COMMITTEE
AGENDA –06/04/2016

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 02 March 2016, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

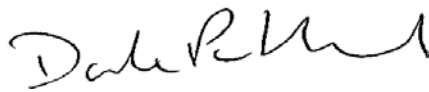
11. PRESENTATIONS / DISCUSSION

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

PD120: DELAY TO INTERSECTION CLOSURE OF FLYNN WAY AND LOWER KING ROAD

Land Description : Intersection of Flynn Way and Lower King Road, Bayonet Head.
Proponent / Owner : City of Albany / State Government
Business Entity Name : City of Albany, Lowe Pty Ltd
Attachments : Original subdivision approval (ICR6016891.TIF)
Removal of Temporary Intersection Plan.pdf
Supplementary Information & Councillor Workstation : Nil
Report Prepared By : Atlanta Veld – Land Officer
Responsible Officers: : Dale Putland, Executive Director Planning & Development Services

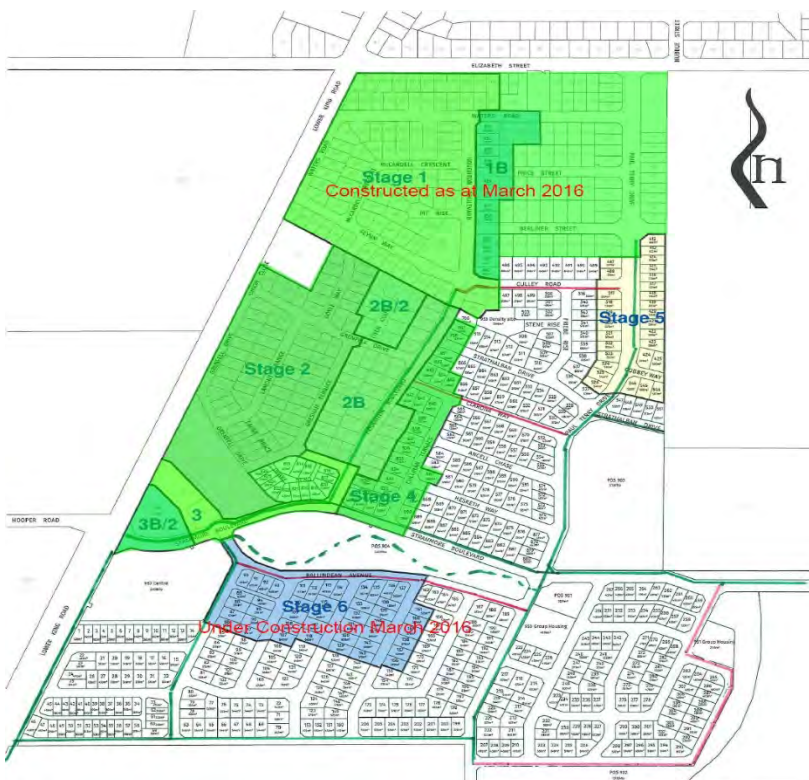
Responsible Officer's Signature:



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. **Strategy:** 3.3.2. Provide proactive planning & building services.

Maps:



In Brief:

- Council consider delaying the proposed permanent closure of the intersection of Flynn Way and Lower King Road as detailed in the original 2006 subdivision application for Lot 43 Lower King Road, Bayonet Head and ratified at November 2014 OCM.

RECOMMENDATION

PD120: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, resolves to leave the intersection of Flynn Way and Lower King Road open for six months to allow resident consultation to be undertaken and reassess the best time for closure of the intersection.

BACKGROUND

2. In October 2006 the Western Australian Planning Commission approved the subdivision of Lot 43 Lower King Road, which commenced with Stage 1 of the Oyster Harbour Development.
3. The subdivision plan included a temporary access point to the development via the intersection of Flynn Way and Lower King Road. This was to be eventually closed once entrances to the development were created south (Stranmore Boulevard) and east (Paul Terry Drive).
4. Properties on Flynn Way, McCardell Crescent, Pitt Rise, Waters Road (Lots 612-622), Elizabeth Street (Lots 600-610), Houghton Boulevard (Lots 636-639, 677 & 704) and Culley Road (Lots 702 & 703) were required to have a notification on the Certificate of Title stating, *access from the land to Lower King and vice versa is provided on a temporary basis only and access to and from the land via Lower King Road will be closed on completion of the subdivision of the land creating the lots described in this notification*
5. The intersection of Flynn Way and Lower King Road in the Oyster Harbour Development was constructed approximately 8 years ago to provide access to the Oyster Harbour development. The access was constructed to a high standard.
6. After the completion of Houghton Blvd (providing a through route to Stranmore Blvd) and at the developer's request, in November 2014 City staff requested that Council approve the closure of the temporary intersection. However, the developer had not specified a timeframe for the proposed closure and, as a result, the Council resolution did not specify a time for closure of the intersection.

DISCUSSION

7. While the City anticipated that closure of the intersection was imminent, this was delayed by the developer for a number of logistical reasons.
8. The next stage of construction at that time was shown on the staging plan as Stage 5. It included construction of Paul Terry Drive, which when completed will provide an alternate route to stage 1 (and the Elizabeth Heights development to the east) in addition to Houghton Blvd. However, lower than expected demand for sloping lots (as will be created in Stage 5) has resulted in the developer rethinking the staging of the land release, causing the construction of Paul Terry Drive to be likely delayed by a number of years.
9. In addition, during the intervening period (since November 2014), a number of dwellings have been constructed on Houghton Blvd. Four Houghton Blvd and Grenfell Drive residents have complained about the pending closure, claiming that they were not informed of it happening by the real estate agent or developer at the time of purchase. It is worth noting that at the time of sale, closure of Flynn Way was imminent.

10. Due to the complaints that had been received regarding the imminent closure (and no complaints about it remaining open) and Paul Terry Drive construction had not commenced, officers proposed a delay in the closure until Paul Terry Drive is constructed.
11. Officers are of the opinion there are no specific Engineering or Planning reasons for its immediate closure.
12. Some residents in the broader Oyster Harbour community are likely unaware of the proposed closure and there may be benefits in consulting with them to achieve a best for most outcome in regards to the timing of the closure.
13. On hearing of the proposal to delay the intersection closure, a resident on Flynn Way has since complained about the City neglecting to act on the Council resolution to close the intersection. This resident has also raised safety issues about the intersection.
14. In light of identified safety concerns, City officers have undertaken a Road Safety Audit and identified some minor modifications to improve the intersection and traffic safety.

GOVERNMENT & PUBLIC CONSULTATION

At the time of the original item to recommend closure – November 2014:

15. Section 3.50 of the *Local Government Act 1995* sets out the procedure for permanently closing thoroughfares. A local government may advertise, by public notice, the proposed order giving details of the proposal, including the location of the thoroughfare and where, when and why it would be closed, and inviting submissions from any person who wishes to make a submission.
16. This notification was undertaken by way of public notices, published in the Albany Advertiser on August 19, 2014, displayed at the road intersection, in the Albany Public Library and at the City's North Road Offices. Submission regarding the public notification closed on 26 September 2014.
17. Only one submission was received. This was from a resident objecting to the road closure on the basis of convenience and emergency access in the event of a hazard. No objections or conditions were received by any service providers during the WAPC consultation process at the time of the original subdivision application.

In relation to delaying the enacting of PD058 from OCM November 2014 (this Item):

18. Correspondence has been undertaken with a number of residents who have complained about the closure with advice given to them that we will delay closure.
19. Correspondence has been undertaken with the resident who is strongly for the intersection closure.
20. No additional public consultation has been undertaken since proposing the delay in closure.

STATUTORY IMPLICATIONS

21. Section 3.50 of the Local Government Act 1995, titled;
"3.50 Closing certain thoroughfares to vehicles".
22. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

23. There are no policy implications.

RISK IDENTIFICATION & MITIGATION

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation. Public perception that Council is not acting on the previous resolution.	Likely	Moderate	Medium	Notify affected landowners about Council's decision to delay the intersection closure.
Reputation. Decision will result in some members of the community being dissatisfied.	Likely	Moderate	Medium	Clearly communicate the rationale for the decision to all affected landowners
People Health and Safety. Safety concerns raised by resident re- intersection remaining open	Likely	Moderate	Medium	Communicate with all affected landowners of the Council decision. Provide onsite signage at the intersection before beginning site works. Take measures to improve safety of intersection in accordance with the Road Safety Audit.

FINANCIAL IMPLICATIONS

24. There are minor administrative costs associated with advertising the Council resolution to the public which can be accommodated in the 2015/16 budget allocation for land acquisition.

LEGAL IMPLICATIONS

25. There are no legal implications related to this item.

ENVIRONMENTAL CONSIDERATIONS

26. There are no environmental considerations related to this item.

ALTERNATE OPTIONS

27. Intersection of Flynn Way & Lower King Road remains open until such time as Paul Terry Drive is constructed from Elizabeth St to Stranmore Blvd.
28. Intersection of Flynn Way & Lower King Road is closed immediately, in accordance with Council resolution PD058 from OCM November 2014.
29. Intersection of Flynn Way & Lower King Road remains open permanently – rescind PD058 from OCM November 2014.
30. Intersection of Flynn Way & Lower King Road remains open for a shorter period of time.

CONCLUSION

31. The original Council item to close the access could be seen as being premature, without the full construction of Paul Terry Drive to Stanmore Blvd. Delaying of the closure of Flynn Way would be prudent and would allow better permeability through the subdivision until such time as the additional alternate traffic route into the Oyster Harbour subdivision is constructed.

Consulted References	:	Local Government Act 1995
File Number (Name of Ward)	:	RD.RDC.2 (Kalgan)
Previous Reference	:	OCM 25/11/14 PD058

PD121: CONSIDERATION OF SCHEME AMENDMENT– LOTS 201, 202 AND 203 CHESTER PASS ROAD, LANGE

Land Description : Lots 201, 202 and 203 Chester Pass Road, Lange
Proponent : City of Albany
Owner : City of Albany
Business Entity Name : N/A
Attachments : Local Planning Scheme Amendment No. 18 report
Supplementary Information & Councillor Workstation: : Nil
Report Prepared by : Planning Officer (C McMurtrie)
Responsible Officer : Executive Director Planning and Development (D Putland)

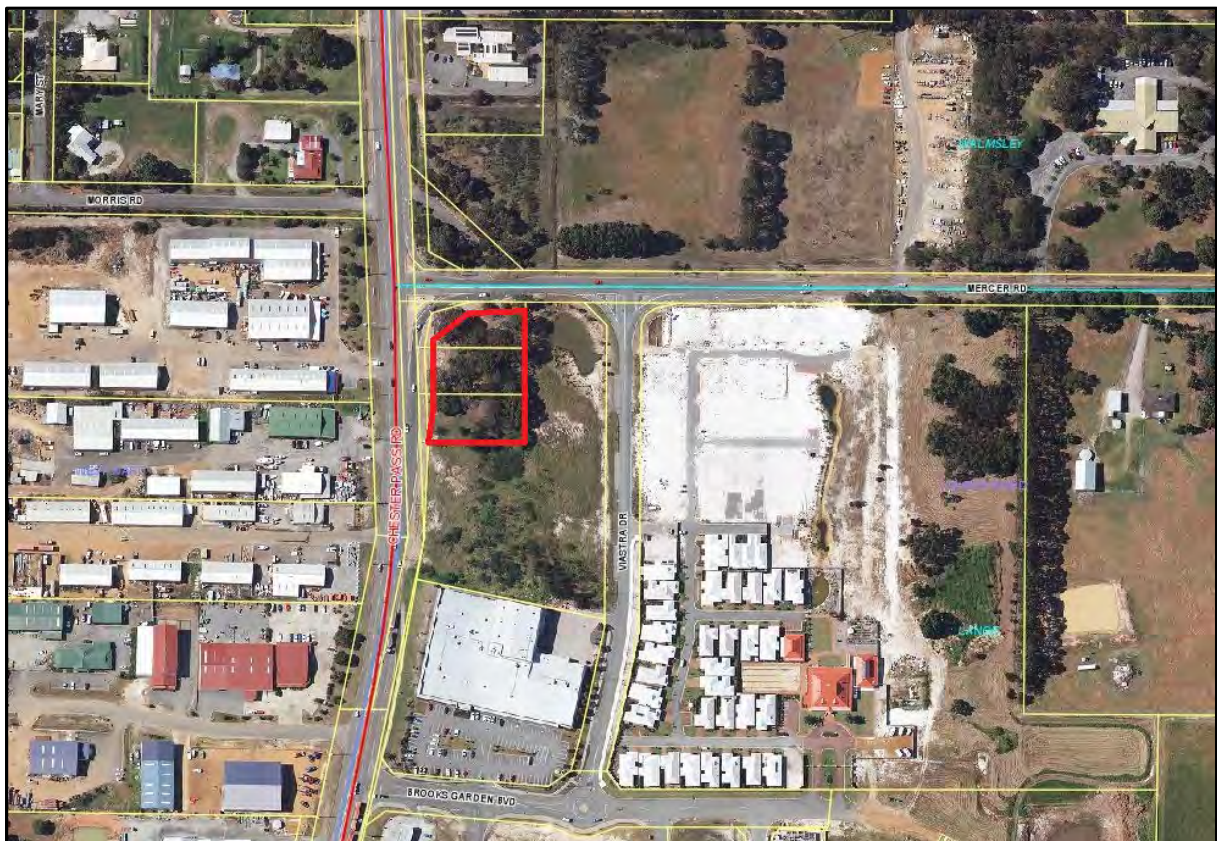
Responsible Officer's Signature:



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*.
3. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

Maps and Diagrams



In Brief:

- A request has been submitted for Council to adopt a local planning scheme amendment to:
 - Rezone Lots 201, 202 and 203 Chester Pass Road, Lange from the ‘General Agriculture’ zone to ‘Special Use Zone SU23’;
 - Amend ‘Schedule 4 – Special Use Zones’ as follows:
 - a. Include in the Description of Land column ‘Lots 201, 202 and 203 Chester Pass Road, Lange’;
 - b. Include the use of ‘Pharmacy’ in the Special Use column;
 - c. Include the following in the Conditions column:
 - ‘5. The Pharmacy use shall include a dispensary and the sale of incidental and medical products.
 - 6. In making application for a Pharmacy use, the developer shall provide evidence that approval has been granted under the Pharmacy Location Rules as set by the National Health Act 1953 and the National Health (Australian Community Pharmacy Authority Rules) Determination 2006, for as long as these rules are current.’

and

- Amend of the Scheme Maps accordingly.
- City planning Staff support the local planning scheme amendment, as it is consistent with the strategic direction set in the *Albany Local Planning Strategy*.
- The proposal will facilitate the development of the subject land in conjunction with Lot 1004 Viastra Drive, Lange.
- Council is requested to adopt the amendment for the purpose of public advertising and referral to public authorities.

RECOMMENDATION

PD121: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005*, resolves to:

1. **Adopt Amendment No. 18 to amend *City of Albany Local Planning Scheme No. 1* by:**
 - (1) **Rezoning Lots 201, 202 and 203 Chester Pass Road, Lange from the ‘General Agriculture’ zone to ‘Special Use Zone SU23’;**
 - (2) **Amending ‘Schedule 4 – Special Use Zones’ as follows:**
 - a. **Include in the Description of Land column ‘Lots 201, 202 and 203 Chester Pass Road, Lange’;**
 - b. **Include the use of ‘Pharmacy’ in the Special Use column;**

c. Include the following in the Conditions column:

- '5. The Pharmacy use shall include a dispensary and the sale of incidental and medical products.**
- 6. In making application for a Pharmacy use, the developer shall provide evidence that approval has been granted under the Pharmacy Location Rules as set by the National Health Act 1953 and the National Health (Australian Community Pharmacy Authority Rules) Determination 2006, for as long as these rules are current.'**

and

(3) Amending the Scheme Maps accordingly.

2. Note that the Amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:

- The amendment is consistent with the *Albany Local Planning Strategy*, which identifies the site as 'Mixed Business' and sets a planning objective to provide appropriate locations for establishing and growing business activity;**
- The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and**
- The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.**

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. 18 has been prepared to seek:**
 - The rezoning of Lots 201, 202 and 203 Chester Pass Road, Lange from the 'General Agriculture' zone to 'Special Use Zone SU23';**
 - The amendment of 'Schedule 4 – Special Use Zones' as follows:**
 - a. Include in the Description of Land column 'Lots 201, 202 and 203 Chester Pass Road, Lange';**
 - b. Include the use of 'Pharmacy' in the Special Use column;**
 - c. Include the following in the Conditions column:**
 - '5. The Pharmacy use shall include a dispensary and the sale of incidental and medical products.**
 - 6. In making application for a Pharmacy use, the developer shall provide evidence that approval has been granted under the Pharmacy Location Rules as set by the National Health Act 1953 and the National Health (Australian Community**

Pharmacy Authority Rules) Determination 2006, for as long as these rules are current.’

and

- The amendment of the Scheme Maps accordingly.
6. The subject land is located approximately 3.9 kilometres north-north-west of Albany town centre and has an area of approximately 4629 square metres. The land is relatively flat and currently landscaped as public gardens. The subject land is bounded by Chester Pass Road to the west, Mercer Road to the north and Lot 1004 Viastra Drive to the south and east. Due to the road layout at the intersection of Chester Pass and Mercer Roads and the shape of Lot 1004 Viastra Drive, the subject land cannot be accessed directly from either Chester Pass Road or Mercer Road.
 7. Lot 1004 Viastra Drive is zoned ‘Special Use Zone SU23’, but has not yet been developed. The land to the west of Chester Pass Road is zoned ‘Light Industry’ and developed with a mix of light industrial and showroom uses. The land to the north is partially reserved for ‘Parks and Recreation’ and ‘Public Purposes’. The ‘Parks and Recreation’ local scheme reserve is developed with a tourist information bay, while the ‘Public Purposes’ reserve, which is contiguous with the City of Albany depot and the offices of South Coast Natural Resource Management, is currently undeveloped.
 8. The amendment document states that:

“When the adjoining land at Lot 1004 Viastra Drive passed into new ownership in 2015, the City entered into discussions with these owners in an effort to secure vehicle access to the subject land. In these discussions, the owners indicated their preference to purchase the three lots and develop them in conjunction with their land at Lot 1004 Viastra Drive. This option was supported by Council at its meeting held on 22 September 2015, noting the need to rezone the land to a similar Special Use zoning as Lot 1004 Viastra Drive. As part of the Contract of Sale, the City has agreed to undertake the rezoning of the subject land on behalf of the Buyers.

While no details are yet available, it is understood that the owners of Lot 1004 Viastra Drive would like to develop their property and the adjoining land as a medical centre / day hospital and pharmacy, consistent with the Special Use zoning of the land.”

DISCUSSION

9. The City’s planning Staff support the proposed local planning scheme amendment, as it is consistent with the Albany Local Planning Strategy and will facilitate the development of the land in conjunction with Lot 1004 Viastra Drive.
10. The proposed local planning scheme amendment is consistent with the current strategic direction set by the *Albany Local Planning Strategy*, which identifies the site as part of the ‘Mixed Business’ area and sets a planning objective to provide appropriate locations for establishing and growing business activity.
11. As outlined above, the City entered into discussions with the owners of Lot 1004 Viastra Drive, in an effort to secure vehicle access to the subject land, when Lot 1004 changed hands in 2015. During discussions, the owners of Lot 1004 indicated that they would like to purchase the subject land from the City and develop them in conjunction with Lot 1004. It is understood that the owners of Lot 1004 Viastra Drive intend to develop a medical centre / day hospital and pharmacy, consistent with the provisions of ‘Special Use Zone SU23’.
12. Although ‘Special Use Zone SU23’ currently includes *“other ancillary health and support uses approved by the Local Government”*, the proposed amendment includes the use of ‘Pharmacy’ as a separate land use.

13. This has been proposed, as a dispensary use would generally support a medical centre or hospital, but would not include the retail component that is common with most pharmacies. However, a dispensary is often financially assisted or operated by the principal use that it supports (the medical centre or hospital). If the business model employed requires that the pharmacy use operates as a separate entity, it may be difficult to attract an operator if a retail component cannot be approved, as this improves the financial viability of the venture. It is preferred that the 'Pharmacy' use is specified separately, as this will give clarity to future decision-making.
14. The purchaser has advised the City that they understand that a licence for a pharmacy will be granted under the Pharmacy Location Rules as set by the *National Health Act 1953* and the *National Health (Australian Community Pharmacy Authority Rules) Determination 2006*, as it is intended that the development will have more than seven full-time prescribing doctors on-site. Under these circumstances, the minimum separation distances between pharmacies are waived. The proposed amendment includes a condition for insertion into 'Schedule 4 – Special Use Zones', regarding this licensing requirement "as long as those rules are current", as it is understood that the Pharmacy Location Rules may be phased out in future.

GOVERNMENT & PUBLIC CONSULTATION

15. The *Planning and Development (Local Planning Schemes) Regulations 2015* require that a local planning scheme amendment be adopted by a resolution of Council prior to the proposal being advertised for public comment. Consequently, no other consultation has been undertaken at this stage.

STATUTORY IMPLICATIONS

16. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
17. 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. Section 81 of the Act requires a local government to refer an adopted local planning scheme amendment to the Environmental Protection Authority to determine if it should be assessed.
18. Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to adopt a standard scheme amendment for advertising and referral to relevant public authorities.
19. The proposal is considered to be a standard scheme amendment for the following reasons:
 - The amendment is consistent with the *Albany Local Planning Strategy*, which identifies the site as 'Mixed Business' and sets a planning objective to provide appropriate locations for establishing and growing business activity;
 - The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and
 - The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
20. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

21. *State Planning Policy 2.5 – Land Use Planning in Rural Areas* applies to rural land in Western Australia and shall be considered in assessing amendments to rural zoned land in a local planning scheme. The policy aims to protect rural land from incompatible land uses, supports primary production activities and protects priority agricultural land.
22. In this instance, the subject land has an area of less than one hectare, it is not currently used for agricultural purposes and is encircled by non-rural land uses. The ‘General Agriculture’ zoning of the subject land is considered to be an anomaly and its rezoning would not be in contravention of *State Planning Policy 2.5* or the current moratorium on the rezoning of ‘General Agriculture’ or ‘Priority Agriculture’ zoned land.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation</p> <p>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	Possible	Minor	Medium	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.
<p>Community, Organisational Operations and Reputation</p> <p>The proposal may attract objections from members of the public or other public authorities.</p>	Possible	Minor	Medium	Widely consulting with all parties who may be affected and all relevant public authorities should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.

FINANCIAL IMPLICATIONS

24. The City is currently in the process of selling Lots 201, 202 and 203 Chester Pass Road to the owners of Lot 1004 Viastra Drive.

LEGAL IMPLICATIONS

25. As part of the contract of sale, the City has agreed to undertake the rezoning of the subject land on behalf of the purchasers.

ENVIRONMENTAL CONSIDERATIONS

26. There are no environmental implications directly relating to the item.

ALTERNATE OPTIONS

27. Council has the following alternate option in relation to this item, which is:
 - To resolve not to proceed to advertise the amendment to the local planning scheme.

SUMMARY CONCLUSION

28. It is recommended that Council adopt Local Planning Scheme Amendment No. 18, as the proposal is consistent with the current strategic direction set within the *Albany Local Planning Strategy* and will facilitate the development of the subject land in conjunction with Lot 1004 Viastra Drive, Lange.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 18</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 1 – State Planning Framework Policy (Variation No. 2)</i>; 6. <i>Catalina Central Planning Framework</i>
File Number (Name of Ward)	:	LAMD18 (Yakamia Ward)
Previous Reference	:	Nil

PD122: CONSIDERATION OF ‘CHEYNE BEACH’ LOCAL PLANNING POLICY

Land Description	: Portion of Reserve 878, Lots 1 and 15 Baxteri Road and Lots 2 and 14 Cheyne Road, Cheynes
Proponent	: City of Albany
Owner	: Crown
Business Entity Name	: Nil
Attachments	: 1. Draft ‘Cheyne Beach’ local planning policy
Supplementary Information &	: Nil
Councillor Workstation	
Report Prepared By	: Planning Officer (C McMurtrie)
Responsible Officer(s)	: Executive Director Planning & 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*.
3. This proposal is broadly consistent with the strategic directions set in the *Albany Local Planning Strategy*.

Maps and Diagrams:



In Brief:

- Council is requested to consider whether it wishes to proceed with the draft 'Cheyne Beach' local planning policy to guide the development of leaseholds on Crown Reserve 878, Lots 1 and 15 Baxteri Road and Lots 2 and 14 Cheyne Road, Cheynes.
- The main objectives of the local planning policy will be to protect the established character of the area and to restrict land uses in line with leasing arrangements.
- City Staff are supportive of proceeding with the draft 'Cheyne Beach' local planning policy, as it will ensure a consistent approach to planning within the settlement and will give lessees greater certainty as to what type of development will be permitted on their leasehold.
- It is requested that Council resolves to proceed with the draft 'Cheyne Beach' local planning policy.

RECOMMENDATION

PD122: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, in pursuance of Schedule 2, clause 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, RESOLVES to: Proceed with the 'Cheyne Beach' local planning policy without modification.

BACKGROUND

4. Crown Reserve 878 is under management order H359478 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of 'Recreation, Camping, Holiday Accommodation, Accommodation Associated with the Fishing Industry and Fire Station' for any term not exceeding 21 years, subject to the consent of the Minister for Lands.
5. The reserve currently hosts 29 leases for holiday accommodation, seven leases for accommodation associated with the fishing industry and one fishing licence. While the Cheyne Beach Caravan Park was originally part of the reserve, it has now been excised and is freehold land.
6. A standard *Cheyne Beach Holiday Accommodation Lease Agreement* was developed by the City to replace the 29 holiday accommodation leases that were due to expire on 31 December 2015. Council approved renewal of those leases utilising the standard *Cheyne Beach Holiday Accommodation Lease Agreement* on 25 August 2015. A standard lease agreement for accommodation associated with the fishing industry is currently under development.
7. The City of Albany *Local Planning Policy Manual* was originally adopted by Council on 14 December 2010 and collated all of the City's local planning policies in one document for ease of use. The policies deal with various planning and development matters within the Local Planning Scheme area and assist the local government in making decisions under the Scheme. Following its initial adoption, the *Local Planning Policy Manual* underwent a number of revisions, including a comprehensive update to align with *Local Planning Scheme No. 1* on 27 May 2014, which included a change of title to *Local Planning Scheme No. 1 Policy Manual*.

8. Reserve 878 is located approximately 50km west-north-west of Albany town centre and has an area of approximately 115 hectares. The Reserve is surrounded by approximately 3,500 hectares of National Park, which is managed by the Department of Parks and Wildlife. The 29 holiday accommodation leaseholds are located on Baxteri Road. There are 11 leaseholds located on the inland (south-western) side of the road, while the remaining leaseholds are located on the seaward (north-eastern) side. The leaseholds are generally rectangular in shape and range from 825m² to 1202m² in area. The seven leaseholds for accommodation associated with the fishing industry are located on Cheyne Road, with a large leasehold of 7918m² on the seaward side and the remainder on the inland (south) side of the road, adjacent to the caravan park. These leaseholds are roughly square in shape, some with battleaxe access legs, and range from 1826m² to 2187m² in area.
9. The subject land and the surrounding National Park are covered by the 'Parks and Recreation' local scheme reserve. Lot 7774 Bald Island Road, which is freehold land and contains the caravan park, lies to the south of the leaseholds for accommodation associated with the fishing industry and is zoned 'Caravan and Camping'. A further freehold land parcel of 40 hectares lies to the south of Reserve 878 and is zoned 'General Agriculture'.
10. Council resolved to prepare a 'Cheyne Beach' local planning policy at its Ordinary Meeting on 24 November 2015.

DISCUSSION

11. *Local Planning Scheme No. 1* does not prescribe development standards for local scheme reserves. Therefore, it is deemed necessary to proceed with a 'Cheyne Beach' local planning policy, which will supplement *Local Planning Scheme No. 1* by establishing a set of standards that will guide development of the leaseholds within the settlement.
12. The development standards will maintain the established character of the settlement. The key character elements that have been identified are as follows:
 - Small rectangular single storey dwellings and sheds clad in either cement sheeting, weatherboard, corrugated steel or a mix of these materials and located centrally on each leasehold;
 - Low pitched skillion, or medium pitched gabled, corrugated steel roofs;
 - Limited use of fencing; and
 - Lawn areas with native species intermittently planted.
13. City Staff prepared a draft local planning policy that seeks to maintain this character by:
 - Maintaining the current 5 metre maximum building height, as measured from the natural ground level (single storey development);
 - Limiting development to existing leaseholds;
 - Prescribing setbacks to maintain the established pattern of development; and
 - Minimising the development of fencing.
14. Ensuring that the established character of the settlement is maintained will protect the amenity of the area. In particular, the open layout of the settlement and the outlook toward the ocean will be preserved.

15. The draft local planning policy divides the settlement into three distinct precincts. Precinct 1 covers the holiday accommodation leaseholds, Precinct 2 covers the leaseholds for accommodation associated with the fishing industry, while Precinct 3 lies within the foreshore area.
16. It is proposed to restrict the use of land within Precinct 1 to that of 'Holiday Accommodation', as defined in clause 10.3(a) of the *Cheyne Beach Holiday Accommodation Lease Agreement*, rather than as defined in *Local Planning Scheme No. 1*. The key difference between these definitions is that the Lease Agreements do not place a restriction on the length of stay, whereas *Local Planning Scheme No. 1* restricts occupancy to no more than three months in any calendar year by the same person or persons. However, the lease agreements do contain a condition that leaseholds are not to be used as a person's primary place of residence.
17. It is not proposed to set land use controls for Precinct 2 at this time, as the leasing arrangements for the precinct are still under development. However, it is proposed to include a statement that the purpose of Precinct 2 is to provide accommodation associated with the fishing industry, and the City will retain the discretion to approve accommodation units and any associated storage buildings on these leaseholds. Processing and retail or wholesale activities will be prohibited in the precinct. It is expected that the leasing arrangements for Precinct 2 will include a condition requiring the removal of all buildings and structures from a leasehold upon expiration or termination of a lease, and that the land will be returned to its original condition. On this basis, it is proposed to include a recommendation that any accommodation units and non-habitable structures within Precinct 2 are transportable or are of a temporary nature.
18. It is proposed to include a prohibition on new development within Precinct 3, on account of its location within the foreshore area and subsequent vulnerability to coastal erosion and sea level rise.
19. The *Lower Great Southern Strategy*, published in 2007, identified Cheyne Beach as an existing rural village and suggested that it may have expansion potential. This was examined in more detail in the subsequent *Albany Local Planning Strategy* and it was found that the settlement had potential for expansion. It has since been determined that the locality is not suited to permanent habitation, though its continued use as a holiday and fishing settlement can be considered as being broadly consistent with the direction set by the *Albany Local Planning Strategy*.
20. The draft 'Cheyne Beach' local planning policy will ensure a consistent approach to planning within the settlement and will give lessees greater certainty as to what type of development will be permitted on their leasehold.

GOVERNMENT & PUBLIC CONSULTATION

21. Schedule 2, clause 4(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires that a local government publish a notice of a proposed local planning policy in a newspaper circulating in the scheme area and give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.
22. In this instance, the City published a notice of the proposed local planning policy in a newspaper circulating in the scheme area and wrote directly to each of the Cheyne Beach lessees, seeking their comment. However, no submissions were received from lessees or members of the public.

STATUTORY IMPLICATIONS

23. Schedule 2, clause 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows a local government to prepare a local planning policy. Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the procedure for making a local planning policy.

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

POLICY IMPLICATIONS

25. The draft ‘Cheyne Beach’ local planning policy does not support any new development in Precinct 3, which is currently impacted by coastal processes including erosion and tidal flooding. This requirement is consistent with *State Planning Policy 2.6 – State Coastal Planning*, which recommends that a vertical sea level rise of 0.9 metres be adopted when considering the setback distance and elevation to allow for the impact of coastal processes over a 100 year planning timeframe (2010 to 2110).

RISK IDENTIFICATION & MITIGATION

26. The following indicates the risk to the City in making a decision to support or not support the Policy:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Community, Organisational Operations and Reputation</p> <p>By not proceeding with the draft ‘Cheyne Beach’ local planning policy, the City risks complications arising in the assessment of future development applications, due to the lack of development standards for local scheme reserves in Local Planning Scheme No. 1.</p>	Possible	Moderate	Medium	Proceeding with a ‘Cheyne Beach’ local planning policy to establish a set of standards that will guide development of the leaseholds within the settlement.

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

29. The City’s Co-ordinator of Environmental Health has confirmed that the conventional effluent disposal systems that have been installed to service existing short-term accommodation units are capable of managing effluent accumulating from longer-term occupation. However, Council subsequently resolved to include a requirement within the local planning policy that any new or replacement effluent disposal systems utilise Alternative Treatment Units (ATUs).

30. It is proposed to include advice within the local planning policy pertaining to the management of weeds, the clearing of vegetation and the keeping of pets. Weeds are to be eradicated, clearing requires approval from the Department of Environment Regulation and the keeping of livestock, animals and domestic pets, is not permitted.

ALTERNATE OPTIONS

31. Council may consider alternate options in relation to this item, such as:

- Proceeding with the ‘Cheyne Beach’ local planning policy with modification; or
- Not proceeding with the ‘Cheyne Beach’ local planning policy.

SUMMARY CONCLUSION

32. *Local Planning Scheme No. 1* does not prescribe development standards for local scheme reserves. A ‘Cheyne Beach’ local planning policy will supplement *Local Planning Scheme No. 1* by establishing a set of standards that will guide development of the leaseholds within the settlement. The development standards set within the draft local planning policy are designed to maintain the established character of the Cheyne Beach settlement, which will in turn preserve the amenity of the area.

33. Proceeding with the draft ‘Cheyne Beach’ local planning policy will ensure a consistent approach to planning within the settlement and will give lessees greater certainty as to what type of development will be permitted on their leasehold.

34. On this basis, it is recommended that Council resolves to proceed with the draft ‘Cheyne Beach’ local planning policy.

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 Corporate Business Plan 2013-2017</i> 5. <i>Lower Great Southern Strategy</i> 6. Western Australian Planning Commission <i>State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i> 7. Western Australian Planning Commission <i>State Planning Policy 2.6 – State Coastal Planning</i> 8. Western Australian Planning Commission and Fire Emergency Services Authority <i>Planning for Bush Fire Protection Guidelines, Edition 2</i>
File Number (Name of Ward)	:	A174625 (Kalgan Ward)
Previous Reference	:	<p>O.C.M 17/07/2001 – Item 11.3.2 O.C.M 18/09/2001 – Item 11.3.2 O.C.M 16/08/2005 – Item 11.1.1 O.C.M 19/10/2010 – Item 2.7 O.C.M 25/08/2015 – Item CSF189 O.C.M 24/11/2015 – Item PD103</p>

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**