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# AGENDA

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## **DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING**

**Wednesday 11 April 2018**

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) **Functions:** The Committee is responsible for:

Development Services:

The delivery of the “*Liveable Environmental Objectives*” contained in the City of Albany Strategic Plan:

- Advocate, plan and build connected, liveable communities.
- Create a community that supports people of all ages and backgrounds.
- Create vibrant neighbourhoods which are safe yet retain our local character and heritage.

Infrastructure Services:

The delivery of the “*Clean and Green Objectives*” contained in the City of Albany Strategic Plan:

- To protect and enhance our pristine natural environment.
- To promote environmental sustainability.
- To promote our region as clean and green.

(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) **Membership:** Open to all elected members.

(4) **Meeting Schedule:** Monthly

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

(6) **Executive Officers:** Executive Director Works & Services, Executive Director Development Services

(7) **Delegated Authority:** None

**TABLE OF CONTENTS**

	Details	Pg#
1.	<b>DECLARATION OF OPENING</b>	4
2.	<b>PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS</b>	4
3.	<b>RECORD OF APOLOGIES AND LEAVE OF ABSENCE</b>	4
4.	<b>DISCLOSURES OF INTEREST</b>	5
5.	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b>	5
6.	<b>PUBLIC QUESTION TIME</b>	5
7.	<b>PETITIONS AND DEPUTATIONS</b>	5
8.	<b>CONFIRMATION OF MINUTES</b>	5
9.	<b>PRESENTATIONS</b>	5
10.	<b>UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS</b>	5
	<b>REPORTS</b>	
DIS086	AMENDING ' <i>EXTRACTIVE INDUSTRY &amp; MINING POLICY</i> '	6
DIS087	PROVISION OF REGIONAL HEALTH SERVICES – ENVIRONMENTAL HEALTH OFFICER RESOURCING	10
DIS088	CONSIDERATION OF ADOPTION OF THE CITY OF ALBANY HERITAGE SURVEY.	13
DIS089	CONSIDERATION OF MODIFICATION TO LOCAL PLANNING SCHEME AMENDMENT 22 – LOT 1 JASON RD, LOT 476 SIBBALD RD AND LOT 1001 LOWER KING RD, BAYONET HEAD.	19
DIS090	CONSIDERATION OF ADOPTION OF LOCAL PLANNING SCHEME AMENDMENT NO.28 – LOT 312 BAY VIEW DRIVE, LITTLE GROVE.	24
11.	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	29
12.	<b>MEETING CLOSED TO PUBLIC</b>	29
13.	<b>CLOSURE</b>	29

**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 D Wellington

**Councillors:**

Member	P Terry
Member	J Shanhun (Chair)
Member	S Smith
Member	A Goode JP
Member	A Moir
Member	R Sutton (Deputy Chair)
Member	B Hollingworth
Member	E Doughty
Member	R Hammond
Member	R Stephens
Member	T Sleeman
Member	G Stocks

**Staff:**

Chief Executive Officer	A Sharpe
Executive Director Development Services	P Camins
Executive Director Works and Services	M Thomson
Meeting Secretary	A Paulley

**Apologies:**

**4. DISCLOSURES OF INTEREST**

Name	Committee/Report Item Number	Nature of Interest

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

**6. PUBLIC QUESTION TIME**

**7. PETITIONS AND DEPUTATIONS**

**8. CONFIRMATION OF MINUTES**

**DRAFT RESOLUTION**

**THAT the minutes of the Development and Infrastructure Services Committee meeting held on 14 March 2018, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**9. PRESENTATIONS**

**10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

**DIS086: AMENDING 'EXTRACTIVE INDUSTRY & MINING POLICY'**

<b>Land Description</b>	: City of Albany
<b>Proponent</b>	: City of Albany
<b>Owner</b>	: City of Albany
<b>Business Entity Name</b>	: N/A
<b>Attachments</b>	: Draft Extractive Industry Policy : Draft Moving to a rural Area Pamphlet
<b>Report Prepared by</b>	: Coordinator Development Services (Alex Bott)
<b>Responsible Officer</b>	: Executive Director Development Services (P Camins)

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed amendment, the Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2010* and *Community Strategic Plan – Albany 2030*.
3. The proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

**In Brief:**

- The current City of Albany Extractive Industry Policy has been in place since 2011. During the subsequent timeframe, a number of extractive industry applications have been lodged and processed.
- There are a number of key matters which are consistently raised during the extractive industry process which will benefit from clarification and refinement in the form of a revised policy.
- It is proposed that in addition to the preparation of the revised policy, the following matters also to be addressed;
  - Reviewing the Extractive Industry Local Law; and
  - Implementing a 'Moving to a Rural Area' pamphlet.
- Council is requested to endorse the amended *Extractive Industry & Mining Policy* for the purpose of advertising.

**RECOMMENDATION**

**DIS086: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council:**

1. In accordance with Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to **MAKE** the *Extractive Industry Policy* (as set out as an attachment to this item), as an amendment to the *Extractive Industry & Mining Policy*; and

- 2. APPROVES giving notice through the placement of a notice of the proposed policy in a newspaper circulating in the Scheme area, in order to seek public comment.**

## **BACKGROUND**

4. The City of Albany deals with a number of development applications for extractive industries each year.
5. Extractive industry proposals involve a number of affected stakeholders and often cover a number of issues.
6. The existing policy is proposed to be superseded by a revised Extractive Industry Local Planning Policy in order to provide additional clarity, information requirements and mitigation options when processing proposals.

## **DISCUSSION**

7. In 2011, the City of Albany endorsed a Planning Policy Manual, which included the *Extractive Industry & Mining Policy*.
8. Extractive industry proposals are commonly subject to significant public comment, and often involve emotive discussions by opponents. While the City acknowledges these concerns, in order to ensure proposals are dealt with on facts alone, it is necessary for the policy to be clear and provide certainty for all parties.
9. The revised policy has been prepared with a view of specifically addressing the following;
  - Providing clarification and more certainty on buffers;
  - Establishing a sunset clause for existing approved operations;
  - Information to be provided by the applicant when applying for approval to develop an extractive industry; and
  - Actions to be undertaken by the owner/applicant when applying for approval to develop an extractive industry.
10. The policy has been developed with an emphasis on proposals being prepared to a high quality, while providing clarity on the level of information require to be submitted with applications.
11. It is proposed that the City of Albany's standard extractive industry conditions continue to be applied to approvals.
12. Concurrently to the preparation of the revised policy, the City of Albany is reviewing the Extractive Industry Local Law. It is proposed to retain the current Local Law on the basis that it provides the City of Albany a separate statutory head of power to issue licenses, and particularly, enforcement options.
13. A draft 'Moving to a Rural Area' pamphlet has been prepared in conjunction with the extractive industry policy. The pamphlet has been prepared for the purpose of managing the expectations of residents who may not understand the variety of land uses that can occur within the rural environment.
14. This pamphlet will also be made available to prospective purchasers of "Special Residential" and "Rural Residential" properties to ensure that they know what to expect when buying into a rural area.

**GOVERNMENT & PUBLIC CONSULTATION**

If the Council resolves to support the Extractive Industry Policy for formal advertising a notice of the proposed policy, is to be placed in a newspaper circulating in the area, giving details of:

- Where the draft policy can be inspected;
- The subject and nature of the draft policy; and
- In what form and during what period (being not less than 21 days from the day that the first notice is published) submissions may be made.

15. After expiry of the period within which submissions may be made, the Local Government is to:

- Review the policy in light of any submissions made; and
- Resolve to adopt the policy with or without modification, or not to proceed with the policy.

**STATUTORY IMPLICATIONS**

16. There are no statutory implications relating to endorsing the proposed extractive industry policy for advertising.

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

**POLICY IMPLICATIONS**

18. The proposed policy aims to replace and refine the existing extractive industry local planning policy. The revision aims to place much greater emphasis on having a high standard of information submitted with applications.

**RISK IDENTIFICATION & MITIGATION**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<p><b>Reputation.</b> Policy position may have an impact on business operations.</p> <p>Advertising the proposed policy, could give rise to objectionable comments from extractive industry operators</p>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<p>Policy can be amended once feedback is assessed; this is the purpose of advertising prior to final adoption.</p> <p>Provisions within the Policy have been included to address amenity issues.</p>
<p><b>Opportunity:</b> Increase consistency and establish a higher standard of extractive Industry proposals.</p>				

**FINANCIAL IMPLICATIONS**

20. There are no financial implications beyond what has already been budgeted for advertising.

### LEGAL IMPLICATIONS

21. There are no legal implications relating to resolving to advertise a draft Local Planning Policy.

### ENVIRONMENTAL CONSIDERATIONS

22. The proposed *Extractive Industry Policy* is seeking to address issues, including amenity, visual impacts to the landscape and environmental impacts.

### ALTERNATE OPTIONS

23. Council has the following alternate options in relation to this item, which are:
- To resolve that the draft policy is unacceptable and refuse advertising.
  - To resolve to amend the proposed policy prior to advertising.

### CONCLUSION

24. The City's policy has been amended and refined to better address the common issues which arise from extractive industries.
25. The revised policy aims to provide an emphasis on a much higher level of information being provided in support of proposals. The policy also aims provide the City of Albany a much greater level of flexibility to require detailed information where it is warranted.
26. The revised policy aims to provide clarification and more certainty on the required buffers.
27. Council is requested to accept the revised policy for the purpose of advertising.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme 1</i> 2. <i>Planning and Development (Local Planning Schemes) Regulations 2015.</i>
<b>File Number (Name of Ward)</b>	:	All
<b>Previous Reference</b>	:	OCM April 2011 Item 1.1

**DIS087: PROVISION OF REGIONAL HEALTH SERVICES – ENVIRONMENTAL HEALTH OFFICER RESOURCING**

<b>Land Description</b>	: N/A
<b>Proponent / Owner</b>	: City of Albany.
<b>Business Entity Name</b>	: City of Albany.
<b>Supplementary Information &amp; Councillor Workstation</b>	: <i>Confidential Briefing Note has been distributed under separate cover.</i>
<b>Report Prepared By</b>	: Manager Building, Health and Compliance (S Reitsema)
<b>Responsible Officers:</b>	: Executive Director Development Services (P Camins)

*Note: A Confidential Briefing Note has been distributed under separate cover in accordance with section 5.23 of the Local Government Act 1995(2)(e)(iii), being a matter that if disclosed, would reveal information about the commercial affairs of a person other than the local government.*

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme: 5** – Civic Leadership
  - **Objective: 5.2** To provide strong, accountable leadership supported by a skilled & professional workforce
  - **Strategy: 5.2.2** Develop contemporary service delivery and staff development programs

**In Brief:**

- Employ additional Environmental Health Officer to backfill the provision of service to the Shires of Jerramungup, Plantagenet and Ravensthorpe.
- Income to offset servicing costs.
- Position to be in line with 3 year service contracts, with option to extend.

**RECOMMENDATION**

**DIS087: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council:**

**APPROVE:** the proposal to employ an Environmental Health Officer (EHO) to service the hours required to provide a health service to the Shires of Jerramungup, Plantagenet and Ravensthorpe; in line with the relevant contracts of service; with the option to extend; and

**NOTE:** This will be at no cost to the City of Albany, as income from the provision of services will be used to cover the cost (including all overheads and on-costs).

**BACKGROUND**

2. In July 2016 the City of Albany signed a 'Contract for the provision of services' with the Shire of Jerramungup to provide a technical health service. The income from this service was used to employ a part-time EHO to assist with the core functions of the Health Services team and to backfill the time committed to the Shire of Jerramungup. Based on the very positive feedback that has been received, it is anticipated that this arrangement will be extended as it is reaching the end of its 2 year term in July 2018.
3. The Shire of Plantagenet EHO resigned in early 2017 and they engaged the City of Albany Health team on an informal 'fee for service' arrangement. The Shire of Plantagenet has expressed a desire to continue for at least the next year or two. It is hoped that a more formal 'Contract for the provision of services' can also be secured with the Shire of Plantagenet to finalise this arrangement.

4. The Shire of Ravensthorpe currently has a contract with an independent EHO. The Shire is keen to formalise a new agreement for the City of Albany to provide a more 'localised' health service.
5. Currently our part time EHO works around 6 hours per week. This temporary employment has been professional and fruitful, however it is due to end in July 2018. In order to implement this proposal we would require these hours to form part of the new FTE position.
6. The City will advertise the position with the possibility of recruiting a recent graduate to the role. This will provide an important opportunity to upskill new staff. It is intended that this new staff member may be active in the other shires or to service the local role of EHO.
7. The City of Albany currently has one of the smallest Environmental Health teams per capita, compared to other 'regional capitals'. Their amount of work output is continually increasing with a growing and ageing population, development growth, increased number of local businesses requiring inspections or compliance work and continual cost shifting from State and Federal Government all having a significant impact.
8. The City has received positive feedback from the Shires of Jerramungup and Plantagenet for the work already undertaken in areas such as Public Health Planning, inspections, compliance, development applications, mosquito control, events approval, education and administration.

#### DISCUSSION

9. The City is keen to continue and possibly extend the support that we provide to our neighbouring municipalities, however, this cannot be to the detriment of our own community. Therefore appropriately resourcing the team with additional resources on a cost recovery basis is proposed.

#### GOVERNMENT & PUBLIC CONSULTATION

10. Nil

#### STATUTORY IMPLICATIONS

11. Regulation 16 of the Public Health Act 2016 outlines the functions that a Local Government has to carry out in relation to the administration of the Act.
12. Regulation 17 of the Act requires that Local Governments are to appoint a suitably qualified EHO to carry out these functions.
13. Voting requirement for this item is **ABSOLUTE MAJORITY**

#### POLICY IMPLICATIONS

14. Nil

#### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation</b> – The Health Services team not operating as expected due to lack of staff if proposal not supported	Likely	Moderate	Medium	<i>Media and communication strategy to manage community and customer expectations.</i>  <i>Funds are allocated in future budgets or applied for, to accommodate resourcing requirements.</i>
Risk	Likelihood	Consequence	Risk Analysis	Mitigation
	Unlikely		Medium	

<b>Financial</b> – If any or all of the other Shires request to stop receiving service from City of Albany		Moderate to Major		<i>Continue to provide high quality service and value for money.</i>
<b>Organisation's Operations</b> – Increased demands from other Shires reduces available officer time for City of Albany.	Possible	Moderate	Medium	Continue to monitor workload, work efficiently and look for opportunities to work smarter.  If needed, look at opportunities to employ additional staff as required on a cost recovery basis.

### FINANCIAL IMPLICATIONS

16. As outlined in the Confidential Briefing Note, there will be no financial cost to the City of Albany as this service will be provided on a cost recovery basis.

### LEGAL IMPLICATIONS

17. Following Council adopting this recommendation, the City will implement proposed contracts with the Shires of Jerramungup, Plantagenet and Ravensthorpe.

### ENVIRONMENTAL CONSIDERATIONS

18. Nil.

### ALTERNATE OPTIONS

19. Council may not support the proposal and the Environmental Health team would not be in a position to provide the full suite of proposed services to other LGA's; particularly in respect to Ravensthorpe.

### CONCLUSION

20. On reviewing the proposal and the details outlined in the Confidential Briefing Note it is seen that the recommendation can be supported, with mutual benefits for all parties involved.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• <i>Local Government (Functions and General) Regulations 1995</i></li> <li>• <i>Public Health Act 2016</i></li> </ul>
<b>File Number</b>	:	TBA
<b>Previous Reference</b>	:	Nil

**DIS088: CONSIDERATION OF ADOPTION OF THE CITY OF ALBANY  
HERITAGE SURVEY.**

<b>Land Description</b>	: Multiple Properties throughout the City of Albany Municipal Area
<b>Proponent / Owner</b>	: City of Albany
<b>Business Entity Name</b>	: City of Albany
<b>Attachments</b>	: Heritage Survey Listing Place Records
<b>Supplementary Information &amp; Councillor Workstation</b>	: Municipal Heritage Inventory
<b>Report Prepared by</b>	: Scheme Heritage List
<b>Responsible Officer</b>	: Senior Planning & Development Compliance Officer (T Wenbourne)
	: Executive Director Development Services (P Camins)

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This item relates to the following elements of the City of Albany Strategic Community Plan:
  - Theme: 5 - A connected and safe built environment.
  - Objective: 5.1 - To develop vibrant neighbourhoods which retain local character and heritage.
  - Community Priority: 5.1.2 - Provide proactive planning and building services that support sustainable growth while reflecting our local character and heritage.

**In Brief:**

- The Municipal Heritage Inventory (MHI) was last reviewed and updated in 2000. The current review commenced in 2010 and is now required be finalised in order to allow the preparation of the City's Heritage List.
- New assessment criteria has been used to assign a level of significance to each place on the current MHI, as well as for any new nominated places and places from the 2000 review list.
- The assessment and grading of the places have been reviewed by the City's community working group – the Heritage Reference Working Group.
- The new document will be known as the City of Albany Heritage Survey.
- Inclusion of a place on the Heritage Survey does not provide any statutory protection to the place or impose any burden on the owner of the property.

**RECOMMENDATION**

**DIS088: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council: ADOPT the City of Albany Heritage Survey.**

## **BACKGROUND**

4. The City of Albany Municipal Heritage Inventory (MHI) was last reviewed in December 2000. This multiple volume document represented a combination of the 1994 Heritage Inventories of the Town and Shire following the 1998 amalgamation.
5. The Municipal Heritage Inventory was compiled following the guidelines of the time and assigned management categories to the assessed places. The management categories used were A+, A, B, C, D and E.
6. At the time of the 2000/2001 Review, there were a number of places that could not be assessed for various reasons. Rather than these nominated places being lost or forgotten, they were placed on a Review List with the intention that they would be assessed at the next review.
7. The City of Albany commenced a review of the MHI in 2010. Due to a limited budget and to minimise costs, it was intended that most of the work would be undertaken in-house. Other priorities and changes in State Legislation delayed this review to some extent.

## **DISCUSSION**

8. At a State level (through the Heritage Council and State Heritage Office) the guidelines for local heritage lists and inventories have been reviewed and amended. Two new guiding documents have been produced to assist Local Governments:
  - Basic Principles for Local Government Inventories; and
  - Criteria for the Assessment of Local Heritage Places and Areas.
9. The six management categories of A+ through to E have been replaced with four descriptive levels of significance – Exceptional Significance, Considerable Significance, Some/Moderate Significance, and Little Significance.
10. The City of Albany has followed the guidance of the abovementioned documents and used its Heritage Consultant resource to update the individual place records. The A+ to E management categories of the existing MHI have been revised using the suggested descriptive levels of significance for each place.
11. As there were six management categories in the old format and a recommended four levels in the revised system, there was not a simple ‘one size fits’ all conversion applied. Each Place was evaluated, with any new or revised information taken into account. Using the assessment criteria and grading, a level of significance has been suggested for each place.
12. The place forms, in conjunction with the recommended levels of significance, have then been referred to the City’s Heritage Reference Working Group (consisting of members of the community with an interest in heritage - Item PD024 OCM 25/02/2014).
13. The Heritage Reference Working Group raised a few minor queries in relation to some properties and questioned the suggested levels of a small number of properties. However, overall, the levels of significance suggested by the City’s Heritage Consultant were accepted and agreed by the group. The queries raised were addressed and clarified, resulting in some minor changes to a small number of place record forms.
14. The place record forms now presented to Council for consideration to create the City of Albany Heritage Survey represent the final revised assessments and recommendations of the City’s Heritage consultant, in collaboration with the members of the Heritage Reference Working Group.
15. Council is requested to accept and adopt the place record forms together with the Thematic Framework from Volume 1, Part B, of the current MHI as the new City of Albany Heritage Survey.
16. As the City of Albany Heritage Survey is not a statutory document, it will carry no additional implications for property owners over and above the standard town planning

regulations which apply to all properties in Albany. The Heritage Survey is not a protection mechanism for properties included in the Survey, it is a resource document for planners and others to use as a base for further decision making.

17. For the places in the Survey to be protected or conserved, they will need to be included in the Heritage List under the Local Planning Scheme. Work on updating the Heritage List will commence once the Heritage Survey has been adopted by Council.

### GOVERNMENT & PUBLIC CONSULTATION

18. No consultation with Government Agencies or Departments is required, although the Department of Planning, Lands and Heritage, through the State Heritage Office, is aware that this MHI review and conversion to Heritage Survey format is occurring. The final adopted document is required to be sent to the State Heritage Office for their records.
19. The City sought new place nominations from the Albany community as well as contacting all the owners of properties on the MHI to seek any updates or correction of any errors in the information currently recorded for each property.
20. The City also held community information sessions for anyone interested to come in to discuss heritage matters, including any new or existing places on the MHI. Through the information sessions, City staff engaged with approximately 30 owners of properties on the MHI. A significant level of information was obtained from this consultation, requiring the information about a particular property to be amended and updated.
21. Following adoption of the Heritage Survey, City staff will commence preparing the Local Planning Scheme Heritage List. There is a set process for updating the Heritage List, which includes consultation with the individual property owners. This process is set out under Clause 7.1 of the Local Planning Scheme No.1.

### STATUTORY IMPLICATIONS

22. Section 45 of the *Heritage of Western Australia Act 1990* requires local governments to compile and maintain an inventory of buildings within its district which in its opinion are, or may become, of cultural heritage significance. The inventory is required to be updated annually and reviewed every 4 years.
23. This Review was commenced 7 years ago to review and update the MHI which was last reviewed in 2000/2001. As such, this review is long overdue.
24. The City of Albany is not alone in not meeting the review cycle set in the Heritage Act. The *Heritage Bill 2017* recognises this, and as part of the proposed update of the Heritage Act, it is proposed to remove the timeframes, but require local governments to have and maintain a current inventory/survey.
25. Voting requirement for this item is **SIMPLE MAJORITY**

### POLICY IMPLICATIONS

26. There are no policy implications relating to the adoption of the Heritage Survey.

**RISK IDENTIFICATION & MITIGATION**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<p><b><i>Community, Organisational Operations and Reputation</i></b></p> <p>Inclusion on the Heritage Survey may attract objections from property owners or members of the public or other public authorities.</p>	Possible	Minor	Medium	<p>Inclusion in the Heritage Survey carries no statutory protection or additional planning implications to owners. This misconception can be addressed/avoided through clear explanation as part of the process.</p> <p>The selection and assessment criteria is an established process. The City's assessment has been carried out in accordance with the State guidelines and the recommendations are robust and justified.</p>
<p><b><i>Community, Organisational Operations and Reputation</i></b></p> <p>Non - inclusion on the Heritage Survey may attract objections from property owners or members of the public or other public authorities.</p>	Possible	Minor	Medium	<p>The selection and assessment criteria is an established process. The City's assessment has been carried out in accordance with the State guidelines and the recommendations are robust and justified. There may be further nominations that arise which have not yet been considered. These can be held on a review list for future consideration.</p>
<p><b><i>Organisational Operations and Reputation.</i></b></p> <p>The City of Albany does not complete its review of the MHI to produce an updated Heritage Survey as</p>	Possible	Moderate	Medium	<p>Complete the Heritage Survey and proceed to the Heritage List process.</p>

<p>legislated in the Heritage of Western Australia Act 1990. The complete record of Albany's heritage assets will be incomplete, the creation of the Heritage List will be delayed and there will be no statutory protection of some of Albany's heritage places that deserve protection and preservation until this is progressed.</p>				
<p><b>Opportunity:</b> Update the City's local heritage survey to facilitate an update of the Heritage List under the Scheme.</p>				

**FINANCIAL IMPLICATIONS**

28. There are no financial implications relating to the proposal to adopt the City of Albany Heritage Survey. The preparation of the Heritage Survey has been carried out within established budgets.

**LEGAL IMPLICATIONS**

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

**ENVIRONMENTAL CONSIDERATIONS**

30. There are no environmental considerations directly relating to this item.

**ALTERNATE OPTIONS**

31. Council may consider alternate options in relation to this item, such as resolving:
- a) To adopt the Heritage Survey subject to modifications; and
  - b) Not to adopt the Heritage Survey.

**CONCLUSION**

32. The City of Albany has reviewed its Municipal Heritage Inventory (MHI). As part of this review, staff have followed the latest guidance and assessment criteria from the State Heritage Office to assign each place to one of the four levels of significance in lieu of the previous six (6) management categories.
33. The places already on the MHI have been updated and assessed to reflect their position within the hierarchy of significance. New places nominated and places from the review list have also been assessed and graded.
34. The place record forms and proposed levels of significance have been reviewed by the City's Heritage Reference Working Group, which is made up of community volunteers with an interest in local heritage.
35. The Heritage Survey is not a statutory document and inclusion of a property in the Survey does not place any additional burden or have any implication for the owner.
36. The Heritage Survey is required to inform development of the Heritage List under the Local Planning Scheme. Inclusion in the Scheme Heritage List provides statutory protection of a place. The consultation process with owners of places proposed to be

included in the Scheme Heritage List is set out in Clause 7.1 of the Scheme and will occur in due process.

37. Council is requested to agree to adopt the Heritage Survey as proposed. Adoption will enable work to commence on updating the Scheme Heritage List.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy (2010)</i></li> <li>3. <i>City of Albany Municipal Heritage Inventory (2000)</i></li> <li>4. <i>Basic Principles for Local Government Inventories (2012)</i></li> <li>5. <i>Criteria for the Assessment of Local Heritage Places and Areas (2012)</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	LP.PRG.1
<b>Previous Reference</b>	:	DIS 031

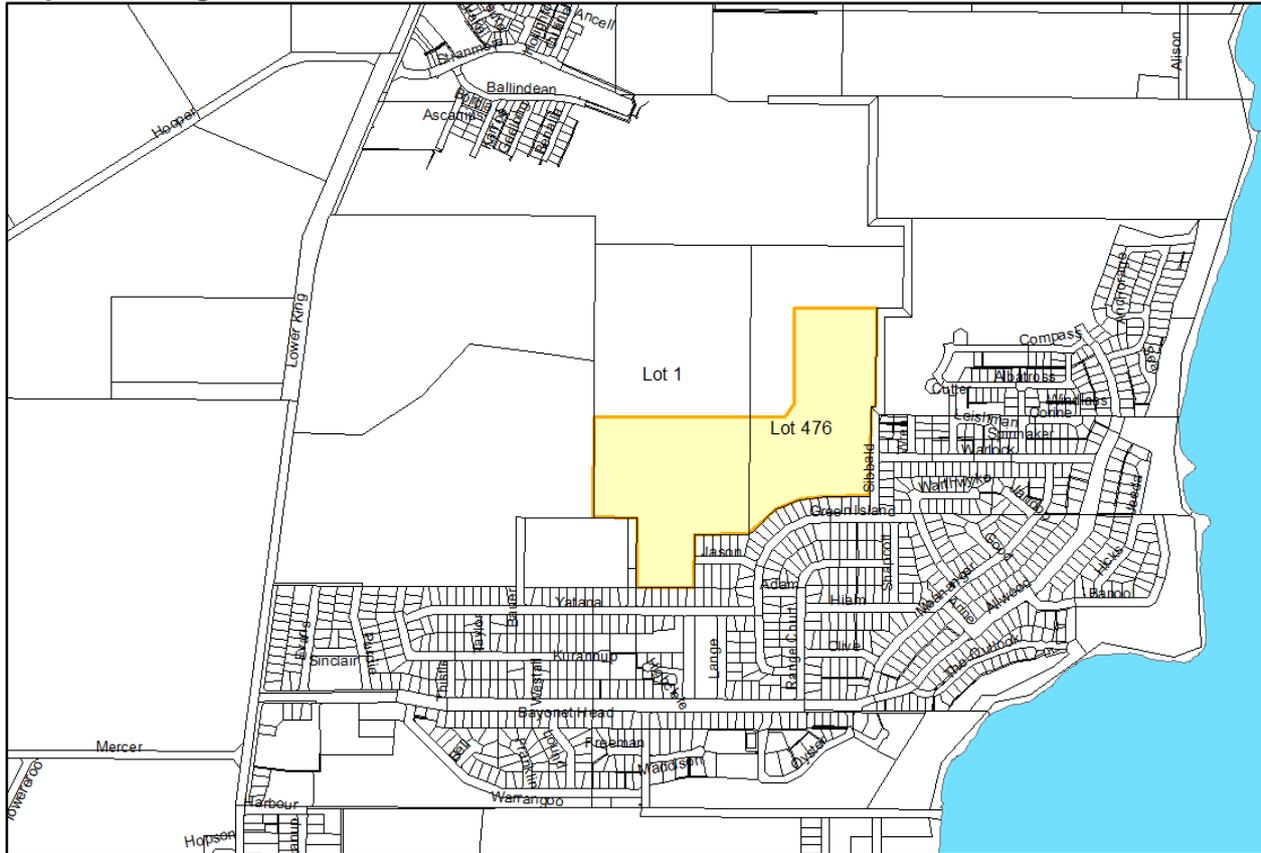
**DIS089: CONSIDERATION OF MODIFICATION TO LOCAL PLANNING SCHEME AMENDMENT 22 – LOT 1 JASON RD, LOT 476 SIBBALD RD AND LOT 1001 LOWER KING RD, BAYONET HEAD.**

<b>Land Description</b>	: Lot 1 Jason Rd, Lot 476 Sibbald Rd and Lot 1001 Lower King Rd, Bayonet Head.
<b>Proponent</b>	: Edge Planning & Property
<b>Owner</b>	: Lots 1 & 1001 – LOWE PTY LTD Lot 476 – E & M Cameron
<b>Business Entity Name</b>	: Lowe Pty Ltd, Heath Developments
<b>Attachments</b>	: Maps - Amendment No.22 and Modified Amendment No.22
<b>Supplementary Information &amp; Councillor Workstation:</b>	: Legal Advice (confidential)
<b>Report Prepared by</b>	: Senior Planning Officer – Strategic planning (A Nicoll)
<b>Responsible Officer</b>	: Executive Director Development Services (P Camins)

**STRATEGIC IMPLICATIONS**

1. Council is requested to consider a Modified Scheme Amendment No.22.
2. Council previously approved Scheme Amendment No. 22 that rezoned land to 'Future Urban' and 'Environmental Conservation'.
3. The Modified Scheme Amendment No.22 proposes rezoning affected land to only the 'Future Urban' zone and not the reservation of the land to the 'Environmental Conservation'.
4. Council is required to exercise its quasi-judicial function in this matter.
5. In making a decision on the proposed modified amendment, the Council is obliged to draw conclusion from its adopted *Community Strategic Plan – Albany 2030*. The proposed modified amendment complies with strategic planning for the following reasons:
  - a) The *Albany Community Strategic Plan – Albany 2030* recommends implementing systems and controls that ensure the prudent use of rates and ensure value for money in all aspects of Council operations (Community Priority: 1.1.1).

**Maps and Diagrams – Modified Scheme Amendment No.22**



**In Brief:**

- Council previously adopted Scheme Amendment No.22, which proposes to rezone land from 'General Agriculture' to 'Environment Conservation' and 'Future Urban'.
- Having sought subsequent legal advice on the proposal, there can be no doubt that owners of land that is subject to an Environment Conservation zoning, may seek compensation pursuant to s.173(1) of the P & D Act.
- Council is requested to agree to a Modified Scheme Amendment No.22, which involves only rezoning the portion of the subject land earmarked for development to the 'Future Urban' zone and leaving the Conservation reserve land as 'General Agriculture'
- The land to be conserved (as per Ministerial Statement No.942) will be indicated as such in a future structure plan and ceded free of charge to the Crown during the subsequent subdivision process.

**RECOMMENDATION**

**DIS089: RESPONSIBLE OFFICER RECOMMENDATION**

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

1. **Adopt, Modified Amendment No. 22** to amend *City of Albany Local Planning Scheme No. 1* by:
  - a) Rezoning portion of Lot 1 Jason Road and portion of Lot 476 Sibbald Road, Bayonet Head from 'General Agriculture' zone to 'Future Urban' zone; and
  - b) Amending the Scheme Maps accordingly.

- 2. Forward the Modified Amendment No.22 map to the Western Australian Planning Commission with a request that the Hon. Minister for Planning grant approval to the modified amendment and its gazettal.**
- 3. Advise the applicant/owner of the Council decision accordingly.**

## **BACKGROUND**

6. 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.
7. The Council resolved in June 2017 to approve the Scheme Amendment No.22, which was prepared to enable urban growth and to also conserve land in accordance with a Ministerial Statement No.942, prepared by the Minister for the Environment.
8. The Ministerial Statement No.942 declares that any development or subdivision of a declared area in Bayonet Head shall ensure that a Conservation Area is endorsed to the satisfaction of the office of the Environmental Protection Authority.
9. Having sought legal advice on the proposed Scheme Amendment No.22, and specifically the status of the ministerial statement it is clear that the reservation of land as 'Environmental Conservation' reserve may result in injurious affection claims against the City pursuant to s.174(1)(a) of the P & D Act, entitling the owners of the injuriously affected land to compensation pursuant to s.173(1) of the P & D Act.

## **DISCUSSION**

10. In order to avoid the possibility of a compensation claim, it is proposed that Council agree to a Modified Scheme Amendment No.22, which only involves rezoning land likely to be developed, to the 'Future Urban' zone and not the reservation of the land to the 'Environmental Conservation'.
11. It is proposed that the areas originally proposed for 'Environmental Conservation' remain unchanged in the 'General Agriculture' zone.
12. While the zoning of a portion of the land will be 'General Agriculture', it will remain subject to Ministerial Statement No.942 (MS 942) and its associated protections.
13. The land to be conserved (as per MS 942) will have to be indicated as such in a future structure plan and ceded free of charge to the crown as part of any subsequent subdivision process. The whole of lot 1001 is earmarked for conservation and has been removed from this amendment.

## **GOVERNMENT & PUBLIC CONSULTATION**

14. The City consulted with the Environmental Protection Authority, the Department of Planning, Lands and Heritage and all affected landholders. These parties are in general support of this change.

## **STATUTORY IMPLICATIONS**

15. Any future development or subdivision proposal within the Ministerial Statement 942 area, should be referred to the EPA.
16. Voting requirement for this item is **SIMPLE MAJORITY**.

**POLICY IMPLICATIONS**

17. There are no policy implications relating to the proposed modified scheme amendment.

**RISK IDENTIFICATION & MITIGATION**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<p><b>Reputation.</b> The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	Low	Minor	Low	<p>The City consulted with the Department of Planning, Lands and Heritage (DPLH) on the idea of modifying the Scheme Amendment No.22. The City provided the DPLH with legal advice, which effectively states that land holders may claim injurious affection under the current proposed scheme amendment No.22. Subsequently, the DPLH gave in-principle support to the Modified Scheme Amendment No.22.</p>
<p><i><b>Opportunity:</b> Overcome possible injurious affection and claim for compensation.</i></p>				

**FINANCIAL IMPLICATIONS**

19. There are no financial implications relating to the proposed modified scheme amendment.

**LEGAL IMPLICATIONS**

20. There are no legal implications directly relating to the proposed Modified Scheme Amendment No.22.

**ENVIRONMENTAL CONSIDERATIONS**

- 21. The EPA's preference is that all land within the Strategic Proposal area is zoned consistent with the Strategic Proposal.
- 22. The Ministerial Statement includes various conditions of subdivision, including requirements for a Conservation Area Management Plan and Construction Management Plan.

**ALTERNATE OPTIONS**

- 23. Council may consider alternate options in relation to this item, such as:
  - a. To resolve to support the Modified Scheme Amendment No.22, with modification; or
  - b. To resolve not to support the Modified Scheme Amendment No.22 and advise the Western Australian Planning Commission, in writing, of the reasons for doing so.

**SUMMARY CONCLUSION**

- 24. The Modified Scheme Amendment No.22 avoids possible claim for compensation caused by injuriously affecting land.
- 25. Relevant government agencies and affected landholders were consulted and support in-principle the proposed Modified Scheme Amendment No.22.

26. The City recommends that Council adopt, the Modified Scheme Amendment No. 22, which proposes to rezone land to 'Future Urban' and not rezone land to 'Environmental Conservation' reserve.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>City of Albany Strategic Community Plan 2023</i> 3. <i>Planning and Development Act 2005</i>
<b>File Number (Name of Ward)</b>	:	LAMD22 (Breaksea Ward)
<b>Previous Reference</b>	:	DIS029 June 2018

**DIS090: CONSIDERATION OF ADOPTION OF LOCAL PLANNING SCHEME AMENDMENT NO.28 – LOT 312 BAY VIEW DRIVE, LITTLE GROVE.**

<b>Land Description</b>	: Lot 312 Bay View Drive, Little Grove
<b>Proponent / Owner</b>	: Ayton Baesjou
<b>Business Entity Name</b>	: Horizon Holdings Pty Ltd Mark Zafir James Tjhouw Njin Lie
<b>Attachments</b>	: Local Planning Scheme Amendment No. 28 Amendment Document
<b>Report Prepared by</b>	: Senior Planning Officer – Strategic Planning (A Nicoll)
<b>Responsible Officer</b>	: Executive Director Development Services (P Camins)

**STRATEGIC IMPLICATIONS**

1. The application for consideration proposes an amendment to the City's *Local Planning Scheme No.1*. The amendment proposes to enable the development of grouped and multiple housing at Lot 312 Bay View Drive, Little Grove (vacant lot adjacent to local shop).
2. In making a decision on the proposed amendment, the Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2010* and *Community Strategic Plan – Albany 2030*. The amendment complies with strategic planning for the following reasons:
  - a) The *Albany Local Planning Strategy 2010* recommends development of the subject land as a local centre. Shops, offices and residential development is encouraged in local centres to serve the local community; and
  - b) The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).

**Maps and Diagrams:**



**In Brief:**

- Council is requested to finally adopt the Scheme Amendment No. 28, which proposes to support additional uses at the Lot 312 Bay View Drive, Little Grove.
- Council previously initiated and then advertised the scheme amendment. A total of five submissions were received. No issues were raised as a result of submissions.
- City planning Staff support the local planning scheme amendment, as it is consistent with the strategic direction set in the *Albany Local Planning Strategy and Activities Centre Planning Strategy (2010)*.
- Council is requested to consider submissions and to recommend that the Western Australian Planning Commission support the amendment without any modifications.

**RECOMMENDATION**

**DIS090: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council:** pursuant to section 75 of the *Planning and Development Act 2005* and regulation 50. (3) (standard amendment) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

1. **Adopt, without modifications, proposed Amendment No.28 to Local Planning Scheme No.1, by:**

a) **Designating Lot 312 Bay View Drive as ‘Additional Use’ site No. 33 and including it in Schedule 2 of the Scheme Text in the following manner:**

<b>Schedule 2 – Additional Uses (CI 4.5)</b>			
<b>No.</b>	<b>Description of land</b>	<b>Additional Use</b>	<b>Conditions</b>
<b>AU 33</b>	<b>Lot 312 Bay View Drive, Little Grove</b>	<b>Grouped Housing ('A') Multiple Housing ('A')</b>	<p><b>I. At the time of subdivision and/or development, the local government may request the provision of a Local Area Plan (to be adopted as a Local Planning Policy) to guide development of ‘Additional Uses’.</b></p> <p><b>II. The R30 code and Mixed Use Development requirements, as set out in the Residential Design Codes (Part 6) shall apply to the development of dwellings in conjunction with commercial and/or other non-residential uses.</b></p> <p><b>III. Where residential development is proposed separate to commercial use, detailed design provisions are to be provided showing how the residential development can accommodate commercial use in the future.</b></p>

b) **Amending the Scheme Map accordingly.**

- 2. Forward amendment documentation and submissions to the Western Australian Planning Commission with a request that the Hon. Minister for Planning grant approval to the amendment and its gazettal - without modifications.**
- 3. Advise the applicant/owner and those who lodged a submission of the Council decision accordingly.**

**Note:** 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 sets a strategic objective to support urban infill development based on compatibility of land uses and infrastructure capacity;
- 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**

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.
4. The Council resolved in December 2017 to advertise Amendment No.28, which is prepared to enable the development of group and/or multiple dwellings at the Lot 312 Bay View Drive, Little Grove.
5. Prior to advertising, the amendment was referred to the Environmental Protection Authority, where it was determined that the scheme amendment is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act.
6. Following notice from the EPA, the amendment was advertised in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*. At the close of advertising, five submissions were received. No issues were raised as a result of the submissions received.

## **DISCUSSION**

7. The subject Lot 312 is currently vacant and zoned 'Local Centre'. An adjacent Lot 1, is also zoned 'Local Centre' and is currently developed to provide various uses, including fast food, service station, general goods (shop) and liquor sales (shop).
8. The amendment proposes to retain the 'Local Centre' zone and to designate Lot 312 with an 'Additional Use' opportunity, enabling the development of 'Grouped Housing' and 'Multiple Housing'.
9. The establishment of high density housing adjacent to commercial centres helps to improve commercial viability, walkability and social interaction.
10. Conditions which are proposed to be incorporated in the scheme to guide development on the site include:
  - a) A 'Local Development Plan' is to be provided prior to development to illustrate expectations for the site and to prevent development occurring in an ad hoc basis; and

- b) Where residential development (grouped and multiple housing) is proposed separate to commercial use, detailed design provisions are to be provided showing how the residential development can accommodate commercial use, if required in the future.
11. In accordance with a Bushfire Attack Level Assessment Report completed for the site, it has been determined that compliance with the bushfire protection criteria can be achieved at subsequent planning stages. Compliance is to be achieved by developing to a BAL 12.5 construction as per the Section 3 and 5 of the AS3959-2009.

### GOVERNMENT & PUBLIC CONSULTATION

12. The Amendment No.28 was advertised in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
13. Five submissions were received from agencies and members of the public. A ‘Schedule of Submissions’ has been developed to summarize comments. A copy of each submission is also available (see attachments). No modifications are recommended to address comments.

### STATUTORY IMPLICATIONS

14. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
15. Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning.
16. Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to support a standard amendment, with or without modification.
17. Voting requirement for this item is **SIMPLE MAJORITY**

### POLICY IMPLICATIONS

18. There are no policy implications relating to the proposed amendment.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation.</b> The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.	Possible	Minor	Low	If not supported by the WAPC or Minister, the amendment will not be progressed and the City may be required to make modifications.
<b>Opportunity:</b> Increase opportunity for development and ultimately an active local centre.				

### FINANCIAL IMPLICATIONS

20. There are no financial implications relating to the proposal to amend the *Local Planning Scheme No. 1*.

### LEGAL IMPLICATIONS

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

## ENVIRONMENTAL CONSIDERATIONS

22. There are no environmental implications relating to the proposal to amend the *Local Planning Scheme No. 1*.
23. As per Section 48(A) of the *Environmental Protection Act 1986*, the proposal was referred to the Environmental Protection Authority and environmental assessment was not deemed necessary.

## ALTERNATE OPTIONS

24. Council may consider alternate options in relation to this item, such as:
  - To resolve to support the scheme amendment with modification(s); or
  - To resolve not to support the scheme amendment and advise the Western Australian Planning Commission, in writing, of the reasons for doing so.

## CONCLUSION

25. Amendment No.28 proposes to enable the development of grouped and multiple housing, in addition to the commercial activities allowed under the current zoning.
26. The proposed Amendment No. 28 is consistent with the current strategic direction set within the *Albany Local Planning Strategy (2010)*, the *Activity Centres Planning Strategy (2010)*
27. The amendment was advertised, with no issues were raised during the consultation process.
28. It is recommended that Council adopt Local Planning Scheme Amendment No. 28, without modification.

<b>Consulted References</b>	:	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>
<b>File Number (Name of Ward)</b>	:	LAMD28 (Vancouver Ward)
<b>Previous Reference</b>	:	OCM – 19/12/2017 - DIS067

- 11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 12. MEETING CLOSED TO THE PUBLIC**
- 13. CLOSURE**