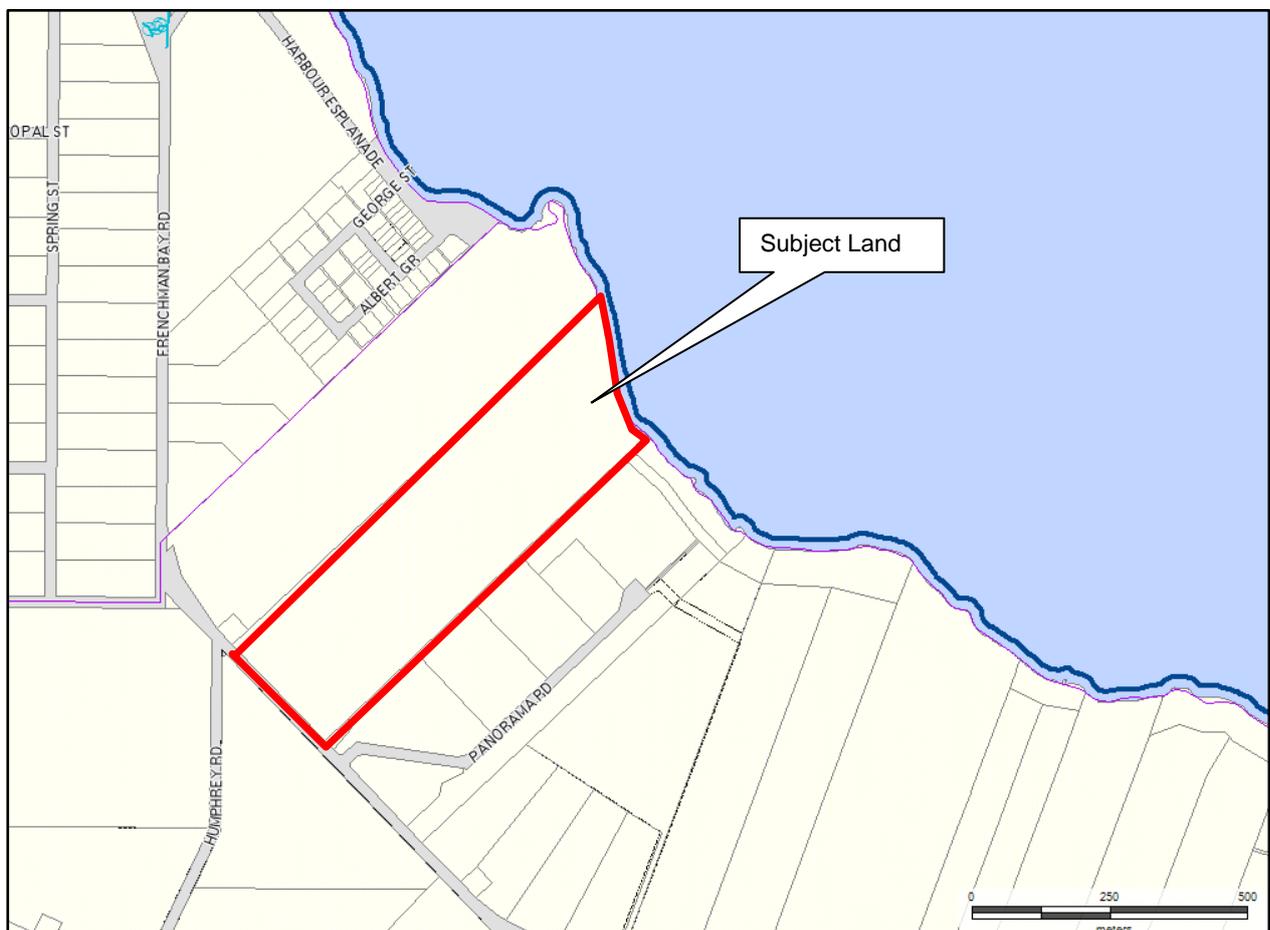


**1.2: SCHEME AMENDMENT REQUEST - LOT 105 FRENCHMAN BAY ROAD, BIG GROVE**

<b>Land Description</b>	: Lot 105 Frenchman Bay Road, Big Grove
<b>Proponent</b>	: BSO Development Consultants
<b>Owner</b>	: Roman Catholic Bishop of Bunbury
<b>Business Entity Name</b>	: Roman Catholic Bishop of Bunbury
<b>Appendices</b>	: Scheme Amendment Request (SAR)
<b>Councillor's Workstation</b>	: Copies of Agency Submissions Environmental opportunities and constraints analysis report
<b>Responsible Officer</b>	: E/Director Planning and Development Services (G Bride)

**Maps and Diagrams:**



**IN BRIEF**

- Council is requested to consider a Scheme Amendment Request (SAR) proposal that deals with the future rezoning of Lot 105 Frenchman Bay Road, Big Grove from the 'Public Purpose' reserve to the 'Residential Development' zone in Town Planning Scheme No. 3.

<b>CEO:</b>	<b>RESPONSIBLE OFFICER:</b>
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**ITEM 1.2: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council ADVISE the proponent that it is PREPARED to consider a formal scheme amendment to rezone Lot 105 Frenchman Bay Road, Big Grove from the 'Public Purpose' reserve to the 'Residential Development' zone, subject to the following matters being addressed and/or included as part of that formal amendment application:**

- A. Studies on the biodiversity and conservation values of the land being provided to the satisfaction of the Department of Environment and Conservation.**
- B. The identification of an appropriate foreshore reserve in accordance with the Western Australian Planning Commission Statement of Planning Policy 2.6.**
- C. The protection of the South Coast Water Reserve and the existing well-head on Reserve 931 to the satisfaction of the Department of Water and the Water Corporation.**
- D. The land required for vegetation protection, water resource protection, foreshore reserve and fauna habitat and corridor protection should be designated as 'Parks and Recreation' reserve.**
- E. The inclusion of a Local Water Management Strategy to the satisfaction of Council and the Department of Water.**
- F. The addressing of infrastructure provision and servicing requirements, inclusive of any associated buffers and easements to the satisfaction of the various servicing authorities.**

**ITEM 1.2: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR WELLINGTON**

**SECONDED: COUNCILLOR SUTTON**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 8-2**

**Record of Vote**

Against the Motion: Councillors D Bostock and Leavesley

**BACKGROUND**

2. A Scheme Amendment Request (SAR) has been submitted to Council seeking support to rezone Lot 105 Frenchman Bay Road, Big Grove from the 'Public Purpose' reserve to the 'Residential Development' zone.
3. The subject land is currently classified as a 'Public Purpose' reserve under Council's Town Planning Scheme No. 3 and has a total land area of 20 hectares.
4. With the exception of firebreaks and access tracks the site is almost completely covered with remnant vegetation with a potentially high ecological value.

5. A portion of the subject land is also located within a priority one area of the South Coast Water Reserve; which is the primary potable water source for Albany.
6. The vegetation on the subject lot is in very good condition and provides habitat to support populations of bush rats, southern brown bandicoots and western ringtail possums. The condition and quality of the remnant vegetation has been identified by Opus Consultants in the Environmental Opportunities and Constraints Analysis report submitted with the SAR application.
7. To the north-west of the subject land is a large vegetated Reserve (Reserve 29669) which is vested with Council as a 'Reserve for Recreation'. To the south of this reserve, fronting Frenchman Bay Road, a smaller Reserve (Reserve 931) is used as a water production bore by the Water Corporation.
8. To the south-east of the subject land the majority of lots are zoned 'Residential Development' with two lots being zoned 'Motel'. This land is within the Big Grove Outline Development Plan (ODP) area.
9. The subject land was originally identified as 'Local Reserve' within the Albany Local Planning Strategy (ALPS) when adopted for advertising in 2007. During this consultation period a submission was received from the proponent requesting Council change the designation of the land to 'Future Urban', and at its meeting on 21 August 2007, Council resolved to support this modification with the ALPS subsequently being forwarded to the WAPC for endorsement.
10. On 2 December 2009 the Western Australian Planning Commission advised that five substantial modifications, differing from the originally advertised version of the ALPS, which included the change in designation of the subject land to 'Future Urban', would need to be placed on public exhibition seeking comments and a final position of Council.
11. At its meeting on 15 June 2010, Council resolved the following in relation to the subject land:  
  
*"THAT Council agrees to MAINTAIN the land at Little Grove in the 'Future Urban' designation."*
12. The Western Australian Planning Commission supported Council's position on subject land and subsequently endorsed the ALPS at its meeting on 26 August 2010.

## **DISCUSSION**

13. The SAR proposal is consistent with the ALPS which identifies the subject land as 'Future Urban'.
14. Given the environmental constraints affecting the site the SAR proposal has been accompanied by an initial Environmental Opportunities and Constraints Analysis report prepared by Opus Consultants. The report has identified the broad vegetation communities present on the site and acknowledges the need to protect the South Coast Water Resource

(affecting the western portion of the land) and identify an appropriate foreshore reserve fronting Princess Royal Harbour.

15. The proposal was referred to various government agencies and utility providers in accordance with established practice. Responses were received from:

- Main Roads WA;
- Western Power;
- Telstra;
- Department of Environment and Conservation;
- Department of Water;
- Water Corporation; and the
- Department of Planning.

16. Whilst no objections were received to the SAR proposal, the agencies have identified that the following issues/studies will need to be addressed as part of a formal amendment proposal:

- No development will be permitted within the Priority 1 area of the South Coast Water Reserve.
- A Local Water Management Strategy will need to be submitted to the satisfaction of Department of Water.
- The identification of an appropriate foreshore reserve that takes into account State Planning Policy 2.6 (Coastal Setbacks).
- More detailed studies on the biodiversity and conservation values of the site should be provided to the satisfaction of the DEC.
- Areas identified for vegetation protection, fauna habitat and corridor protection, water resource protection and foreshore reserve should be identified as a 'Parks and Recreation'.
- The need for the upgrading of the intersection of Princess Royal Drive and Frenchman Bay Road.

17. As the SAR is consistent with the ALPS, staff are supportive of the proposal subject to the proponent addressing the matters raised by the government agencies.

#### **GOVERNMENT CONSULTATION**

18. The submissions received from the government agencies have been summarised below, however a full copy of the submissions has been placed in the Councillors Lounge.

##### **Water Corporation:**

19. The Water Corporation have advised that the South Coast Water Reserve contains the major portion of the drinking water supply for Albany and hence the development within the groundwater reserve would be subject to restrictions.

20. The western portion of Lot 105, adjoining Frenchman Bay Road, is within the South Coast Water Reserve which has been established to ensure that development within its boundaries does not pose an undue contamination risk to the underlying groundwater resource and the water production bore on the adjacent Reserve 931. The optimum level of protection would be to leave the area as undisturbed as possible and as such this portion of land should be excluded from any development which is consistent with the rezoning application. Any infrastructure that might be required to service the rezoning should be kept out of this portion of Lot 105 if possible.
21. The proponents are advised to engage the services of a consulting engineer to discuss with the Water Corporation the servicing of the area with reticulated water services.
22. In relation to reticulated sewerage the Water Corporation has advised that given the proximity of the land to the South Coast Water Reserve it is essential that any development of Lot 105 be connected to reticulated sewerage. It has also advised that at the ODP stage the identification of a suitable pump station site, inclusive of a 30 metre buffer, would be required.

**Department of Water (DOW):**

23. The DOW has also advised that they would not support any development within the Priority One (P1) area of the South Coast Water Reserve, and that this area should remain as native vegetation and public access within this area should not be encouraged.
24. They have also advised that a Local Water Management Strategy, as per the Better Urban Water Management Planning Framework (2008) would need to be submitted with the amendment proposal.
25. The DOW endorses the provision of a foreshore reserve along the Princess Royal Harbour foreshore. The setback from the foreshore will need to be determined through a biophysical assessment and take into account the projected sea level rises associated with climate change. The DOW will request the preparation of a foreshore management plan at the ODP stage.

**Department of Environment and Conservation (DEC):**

26. The DEC considers that the subject land, in association with the adjoining Reserve 29669 and Reserve 931, has important biodiversity and conservation values. The DEC has advised that Lot 105 contains vegetation in excellent condition, and is already known to provide habitat for a number of rare fauna species and currently surveyed to Level 1 criteria for its flora.
27. The DEC have advised that should Council be inclined to pursue the rezoning of the site, more detailed information is sought on the biodiversity and conservation values of the site, and the significance and extent of these, before further decisions are made.
28. Whilst the DEC has recognised that the Opportunities and Constraints Analysis provided by Opus provides good background information on environmental values, more recent work has

been undertaken as part of the Albany Regional Vegetation Survey. This Survey identifies a critically endangered vegetation unit *Banksia littoralis* woodland and *Melaleuca incana* shrubland on the subject land.

**Department of Planning (DOP):**

29. The DOP has advised that the SAR proposal is consistent with the long term planning directions identified in ALPS, with development on the site being complimented by the aims of the draft Big Grove Outline Development Plan over neighbouring properties to the west and services are easily available to the site.
30. DOP recognises that remnant vegetation with potentially high ecological significance covers the entirety of the lot. The Vegetation and Landscape Strategy in Section 8.4.2 of ALPS notes that until such time as the Albany Regional Vegetation Survey (ARVS) has been completed and adopted into ALPS, development will only be supported in cleared areas or where the value of any remnant vegetation has been assessed in accordance with the ARVS and assessed as being able to be cleared.
31. DOP have also noted that Opportunities and Constraints Analysis has identified that the vegetation is in excellent condition (with minimal localised disturbance, weed invasion and a long period of fire absence) and is an important habitat for the western ringtail possum and a number of other native mammal species.
32. In addition to the ecological values of the site, consideration also needs to be given to the tourism value of the site's foreshore location in accordance with recommendations 7 and 9 of the Albany Tourism Accommodation Planning Strategy (July 2010). In this regard the DOP would be supportive of a tourism focused development on this site.
33. In summary the DOP have recommended that:
  - provisions be inserted within the City's Scheme as part of the rezoning proposal which respond to the characteristics of the site.
  - provision of an adequate foreshore reserve along Princess Royal Harbour designated as 'Parks and Recreation' in accordance with SPP No.2 and the requirements of SPP 2.6.
  - further ecological assessment in consultation with the DEC to identify areas of significant flora and fauna habitat be undertaken.
  - areas of significant flora and fauna habitat are allocated as 'Parks and Recreation Restricted' in the Scheme.

**Main Roads WA**

34. Main Roads WA has not objected to the proposal in principle, but have advised that in order to an ensure an adequate level of service and safety is maintained, an upgrade to the intersection of Frenchman Bay Road and Princess Royal Drive would be required at the proponent's cost at the time of subdivision.

### **STATUTORY IMPLICATIONS**

35. A SAR is not a statutory process under the *Planning and Development Act 2005*. The purpose of the SAR process is to give an applicant feedback as to whether an amendment is likely to be supported or not, and the issues to be addressed in the Scheme Amendment documents.
36. If an applicant decides to pursue a Scheme Amendment, Council will be required to formally consider that request.
37. Should Council support a scheme amendment proposal and the land is ultimately converted into the Residential Development zone, subdivision and development would need to be in accordance with an endorsed Outline Development Plan (ODP).

### **FINANCIAL IMPLICATIONS**

38. Should Council ultimately support the rezoning of this land and a portion of the land is subdivided, Council will be responsible for maintaining the newly created road network and public open space areas. Given the environmental constraints applying to this site there may be significant areas of public open space created which will need to be managed by Council. The determination of the areas of public open space will need to be identified through the formal rezoning and outline development plan process.
39. The proponent has paid the required fee as per Council's adopted Planning Fees Schedule.

### **STRATEGIC IMPLICATIONS**

40. Council's decision on the Scheme Amendment should be consistent with the objectives of the Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.
41. The most pertinent sections of the ALPS that relate to this proposal are as follows:

#### *Sustainable Settlements*

##### *Key ALPS aims:*

- *Infill and consolidation of development within existing urban areas.*
- *Incremental development of new urban areas based on the concept of integrating settlement nodes within the natural environment...*

#### *Section 8.4 Environmental Strategy*

##### *Environment (Section 8.4)*

- *Encourage biodiversity preservation.*
- *Support and conserve the natural landscape and soil and water resources.*
- *Support the protection of the City's water resources and future supplies.*

Actions

- *Utilise cleared land wherever possible in new urban developments and develop incentives for retaining remnant vegetation in subdivisions (CoA).*
- *Protect existing and future potable water supplies by introducing controls into the LPS1 (CoA).*

*4.2 Vegetation*

*Planning principle:*

*“Conserve remnant vegetation within the district landscape.”*

*4.2.1 Remnant Vegetation and Linkages*

*Planning objective:*

*“To protect areas of significant remnant vegetation and increase the area of re-established local species of vegetation within the landscape.”*

Actions

- *Identify remnant vegetation macro corridors through more detailed investigations and mapping to determine appropriate linkages at a local level (DEC).*
- *Secure vegetation linkages and regional reserves through the use of statutory planning mechanisms (WAPC, DEC), local scheme amendments and subdivision and development proposals (CoA). Regional reserves can only be included in the LPS1 if they have been included in a regional planning scheme prepared by the WAPC or designated or acquired by other State Government agencies (WAPC, DEC, CoA).”*

42. The proposal is in accordance with Council's strategic planning framework as the use of the land is consistent with the designation within the ALPS. In relation to the protection of remnant vegetation, additional studies will need to be undertaken by the proponent at the rezoning and ODP stage to meet the requirements of the respective government agencies (particularly the DEC).

**POLICY IMPLICATIONS**

43. Council is required to have regard to any Western Australian Planning Commission (WAPC) Statements of Planning Policy (SPP) that apply to the SAR. Any amendment to the Town Planning Scheme would require assessment by the WAPC to ensure consistency with the following State and Regional Policies.
44. **SPP 2 – Environment and Natural Resources Policy**  
SPP 2 refines the principles of the State Planning Strategy and incorporates the recommendations of the *Western Australian State Sustainability Strategy (2002)* to ensure that planning decisions meet the needs of current and future generations through simultaneous environmental, social and economic improvements through the integration of land use planning and natural resource management.

The objectives of SPP 2 are to:

- *integrate environment and natural resource management within broader land use planning and decision-making;*
- *protect, conserve and enhance the natural environment; and*
- *promote and assist in the wise and sustainable use and management of natural resources.*

**45. SPP 2.6 – State Coastal Planning Policy**

SPP 2.6 refines the findings of the draft Coastal Zone Management Policy for Western Australia (2001) and includes provisions aimed at ensuring the sustainable use of the coast.

The objectives of SPP 2.6 are to:

- *Protect, conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance;*
- *Provide for public foreshore areas and access to these on the coast;*
- *Ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities; and*
- *Ensure the location of coastal facilities and development takes into account coastal process including erosion, accretion, storm surge, tides, wave conditions, sea level change and biophysical criteria.*

The Department of Planning and Department of Water have recommended that an appropriate foreshore reserve be assessed by the proponent in accordance with the provisions of SPP2.6. This recommendation has been included in the responsible officer recommendation.

**46. SPP 2.7 – Public Drinking Water Source Policy**

SPP 2.7 addresses planning requirements for areas contained within public drinking water source areas and seeks to maintain the high quality of water available in these areas and prevent pollution or contamination occurring from incompatible uses being developed.

The objectives of SPP 2.7 are to ensure that land use and development within public drinking water source areas is compatible with the protection and long-term management of water resources for public water supply. The DOW and the Water Corporation have identified that any future development should be located outside of the South Coast Water Reserve (Priority 1 area) and the well-head buffer zone.

**47. SPP 2.9 – Water Resources**

SPP 2.9 advises that our water resources which include wetlands, waterways, floodplains, estuaries, groundwater aquifers and the marine environments are subject to impacts and demands that affect both quality and quantity. The policy highlights the fundamental need to protect these resources due to their social, environmental and economic importance to the community.

The objectives of SPP 2.9 are to:

- *Protect, conserve and enhance water resources that are identified as having significant economic, social, cultural and/or environmental values;*
- *Assist in ensuring the availability of suitable water resources to maintain essential requirements for human and all other biological life with attention to maintaining or improving the quality and quantity of water resources; and*
- *Promote and assist in the management and sustainable use of water resources.*

The DOW has requested the submission of a Local Water Management Strategy (LWMS) at the formal rezoning stage which will need to address the above matters.

48. **SPP 3 – Urban Growth and Settlement**

SPP 3 sets out the key principles and planning considerations that apply to planning for urban growth and expansion of settlements in the State.

The objectives of SPP 3 are to:

- *promote a sustainable and well planned pattern of settlement across the State, with sufficient and suitable land to provide for a wide variety of housing, employment, recreation facilities and open space.*
- *build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities.*
- *manage the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community values and constraints.*
- *promote the development of a sustainable and liveable neighbourhood form which reduces energy, water and travel demand whilst ensuring safe and convenient access to employment and services by all modes, provides choice and affordability of housing and creates an identifiable sense of place for each community.*
- *coordinate new development with the efficient, economic and timely provision of infrastructure and services.*

The subject land is immediately adjacent to an existing Residential Development cell, which is subject to the Big Grove Outline Development Plan (ODP). The proposal is consistent with the Albany Local Planning Strategy, however any future rezoning application and ODP will have to address the constraints applying to the subject land.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

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

- To support the SAR proposal without modifications;
- To support the SAR proposal with modifications; or
- To reject the SAR proposal.

50. Should Council wish to support the SAR request it is important that prior to the submission of a scheme amendment application the proponent provides additional detailed information on the biodiversity of the site to the satisfaction of DEC.
51. The SAR process is not a statutory process under any planning legislation. It is used by the City (and other adjoining Local Governments in the region) as a precursor to the formal Scheme Amendment process. It is designed to provide the proponent with a simple and informal assessment of a proposal to gauge the views and comments of the City and other State Government agencies on the merits and likely support to be expected.
52. Should Council support the SAR proposal, it likely to progress to a formal Scheme Amendment; the Amendment undergoes a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*. All Scheme Amendments require the endorsement of the WA Planning Commission and approval from the Minister for Planning.
53. If Council were to reject the SAR proposal, the proponent would have the following options:
- To not proceed with a formal scheme amendment document;
  - To lodge a formal Scheme Amendment and request consideration by Council, irrespective of the outcome of the SAR.

**SUMMARY CONCLUSION**

54. The scheme amendment proposal is consistent with the designation of ‘Future Urban’ as per the Albany Local Planning Strategy. There are several areas of concern identified by the relevant government agencies and these will need to be adequately addressed by the proponent prior to lodging a formal application to amend the Scheme.

<b>Consulted References</b>	Albany Local Planning Strategy
<b>File Number (Name of Ward)</b>	SAR150 (Vancouver Ward)
<b>Previous Reference</b>	OCM 15/6/2010 – Item 13.2.8