

6.1: ADOPTION OF LOCAL PLANNING SCHEME NO. 1

Proponent	: City of Albany
Attachment(s)	: Schedule of Submissions (Executive Summary and Volumes 1 – 9) : Local Planning Scheme 1 : Copy of OCM 21/02/2012 Item 2.1 : Copy of OCM 20/09/11 Item 2.1
Responsible Officer(s)	: Executive Director of Planning and Development Services (D Putland)

IN BRIEF

- Local Planning Scheme 1 (LPS1) has been advertised for public comment. All submissions are contained in the Schedule of Submissions. It is recommended that Council adopt LPS 1 with modifications and forward all relevant documents to WA Planning Commission (WAPC) for their assessment and approval from the Minister for Planning.

RECOMMENDATION

ITEM 6.1: RESPONSIBLE OFFICER RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

- 1) Pursuant to regulation 17(1) of the *Town Planning Regulation 1967* NOTES the staff recommendations within the attached Schedule of Submissions and ENDORSES those recommendations.
- 2) Pursuant to regulation 17(2) of the *Town Planning Regulation 1967* ADOPTS Local Planning Scheme 1.
- 3) Pursuant to regulation 18 of the *Town Planning Regulation 1967* FORWARD Local Planning Scheme 1 documents to the Commission together with the following:
 - i) Schedule of Submissions;
 - ii) Council's recommendations made in respect of those submissions;
 - iii) particulars of the modifications to the Scheme recommended by Council; and
 - iv) a copy of the resolution.

BACKGROUND

1. At their meeting of 21 September 2011 Council resolved the following:

“That Council:

1. *ACCEPT the modifications undertaken to the draft LPS1 resulting from the advice/recommendations from the EPA and suggested modifications from the DoP assessment of draft LPS1.*
2. *ADOPT the revised draft LPS1 (Amended Version – July 2011) and resubmit it to the Department of Planning/WA Planning Commission for approval to advertise for public comment for an extended period of four months, including the advice supporting the retention of third-party appeals in the Discussion section of the report.*
3. *ADVISE town planning consultancies that have lodged amendments with the City within the past two years that it will formally consider imposing a moratorium on new scheme amendment requests and/or scheme amendments once approval is gained from the Western Australian Planning Commission to formally advertise the draft LPS1.*
4. *UNDERTAKE on approval for the draft LPS1 to be advertised for public comment, consultation tasks included within the Public Consultation/Engagement section of the report.”*

2. At their meeting of 21 February 2012, Council resolved the following:

“That Council in accordance with Regulation 14(4) of the Town Planning Regulations 1967 resolve to accept the Minister’s modification and resubmit the draft Local Planning Scheme No. 1 to the WA Planning Commission/Minister with the modification (clause 10.10 ‘Appeals’ to read ‘An applicant’) to enable the public submission period to commence.”

3. The City of Albany undertook an extensive public consultation process to encourage Albany residents to make submissions on the draft Local Planning Scheme 1 (LPS1). The consultation process ran for four months and closed 3 August 2012.
4. During the public consultation period, a total of 198 submissions were received. Under the *Town Planning Regulations 1967* Council is now required to consider all submissions to the Scheme and determine to support or not to support each submission.

DISCUSSION

5. All submissions and the City's response and recommendation thereto are contained in the 'Schedule of Submissions'. The Schedule of Submissions is divided into nine volumes. The first eight volumes contains submissions as follows:
 - Government Agencies (24 submissions)
 - Vancouver Ward (51 submissions)
 - Frederickstown Ward (10 submissions)
 - Breaksea Ward (7 submissions)
 - Yakamia Ward (10 submissions)
 - West Ward (37 submissions)
 - Kalgan Ward (30 submissions)
 - General (29 submissions)
6. Volume 9 contains those modifications to draft LPS1 which is recommended by the City's planning officers to improve the content and format of the Scheme.
7. The Schedule of Submissions provides a recommendation to 'accept', 'accept in part' or 'reject' each submission and provides an explanation of the reasons for the recommendation under the column '*City's Planning Comment*'.
8. To avoid delays to the final approval of the Local Planning Scheme 1, the City's planning staff did not support major modifications to the draft scheme; modifications where additional information or technical reports were required to support the modification, where extensive consultation or re-advertising will be required; or modifications that have the potential to prejudice the land uses or amenity of neighbouring property owners.
9. Where a submission is considered to have potential merit, but is likely to result in re-advertising, or should be supported by additional technical information, the submission is recommended to be rejected and a recommendation made under 'Other City Recommendations' that the matter be investigated as part of the review of the Albany Local Planning Strategy and/or that it could be considered through a separate amendment to LPS1 after gazettal.
10. *Town Planning Regulations 1967* stipulate the process relevant to the finalisation of draft LPS1. Following adoption of draft LPS1 for finalisation, the City refers all of the submissions and associated scheme documents to the WAPC for their consideration and assessment. The WAPC then makes a recommendation to the Minister for Planning. The Minister for Planning will make the final determination on the Scheme. When the Scheme is approved, the City will publish a notice of approval in the local newspaper and advise all submitters of this outcome.

11. Following Council's briefing session on Thursday 11 April 2013, planning officers have undertaken the following modifications to the Schedule of Submissions and Scheme documents:

Relevant submission number	Reason for change	Modification
V17 – V20	Lot 217 omitted from the recommendation	<p>The recommendation has been modified to read as follows:</p> <p><i>“That the City accepts the submission in part and undertake the following modifications:</i></p> <p><i>Scheme Map:</i></p> <p>1) <i>Remove Lots 216, 217, 662, 663, 664, 665, 666, 221, 222 and 223 La Perouse Road/Court, Goode Beach from the Special Residential Zone (shown as SR8) and include it within the Residential Zone with an R5 density code.”</i></p>
V28 and V29	Residents of Frenchman Bay are concerned that western access Lot 660 La Perouse Road, Goode Beach will result in environmental damage. Recommendation 1 of the relevant submissions was therefore modified.	<p>The recommendation was modified to read as follows:</p> <p><i>“The City accepts the submission in part and undertakes the following modifications to Special Use Zone No. 1 in Schedule 4 Special Use Zones for Lot 660 La Perouse Road, Goode Beach:</i></p> <p><i>Scheme Text</i></p> <p>1) <i>That condition 2(c) be replaced to state:</i> <i>Access/egress to the site to be from the western sector off La Perouse Road and located and constructed to prevent any adverse environmental impact on Lake Vancouver and the catchment area;</i></p> <p><i>Scheme Map</i></p> <p>2) <i>Extent the existing Special Use site over all of Lot 660 La Perouse Road, Goode Beach.”</i></p>
W5	The initial recommendation to reject the submission may potential result in the land owner being entitled to obtain compensation in respect of the injurious affection from the City of Albany.	<p>The recommendation has been modified to read as follows:</p> <p><i>“The City accepts the submission and removes 40 (Lot 16) Kitson Road, Gledhow from the General Agriculture Zone and includes it with the Light Industry zone.”</i></p>
A42	Submission number W5 raise concern with regard to the proposed zoning Lot 16 (40) Kitson Road, Gledhow under draft LPS1. Planning officer's recommendation is to zone the land as per TPS3 being Light Industry. The zoning of existing Light and General Industry zone under TPS3 however, applies	<p>The following recommendation was included under the City of Albany staff recommended changes to the Scheme text:</p> <p><i>“Amend Scheme Maps 11 and 12 to show all land bounded by Old Elleker Road to the south, Cumming Road to the north, Public use zone to the west (except lot 16 (40) Kitson Road, Gledhow) within the General Industry zone.”</i></p>

	to a larger area bounded by Old Elleker Road to the south, Cumming Road to the north, Public use zone to the west and Light Industry zone to the east. Amend Scheme Map 11 and 12 to show all land as described (except lot 16 (40) Kitson Road, Gledhow) within the General Industry zone.	
Scheme Text	Schedule 15 – Special Residential (SR 8) was incorrectly deleted in the Scheme Text.	Undelete Special Residential Area 8 under Schedule 15.
A30	An additional modifications proposed by planning officers under Volume 9 – City of Albany (Schedule of Submissions)	The following recommendation was included under the City of Albany staff recommended changes to the Scheme text: “1. Modify Schedule 2 – Additional Uses, AU8 (Lot 30 Nanarup Road, Kalgan) special provisions no.4 to read: “No modifications to the existing dams are permitted without the Local Government approval.”

GOVERNMENT CONSULTATION

12. Draft LPS1 was referred to all government and service agencies. The submissions received are contained in Volume 1 – Government Agencies.

PUBLIC CONSULTATION / ENGAGEMENT

13. LPS1 was advertised in accordance with the requirements of the *Town Planning Regulations 1967*.
14. Draft LPS1 was on advertised from 3 April and concluded 3 August 2012 public comment. The advertising period of 4-months enabled the public to lodge submissions on the draft scheme for consideration prior to the scheme being finalised. Major communications tools and channels were as follows:
- i) An A1 sized folded pamphlet was sent through Australia Post to all addresses within the City municipality (some 17,000).
 - ii) Public notices were placed in both local and state wide newspapers informing the public of the advertising of draft LPS1 and encouraging them to make a submission. Advertisements were placed at regular intervals during the 4 month consultation period. As required under the *Planning and Development Act 2005*, the notice has also been published in the Government Gazette.
 - 6 ads in Albany Advertiser (proposed for 3/4, 24/4, 15/5, 5/6, 26/6 & 17/7)
 - 6 ads in Weekender (proposed for 12/4, 3/5, 24/5, 14/6, 5/7 & 26/7)
 - 4 ads in Saturday’s West Australian (proposed for 7/4, 5/5, 2/6 & 7/7)
 - 1 ad in Government Gazette
 - Additional adverts in local community newspapers (including Wellstead Whisper etc.)
 - iii) In addition, 4 adverts were placed in Albany Advertiser & Great Southern Weekender advising of the proposed times/dates/venues for the displays to be completed in shopping centres and rural communities.

- iv) Hard copies of the scheme documents were placed at the following venues for viewing during the advertising period:
 - 3 copies at City of Albany Offices
 - 3 copies at Albany Public Library (some copies available for loan)
 - 2 copies at Department of Planning (Albany Office)
 - 1 copy at Wellstead Community Resource Centre
 - v) Copies of the scheme documents on cd-roms were available to be collected and/or posted out to all interested parties through the City Office.
15. All government agencies and service providers were sent written invitations to make a submission on the Scheme.
16. Following the closure of the advertising period, the City's planning officers have had ongoing discussion with submitters regarding their concerns raised in submissions.
17. All submitters were sent a letter (dated 5 April 2012) which advised them of planning staff's recommendation to Council in relation to their submission, of the process to finalise LPS1 and invited them to a public meeting to make a verbal presentation on their submission.
18. The public meeting was held on 17 April from 5:30pm to 7:00pm at Council Chambers. The meeting was well attended and 16 people made verbal presentation on their submission. As per Council meeting protocols, each person was given 4 minutes to raise any matters relevant to their submission.

STATUTORY IMPLICATIONS

19. The preparation and finalisation of LPS1 is governed by the *Planning and Development Act 2005* and associated *Town Planning Regulations 1967*.
20. Regulation 17(1) of the *Town Planning Regulations 1967* requires that the City consider all submissions to the Scheme and in respect of each submission to the Scheme consider whether the Scheme should be modified accordingly or whether that submission should be rejected.
21. Regulation 17(2) of the *Town Planning Regulations 1967* requires that the City pass a resolution either (a) that the Scheme be adopted with or without modifications; or (b) that it does not wish to proceed with the Scheme.
22. Regulation 18 of the *Town Planning Regulations 1967* requires that the City forward the Scheme documents to the Commission together with (a) a schedule of submissions made on the Scheme; (b) its recommendations made in respect of those submissions; (c) particulars of the modifications to the Scheme recommended by the City; and (d) a copy of the resolution.

STRATEGIC IMPLICATIONS

City of Albany Strategic Plan (2011 – 2021)

23. This item directly relates to the following elements of the adopted City of Albany Strategic Plan (2011 – 2021).

Key Focus Area: Sustainability and Development

Community Priority: Single Town Planning Scheme

Proposed Strategies: Amalgamate Town Planning Scheme 1A and Town Planning Scheme 3 into one definitive plan that includes:

- Greater flexibility in housing options so there is greater property diversity;
- An increase in mixed use developments and dwellings, particularly in the CBD;
- Clearly defined “rules” and then ensure consistent application;
- Streetscape development guidelines for private development projects and a streetscape master plan for the City;
- Definitions of the type and location of future residential housing;
- High density housing of up to three levels in approved areas to reduce urban expansion;
- Restrictions to development in prime locations and in accordance with a coastal policy;
- Protection of natural reserves;
- Flexibility for development in key tourism areas;
- The establishment of green belts around Albany;
- A requirement for developers to turn drainage basins into living streams or parks;
- Strategies to prevent urban sprawl;
- Strategies to retain prime agricultural land.

24. The completion of a new planning scheme for the City, based on the strategic land use direction promoted in Albany Local Planning Strategy (ALPS) and which consolidates the various existing planning schemes will assist the City deliver on its strategic plan for Albany.

Albany Local Planning Strategy

25. The strategic objectives and actions identified under Albany Local Planning Strategy (ALPS) were applied in the assessment of all submissions.
26. ‘Other City Recommendations’ within the Schedule of Submissions provides recommendation on matter that requires further investigation and justification under ALPS. These are proposed to be undertaken within the review of ALPS.

POLICY IMPLICATIONS

27. The finalisation of the LPS1 will require the review of Local Planning Policies to ensure consistency with the new Scheme.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
1. <i>It is intended to allow only minor modifications to the Scheme. Where major modifications are supported by Council, this will result in re-advertising which will have time, financial and resource implications for the City.</i>	<i>Possible</i>	<i>High</i>	<i>High</i>	<i>Mitigation dependant on Council's decision to only allow minor modifications to the Scheme.</i>
2. <i>Where the making of LPS1 entitles a person to obtain compensation in respect of injurious affection (as determined under S.174(2) of the Planning and Development Act 2005).</i>	<i>Unknown</i>	<i>High</i>	<i>Unknown</i>	<i>Mitigation dependant on land owner's injurious affection entitlement. All attempts were made to minimise possible claims for injurious affection.</i>

FINANCIAL IMPLICATIONS

29. ‘Other City Recommendations’ within the Schedule of Submissions provides recommendations to amend LPS1 when gazetted. Similarly, recommendations are made for the preparation of Local Planning Policies.
30. Any costs associate with preparation of amendments and/or Local Planning Policies would be undertaken by the Planning & Development Directorate using existing staff resources within budget.

ALTERNATE OPTIONS

31. Council has the following options in relation to the final adoption of LPS1.
- To adopt Local Planning Scheme 1 with modifications as recommended by staff;
 - To amend the officer recommendation to adopt Local Planning Scheme 1 with modifications as recommended by staff with changes as proposed by Councillors;
 - To resolve not to adopt Local Planning Scheme 1 and advise the WAPC of the reasons for doing so.

SUMMARY CONCLUSION

32. The Local Planning Scheme 1 has been advertised pursuant to the *Town Planning Regulations 1967*. 198 submissions were received. These submissions were assessed by planning officers and recommendations made to accept, accept in part, or reject the submissions. The City's planning officers have recommended a number of changes to draft LPS1 as a result of responding to issues raised in submissions.
33. It is recommended that Council endorse the Schedule of Submissions; adopt LPS1 and forward relevant documentations to the WAPC for approval by the Minister for Planning.

Consulted References	<i>Planning and Development Act 2005</i> <i>Town Planning Regulations 1967</i>
File Number (Name of Ward)	LP.PLA.8 (All Wards)
Previous Reference	OCM 11/4/00 Item 12.1.14 OCM 5/9/00 Item 11.3.1 OCM 16/1/07 Item 11.3.3 OCM 20/3/07 Item 11.3.3 OCM 17/02/09 Item 11.6.1 OCM 20/09/11 Item 2.1 OCM 21/02/12 Item 2.1