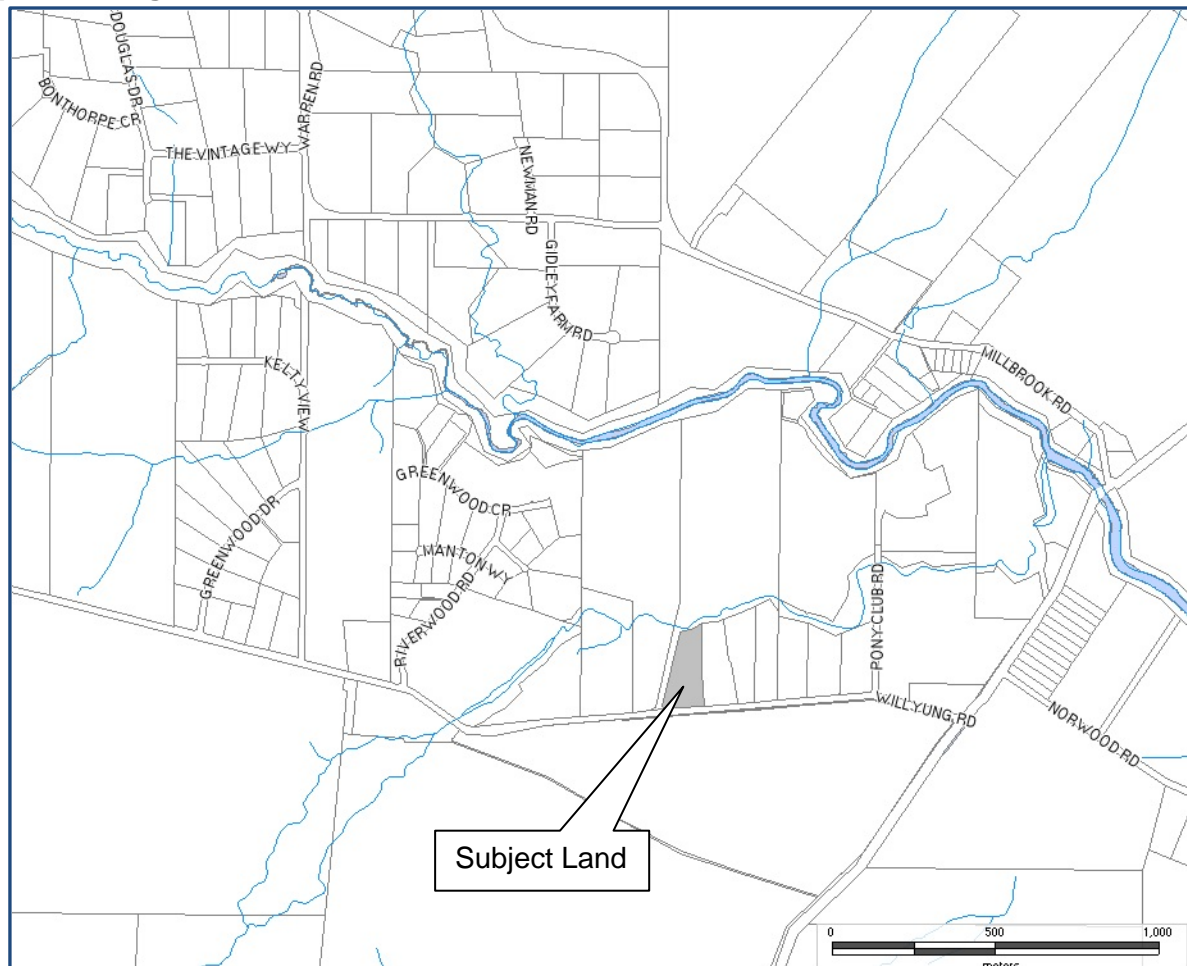


**2.8: LOCAL PLANNING SCHEME POLICY – SPECIAL RESIDENTIAL
AREA NO. 11 (LOT 106 WILLYUNG ROAD)**

Land Description	: Lot 106 Willyung Road, Willyung
Proponent	: Ayton Baesjou Planning
Owner/s	: Mr G J & Mrs C L Bergersen
Business Entity Name	: N/A
Attachment(s)	: Draft Local Planning Scheme Policy – Special Residential Area No. 11 Subdivision Guide Plan (Lot 106 Willyung Road, Willyung)
Councillor Workstation	: Copy of O.C.M. 19/04/2011 – Item 1.1 : Copy of O.C.M. 19/03/2013 – Item 2.5 : Copy of proponent's submission
Responsible Officer(s)	: Executive Director – Planning and Development Services (D Putland)

Maps and Diagrams:



IN BRIEF

- Consider whether to finally adopt the draft Local Planning Scheme policy for Special Residential Area No. 11 (Lot 106 Willyung Road).

**ITEM 2.8: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council adopts the draft Local Planning Scheme policy for Special Residential Area No. 11 (Lot 106 Willyung Road), subject to inclusion of the modified plan ref: 09-55-SGP(h) and superseding plans ref: 10-28-SGP(e) and 09-55-SGP(f) .

BACKGROUND

1. The draft Local Planning Scheme policy proposes to add a supplementary subdivision guide plan for Special Residential Area No. 11 (Lot 106 Willyung Road) into Local Planning Scheme policy 60 *Modifications to Subdivision Guide Plans*.
2. The existing policy was considered by Council at its ordinary meeting on 19 April 2011 and the following resolution was reached:

*“THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT policy LPP6(O) *Modifications to Subdivision Guide Plans within the Local Planning Policy Manual (April 2011) as per Paragraph 47 and 48 of the officer’s report.*”*

3. Council was requested to consider the draft modified Local Planning Scheme Policy at its Ordinary Meeting on 17 July 2012 and resolved:

*“THAT Council **ADOPTS** the draft Local Planning Scheme policy for Special Residential Area No. 11 (Lot 106 Willyung Road), for the purpose of public advertising.”*

4. Council is now requested to consider the submissions received from the public advertising period and determine whether to finally adopt the draft Local Planning Policy.

DISCUSSION

5. The subject lot covers an area of 2.34ha to the north side of Willyung Road, approximately 9km north of Albany town centre. The land is largely cleared and under pasture, although some large mature trees remain on the northern extent of the western boundary, on the southern boundary and scattered across the eastern extent of the lot. There is also a shelter belt running across the south-western quarter on a north-south axis. A large house, outbuilding and stables stand in the south-eastern quarter. The remainder of the lot is used for the keeping of horses. The lot is relatively level, with a gentle slope downward from Willyung Road to Willyung Creek, which flows past the northern end of the lot. A portion of the lot lies within the identified floodway (see plan).
6. The subject lot is zoned ‘Special Residential’, while the Willyung Creek foreshore area to the northern end is designated under the ‘Parks and Recreation’ Local Scheme Reserve. The surrounding land is primarily zoned ‘Special Residential’. However, the ‘Parks and

Recreation' Local Scheme Reserve extends along the creekline and the land to the south of Willyung Road is within the 'Rural' zone.

7. The land to the north is currently undergoing subdivisional works, including the construction of roads and the fencing of lots. Council has recently adopted a modified subdivision guide plan for these lots, which varied the setback requirements and adjusted the layout from the original subdivision guide plan.
8. The draft addition to the Local Planning Scheme Policy will facilitate the subdivision of Lot 106 Willyung Road to create five 'Special Residential' lots, ranging in size from 4000m² to 5800m² and has been submitted for assessment on the basis that it will achieve the following:
 - Encourage the efficient use of existing rural living areas;
 - promote consolidation and sustainable development;
 - encourage a range of lot sizes;
 - co-ordinate subdivision and development;
 - provide protection of creeklines; and
 - provide adequate fire protection.
9. In the context of the Albany Local Planning Strategy (ALPS), the draft addition is considered to achieve these objectives.
10. Although Special Residential Area No. 11, provision 6.0 *Location of Buildings and Structures* refers to building envelopes taking into account "15 metre boundary setbacks with the exception of 30 metres for lots abutting Willyung Road", Council has previously supported reduced setbacks on subdivision guide plans pertaining to this area, including the recently adopted subdivision guide plan over Lots 104 and 105 Willyung Road. The lot sizes and setbacks prescribed in the draft subdivision guide plan are consistent with those of the subdivision guide plan for Lots 104 and 105.
11. When the draft modified policy was advertised for public comment and referred to public agencies, advice was received from the Department of Planning, Department of Health and Department of Water.
12. The Department of Planning have advised that they do not support the creation of a separate Subdivision Guide Plan for Lot 106 and that the plan should be integrated with the existing Subdivision Guide Plan for Lots 104 and 105 Willyung Road.
13. The Department of Planning has also recommended that provision is made for a subdivisional road through Lot 106 to Lot 101, in order to facilitate the future subdivision of Lot 101, without having to take direct access from Willyung Road. The Department considers the design to be unsatisfactory without this inclusion and they have also recommended that the existing plan needs to be similarly revised to include subdivisional road access to Lot 3, below Lots 704 and 705. While the City recognises that the provision of these roads could be beneficial, it is considered that the provision of a subdivisional road through Lot 106 could compromise the viability of the subdivision. Furthermore, the City

cannot support the construction of a subdivisional road between Lots 704 and 705 in retrospectively to it's earlier approval.

14. The Department of Planning also noted that:
 - The revegetation requirement on the original 1999 SGP for lots fronting King River has been omitted;
 - The notes on the subdivision guide plan for Lots 104 and 105 refer to a 1:100 Willyung Creek "*Flood flow*" and that it should be clarified whether this is intended to be "*floodway*" as per the legend or "*flood plain*";
 - There is a need to include in the notations on the subdivision guide plan for Lots 104 and 105 that fencing, shelters, etc. are not to impede the flow of water within the floodway; and
 - That the notation regarding habitable buildings on the subdivision guide plan for Lots 104 and 105 should refer to "*assessed Bushfire Attack Level (BAL)*."
15. It is acknowledged that adoption of a separate plan for Lot 106 would complicate planning for this area. Staff therefore support the Department of Planning's position that the supplementary plan for Lot 106 should be combined with the plan for Lots 104 and 105 and that this plan is superseded within the Subdivision Guide Plans policy. The proposed changes to the notations is however not supported at this stage because they are likely to affect the land owners of Lot 104 and 105 who have not been adequately consulted with in relation to these proposed changes.
16. The Department of Health have advised that the City may wish to give some consideration to the incorporation of buffer areas to protect residents from lifestyle and public health impacts from mosquitoes and ongoing agricultural practices in the area. Although the City acknowledges these concerns, there are currently no special provisions for 'Special Residential' zone area no. 11 that pertain to these matters and it is not possible to add special provisions by means of a local planning policy. Similarly, the other subdivision guide plans that apply to 'Special Residential' zone area no. 11 do not include buffers, so it would be unreasonable to apply buffers solely to Lot 106.
17. The Department of water has advised that where Lot 106 adjoins Willyung Creek, the width of the foreshore reserve is insufficient to protect the creek from the increased recreational pressures that are accompanying the development of the surrounding area. The Department has recommended that the width of the foreshore reserve adjacent to Lot 106 is increased by around 10-15 metres and that restoration works are undertaken. The Department reasons that widening of the foreshore reserve will allow for further revegetation to protect the creek banks from erosion, improving water quality and increasing the habitat value of the creek for native fauna and birds.
18. The Department of Water's advice is supported by staff and it is recommended that the plan is modified accordingly. It is also noted that the size of 'Lot A', as it appears on plan, and the extent of the 'building exclusion area' would facilitate both the widening of the foreshore reserve and the construction of a connecting road, as per the Department of Planning's

advice, while maintaining the required minimum lot size of 4000m². It is recommended that this modification is also incorporated into the plan.

19. In view of the above issues and the direction set by the previously adopted Local Planning Policy and the recently approved modified subdivision guide plan over Lots 104 and 105 Willyung Road, it is considered that the draft modified Local Planning Policy can be incorporated into the consolidated plan as attached.

GOVERNMENT CONSULTATION

20. The draft modified Local Planning Scheme Policy was referred to the Department of Planning Great Southern Regional Office, WA Gas Networks, Telstra, Water Corporation, Western Power, Department of Health, Department of Water, Department of Environment and Conservation and Department of Regional Development and Lands for assessment and comment. No objections were raised, although advice was provided by the Department of Planning, Department of Health and Department of Water, which is discussed in detail in paragraphs 12 to 15.

PUBLIC CONSULTATION / ENGAGEMENT

21. The draft modified Local Planning Scheme Policy was advertised in accordance with Clause 6.9 of Town Planning Scheme (TPS) No. 3 (see paragraph 23 below), between 4 April 2013 and 2 May 2013.
22. No submissions were received during the public consultation period.

STATUTORY IMPLICATIONS

23. The subject lot is zoned 'Special Residential' and is contained within the Special Residential Area No. 11, under Town Planning Scheme No. 3. Special Provision 1.2 of the zone controls allows Council to consider modifications to the SGP as follows:

"The Council will not recommend lot sizes less than 4000m². Subdivision shall generally be in accord with the lot sizes and layout shown on the Subdivision Guide Plan. Any significant variation to the Subdivision Guide Plan will need to be justified in terms of land capability, visual impact, retention of views, vegetation retention, emergency access/egress and setbacks from King River and creeks. Consultation with and general support of surrounding landowners will be a prerequisite to consideration of any significant variation to the Subdivision Guide Plan."

24. Clause 6.9 of TPS No. 3 set out the processes to adopt and alter Town Planning Scheme Policies and also provide direction on what function the policies have in the decision-making process.

"6.9 POWER TO MAKE POLICIES

- 6.9.1 *In order to achieve the objectives of the Scheme, the Council may make Town Planning Scheme policies relating to parts or all of the Scheme Area and relating to one or more of the aspects of the control of development.*
- 6.9.2 *A Town Planning Scheme policy shall become operative only after the following procedures have been completed:*
- (A) *The Council having prepared and having resolved to adopt a Draft Town Planning Scheme Policy, shall advertise a summary of the Draft Policy once a week for two consecutive weeks in a newspaper circulating in the area giving details of where the Draft Policy may be inspected and where, in what form, and during what period (being not less than 21 days) representations may be made to the Council.*
- (B) *The Council shall review its Draft Town Planning Scheme Policy in the light of any representations made and shall then decide to finally adopt the Draft Policy with or without amendment, or not proceed with the Draft Policy.*
- (C) *Following Final Adoption of a Town Planning Scheme Policy, details thereof shall be advertised publicly and a copy kept with the Scheme Documents for inspection during normal office hours.*
- 6.9.3 *A Town Planning Scheme policy may only be altered or rescinded by:*
- (A) *Preparation and Final Adoption of a new Policy pursuant to this Clause, specifically worded to supersede an existing Policy.*
- (B) *Publication of a Formal Notice of Rescission by the Council twice in a newspaper circulating in the area.*
- 6.9.4 (A) *A Town Planning Scheme policy shall not bind the Council in respect of any application for Planning Consent, however, it may require the Council to advertise its intention to relax the provisions of the Policy once in a newspaper circulating in the district stating that submissions may be made to the Council within 21 days of the publication thereof.*
- (B) *Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve any submissions lodged, before making its decision.”*

STRATEGIC IMPLICATIONS

25. The proposal is considered to be consistent with Section 8.3.5 – *Rural Living* of the ALPS, as it:
- discourages the creation of additional rural town sites for living purposes;
 - avoids the development of a Rural Living area on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity;
 - avoids the development of a Rural Living area on future and potential long-term urban areas, as the land has been identified in the ALPS as suitable for Special Residential purposes; and

- will create lot sizes similar to those adjoining the subject land, which are being used for similar rural residential living purposes, therefore minimising the potential for generating land-use conflicts.

POLICY IMPLICATIONS

26. Council is required to have regard to any Western Australian Planning Commission Statements of Planning Policy (SPP) that apply to the proposal.
27. **SPP 1 – State Planning Framework**

The Policy establishes state-wide key land use planning principles and informs the Commission, Local Government and others involved in the planning process in relation to sustainable land use and development across the State. It is designed to ensure there is coordination and integrated decision-making across all spheres of planning.

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.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Not adopting the draft Local Planning Scheme policy may lead to complaint from the proponent.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Mitigation is entirely dependent on Council's decision.</i>

FINANCIAL IMPLICATIONS

29. Staff have processed the application within existing budget lines.

LEGAL IMPLICATIONS

30. There are no legal implications in relation to this item.

ALTERNATE OPTIONS

31. Council has the following options:
- Finally adopt the draft Local Planning Scheme policy, without modification;
 - Finally adopt the draft Local Planning Scheme policy, subject to modification; or
 - Not adopt the draft Local Planning Scheme policy.

SUMMARY CONCLUSION

32. The draft policy is broadly consistent with the objectives of the ALPS and SPP's 1 and 3. Its final adoption will:

- Encourage the efficient use of existing rural living areas;
- promote consolidation and sustainable development;
- encourage a range of lot sizes;
- co-ordinate subdivision and development;
- provide protection of creeklines; and
- provide adequate fire protection.

It is therefore recommended that the draft addition to the Local Planning Scheme Policy is finally adopted, subject to the inclusion of the consolidated plan for Lot 106 and Lots 104 and 105..

Consulted References	WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 & SPP 3
File Number (Name of Ward)	A171601 (Kalgan Ward)

