

AGENDA

PLANNING AND DEVELOPMENT COMMITTEE

08 June 2016

6.00pm

City of Albany Council Chambers

**CITY OF ALBANY
COMMUNITY STRATEGIC PLAN (ALBANY 2023)**

VISION

Western Australia's most sought after and unique regional city to live, work and visit.

VALUES

All Councillors, Staff and Volunteers at the City of Albany will be...

Focused: on community outcomes

This means we will listen and pay attention to our community. We will consult widely and set clear direction for action. We will do what we say we will do to ensure that if it's good for Albany, we get it done.

United: by working and learning together

This means we will work as a team, sharing knowledge and skills. We will build strong relationships internally and externally through effective communication. We will support people to help them reach their full potential by encouraging loyalty, trust, innovation and high performance.

Accountable: for our actions

This means we will act professionally using resources responsibly; (people, skills and physical assets as well as money). We will be fair and consistent when allocating these resources and look for opportunities to work jointly with other directorates and with our partners. We will commit to a culture of continuous improvement.

Proud: of our people and our community

This means we will earn respect and build trust between ourselves, and the residents of Albany through the honesty of what we say and do and in what we achieve together. We will be transparent in our decision making and committed to serving the diverse needs of the community while recognising we can't be all things to all people.

TERMS OF REFERENCE

(1) Function:

The Planning and Development Committee will be responsible for the delivery of the following Liveable Environmental Objectives contained in the City of Albany Strategic Plan:

- (a) To advocate, plan and build connected, liveable communities;
- (b) To create a community that supports people of all ages and backgrounds;
- (c) To create vibrant neighbourhoods which are safe yet retain our local character and heritage.

(2) It will achieve this by:

- (a) Developing policies and strategies;
- (b) Establishing ways to measure progress;
- (c) Receiving progress reports;
- (d) Considering officer advice;
- (e) Debating topical issues;
- (f) Providing advice on effective ways to engage and report progress to the Community ; and
- (g) Making recommendations to Council.

(3) Chairperson: Councillor N Mulcahy

(4) Membership: Open to all elected members, who wish to be members

(5) Meeting Schedule: 1st Wednesday of the Month

(6) Meeting Location: Council Chambers

(7) Executive Officer: Executive Director Planning & Development

(8) Delegated Authority: None

PLANNING AND DEVELOPMENT COMMITTEE
AGENDA –08/06/2016

TABLE OF CONTENTS

	Details	Pg#
1.	DECLARATION OF OPENING	4
2.	PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS	4
3.	RECORD OF APOLOGIES AND LEAVE OF ABSENCE	4
4.	DISCLOSURES OF INTEREST	5
5.	REPORTS OF MEMBERS	5
6.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	5
7.	PUBLIC QUESTION TIME	5
8.	APPLICATIONS FOR LEAVE OF ABSENCE	5
9.	PETITIONS AND DEPUTATIONS	5
10.	CONFIRMATION OF MINUTES	5
11.	PRESENTATIONS	5
12.	UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS	5
13.	MINUTES AND RECOMMENDATIONS OF COMMITTEES	5
PD127	DRAFT CITY OF ALBANY PUBLIC HEALTH PLAN2016-2020	6
PD128	HOME BUSINESS AND DAM - LOT 355 EMU POINT DRIVE, ROAD, COLLINGWOOD PARK WA 6330	11
PD129	APPROVAL OF LOCAL DEVELOPMENT PLAN NO. 4, LOT 3134, FRENCHMAN BAY ROAD, TORNDIRRUP	19
PD130	FINAL APPROVAL OF LOCAL PLANNING POLICY – DEVELOPMENT APPROVAL EXEMPTION	23
PD131	CONSIDERATION OF ADOPTION OF LOCAL PLANNING SCHEME AMENDMENT – LOTS 1447, 3, 72 AND 1411 (RESERVE 42401) FREDERICK STREET, ALBANY	29
PD132	CONSIDERATION OF ADOPTION OF LOCAL PLANNING SCHEME AMENDMENT – LOT 422 AFFLECK ROAD, KALGAN	35
PD133	CONSIDERATION OF ADOPTION OF LOCAL PLANNING SCHEME AMENDMENT – LOT 1005, 9100, 91, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102 AND 6 CATALINA ROAD, STIRLING VIEW DRIVE AND ESPERANCE CRESCENT, LANGE	43
PD134	CONSIDERATION OF SUPPORT FOR LOCAL PLANNING SCHEME AMENDMENT – LOT 5 LOWANNA DRIVE, LOTS 9 AND 110 GEORGE STREET AND LOT 16 SOUTH COAST HIGHWAY, GLEDHOW	48
14.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL	55
15.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	55
16.	REPORTS OF CITY OFFICERS	55
17.	MEETING CLOSED TO PUBLIC	55
18.	CLOSURE	55

PLANNING AND DEVELOPMENT COMMITTEE
AGENDA –08/06/2016

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

Mayor D Wellington

Councillors:

Member

N Mulcahy (Chair)

Member

A Goode JP

Member

G Stocks

Member

R Hammond

Member

J Shanahun

Member

R Sutton

Staff:

Chief Executive Officer

A Sharpe

Executive Director Development Services

D Putland

Manager Planning

J van der Mescht

Senior Planning Officer

A Bott

Planning Officer

C McMurtrie

Manager Health Services

S Reitsema

Minutes

J Cobbold

Apologies:

Member

B Hollingworth (Deputy Chair)

PLANNING AND DEVELOPMENT COMMITTEE
AGENDA –08/06/2016

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest

5. REPORTS OF MEMBERS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

7. PUBLIC QUESTION TIME

8. APPLICATIONS FOR LEAVE OF ABSENCE

9. PETITIONS AND DEPUTATIONS

10. CONFIRMATION OF MINUTES

DRAFT MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the minutes of the Planning and Development Committee Meeting held on 04 May 2016, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

11. PRESENTATIONS

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

PD127: DRAFT CITY OF ALBANY PUBLIC HEALTH PLAN 2016-2020

Attachments	: 1. Draft City of Albany Public Health Plan (2016-2020) 2. Schedule of Submissions
Supplementary Information & Councillor Workstation:	Copies of Submissions
Report Prepared by	: Manager Health Services (S Reitsema)
Responsible Officer	: Executive Director Planning & Development Services (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 3: A Connected Built Environment and 4: A Sense of Community
 - b. **Strategic Objective:** 3.2: To develop and implement planning strategies that support people of all ages and backgrounds, and 4.3: To develop and support a healthy, inclusive and accessible community.
 - c. **Strategy:** 3.2.2: Deliver programs that improve public health and wellbeing, and 4.3.1: Develop a range of activities and facilities that are appropriate for all ages.

In Brief:

- Council is requested to adopt the City of Albany Public Health Plan (PHP) (2016-2020).
- The purpose of the PHP is to improve and promote public health and wellbeing amongst all residents in the City of Albany.
- The PHP aims to support all members of the community, across all life stages to achieve good health and wellbeing outcomes across a range of identified priority health issues.
- The PHP has been developed through a period of research, community & stakeholder engagement consultation and priority setting.
- The PHP builds on and informs a number of key City strategies and plans and will be used as an overarching document for the development of future plans and policies.

RECOMMENDATION

PD127: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ADOPT the City of Albany Public Health Plan 2016-2020.

BACKGROUND

2. The *Public Health Bill 2014* (“the Bill”) has been introduced to Parliament, after many years of consultation and development. It is anticipated that it will be passed by both Houses of Parliament in the near future.
3. The purpose of the Bill is to provide a modern, flexible and proactive risk based framework for the regulation of public health in Western Australia.
4. The Bill proposes to replace much of the existing *Health Act 1911*, and aims to provide the community with modern legislation to promote public health and wellbeing, help prevent disease, injury, disability and premature death, inform individuals and communities about public health risks
5. The Bill acknowledges that Local Government is the tier of Government closest to the community, and is therefore a key advocate and protector of public health in the community.
6. The Bill requires local governments to produce a Public Health Plan (PHP) which is evidence based and identifies the local public health needs. The local PHP is to also to be in alignment with the state’s PHP.
7. In its 2013-2014 budget Council allocated funding to develop a Public Health Plan.
8. The City engaged the services of *Stoneham and Associates* (Local Government and Public Health Consultants) to assist with the community/stakeholder consultation, data/evidence collection, priority setting and formulation of the plan.
9. Consultation and data/evidence collection took place during the latter half of 2014 and early 2015. The draft Plan has resulted from this consultation.
10. The draft plan was advertised for public comment for a period of 25 days (12 April 2016 – 6 May 2016). Relevant stakeholders were directly notified of the comment period by email. A total of four submissions were received, all of which provided great feedback in regards to the plan. Some changes to the plan, based on this feedback, have now been incorporated
11. Council is now asked to adopt the City of Albany Public Health Plan 2016-2020.

DISCUSSION

12. Development of the Public Health Plan (PHP) was led by Planning and Development Services’ Health Service team, however support and input was received from all other City of Albany Directorates.
13. Although not yet a legislative requirement, it was recognised that the development of a PHP will assist in setting priorities and direction for the City of Albany’s Health Service Team which experiences ever-increasing workloads and demands.
14. A range of community consultation strategies were undertaken to inform the development of the City of Albany’s PHP. Two key strategies included the development and distribution of an online community survey, and a series of community discussion groups with young people.
15. A total of 165 online surveys were completed by community members, with the most common age of respondents being 30-59 year olds.
16. The issues of concern to these community members were diverse and included:
 - ageing population
 - alcohol and drug issues
 - mental health issues
 - getting people active
 - improved and linked cycle paths and infrastructure; and

- access to health services
17. The key public health and wellbeing issues identified by the community were factored into the priority setting process for the City of Albany PHP.
 18. As part of the consultation processes, an online survey was forwarded to a range of non-Government and Government stakeholder agencies who deal with public health, community wellbeing and social health. A total of 22 organisations responded.
 19. Comments from these stakeholders were positive and supportive and they showed an interest in collaborative working arrangements with the City of Albany. This has recently been displayed through the initiative from the WA Country Health Service's Great Southern office, in providing a shared Health Promotion Officer role.
 20. The PHP covers a broad range of topics, including but not limited to:
 - Why Do We Need It?
 - The City's Role
 - Public Health Priorities
 - Implementation, Reporting and Review
 - Action Plans for Environmental Health Protection, Chronic Disease Prevention, Enhanced Community Lifestyle and Starting from Within.
 21. The overarching theme within the PHP is to drive, in partnership with local stakeholders, a system-wide approach to promoting healthy lifestyles for the Albany community.
 22. It is expected that implementation of the PHP will occur through:
 - The implementation of actions directly identified in this document; and
 - The development and subsequent implementation of a range of action plans, the review of existing plans, or through future plans that may be called for, which reflect the policy directions and community issues identified in the PHP.
 23. The City will measure and report against an agreed range of community health and wellbeing indicators, with the aim to track outcomes over time.
 24. The nature of the PHP is dynamic, reflecting a commitment to work with partner organisations to progressively address priority health and wellbeing issues and to develop and implement a number of strategies under the PHP.

The identified strategic objectives include:

Environmental Health Protection

Strategic Objective 1

Protect and enhance human health through disease prevention and the creation of environments supportive of health

Strategic Objective 2

Expand the primary role of the Environmental Health Officer to incorporate health promotion principles

Strategic Objective 3

Manage environmental health risks that have the potential to affect the community as a result of emergency events

Enhanced Community Lifestyle

Strategic Objective 1

Provide and support social opportunities that enhance community cohesion including those for an ageing population

Strategic Objective 2

Promote mental health and wellbeing through collaborative partnerships

Chronic Disease Prevention

Strategic Objective 1

Increase opportunities and support available for residents to lead healthy, active lifestyles

Strategic Objective 2

Provide a local environment that enhances community health and wellbeing

Strategic Objective 3

Advocate to external bodies to reduce negative impact on community health and wellbeing

Starting From Within – The City of Albany as a Role Model

Strategic Objective 1

Make health everyone's business within the City of Albany Services

Strategic Objective 2

Provide and support opportunities that encourage and promote City of Albany staff to lead a healthy lifestyle

25. The implementation, monitoring and review of the PHP will be overseen by the City of Albany's Health Services Team, but requires the execution of actions by relevant departments and support of senior management across the City of Albany.

GOVERNMENT & PUBLIC CONSULTATION

26. A total of four submissions were received, following the 25 days comment period. The feedback was very positive and included a number of suggestions in regards to updating some of the statistical data and also to incorporate specific information.

STATUTORY IMPLICATIONS

27. Review and evaluation of the Public Health Plan will occur as required under the *Public Health Bill 2014 - Part 6 Public Health Plans section 42 (5 and 6)*.
28. Voting requirement is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

29. The Public Health Plan contributes to the achievement of the following key Australian and Western Australian government policies, plans, and legislative requirements:
- Public Health Bill;
 - Healthy Spaces and Places;
 - Liveable Neighbourhoods; and
 - Health Promotion Strategic Framework (2012-2016).
30. The Public Health Plan also builds on and informs a number of local City plans, strategies and policies, namely:
- Albany Local Planning Strategy;
 - Age-Friendly Albany (2016-2020);
 - Connected Communities (2014 – 2018);
 - Cycle City Albany (2014 – 2019); and
 - Trails Hub Strategy (2015-2025);

RISK IDENTIFICATION & MITIGATION

31. The risk identification and categorisation relies on the City of Albany’s *Enterprise Risk Management Framework*.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Reputation The Public Health Plan raises community expectations and is not delivered as per the Plan</p>	Possible	Moderate	Medium	<p>Media and communication strategy to manage community expectations.</p> <p>Funds are allocated in future budgets or applied for, to accommodate activities or resourcing identified in the Plan or subsequent policies/strategies.</p>

FINANCIAL IMPLICATIONS

32. A number of the actions identified in the PHP’s Action Plan may require future funding. However, it is anticipated that the plan will support external funding or resource sharing opportunities.

LEGAL IMPLICATIONS

33. Once adopted, the PHP will comply with the obligations set out in the pending Public Health Bill.

ENVIRONMENTAL CONSIDERATIONS

34. A number of the actions identified in the PHP’s Action Plan may require environmental considerations. (e.g. Mosquito control, pollution response)

ALTERNATE OPTIONS

35. Council can choose not to adopt the PHP. This is not recommended as the adoption of a plan is an obligation set out in the pending Public Health Bill.
36. Council can opt to modify the PHP. If Council chooses this option, it is recommended the PHP return to the Planning and Development Services Committee for updating and review.

SUMMARY CONCLUSION

37. In its 2013-2014 budget Council allocated funding to develop a Public Health Plan. In response, the City has undertaken extensive consultation to identify the perceived public health risks and to set priorities.
38. The Public Health Plan (2016-2020) provides strategic guidance to Council and City staff for the future.

Consulted References	:	Community Strategic Plan: Albany 2023
File Number (Name of Ward)	:	PH.PLA.1 (All Wards)
Previous Reference	:	Adopted in 2014/2015 Budget

**PD128: HOME BUSINESS AND DAM - LOT 355 EMU POINT DRIVE, ROAD,
COLLINGWOOD PARK**

Land Description : Lot 355 Emu Point Drive, Collingwood Park
Proponent : Franz Liva
Owner : Franz Liva and Kelli Liva
Business Entity Name : N/A
Directors
Attachments : 1. Area Plan
2. Site Plan
3. Application
4. Recommended Site Plan
5. Submission Table
Supplementary Information & Councillor Workstation : Copy of submissions
Report Prepared by : Senior Planning Officer (A Bott)
Responsible Officer : Executive Director Planning & Development Services (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the strategic directions identified in the *Albany Local Planning Strategy*.

Maps and Diagrams:



In Brief:

- Council is asked to consider a development application for a Home Business and Dam at Lot 355 Emu Point Drive, Collingwood Park.
- The application was advertised for public comment and referred to surrounding residents in writing.
- Thirteen letters of objection have been received from nearby residents. The objections primary relate to concerns over traffic, amenity impacts and environmental impacts.
- The applicant has requested to expand the dam to the limit of the area granted a clearing permit. It has been determined through City of Albany assessment and agency referral that further expansion of the dam is not supported.
- Staff consider the retention of the vegetation which is currently covered by the clearing permit, in addition to rehabilitation, as being an offset to allowing the dam to remain without further expansion.
- Staff recommend that Council approve the proposed development, subject to conditions.

RECOMMENDATION

PD128: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting development approval, with conditions, for a Home Business and Dam at Lot 355 Emu Point Drive, Collingwood Park WA 6330

Conditions:

- (1) Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur in accordance with the stamped, approved plans dated (XXXX).**
- (2) The proposal shall comply with any details and/or amendments marked in red on the stamped, approved plans.**

Advice:

The development of the dam area shall not extended beyond the red line shown on the attached plan.

- (3) Fully detailed earthworks plans, including proposed levels, shall be submitted for approval prior to further works being undertaken. As a minimum these plans shall meet the following requirements:**
 - Earthworks that have been undertaken within 10 metres of the rear boundary shall be returned to a level consistent with the level of the adjacent reserve (this includes the area shown as current parking, as well as the lake). No development shall take place in this zone (green area on attached plan).**
 - At a line offset 10 metres from the rear boundary, fill may be added at a 1:6 (H:L) batter. This may rise to a level that will allow fall at 2% or greater, all the way from Emu Point Drive.**
 - If fill is to remain behind lot 4 (315 Emu Point Drive), a 300 millimetre diameter pipe shall be installed by the applicant from the now undrained lot to the rear reserve and a minimum one metre wide private drainage easement placed on the title of lot 355 (307-321 Emu Point Drive).**
- (4) The vehicle storage area shall be suitably drained and sealed, and stormwater treated prior to discharge.**
- (5) All vehicle wash-downs shall be undertaken off-site at the appropriate commercial facilities and there shall be no direct discharges from the vehicle storage area.**
- (6) No servicing of vehicles shall be undertaken on the premises.**
- (7) A landscaping plan detailing the size, species and location of trees/shrubs shall be submitted for approval in writing and implemented to the satisfaction of the City of Albany.**
- (8) Details of rehabilitation planting shall be submitted for approval in writing and implemented to the satisfaction of the City of Albany for land within the 10 metre exclusion area and surrounding the dam.**
- (9) All landscaped areas shall be maintained as per the approved landscaping plan(s) to the satisfaction of the City of Albany.**

- (10) The new crossover(s) shall be constructed to the specifications, levels and satisfaction of the City of Albany.

Advice:

A 'Permit for Vehicle Crossover Construction' from the City of Albany is required prior to any work being carried out within the road reserve, which shall be in accordance with drawing nos. 97024 1/3 – 97024 3/3 (refer to the City of Albany's Subdivision and Development Guidelines).

- (11) The level of noise emanating from the premises shall not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.
- (12) The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
- (13) No preparation of bitumen shall be undertaken on the premises.
- (14) There shall be no dumping of construction waste (including asphalt) on the premises.

BACKGROUND

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. The subject lot lies to the north side of Emu Point Drive, approximately 5 kilometres north-east of Albany city centre. The lot has an area of approximately 1.44 hectares and is zoned 'General Agriculture' under *City of Albany Local Planning Scheme No. 1*.
6. The land to the south is zoned 'Future Urban' and is bounded by 'Parks and Recreation' local scheme reserve. The land to the north and west is zoned 'General Agriculture', while the land to the east is covered by the 'Parks and Recreation' local scheme reserve.
7. The application was advertised for public comment, in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and clause 9.4 of *Local Planning Scheme No. 1*. Nearby landowners were directly notified in writing. A total of 13 submissions were received, all of which objected to, or raised concerns around the proposal.
8. A number of these concerns were raised regarding the clearing of vegetation on the property. However, the applicant had been granted a clearing permit by the Department of Environmental Regulation on 29 May, 2014, which allowed the clearing of an area of vegetation within the north-western quadrant of the property.
9. The applicant has proposed to expand the dam which is subject to retrospective approval to the extent of the area granted a clearing permit.

10. City of Albany assessment and agency referral has determined that further expansion of the dam is not supported.
11. Noting the applicant has an active clearing permit, it is considered that the retention of the remaining vegetation subject to the clearing permit is a compromise to the existing dam remaining and being improved via rehabilitation.
12. The applicant has submitted a landscaping plan and management statement in support of the proposal.
13. Council is now requested to consider whether to grant development approval.

DISCUSSION

14. The proposal consists of the two elements, including a dam/earthworks and truck parking and storage.
15. The truck and equipment storage is associated with the applicant's bitumen spraying business, which has operated within Albany for the past ten years.
16. The applicant does not propose to mix bitumen material on the site and the City of Albany would not be able to approve such an activity on the premises, in view of the present zoning.
17. As outlined above, a total of 13 letters of submission were received during the public advertising period, all of which raised concerns around the proposal.

The main concerns that have been raised and the proposed mitigation measures are addressed as follows:

Traffic

18. A number of submissions have raised concerns regarding the truck movements from the site.
19. The applicant has stated in the application that at most, two trucks would leave and return to the premises on a daily basis. Furthermore, the business is only run by the landowners, with no additional employees, while all business is undertaken off site and there are no customers attending the premises.
20. In terms of restricting the use of Emu Point Drive, the City of Albany does not have the statutory authority to control the direction of vehicles which are classified as 'as of right' vehicles by Main Roads WA. An 'as of right' vehicle is defined as any vehicle that is not a Restricted Access Vehicle. Rigid trucks and semi-trailers are not classed as Restricted Access Vehicles and do not require any permits or exemptions from regulatory requirements.

Amenity

21. Impact on amenity is a concern consistently raised in the submissions. Concerns primarily relate to noise generated from the proposed development and impacts on visual amenity.
22. With regard to noise issues, any operations would be subject to ongoing compliance with the *Environmental Protection (Noise) Regulations 1997*. The proposed use, as detailed in the application, would see all work being undertaken off the premises, including the cleaning and servicing of vehicles and machinery, and the preparation of bitumen. Therefore, the only noise generated would be from vehicles travelling to and from the premises.
23. In terms of mitigating visual impact, the location of the storage area has been proposed at the rear of the premises.
24. There is also a 70 metre section of established screening vegetation which runs east from the crossover along Emu Point Drive, which will also reduce the visual impact from public vantage points.

25. In addition to the above, the applicant has submitted a landscaping plan for the lot. The applicant has proposed to plant peppermint trees and Melaleucas along the road verge and around the dam and storage areas.
26. It is considered that the landscaping/rehabilitation plan, in conjunction with the stated scale of the operation, will mitigate any potential amenity issues. However, it is recommended that the implementation and ongoing maintenance of the landscaping and rehabilitation planting be stipulated as a condition of development approval.

Environment

27. Concerns regarding environmental impacts were consistently raised in the submissions.
28. A number of concerns were raised in relation to water runoff from the extraction area and the detrimental impacts that this could have on waterways.
29. The Department of Water was consulted and has advised the City that standard water control conditions are applicable to the proposal, which includes surface water management being undertaken by the developer. It is recommended that water management measures are applied as condition of development approval.
30. The applicant has also proposed to expand the dam on the site to the extent of the clearing permit area.
31. The Department of Water was contacted regarding the size of the dam and its potential expansion. It has been recommended by the Department that the dam not be expanded.
32. Given the applicant has an active clearing permit and can clear the subject vegetation regardless of the expansion of the dam. It is proposed, as a compromise, that the remaining vegetation subject to the clearing permit be retained subject to the existing dam being permitted to remain and be improved via rehabilitation.
33. City of Albany engineers have reviewed the applicant's request to fill sections of the lot and have provided conditions which will allow this to occur to minimal levels, while maintaining the natural floodplain and drainage functions of the area. The submission of a plan detailing works in accordance with these conditions, to the satisfaction to the City of Albany, will be required as a condition of development approval.
34. A number of submissions have also raised the issue of clearing of native vegetation. It is apparent from these submission that there is a level of misunderstanding within the community regarding the approval of the clearing that has taken place. Some members of the community believe that the City of Albany had granted approval for clearing. To clarify, the Department of Environmental Regulation is the statutory authority for clearing permits within Western Australia and has issued approval for clearing within the north-western quadrant of the subject lot.
35. As mentioned above, the applicant has submitted a landscaping plan which details the planting of additional native vegetation. Furthermore, the Department of Water has recommended that if development approval is granted that it be subject to a condition requiring planting to rehabilitate the area around the dam.

GOVERNMENT & PUBLIC CONSULTATION

36. The proposal was advertised for public comment for a period of 21 days, in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and clause 9.4 – *Advertising of Applications* within *Local Planning Scheme No. 1*. Surrounding landowners were directly notified in writing.
37. A total 13 submissions were received during the public advertising period. All 13 submissions objected or raised concerns around the proposal. Staff comments are provided in the attached schedule of submissions, while the broad issues are discussed above.

STATUTORY IMPLICATIONS

38. A 'Home Business' is classified as a 'D' use within the 'General Agriculture' zone under *Local Planning Scheme No. 1*, meaning that the use is not permitted, unless the local government has exercised its discretion by granting planning approval.
39. Voting requirement is a **Simple Majority**.

POLICY IMPLICATIONS

40. The site is within the City of Albany's *Development in Flood Prone Areas Policy*. In the context of this application, the primary objectives of the policy are to ensure that there are no interruptions to the natural drainage system of the area.
41. The conditions relating to fill have been formulated in consultation with City of Albany engineers with the intention of allowing the applicant to make minor changes to site levels, while maintaining the natural drainage function of the area. The condition will require the submission and approval of a plan detailing the proposed works, in accordance with the engineering conditions, prior to commencement of works.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation</p> <p>The proposed use could give rise to unacceptable detrimental impacts on the environment and or amenity of the area.</p>	Possible	Moderate	Medium	Mitigation of impacts to be achieved through adoption and enforcement of appropriate planning conditions.

FINANCIAL IMPLICATIONS

43. All costs associated with the development will be borne by the proponent.
44. However, should the proponents be aggrieved by Council's decision or any attached conditions and seek a review of that decision or conditions through the State Administrative Tribunal, the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.

LEGAL IMPLICATIONS

45. Council is at liberty to use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the State Administrative Tribunal, in accordance with Section 252 of the *Planning and Development Act 2005*.
46. The proponent has the right to seek a review of the Council's decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

ENVIRONMENTAL CONSIDERATIONS

47. The subject lot is largely cleared and slopes downward from Emu Point Drive towards the north-west. There is a large stand of native vegetation in the north-western quadrant of the lot, which is subject to a clearing permit issued by the Department of Environment Regulation.

ALTERNATE OPTIONS

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

- To determine that the proposed use is unacceptable and to resolve to refuse the application; or
- To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

SUMMARY CONCLUSION

49. The matters raised in the submissions received during the public advertising period have been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions.

50. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

Consulted References	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>Development in Flood Prone Areas Policy</i>
File Number (Name of Ward)	:	A145789 (Breaksea Ward)
Previous Reference	:	NIL

**PD129: APPROVAL OF LOCAL DEVELOPMENT PLAN NO. 4, LOT 3134,
FRENCHMAN BAY ROAD, TORNDIRRUP**

Land Description : Lot 3134, Frenchman Bay Road, Torndirrup
Proponent : Harley Dykstra
Owner : Gwendoline Angove
Business Entity Name : Nil
Attachments : 1. Location plan
2. Local Development Plan No. 4
Supplementary Information & Councillor Workstation : Nil
Report Prepared by : Senior Planning Officer (Alex Bott)
Responsible Officer : Executive Director Planning and Development Services (D Putland)

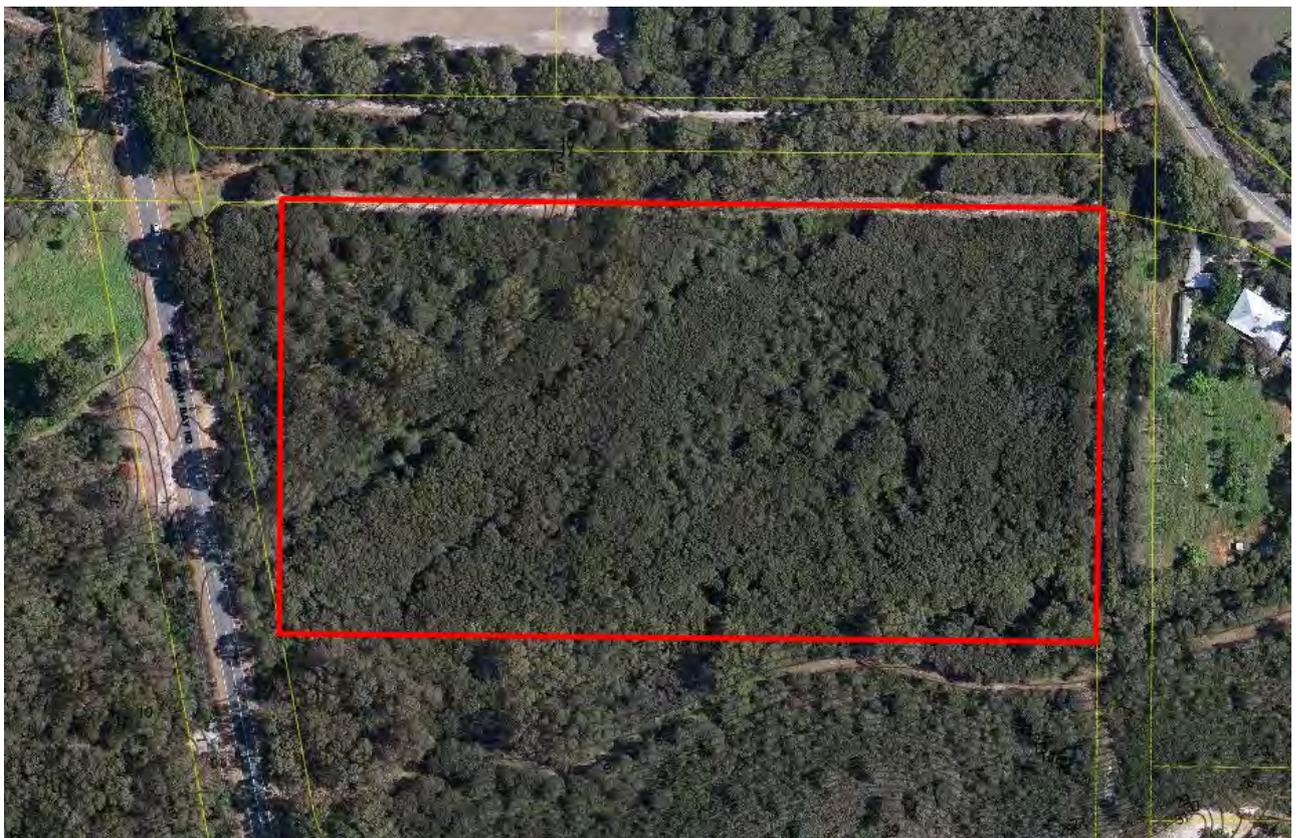
Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

Maps and Diagrams:



In Brief:

- The City of Albany has been involved as a third party in a subdivision refusal which has been before the State Administrative Tribunal in mediation.
- Through mediation the proposal has been amended and additional plans/studies provided to the stage whereby approval can potentially be granted by the Western Australian Planning Commission.
- Given the specific building envelopes required to achieve the required fire ratings, it was determined at the State Administrative Tribunal that a local development plan would be the most appropriate planning instrument to guide future development.
- Council is requested to approve the local development plan, without modification.

RECOMMENDATION

PD066: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to APPROVE Local Development Plan No.4 without modification.

BACKGROUND

4. The City of Albany has received an application for a Local Development Plan to provide development guidance and standards for the development of Lot 3134 Frenchman Bay Road, Torndirrup 6330.
5. The subject lot is located 4.2 kilometres south-west of Albany town centre and 400 metres to the south of the intersection of Bayview Drive and Frenchman Bay Road.
6. The land to the south and east of the subject lot is zoned 'Future Urban', while the land to the north is designated as a 'Parks and Recreation' local scheme reserve and the land to the west is designated as a 'Public Use' local scheme reserve.

DISCUSSION

7. The City Planning Staff support the local development plan, as it is consistent with the current strategic direction set in the *Albany Local Planning Strategy* and the relevant provisions of *Local Planning Scheme No. 1*.
8. The subject Lot is 4.85 hectares in size and zoned Future Urban under *Local Planning Scheme No.1*.
9. The subdivision application over the site proposes a total of three lots, with the majority of land being subject to a conservation covenant to protect it from development in perpetuity.
10. The property is also subject to the *Little Grove Structure Plan*. The Structure Plan identifies the site as suitable for 'single dwelling' residential development and subdivision. The proposed local development plan would facilitate development which is consistent with this objective.
11. The primary intention of the Local development Plan is to establish development envelopes and associated clearing areas.
12. The proposed cleared areas correspond to Bushfire Attack Level (BAL) 29 under *Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas*.

13. BAL-29 is the highest construction standard allowable on the lots and results in the least amount of vegetation clearing to facilitate development.
14. The endorsement of a local development plan which details building envelopes and associated clearing zones, will mitigate the issue which has arisen in similar situations, whereby new landowners attempt to construct dwellings, while proposing low Bushfire Attack Levels that would require significant amounts of vegetation to be cleared.
15. Under the recently introduced *Planning and Development (Local Planning Schemes) Regulations 2015* local development plans are no longer binding statutory documents, as detailed within clause 56(1) below;

“A decision-maker for an application for development approval in an area that is covered by a local development plan that has been approved by the local government must have due regard to, but is not bound by, the local development plan when deciding the application.”

16. Future development of the site will require the lodgement of a development application. The development application would be assessed against the City of Albany Planning framework and the adopted local development plan for the site. However, given that conservation covenants would be lodged over the balance of the properties, there would be limited ability to vary from the proposed local development plan.

GOVERNMENT & PUBLIC CONSULTATION

17. Under the subdivision process, the Department of Planning has consulted with all relevant public authorities. It was through this process that it was determined that a Local Development Plan is the most appropriate instrument to guide future development of the land.

STATUTORY IMPLICATIONS

18. Local Development Plans undergo a statutory process in accordance with Schedule 2, Part 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
19. Clause 52 (1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to approve the Local Development Plan with or without conditions.
20. The approval of a Local Development Plan has effect for a period of 10 years commencing on the day on which the local government approves the plan
21. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

22. There are no policy implications directly relating to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Organisational Operations and Reputation Noting that local development plans are no longer binding, the plan may not be given due regard by developers	Likely	Moderate	Medium	The local development plan is based on sound planning principles. Any further variation or request to deviate from the plan would be assessed against its intent and the full statutory framework pertaining to the site, including <i>State Planning Policy 3.7</i>

during the development application process.				– <i>Planning in Bushfire Prone Areas and Local Planning Scheme No.1.</i>
---	--	--	--	---

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

26. There are a number of environmental factors relating to the land which have been considered through the subdivision process. The subdivision proposal has been referred to all relevant environmental agencies for comment as a component of this process.
27. Bushfire Attack Level 29 is the highest allowable Bushfire Attack Level rating for the site and results in the least amount of clearing to reduce the bushfire hazard.

ALTERNATE OPTIONS

28. Council may consider alternate options in relation to this item, such as:
- To resolve to approve the local development plan subject to further conditions; or
 - Not to approve the Local Development Plan.

SUMMARY CONCLUSION

29. The City has been asked to consider the local development plan as a component of the subdivision proposal and controlling future development at Lot 3134, Frenchman Bay Road, Torndirrup.
30. The local development plan establishes building envelopes, which correspond to the amount of clearing necessary to develop dwellings at Bushfire Attack Level 29. This will ensure that the clearing required for the construction of a single dwelling is minimised.
31. It is recommended that Council approve Local Development Plan No.4 without modification.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Corporate Business Plan 2013-2017</i> 5. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> 6. Western Australian Planning Commission <i>State Planning Policy 3.7 – Planning in Bushfire Prone Areas</i> 7. <i>AS3959 – Construction of Buildings in Bushfire Prone Areas.</i> 8. <i>Little Gove Structure Plan</i>
File Number (Name of Ward)	:	LDP4 (Vancouver Ward)
Previous Reference	:	Nil

PD130: FINAL APPROVAL OF LOCAL PLANNING POLICY – DEVELOPMENT APPROVAL EXEMPTION

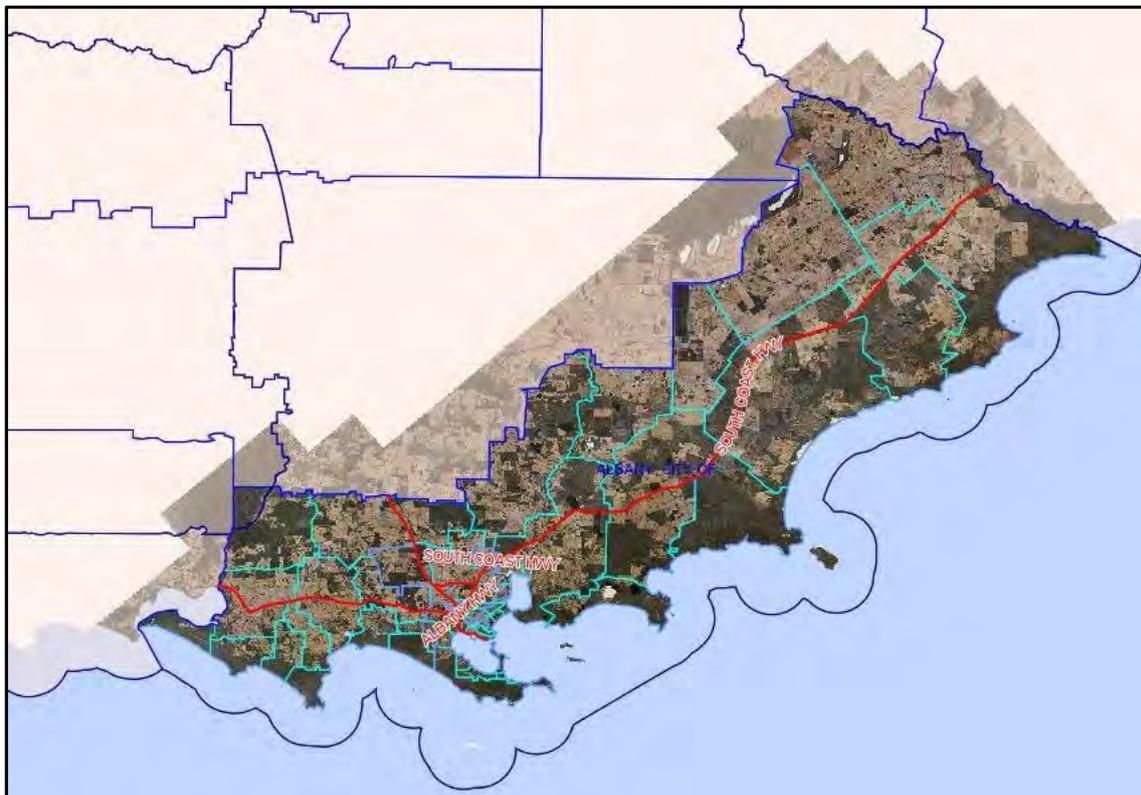
Land Description	: City of Albany local government area
Proponent	: City of Albany
Owner	: Various
Business Entity Name	: Not applicable
Attachments	: Final <i>Development Approval Exemption</i> local planning policy
Supplementary Information & Councillor Workstation	: Nil
Report Prepared by	: Senior Planning Officer, Strategic Planning (A Nicoll) and Planning Officer (C McMurtrie)
Responsible Officer	: Executive Director Planning & Development (D Putland)

Responsible Officer's Signature:	
---	--

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

Maps and Diagrams



In Brief:

- Council is requested to consider whether to proceed with the proposed *Development Approval Exemption* local planning policy.
- Formerly, the erection or extension of a single house on a lot and the erection or extension of any ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, verandah, garage, carport, or swimming pool on the same lot as a single house or grouped dwelling did not require the development approval of local government within the 'Future Urban' zone, provided that there was an approved structure plan in place.
- Recent regulatory changes, introduced via the *Planning and Development (Local Planning Schemes) Regulations 2015*, have changed the status of structure plans so that they can no longer implement a zone or residential density code.
- The main objective of the local planning policy will be to exempt the above development types from requiring the development approval of local government within the 'Future Urban' zone, provided that there is an approved structure plan in place and the development meets the deemed-to-comply requirements of the *Residential Design Codes*.
- Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the procedure for making a local planning policy. It states that: "If the local government resolves to prepare a local planning policy, the local government must, unless the Commission otherwise agrees, advertise the proposed policy..."
- The local planning policy has been advertised for public comment and no submissions have been received.
- City Staff are supportive of proceeding with the proposed *Development Approval Exemption* local planning policy, as it will ensure that these development types are assessed in a consistent manner across all urban development areas. It will also reduce application processing times and the fees levied on land owners and developers.
- It is requested that Council resolves to proceed with the *Development Approval Exemption* local planning policy, without modification.

RECOMMENDATION

PD130: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, in pursuance of Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to proceed with the *Development Approval Exemption* local planning policy, without modification.

BACKGROUND

4. The purpose of the 'Future Urban' zone is to identify land for development and to facilitate the preparation of a structure plan, which is then used to guide the coordinated subdivision and development of the land.
5. Formerly, a structure plan would have introduced a 'Residential' zoning and residential density code over any area intended for the development of housing. However, the *Planning and Development (Local Planning Schemes) Regulations 2015* have altered the status of structure plans so that they can no longer implement a zoning or a residential density code.

6. Many of Albany's current development areas are zoned 'Future Urban' and are subject to structure plans, which had effectively zoned the land 'Residential' and applied a residential density code. This meant that development approval was not required for the erection or extension of a single house on a lot or the erection or extension of any ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, verandah, garage, carport, or swimming pool on the same lot as a single house or grouped dwelling in these areas, provided that the development satisfied the deemed-to-comply requirements of the *Residential Design Codes*.
7. However, the recent change to the status of structure plans means that the 'Future Urban' zone remains and the *Residential Design Codes* do not apply to the land. Therefore, the development approval of local government is required for any development, even if it satisfies the deemed-to-comply requirements of the *Residential Design Codes*.
8. The City of Albany is aware that the requirement to obtain development approval for development in the affected areas is an impost on land owners and developers, due to increased application processing times and additional planning fees.
9. Consequently, it was determined appropriate to prepare a *Development Approval Exemption* local planning policy, with the aim of exempting the development types outlined in paragraph six from requiring development approval on land within in the 'Future Urban' zone, provided there is an approved structure plan in place over the land and the development satisfies the deemed-to-comply requirements of the *Residential Design Codes*.
10. The City of Albany *Local Planning Policy Manual* was originally adopted by Council on 14 December 2010 and collated all of the City's local planning policies in one document for ease of use. The policies deal with various planning and development matters within the Local Planning Scheme area and assist the local government in making decisions under the Scheme. Following its initial adoption, the *Local Planning Policy Manual* underwent a number of revisions, including a comprehensive update to align with *Local Planning Scheme No. 1* on 27 May 2014, which included a change of title to *Local Planning Scheme No. 1 Policy Manual*.
11. The *Planning and Development (Local Planning Schemes) Regulations 2015* permit a local government to prepare a local planning policy, in respect of any matter related to the planning and development of the Scheme area, and set out a procedure for advertising a proposed policy for public comment.

DISCUSSION

12. As outlined above, the main objective of the proposed *Development Approval Exemption* local planning policy will be to exempt the development types outlined in paragraph six from requiring the development approval of local government within the 'Future Urban' zone, provided that there is an approved structure plan in place and the development meets the deemed-to-comply requirements of the *Residential Design Codes*.
13. Proceeding with the proposed *Development Approval Exemption* local planning policy will also eliminate the need for separate planning and building approvals in many cases. This will reduce both application processing times and the fees that must be paid to the City, which is to the benefit of land owners and developers.
14. Following Council's resolution to prepare a *Development Approval Exemption* local planning policy at its Ordinary Meeting on 23 February 2016, the policy was advertised for public comment in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*. No submissions were received during the advertising period.

15. It is therefore recommended that Council proceed with the *Development Approval Exemption* local planning policy, without modification.

GOVERNMENT & PUBLIC CONSULTATION

16. The proposed *Development Approval Exemption* local planning policy was advertised for public comment from 17 March 2016 to 7 April 2016, by publication of a notice in the local press in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*.
17. No submissions were received during the advertising period.

STATUTORY IMPLICATIONS

18. Schedule 2, clause 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows a local government to prepare a local planning policy:

“3. Local planning policies

- (1) *The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.”*

19. Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the procedure for making a local planning policy:

“4. Procedure for making a local planning policy

- (1) *If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows –*

- (a) *publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of –*

(i) *the subject and nature of the proposed policy; and*

(ii) *the objectives of the proposed policy; and*

(iii) *where the proposed policy may be inspected; and*

(iv) *to whom, in what form and during what period submissions in relation to the proposed policy may be made;*

- (b) *if, in the opinion of the local government, the policy inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*

- (c) *give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*

- (2) *The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).*

- (3) *After the expiry of the period within which submissions may be made, the local government must –*

(a) *review the proposed policy in light of any submissions made; and*

(b) *resolve to –*

(v) *proceed with the policy without modification; or*

(vi) proceed with the policy with modification; or

(vii) not to proceed with the policy.

(4) If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulation in the Scheme area.

(5) A policy has effect on publication of a notice under subclause (4).”

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

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

22. The following indicates the risk to the City in resolving to proceed with the local planning policy:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation</p> <p>To proceed with the Development Approval Exemption local planning policy may be perceived as the City showing an overly permissive attitude to development.</p>	Unlikely	Minor	Low	The City can clearly justify its reasons for preparing a Development Approval Exemption local planning policy if it will reduce cost to land owners and unnesesary pressure on officer time.

FINANCIAL IMPLICATIONS

23. Proceeding with the proposed *Development Approval Exemption* local planning policy will exempt the development types outlined in paragraph six from requiring development approval . The City will therefore receive less income from planning fees. However, this will be offset by the reduction in officer time spent on processing applications for developments that were formerly exempt from requiring development approval.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

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

ALTERNATE OPTIONS

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

- To resolve to proceed with the *Development Approval Exemption* local planning policy, with modification; or
- To resolve not to proceed with the *Development Approval Exemption* local planning policy.

SUMMARY CONCLUSION

27. The proposed *Development Approval Exemption* local planning policy will ensure that nominated development types are assessed in a consistent manner across all urban development areas. It will also reduce application processing times and the fees levied on the local building industry.
28. On this basis, it is recommended that Council resolves to proceed with the *Development Approval Exemption* local planning policy, without modification.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> 2. <i>Local Planning Scheme No. 1</i> 3. <i>Albany Local Planning Strategy 2010</i> 4. <i>City of Albany Strategic Community Plan 2023</i> 5. <i>City of Corporate Business Plan 2013-2017</i> 6. <i>Lower Great Southern Strategy</i> 7. Western Australian Planning Commission <i>State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i>
File Number (Name of Ward)	:	CM.STD.7 (All Wards)
Previous Reference	:	<p>OCM – 17/07/2001 – Item 11.3.2 OCM – 18/09/2001 – Item 11.3.2 OCM – 16/08/2005 – Item 11.1.1 OCM – 19/10/2010 – Item 2.7 OCM – 23/02/2016 – Item PD114</p>

PD131: CONSIDERATION OF ADOPTION OF LOCAL PLANNING SCHEME AMENDMENT – LOTS 1447, 3, 72 AND 1411 (RESERVE 42401) FREDERICK STREET, ALBANY

Land Description : Lots 1447, 3, 72 and 1411 (Reserve 42401) Frederick Street, Albany

Proponent : Ayton Baesjou Planning

Owner : City of Albany (vested Crown Land), DL & ME Harter, F Daniele, Skyway Nominees Pty Ltd, C Daniele, Terse Pty Ltd

Directors : Philip Leslie Wyatt

Business Entity Name : Skyway Nominees Pty Ltd, Terse Pty Ltd

Attachments : Local Planning Scheme Amendment No. 14 report

Supplementary Information & Councillor Workstation : Nil

Report Prepared by : Planning Officer (C McMurtrie)

Responsible Officer : Executive Director Planning and Development (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

Maps and Diagrams



In Brief:

- A request has been submitted for Council to adopt a local planning scheme amendment to:
 - Rezone Lots 1447, 3 and 72 Frederick Street, Albany from the 'Residential' zone to the 'Regional Centre Mixed Use' zone;
 - Rezone Lot 1411 Frederick Street, Albany from the 'Parks and Recreation' reserve to the 'Regional Centre Mixed Use' zone; and
 - Amend the Scheme Maps accordingly.
- City planning Staff support the local planning scheme amendment, as it is consistent with the strategic direction set in the *Albany Local Planning Strategy*.
- The proposal will facilitate the renovation and reuse of the cottages on Lots 3 and 72 Frederick Street, along with the redevelopment of the land to the rear of these for housing at the R60 density code.
- Council is requested to adopt the amendment for the purpose of public advertising and referral to public authorities.

RECOMMENDATION

PD131 RESPONSIBLE OFFICER RECOMMENDATION

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

1. Adopt Amendment No. 14 to amend *City of Albany Local Planning Scheme No. 1* by:

- (1) Rezoning Lots 1447, 3 and 72 Frederick Street, Albany from the 'Residential' zone to the 'Regional Centre Mixed Use' zone;**
 - (2) Rezoning Lot 1411 Frederick Street, Albany from the 'Parks and Recreation' reserve to the 'Regional Centre Mixed Use' zone; and**
 - (3) Amending the Scheme Maps accordingly.**
- 2. Note that the Amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:**
- The amendment is consistent with the *Albany Local Planning Strategy*, which identifies the site as 'Existing Urban' and sets strategic objectives to promote economic development and encourage local employment opportunities, and to promote the continued viability of the Albany City Centre as the regional commercial and retail centre of the district and Lower Great Southern;**
 - The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and**
 - The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.**

BACKGROUND

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. Amendment No. 14 has been prepared to seek:
 - Rezoning of Lots 1447, 3 and 72 Frederick Street, Albany from the 'Residential' zone to the 'Regional Centre Mixed Use' zone;
 - Rezoning of Lot 1411 Frederick Street, Albany from the 'Parks and Recreation' reserve to the 'Regional Centre Mixed Use' zone; and
 - Amendment of the Scheme Maps accordingly.
6. The subject lots are located approximately 230 metres west of York Street and have a cumulative area of 3848m². The land slopes upward from Frederick Street, across the lots, in a north-westerly direction toward Spencer Street. Lot 1447 is developed as a car park and utilised by the Frederick House office complex to the west, Lot 3 is developed with a cottage and large shed to the rear, with the cottage used as a dwelling, while Lot 72 is developed with a cottage that has been used as a professional office in the past, but has now been vacant for a number of years. A small shed stands to the rear of this property. Both of the cottages on Lots 3 and 72 are included in the City's Municipal Heritage Inventory and are designated with Management Categories 'B' and 'C' respectively. More detailed Heritage Assessment/Impact Statement would be necessary before approval is given for development of either place.
7. Lot 1411 is occupied by the Albany Co-operative Society Ltd building, which dates from 1870 and has recently undergone an extensive restoration, with a view to

accommodating community groups. The building is included in the City's Municipal Heritage Inventory and is designated with Management Category 'C'.

8. The subject land is bounded by Frederick Street to the south and Spencer Street to the east, while the Frederick House office complex stands to the west and a number of single houses stand on individual lots to the north. Frederick House is included within the 'Regional Centre Mixed Use' zone, while the residences to the north are zoned 'Residential' with an R30/60 density coding.
9. The land to the south of the subject land is zoned 'Regional Centre' and is occupied primarily by motel accommodation and 'The Store' café, which occupies the former Royal George Hotel liquor store building. The land to the east of the subject land is zoned 'Residential' with an R30 density coding and is occupied by single houses on individual lots and small number of holiday accommodation units. The lot to the south-east of the intersection of Frederick and Spencer Streets is zoned 'Residential' and designated as Additional Use site AU12. The lot is currently being redeveloped with residential units, while the existing buildings will be retained as offices.
10. The amendment document states that:

"The proposal to rezone Lots 1447, 3 and 72 Frederick Street, Albany from the 'Residential' zone to 'Regional Centre Mixed Use' zone will enable the existing residential dwellings to be used for a variety of commercial uses including:

- *Lunch bar*
- *Medical centre*
- *Office*
- *Restaurant*

Under the 'Residential' zone only 'Consulting Rooms' may be permitted at Council's discretion. As only two practitioners are permitted under the definition of 'Consulting Rooms' it is not a viable commercial proposition given the location next to and opposite the 'CBD'. This no doubt contributes to the fact that the premises on Lot 72 have been unable to attract a lessee for a number of years.

A concept plan has been prepared which demonstrates how the properties can be developed under the change of zoning. Refer Concept Plan overleaf. While there are a number of options, this proposal demonstrates how a mix of commercial and residential units could be accommodated on the site without having to demolish the existing cottages which have some heritage value and contribute to the established urban character and streetscape."

DISCUSSION

11. The City's planning Staff support the rezoning of Lots 1447, 3 and 72 Frederick Street, Albany from the 'Residential' zone to the 'Regional Centre Mixed Use' zone and the rezoning of Lot 1411 Frederick Street, Albany from the 'Parks and Recreation' reserve to the 'Regional Centre Mixed Use' zone, as it is consistent with the *Albany Local Planning Strategy*.
12. The *Albany Local Planning Strategy* identifies the site as part of the 'Existing Urban' area and sets strategic objectives to promote economic development and encourage local employment opportunities, and to promote the continued viability of the Albany City Centre as the regional commercial and retail centre of the district and Lower Great Southern.

13. The proposal is consistent with these objectives, as it will facilitate the renovation and reuse of the cottages on Lots 3 and 72 Frederick Street, along with the redevelopment of the land to the rear of these for housing at the R60 density code.

GOVERNMENT & PUBLIC CONSULTATION

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

STATUTORY IMPLICATIONS

15. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
16. Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning. Section 81 of the Act requires a local government to refer an adopted local planning scheme amendment to the Environmental Protection Authority to determine if it should be assessed.
17. Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to adopt a standard scheme amendment for advertising and referral to relevant public authorities.
18. The proposal is considered to be a standard scheme amendment for the following reasons:
- The amendment is consistent with the *Albany Local Planning Strategy*, which identifies the site as ‘Existing Urban’ and sets strategic objectives to promote economic development and encourage local employment opportunities, and to promote the continued viability of the Albany City Centre as the regional commercial and retail centre of the district and Lower Great Southern;
 - 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.
19. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

20. There are no policy implications directly relating to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation</p> <p>The proposal may not be accepted by the Western Australian Planning</p>	Possible	Minor	Medium	If not supported by the WAPC or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.

Commission or the Minister for Planning.				
Community, Organisational Operations and Reputation The proposal may attract objections from members of the public or other public authorities.	Possible	Minor	Medium	Widely consulting with all parties who may be affected and all relevant public authorities should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

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

ALTERNATE OPTIONS

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

- To resolve to adopt the amendment to the local planning scheme with modifications;
or
- To resolve not to adopt the amendment to the local planning scheme.

SUMMARY CONCLUSION

26. It is recommended that Council adopt Local Planning Scheme Amendment No. 14, as the proposal is consistent with the current strategic direction set within the *Albany Local Planning Strategy* and will facilitate the renovation and reuse of the cottages on Lots 3 and 72 Frederick Street, along with the redevelopment of the land to the rear of these for housing at the R60 density code.

Consulted References	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Albany Corporate Business Plan 2013-2017</i> 5. Western Australian Planning Commission <i>State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i>
File Number (Name of Ward)	:	LAMD14 (Frederickstown Ward)
Previous Reference	:	Nil

**PD132: CONSIDERATION OF ADOPTION OF LOCAL PLANNING SCHEME
AMENDMENT – LOT 422 AFFLECK ROAD, KALGAN**

Land Description : Lot 422 Affleck Road, Kalgan
Proponent : Harley Dykstra
Owner : Archipelago Nominees Pty Ltd
Business Entity Name : Achillies Pty Ltd; Shuttleworth & Associates; Great Southern Sands; Spinifex Crushing & Screening Pty Ltd
Directors : Martin James Shuttleworth
Attachments : Local planning scheme amendment No. 15 report
Supplementary Information & Councillor Workstation : Nil
Report Prepared by : Planning Officer (C McMurtrie)
Responsible Officer : Executive Director Planning and Development Services (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

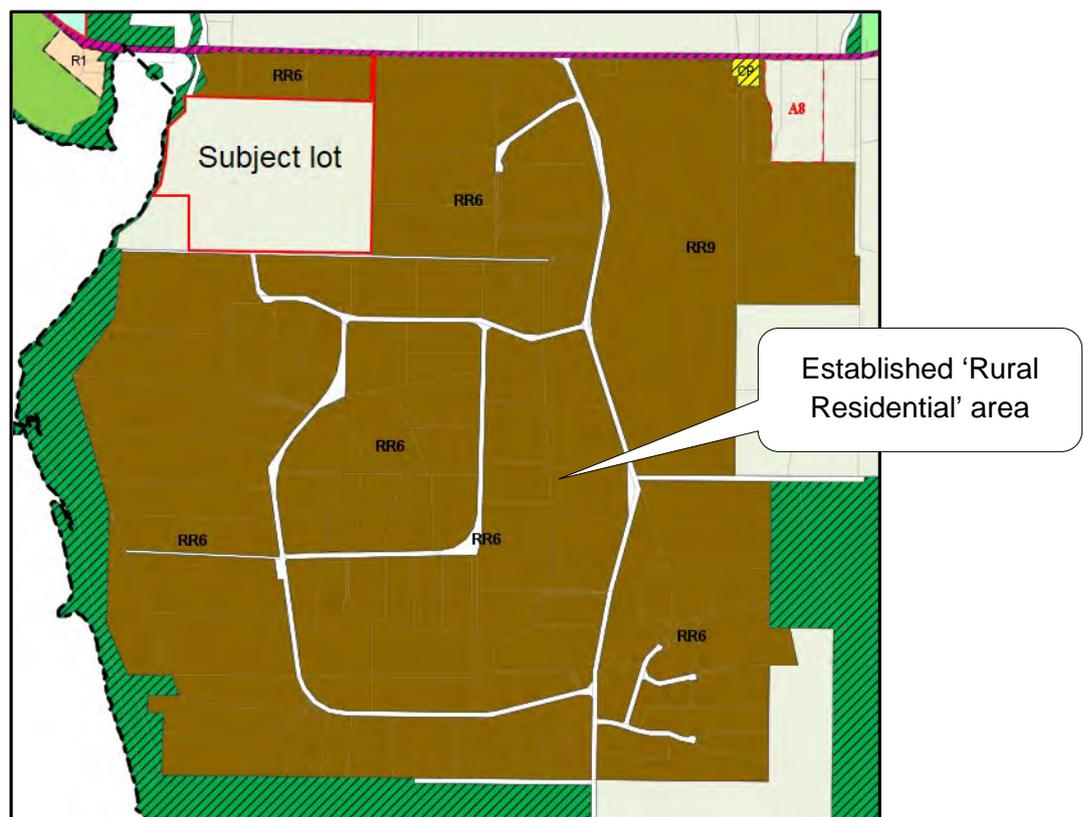
1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is broadly consistent with the strategic direction set in the *Albany Local Planning Strategy*.
4. The City has currently imposed a moratorium on the initiation of significant local planning scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
5. Although this proposal seeks to create lots for rural living purposes, it is considered that it would constitute an area of infill in the established 'Rural Residential' planning unit. Therefore, it is considered that the proposal may be entertained, as it does not conflict with the current moratorium.

Maps and Diagrams

Figure 1: Location plan



Figure 2: Zoning context plan



In Brief:

- A request has been submitted for Council to adopt a Local Planning Scheme Amendment to:
 - Rezone Lot 422 Affleck Road, Kalgan from the 'General Agriculture' zone to the 'Rural Residential' zone; and
 - Amend the Scheme Maps accordingly.

- City planning Staff support the proposal, as it is broadly consistent with the strategic direction set in the *Albany Local Planning Strategy* and *State Planning Policy 2.5*.
- It is considered that the proposal would constitute an area of infill in the established surrounding 'Rural Residential' planning unit. As such, it may be entertained, as it does not conflict with the current moratorium on the initiation of significant local planning scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
- Council is requested to adopt the amendment for the purpose of public advertising and referral to public authorities.

RECOMMENDATION

PD132: RESPONSIBLE OFFICER RECOMMENDATION

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

1. **Adopt Amendment No. 15** to amend *City of Albany Local Planning Scheme No. 1* by:
 - (1) Rezoning Lot 422 Affleck Road, Kalgan from the 'General Agriculture' zone to the 'Rural Residential' zone; and
 - (2) Amending the Scheme Maps accordingly.
2. Note that the Amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
 - The amendment is consistent with the *Albany Local Planning Strategy*, which identifies the site as 'Special Residential' and 'Rural Residential' and sets a strategic objective to ensure that future rural living areas are planned and developed in an efficient and co-ordinated manner by being located adjacent to Albany as designated on the ALPS maps;
 - 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

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. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

7. Amendment No. 15 has been prepared to seek:
- Rezoning of Lot 422 Affleck Road, Kalgan from the 'General Agriculture' zone to the 'Rural Residential' zone; and
 - Amendment of the Scheme Maps accordingly.
8. Council previously initiated a local planning scheme amendment to rezone Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Rural' zone to the 'Special Residential' zone, under former *Town Planning Scheme No. 3*, at its Ordinary Meeting on 19 July 2011, where it resolved:

“THAT Council:

In pursuance of section 75 of the Planning and Development Act 2005 resolves TO INITIATE Amendment No. 307 to Town Planning Scheme No. 3 without modification for the purposes of:

- 1) Rezoning Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Special Rural' zone and the 'Rural' zone to the 'Special Residential' zone.*
 - 2) Amending Schedule IV – Special Residential Zones to include Special Provisions for Special Residential Area No. 21.*
 - 3) Amending the Scheme Maps accordingly.”*
9. Following referral to the Environmental Protection Authority, this amendment was not progressed any further and 'fell away' upon the Gazettal of *Local Planning Scheme No. 1* on 28 April 2014.
10. The subject lot covers an area of 40.6 hectares and lies approximately 12 kilometres north-east of the Albany town centre. The land rises gently from the north and west, towards the centre of the lot, where it levels out to form a broad ridge continuing to the south-east. A dwelling and associated outbuildings stand in a loose cluster between the western boundary and the centre of the lot, with an access driveway to Affleck Road, which reaches the lot at its north-west corner. There is also a 10 metre-wide right of way connecting the north-east corner of the lot back to Nanarup Road, whilst the southern boundary abuts the Swan Point Road, road reserve. However, the constructed road ends approximately 180 metres away from the lot boundary.
11. The surrounding land to the north, east and south is zoned 'Rural Residential', while the lot abuts a 'Parks and Recreation' local scheme reserve to the west, along the Kalgan river estuary.
12. The 'Rural Residential' zone is intended to provide for large residential lots in excess of one hectare in area and is considered a form of rural living.
13. The amendment document states that:

“The purpose of this Amendment...is to rezone Lot 422 Affleck Road, Kalgan to Rural Residential. The amendment also incorporates provisions within Schedule 14 – Rural Residential Zones, to appropriately control subdivision, development and use in the new zone

This proposal has sound planning grounds, as justified by the following:

- *The rezoning of the subject site to Rural Residential would complete the Rural Residential zoning in this locality. All of the surrounding properties are zoned similarly;*
- *The subject site is identified for Rural Residential and Special Residential land uses by the Albany Local Planning Strategy (ALPS);*

- *The proposal will improve the fire management of the property, as well as ensuring that vegetation protection is instilled over the land; and*
- *The subject site would have better environmental controls as a result of the proposal.*

The subject site is identified as Special Residential and Rural Residential by the ALPS. At this time, it is not proposed to rezone the land to Special Residential in accordance with the ALPS, given a reticulated water supply is not readily available for connection to the subject site (which is required for land uses such as special residential with a lot size below 1ha). However, a number of lots within the Subdivision Guide Plan will be capable of further rationalisation under the Special Residential zone, should this zone be applied in the future and reticulated water becomes readily available.”

DISCUSSION

14. The City’s planning Staff support the rezoning of Lot 422 Affleck Road, Kalgan from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone, as it is broadly consistent with the current strategic direction set by the *Albany Local Planning Strategy* and *State Planning Policy 2.5*.
15. The subject lot has been identified in the *Albany Local Planning Strategy* as suitable for ‘Special Residential’ and ‘Rural Residential’ land uses and is considered an area of infill within the established surrounding ‘Rural Residential’ planning unit.
16. A significant proportion of the land has been cleared of vegetation and the remainder somewhat degraded by past stock grazing, although the land is no longer used for agricultural purposes. In this context, the proposal can be entertained, as it does not conflict with the current moratorium on the initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
17. Fire management implications on the subject lot have been addressed through a Fire Management Plan, incorporating a bushfire risk assessment and a Bushfire Attack Level contour plan. The Fire Management Plan identifies the requirement for all new dwellings to be constructed in accordance with *Australian Standard 3959 – Construction of Buildings in Bushfire-Prone Areas*. The draft structure plan indicates a new access road from Nananup Road along the western edge of Lot 184 Nananup Road. Emergency access/egress routes are shown linking new cul-de-sacs back to the main access road and to the ends of Affleck and Swan Point Roads.

GOVERNMENT & PUBLIC CONSULTATION

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

STATUTORY IMPLICATIONS

19. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
20. Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning. Section 81 of the Act requires a local government to refer an adopted local planning scheme amendment to the Environmental Protection Authority to determine if it should be assessed.

21. Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to adopt a standard scheme amendment for advertising and referral to relevant public authorities.
22. The proposal is considered to be a standard scheme amendment for the following reasons:
 - The amendment is consistent with the *Albany Local Planning Strategy*, which identifies the site as ‘Special Residential’ and ‘Rural Residential’ and sets a strategic objective to ensure that future rural living areas are planned and developed in an efficient and co-ordinated manner by being located adjacent to Albany as designated on the ALPS maps;
 - 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.
23. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

24. *State Planning Policy 2.5 – Land Use Planning in Rural Areas* applies to rural land in Western Australia and shall be considered in assessing amendments to rural zoned land in a local planning scheme. The policy aims to protect rural land from incompatible land uses, supports primary production activities and protects priority agricultural land.
25. In this instance, the subject lot is not currently used for agricultural purposes and adjoins non-rural land uses to the north, south and east. It is therefore considered that rezoning the subject lot would not be in contravention of *State Planning Policy 2.5* or the current moratorium on the rezoning of ‘General Agriculture’ or ‘Priority Agriculture’ zoned land.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations, People Health and Safety and Reputation</p> <p>Subdivision and development of the subject lot could create additional dwelling entitlements at risk of bushfire.</p>	Possible	Severe	High	The proposal contains a Fire Management Plan and attendant Scheme provisions that are designed to mitigate the risk of bushfire and its impacts on any future dwellings and their residents. This will be achieved through adequate separation distances from remnant vegetation, implementation of relevant construction standards and other fire management measures.
<p>Organisational Operations and Reputation</p> <p>Supporting this proposal could lead to other landowners questioning</p>	Possible	Minor	Medium	While, the <i>Albany Local Planning Strategy</i> , as the principal land use planning strategy for the City, would guide Council’s decision-making in other instances, this proposal clearly constitutes an infill

why the City would consider it under the current moratorium, but not other proposals to rezone agricultural land.				development in an established 'Rural Residential' zoned planning unit. This is illustrated in Figure 1 above.
Organisational Operations and Reputation The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.	Unlikely	Minor	Low	If not supported by the Western Australian Planning Commission or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.
Community, Organisational Operations and Reputation The proposal may attract objections from members of the public or other Government agencies.	Unlikely	Minor	Low	Widely consulting with all parties who may be affected and all government agencies should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

29. Much of the subject lot is cleared and under pasture, although two substantial stands of native vegetation remain. The largest of these extends along the southern boundary of the lot, before reaching north in the eastern half of the lot, creating a reverse 'L' shape. The second substantial area of remnant vegetation stands adjacent to the northern boundary of the lot at its mid-point. Smaller pockets of vegetation also occupy the north-western and north-eastern corners of the lot. The vegetation has been classified by an accredited bushfire risk assessor as a mixture of woodland and forest.
30. A Bushfire Management Plan that has been submitted with the proposal and includes a Bushfire Attack Level contour plan. This plan indicates the Bushfire Attack Levels across the building envelopes that have been nominated for each lot on the draft structure plan. The location of the building envelopes would generally accommodate construction to withstand Bushfire Attack Levels of between 12.5 and 29, while requiring the minimum amount of clearing.
31. It is proposed to cede the land to the west of the access driveway off Affleck Road as foreshore reserve.

ALTERNATE OPTIONS

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

- To resolve to adopt the amendment to the local planning scheme with modifications; or

- To resolve not to adopt the amendment to the local planning scheme.

SUMMARY CONCLUSION

33. It is recommended that Council adopt Local Planning Scheme Amendment No. 15, as it as the proposal is broadly consistent with the strategic direction currently set within the *Albany Local Planning Strategy* and *State Planning Policy 2.5*.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Albany Corporate Business Plan 2013-2017</i> 5. Western Australian Planning Commission <i>State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i> 6. Western Australian Planning Commission <i>State Planning Policy 2.5 – Land Use Planning in Rural Areas.</i>
File Number (Name of Ward)	:	LAMD15 (Kalgan Ward)
Previous Reference	:	<p>OCM 16/06/2009 – Item 11.2.1 OCM 15/09/2009 – Item 15.5.2 OCM 15/06/2010 – Item 13.2.8 OCM 16/11/2010 – Item 1.4 OCM 19/07/2011 – Item 2.3</p>

PD133: CONSIDERATION OF ADOPTION OF LOCAL PLANNING SCHEME AMENDMENT – LOT 1005, 9100, 91, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102 AND 6 CATALINA ROAD, STIRLING VIEW DRIVE AND ESPERANCE CRESCENT, LANGE

Land Description : Lots 1005, 9100, 91, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102 and 6 Catalina Road, Stirling View Drive and Esperance Crescent, Lange

Proponent : Edge Planning and Property

Owner : N and L Ryde

Business Entity Name : Ryde Building Company Pty Ltd

Attachments : 1. Local Planning Scheme Amendment No. 19 report

Supplementary Information & Councillor Workstation : Nil

Report Prepared by : Senior Planning Officer (A Bott)

Responsible Officer : Executive Director Planning and Development Services (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

Maps and Diagrams



In Brief:

- A request has been submitted for Council to initiate a Local Planning Scheme Amendment to rezone Lots 1005, 9100, 91, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102 and 6 Catalina Road, Stirling View Drive and Esperance Crescent, Lange from the 'Future Urban' zone to the 'Residential' zone and amend the Scheme Maps accordingly.
- City planning Staff support the proposal, as it is consistent with the strategic direction set in the *Albany Local Planning Strategy*.
- The proposal is considered to be relatively minor and is classified as a Basic Scheme Amendment.

RECOMMENDATION

PD133: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005*, resolves to adopt Amendment No. 19 to amend *City of Albany Local Planning Scheme No. 1* by:

- (1) Rezoning Lot 1005 Catalina Road, Lange from 'Future Urban' to 'Residential R25';
- (2) Rezoning Lots 25, 29, portions of Lots 60 and 9101 on Deposited Plan 406224 and Lots 6, 91, 93, 97, 98, 100 and 101 on Deposited Plan 73991 from 'Future Urban' to 'Residential R30';
- (3) Rezoning Lots 23, 24, 26, 27, 28, 30, 31, 52 to 59, 92 and portions of Lots 60 and 9101 on Deposited Plan 406224 and Lots 94, 95, 96, 99 and 102 on Deposited Plan 73991 from 'Future Urban' to 'Residential R20';
- (4) Designating portions of Lot 9101 on Deposited Plan 406224 as 'Parks and Recreation' reserve and 'Local Road' reserve;
- (5) Designating Vaughan Vista, Isongerup Street and Brooks Garden Boulevard as 'Local Road' reserves;
- (6) Designating a portion of Brooks Garden Boulevard as 'Public Use – Pump Station' reserve; and
- (7) Amending the Scheme Maps accordingly.

The Amendment is basic 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*.
- The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and
- As per 34 (g) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the amendment is consistent with the adopted *Brooks Garden Outline Development Plan* and *Local Development Plan No 2*.

BACKGROUND

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. Amendment No. 19 has been prepared to seek:
 - Rezoning of Lot 1005 Catalina Road, Lange from 'Future Urban' to 'Residential R25';
 - Rezoning of Lots 25, 29, portions of Lots 60 and 9101 on Deposited Plan 406224 and Lots 6, 91, 93, 97, 98, 100 and 101 on Deposited Plan 73991 from 'Future Urban' to 'Residential R30';
 - Rezoning of Lots 23, 24, 26, 27, 28, 30, 31, 52 to 59, 92 and portions of Lots 60 and 9101 on Deposited Plan 406224 and Lots 94, 95, 96, 99 and 102 on Deposited Plan 73991 from 'Future Urban' to 'Residential R20';
 - Designation of portions of Lot 9101 on Deposited Plan 406224 as 'Parks and Recreation' reserve and 'Local Road' reserve;
 - Designation of Vaughan Vista, Isongerup Street and Brooks Garden Boulevard as 'Local Road' reserves;
 - Designation of a portion of Brooks Garden Boulevard as 'Public Use – Pump Station' reserve; and
 - Amend the Scheme Maps accordingly.

The 'Future Urban zone is intended to maintain viable uses for existing lots until the land is required to be developed for the desirable ultimate long term use. Now that the subject lots have begun to be developed and subdivided to a residential standard, a Residential zoning will more appropriately reflect the ultimate land use and facilitate continued residential development.

6. The subject lots lie approximately 4 kilometres north-west of Albany town centre and approximately 350 metres south of Mercer Road.
7. The land to the north of the subject lots is zoned 'Residential', while the land to the south and east is zoned 'Future Urban' and the land to the west is zoned 'Neighbourhood Centre'.
8. The amendment proposes to normalise the zoning and density of the subject lots from those contained within the *Brooks Garden Outline Development Plan* and *Local Development Plan No. 2* into *Local Planning Scheme No. 1*.
9. The amendment document states that:

"The amendment formalises zoning and reservation consistent with the Brooks Garden Outline Development Plan and the approved Local Development Plan for Lot 1005 Catalina Road. Formalising the zoning and reservation will give greater certainty to land use permissibility and set out intended publicly managed land".

DISCUSSION

10. The City's planning Staff support the rezoning of the subject lots from the 'Future Urban' zone, as this is consistent with the current strategic direction set by the *Albany Local Planning Strategy*.

It is also consistent with the approved *Brooks Garden Outline Development Plan and Local Development Plan No. 2*.

11. Consequently, the proposed amendment is considered to be relatively minor and affects land that has already been subdivided and partially developed for residential purposes.

GOVERNMENT & PUBLIC CONSULTATION

12. The *Planning and Development (Local Planning Schemes) Regulations 2015* do not require a basic amendment to a local planning scheme to be advertised for public comment. Consequently, no consultation has been undertaken.

STATUTORY IMPLICATIONS

13. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
14. Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning. Section 81 of the Act requires a local government to refer an adopted local planning scheme amendment to the Environmental Protection Authority to determine if should be assessed. Council resolution is sought for the adoption of a local planning scheme amendment.
15. The proposal is considered to be a basic scheme amendment for the following reasons:
- The amendment is consistent with the *Albany Local Planning Strategy*.
 - The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and
 - As per 34 (g) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the amendment is consistent with the adopted Brooks Garden Outline development Plan and Local Development Plan No 2.

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

POLICY IMPLICATIONS

17. The proposal is considered to be consistent with the adopted *Brooks Garden Outline Development Plan and Local Development Plan No 2*.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	Unlikely	Minor	Low	If not supported by the Western Australian Planning Commission or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

20. There are no legal implication directly relating to this item.

ENVIRONMENTAL CONSIDERATIONS

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

ALTERNATE OPTIONS

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

- To resolve to adopt the amendment to the local planning scheme with modifications; or
- To resolve not to adopt the amendment to the local planning scheme.

SUMMARY CONCLUSION

23. It is recommended that Council adopt Local Planning Scheme Amendment No. 19, as the proposal is consistent with the strategic direction currently set within the *Albany Local Planning Strategy* and normalises the zoning and residential density codes in accord with the adopted *Brooks Garden Outline Development Plan* and *Local Development Plan No 2*.

Consulted References	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Albany Corporate Business Plan 2013-2017</i> 5. <i>Brooks Garden Outline Development Plan</i> 6. <i>Local Development Plan No.2</i>
File Number (Name of Ward)	:	LAMD19 (Yakamia Ward)
Previous Reference	:	

PD134: CONSIDERATION OF SUPPORT FOR LOCAL PLANNING SCHEME AMENDMENT – LOT 5 LOWANNA DRIVE, LOTS 9 AND 110 GEORGE STREET AND LOT 16 SOUTH COAST HIGHWAY, GLEDHOW

Land Description	: Lot 5 Lowanna Drive, Lots 9 and 110 George Street and Lot 16 South Coast Highway, Gledhow
Proponent	: Ayton Baesjou Planning
Owner	: F & J Lombardo, Q D Knight, T G Burgess and L J & R Spaanderman
Business Entity Name	: Nil
Attachments	: 1. Schedule of Submissions : 2. Schedule of Modifications : 3. Subdivision Guide Plan : 4. Local Planning Scheme Amendment No. 9 report
Supplementary Information & Councillor Workstation	: Copy of submissions
Report Prepared by	: Senior Planning Officer (A Bott)
Responsible Officer	: Executive Director Planning and Development Services (D Putland)

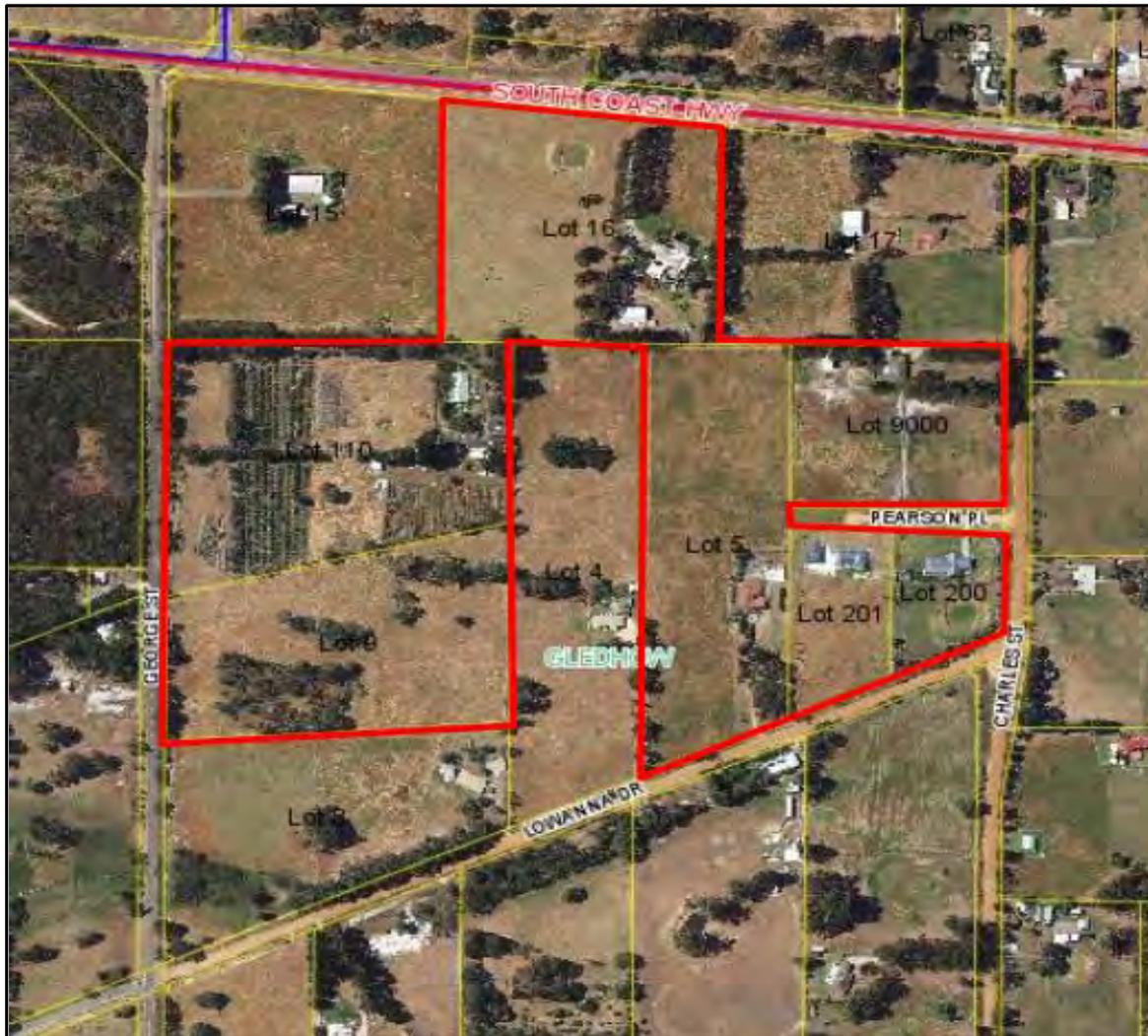
Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.
4. The City has currently imposed a moratorium on the initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
5. Although this proposal seeks to create lots for rural living purposes, it is considered to be an 'infill' development, within the already fragmented peri-urban edge. It also seeks to further subdivide lots of approximately 4-5 hectares in area, which are already considered to have little capacity for agricultural production. Consequently, it is considered that the proposal does not conflict with the current moratorium and may be entertained.

Maps and Diagrams



In Brief:

- At its Ordinary Meeting on 22 September 2015, Council adopted a local planning scheme amendment to:
 - Rezone Lot 5 Lowanna Drive, Lots 9 and 110 George Street and Lot 16 South Coast Highway, Gledhow from the 'General Agriculture' zone to the 'Rural Residential' zone and;
 - amend the Scheme Maps accordingly.
- The local planning scheme amendment was advertised from 3 December 2015 to 21 January 2016 for public comment and referred to public authorities in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- City planning Staff support the proposal, as it is consistent with the current strategic direction set by the *Albany Local Planning Strategy* and *State Planning Policy 2.5*.
- As a result of submissions received during the advertising process, it is recommended that a number of minor modifications be made the amendment.

- The proposal is considered to be an ‘infill’ development, within the already fragmented peri-urban edge. It seeks to further subdivide lots of approximately 4-5 hectares in area, which are already considered to have little capacity for agricultural production. As such, it may be entertained, as it does not conflict with the current moratorium on the initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
- Council is requested to consider the submissions received following public advertising and referral and to support the local planning scheme amendment.

RECOMMENDATION

PD134: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. Pursuant to section 75 of the *Planning and Development Act 2005*, resolves to support, with modification as per the attached Schedule of Modifications, Amendment No. 9 to amend *City of Albany Local Planning Scheme No. 1* by:
 - (1) Rezoning Lot 5 Lowanna Drive, Lot 16 South Coast Highway and Lots 9 and 110 George Street from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone and incorporating them within area No. RR22, as set out in Schedule 14 – Rural Residential Zone of the Scheme text; and
 - (2) Amending the Scheme Maps 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. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
7. Amendment No. 9 has been prepared to seek the rezoning of Lot 5 Lowanna Drive, Lot 16 South Coast Highway and Lots 9 and 110 George Street from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone.
8. The subject lots are located approximately 6.5 kilometres west of Albany town centre and have an area of approximately 18.4 hectares.
9. Land to the north-west, north-east and south is currently zoned ‘General Agriculture’, while the land to the north and west is reserved for ‘Parks and Recreation’ or zoned ‘Rural Small Holding’. The lots to the east are zoned ‘Rural Residential’.
10. The amendment document states that:

“Following the designation of land located within the area bounded by Lowanna Drive, Charles Street, George Street and South Coast Highway for rural residential purposes,

a number of landowners propose to rezone the land from 'General Agriculture' zone to the 'Rural Residential' zone"

DISCUSSION

11. The City planning Staff support the rezoning of Lot 5 Lowanna Drive, Lots 9 and 110 George Street and Lot 16 South Coast Highway, Gledhow from the 'General Agriculture' zone to the 'Rural Residential' zone as it is consistent with the current strategic direction set by the *Albany Local Planning Strategy* (see Attachment 2) and *State Planning Policy 2.5*. It is considered that the proposal is an 'infill' development, within the already fragmented peri-urban edge and seeks to further subdivide lots of approximately 4-5 hectares in area, which are already considered to have little capacity for agricultural production. In this context, the proposal can be entertained, as it does not conflict with the current moratorium on the initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
12. It is proposed that the special provisions of the adjacent 'Rural Residential' zone Area No. 22 are applied to the subject lots as a component of rezoning them to the 'Rural Residential' zone.
13. Lot 15 George Street has not been included within the amendment as it is owned by Main Roads WA.
14. A land capability assessment has been carried out on the subject land and it has been found that it can support the installation of private on-site effluent disposal systems.
15. The submissions received from public authorities during the advertising and referral process did not raise any objection to the proposal.
16. Main Roads WA has recommended a number of subdivisional conditions to control and consolidate vehicular access to South Coast Highway. It is proposed to incorporate these conditions into the scheme amendment documents via the attached Schedule of Modifications.
17. Main Roads WA has also recommended that notifications be placed on the titles of the subject lots at the time of subdivision, advising that they may be subject to future transport noise. In addition to the above, it has been confirmed that dwellings will be required to be constructed to meet the noise mitigation measures of *State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning*.
18. Comments were also received from the Department of Planning regarding aspects of the proposal and it is proposed to incorporate these into the scheme amendment documents via the attached Schedule of Modifications.

GOVERNMENT & PUBLIC CONSULTATION

19. The amendment was advertised in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* from 3 December 2015 to 21 January 2016 by direct referral to affected and adjoining/nearby landowners and public authorities, and advertisement in the local newspaper.
20. Five (5) submissions were received from public authorities and adjoining landowners and are summarised in the attached Schedule of Submissions. Staff comments and recommendations are also provided in the schedule.
21. Prior to lodging the amendment documents with the City of Albany, the proponent has consulted with Main Roads WA regarding the planned Albany Ring Road alignment and any associated constraints that would apply to the rezoning proposal.

22. The westernmost lots shown on the draft structure plan would lie within the planned Albany Ring Road alignment. An appropriate acoustic setback, which would also serve as a development exclusion area, has been identified on the plan and would allow for dwellings to be developed in accordance with the 60da(A) noise limit within *State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning*.

STATUTORY IMPLICATIONS

23. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
24. 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. Council resolution is sought for the initiation of a local planning scheme amendment.
25. Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to support a standard amendment, with or without modification.
26. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

27. *State Planning Policy 2.5 – Land Use Planning in Rural Areas* applies to rural land in Western Australia and shall be considered in assessing amendments to rural zoned land in a local planning scheme. The policy aims to protect rural land from incompatible land uses, supports primary production activities and protects priority agricultural land.
28. In this instance, the subject lots are not currently used for productive agricultural purposes and adjoin non-rural land uses to the north and west. It is therefore considered that rezoning the subject lot would not be in contravention of *State Planning Policy 2.5* or the current moratorium on the rezoning of 'General Agriculture' or 'Priority Agriculture' zoned land.
29. The proposal has been designed to be consistent with the requirements of *State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning*. *State Planning Policy 5.4* aims to “promote a system in which sustainable land use and transport are mutually compatible. It seeks to minimise the adverse impact of transport noise, without placing unreasonable restrictions on noise-sensitive residential development, or adding unduly to the cost of transport infrastructure”. The objectives of the policy are to:
- Protect people from unreasonable levels of transport noise by establishing a standardised set of criteria to be used in the assessment of proposals;
 - Protect major transport corridors and freight operations from incompatible urban encroachment;
 - Encourage best-practice design and construction standards for new development proposals and new or redeveloped transport infrastructure proposals;
 - Facilitate the development and operation of an efficient freight network; and
 - Facilitate the strategic co-location of freight handling facilities.

RISK IDENTIFICATION & MITIGATION

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

31. Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation</p> <p>Supporting this proposal could lead to other landowners questioning why the City would consider it under the current moratorium, but not other proposals to rezone agricultural land.</p>	Possible	Minor	Medium	While, the <i>Albany Local Planning Strategy</i> , as the principal land use planning strategy for the City, would guide Council's decision-making in other instances, this proposal clearly constitutes an infill development in an established 'Rural Residential' zoned planning unit. And is discussed in more detail in the report at point 11.
<p>Organisational Operations and Reputation</p> <p>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	Unlikely	Minor	Low	If not supported by the Western Australian Planning Commission or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

34. The subject lots are largely cleared pasture, with the exception of vegetated windbreaks on lot boundaries. There is a stand of parkland cleared vegetation in the southwest corner of lot 9 George Street.

ALTERNATE OPTIONS

35. Council may consider alternate options in relation to this item, such as:
- To resolve to support the scheme amendment without modification; or
 - To resolve not to support the scheme amendment and advise the Western Australian Planning Commission, in writing, of the reasons for doing so.

SUMMARY CONCLUSION

36. It is recommended that Council adopt Local Planning Scheme Amendment No. 9, as the proposal is consistent with the strategic direction currently set within the *Albany Local Planning Strategy* and *State Planning Policy 2.5*.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Albany Corporate Business Plan 2013-2017</i> 5. Western Australian Planning Commission <i>State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i> 6. Western Australian Planning Commission <i>State Planning Policy 2.5 – Land Use Planning in Rural Areas</i> 7. Western Australian Planning Commission <i>State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning.</i>
File Number (Name of Ward)	:	LAMD9 (West Ward)
Previous Reference	:	OCM 22/09/2015 – Item PD094

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
16. **REPORTS OF CITY OFFICERS**
17. **MEETING CLOSED TO PUBLIC**
18. **CLOSURE**