



AGENDA

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING

Wednesday 10 July 2019

6.00pm

City of Albany Council Chambers

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

VISION

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

VALUES

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

Focused: on community outcomes

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

United: by working and learning together

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

Accountable: for our actions

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

Proud: of our people and our community

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

TERMS OF REFERENCE

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

Development Services:

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

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

Infrastructure Services:

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

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

(2) **It will achieve this by:**

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

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

(4) **Meeting Schedule:** Monthly

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

(6) **Executive Officers:** Executive Director Infrastructure and Environment, Executive Director Development Services

(7) **Delegated Authority:** None

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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 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

Councillors:

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

Staff:

Acting Executive Director Development Services	J van der Mescht
Meeting Secretary	Annabel Paulley

Apologies:

Mayor	D Wellington
Chief Executive Officer	A Sharpe
Executive Director Infrastructure and Environment	P Camins

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

6. PUBLIC QUESTION TIME

7. PETITIONS AND DEPUTATIONS

8. CONFIRMATION OF MINUTES

COMMITTEE RESOLUTION

THAT the minutes of the Development and Infrastructure Services Committee meeting held on 12 June 2019, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

9. PRESENTATIONS

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

DIS169: PROPOSED HOLIDAY ACCOMMODATION – 13-17 CUTHBERT STREET, ALBANY WA 6330

Land Description	: Lot 201, 13-17 Cuthbert Street, Albany WA 6330
Proponent	: Margaret Gibson
Attachments	: 1. Development Application 2. Management Plan 3. Schedule of Submissions
Report Prepared By	: Coordinator Planning Services (A Bott)
Responsible Officers:	: Acting Executive Director Development Services (J van der Mescht)

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed development application, Council is obliged to draw conclusion from its adopted *Community Strategic Plan – Albany 2030*. The structure plan complies with strategic planning for the following reasons:
 - a) The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).

Maps and Diagrams: Subject Site – Lot 201, 13 Cuthbert Street, Albany



In Brief:

- On 11 April 2019, the City of Albany received a planning application for holiday accommodation at 13 Cuthbert Street, Albany.
- The proposal is to change the current ancillary accommodation at the rear of the lot to holiday accommodation.

- The matter was subject to public advertising. Through this process, six (6) submissions raising concerns with the proposal were received.
- Due to the provisions of the City of Albany’s Holiday Accommodation Policy, the proposal is required to be referred to Council for determination.
- Staff consider that the proposal is in accordance with City of Albany Holiday Accommodation Policy and recommend the proposal be supported subject to conditions.

RECOMMENDATION

DIS169: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for holiday accommodation at Lot 201, 13-17 Cuthbert Street, Albany:

Conditions:

1. All development shall occur in accordance with the stamped, approved plans referenced P2190185 and dated XX XX 2019, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany.
2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. The operation of the holiday accommodation hereby approved shall be in accordance with the approved management plan which shall be reviewed and updated at the time of any change of ownership or management, to the satisfaction of the City of Albany.
4. The holiday accommodation 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 to any extent greater than what is to be expected within a residential zone.
5. The holiday accommodation hereby approved shall only be used for short stay accommodation, with any single tenant permitted to stay for no more than three months in any twelve month period.
6. The operator or manager of the holiday accommodation hereby approved shall maintain an annual register of all guests to the satisfaction of the City of Albany. A receipt book must also be kept.
7. Each bedroom using beds shall have a floor space of not less than four square metres per person; each bedroom using bunks shall have a floor space of not less than 2.5 square metres.
8. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.

Advice Condition 10:

Please refer to the City of Albany Local Planning Policy 2B – Signs for further information.

9. Prior to commencement of development a vehicular parking and access plan shall be submitted for approval, implemented and constructed to the satisfaction of the City of Albany.

Advice:

- Car parking and access is to be designed in accordance with the Australian Standard 2890.
 - An updated parking and access plan is to be submitted showing the required four (4) bays. The plan should indicate parking signage, bay dimensions and any requirement to remove trees or obstructions. The parking area can remain as neatly mowed grass but the bay areas must be permanently defined. This may be by way of pavers defining the wheel paths. If the parking area is to be sealed, details regarding the stormwater management will need to be submitted for approval due to the increase in run-off generated and its potential to affect the downstream property.
10. Two tandem parking spaces shall be provided per approved holiday accommodation on the lot.
11. Vehicular parking must be contained within the lot boundaries at all times.
12. All vehicular parking and access areas shall be maintained as per the approved details and plans, to the satisfaction of the City of Albany.
13. All access and egress to the proposed holiday accommodation shall occur solely through the access way to the south of the lot. The right of carriageway to the north of the lot shall not be used for either access or egress or parking for the proposed holiday accommodation.

BACKGROUND

3. Local Planning Scheme No. 1 was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. 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.
4. The site is located approximately 270 metres west of the Albany CBD. The property is 863m² in size and zoned Residential R30/40 under Local Planning Scheme No.1. For the split coding on this lot, the density code of R30 applies.
5. The immediate surrounding properties are also zoned Residential R30/40, with the exception of Regional Centre Mixed Use abutting Collie Street to the east and Regional Centre zoning abutting Duke Street to the south.
6. Currently, the main dwelling on the lot has approval for holiday accommodation and was approved for this use in early 2018.
7. The proposed accommodation unit was issued a building approval certificate in February 2019.
8. The application was advertised for public comment for a period of 21 days, with nearby landowners directly notified by letter.

9. Six (6) submissions were received during advertising which raised concerns in respect of the proposal. The concerns raised are summarised later in this item.
10. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

DISCUSSION

11. The applicant has provided the following (summarised) outline of how the proposed holiday house will operate:
 - The Property will be managed by the landowners who will follow up individually with any complaints received.
 - Maximum number of guests restricted to 2 adults per bedroom and restrictions on the numbers of visitors allowed on the property.
 - Owner to respond to complaints professionally and take effective action to stop any problems.
 - A code of conduct will be provided to the guests.
 - No functions or parties being permitted that would conflict with residential amenity.
 - Guests and visitors must comply with access and parking regulations provided.
 - Limitations and controls for pets on premises.
12. The main planning concerns raised and the proposed mitigation measures are addressed as follows:
 - The proposal potentially impacting upon the amenity and character of the area.
 - Concerns in relation to drainage and water run-off from the proposed development.
 - Access to the proposed holiday accommodation via the right of carriageway to the north of the property.
 - Provision and delineation of off-street car parking for the proposed development.
13. In respect of the amenity and character of the area, it is necessary to consider that the proposal is located within the preferred area for holiday accommodation within the City of Albany Holiday Accommodation Local Planning Policy. It is considered that with the implementation of a suitable management plan as a condition of approval, the use will not detrimentally affect the character or amenity of the area.
14. In respect of concerns raised about drainage on the site, the City's development engineer noted that the proposal is for a change-of-use only. Therefore, there should be no additional run-off as a result of the proposal. Any further development will likely require approval via a development application or building permit, and the stormwater management assessed at this time.
15. Limited off-street parking is available and there is a concern that inviting additional traffic onto the property will compound the existing shortage of parking. The proponent originally provided a parking plan with their application, indicating 6 proposed bays on the lot. As the parking requirements for development on the site only generate the requirement for a total of 4 bays, the applicant submitted a revised parking plan indicating this number of bays to the satisfaction of the City of Albany.
16. Referencing the above plan, staff recommend a condition requiring the parking area to indicate parking signage. The parking area can remain as neatly mowed grass. If the parking area is to be sealed, details regarding the stormwater management will need to be submitted for approval due to the increase in run-off generated and its potential to affect the downstream property.

17. The proponent has also updated the Code of Conduct to require parking in the designated guest bays. Signage reflecting this will be required by application of an appropriate condition.
18. One submission raised concerns that the guests will use the right of carriageway to the north of the lot. The City has previously sought legal advice on a similar matter regarding rights of access and was advised that all registered proprietors, as well as their guests and invitees have an implied right to use a right of way. However, the adjoining northern lot owner has expressed concerns that usage of the right of carriageway for access and egress will pose amenity and privacy concerns due to the proximity to their bedroom and kitchen window. A site visit determined that these concerns are valid and a condition shall be added to the approval requiring all access and egress to the proposed holiday accommodation to occur solely through the access way to the south of the lot. The right of carriageway to the north of the lot is not to be used for either access or egress nor parking for the proposed holiday accommodation.
19. Concerns were also raised in submissions regarding the compliance of the subject building with the building code. In February 2019, the building was issued a Building Approval Certificate. The building approval certificate confirms that the building has been assessed by a registered building surveyor and confirm compliance with the *Building Act 2011*, *Building Regulations 2012*, *National Construction Code (BCA Vol.2 Class1/10a Buildings)* and applicable standards.
20. The application is considered to be generally consistent with the City of Albany's Holiday Accommodation Local Planning Policy. Further to this, it is considered that any potential amenity impacts will be mitigated by the proposed management measures and revised parking plan.

GOVERNMENT & PUBLIC CONSULTATION

21. The application was advertised for public comment for a period of 21 days, with nearby landowners directly notified by letter.
22. Six (6) submissions were received during advertising which raised concerns in respect of the proposal. The broad issues are discussed in paragraph 11-20 above and in the attached schedule of submissions.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consultation	Mail Out	24/4/2019 to 15/5/2019	6 submissions received	Yes

STATUTORY IMPLICATIONS

23. A Holiday House is classified as a 'D' use within the 'Residential' 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.
24. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

25. The proposal is subject to the City of Albany Holiday Accommodation Local Planning Policy.
26. The primary reason the matter has been referred to council for consideration is due to the position within this policy which states:

"Where a neighbour objects to a proposal, the application is to be referred to the Council for deliberation and considered in view of the following:

- a. *The proximity of the holiday accommodation to key tourism attractions such as the beach or town centre/activity centre (typically a 5 minute walk – 400m);*

- b. *location within a street(s) which facilitates safe, efficient and pleasant walking, cycling and driving;*
- c. *location compatible with Figure A below (the areas illustrated are within close proximity to the town centre and popular swimming beaches).*
- d. *A management plan designed to facilitate community concerns.”*

27. The following comments are made in respect of the above matters of consideration:
28. As per Figure A of the Local Planning Policy, the proposal is located within the preferred area for holiday accommodation.
29. In accordance with the policy, the applicant has also submitted a management plan which controls the usage of the property and places clear guidance for its use. Measures to protect amenity through the management of the site include:
- A code of conduct will be provided to the guests.
 - Maximum number of guests restricted to 2 adults per bedroom and restrictions on the numbers of visitors allowed on the property.
 - No functions or parties being permitted that would conflict with residential amenity.
 - Controls for pets on premises.
30. It is considered that the proposal meets the key matters of the Holiday Accommodation Local Planning Policy and is capable of approval subject to appropriate conditions.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation <i>The approval may generate unacceptable impacts on the amenity of the area.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>The application and adherence of appropriate planning conditions will mitigate this risk.</i>
Opportunity: <i>Responds to market demand for holiday accommodation in a controlled fashion.</i>				

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

33. As per the appeal rights conferred by the *Planning and Development Act 2005*, the decision on the matter can be appealed to the State Administrative Tribunal.

ENVIRONMENTAL CONSIDERATIONS

34. There are no environmental implications directly relating to this item.

ALTERNATE OPTIONS

35. Council has the following alternate options in relation to this item which are:
- To resolve to refuse the proposal subject to reasons; and
 - To resolve to approve the proposal subject to additional or modified conditions.

CONCLUSION

36. The proposal is considered to be consistent with the objectives of the zone and the requirements of the *City of Albany's Holiday Accommodation Local Planning Policy*.
37. The matters raised in the public submissions received during the advertising period have also been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions.
38. 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>Holiday Accommodation Local Planning Policy</i>
File Number (Name of Ward)	:	A107339 (Frederickstown Ward)
Previous Reference	:	Nil

DIS170: CONTAINER DEPOSIT SCHEME INFRASTRUCTURE POLICY

Land Description	: All
Proponent	: City of Albany
Attachments	: 1. Draft Container Deposit Scheme Policy 2. Position Statement: Container Deposit Scheme Infrastructure – May 2019
Owner	: Various
Report Prepared by	: Coordinator Planning Services (A Bott)
Responsible Officer	: Acting Executive Director Development Services (J van der Mescht)

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed policy, the Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2010* and *Community Strategic Plan – Albany 2030*.
3. In making a decision on the proposed policy, Council is obliged to draw conclusion from its adopted *Community Strategic Plan – Albany 2030*. The policy that relates to the structure plan complies with strategic planning for the following reasons:
 - a. The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).

In Brief:

- The Western Australian Government is planning to implement the Container Deposit Scheme (CDS) in early 2020.
- The CDS is proposed to complement existing kerbside recycling services by providing a refund payment for people or organisations who return eligible containers through the scheme.
- The CDS will operate via container collection points. In May 2019, the Department of Planning Lands and Heritage (DPLH) released a position statement and template local planning policy for the location of CDS infrastructure.
- The template local planning policy has been prepared to ensure that the infrastructure required to facilitate CDS is established in appropriate locations.
- Council is requested to endorse the CDS Infrastructure Policy for the purpose of advertising.

RECOMMENDATION

DIS048: RESPONSIBLE OFFICER RECOMMENDATION

That Council, in accordance with Division 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, RESOLVES to:

- 1. MAKE a Container Deposit Scheme Infrastructure Policy (as set out in Attachment 1 this item).**
- 2. APPROVE giving notice, through the placement of a notice of the proposed policy in a newspaper circulating in the Scheme area, in order to seek public comment.**

BACKGROUND

4. In May 2019, the Department of Planning Lands and Heritage (DPLH) released a position statement for the rollout of the CDS in Western Australia.
5. The scheme has benefits including reducing litter, increasing recycling, protecting the environment and providing opportunities for social enterprise participation.
6. The CDS will allow consumers to take empty beverage containers covered by the scheme to a refund point to receive a refund of 10 cents.
7. Staff consider it pertinent to adopt the template planning policy for CDS infrastructure in order to be in a position to have a policy in place for when the scheme commences.

DISCUSSION

8. DPLH has provided the following position statement for the CDS infrastructure:
 - Ensure a coordinated approach to the provision of CDS infrastructure throughout WA;
 - Ensure that appropriate locations are chosen for the installation of CDS infrastructure;
 - Ensure the timely rollout of infrastructure in support of the scheme's establishment and ongoing operational needs; and
 - Establish minimum development requirements to exempt certain CDS infrastructure from requiring planning approval, for adoption by local governments.
9. The policy provides measures for the following types of CDS infrastructure:
 - Container collection cages;
 - In-shop / over-the-counter return points;
 - Reverse vending machines;
 - Container deposit recycling centres; and
 - Large-scale facilities.
10. It is considered that by adopting the proposed policy prior to the formal commencement of the CDS, it will put the City of Albany in position to be able to deal with proposals for the associated infrastructure in a pragmatic and consistent manner.

GOVERNMENT & PUBLIC CONSULTATION

11. If the Council resolves to support the *Container Deposit Scheme Infrastructure Policy* for formal advertising, a notice of the proposed policy will be placed in a newspaper circulating in the area, giving details of:

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

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Newspaper	TBA (min 21 days)	Open	Yes

12. After expiry of the period within which submissions may be made, the City of Albany will be required to:

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

STATUTORY IMPLICATIONS

13. There are no statutory implications relating to endorsing the proposed policy for advertising.

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

POLICY IMPLICATIONS

15. The proposed local planning policy is in accordance with the model local planning policy and will provide the following objectives;

- To ensure the location, design and siting of CDS infrastructure is complementary to the character, functionality and amenity of urban localities.
- To prevent negative impacts on local amenity from the operation of CDS infrastructure.
- To enable the timely, cost effective delivery of essential CDS infrastructure.
- To provide conveniently located infrastructure to ensure the CDS' effective reduction of litter, increased recycling and protection of the environment.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation Advertising the proposed policy could give rise to objectionable comments from landowners and developers.	Possible	Moderate	Medium	The proposed policy puts in place a sound framework and exemptions from requiring approval. Continue to consult and educate.
Opportunity: To facilitate the sustainability and recycling effort of the community.				

FINANCIAL IMPLICATIONS

17. Nil.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

19. There are no environmental implications relating to resolving to advertise a draft Local Planning Policy.

ALTERNATE OPTIONS

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

- To resolve that the draft policy is unacceptable and refuse advertising.
- To resolve to amend the proposed policy prior to advertising.

CONCLUSION

21. By adopting an early policy position on the matter, the City of Albany will be able to provide guidance of development CDS infrastructure prior to the full rollout of the Scheme.

22. Council is requested to accept the policy for the purpose of advertising.

Consulted References	:	1. Local Planning Scheme 1 2. Planning and Development (Local Planning Schemes) Regulations 2015.
File Number (Name of Ward)	:	All Wards
Previous Reference	:	N/A

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