



AGENDA

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING

Wednesday 10 November 2021

6.00pm

Council Chambers

CITY OF ALBANY
STRATEGIC COMMUNITY PLAN 2032



Development & Infrastructure Services Committee
Terms of Reference

Functions: The Committee is responsible for:

The Development and Infrastructure Services Committee is responsible for delivery of the outcomes defined in the Strategic Community Plan 2032 under the **Planet Pillar** and **Place Pillar**:

- Sustainable management of natural areas, balancing conservation with responsible access and enjoyment;
- Shared responsibility for climate action;
- Responsible growth, development and urban renewal;
- Interesting, vibrant and welcoming places;
- Local history, heritage and character is valued and preserved; and
- A safe sustainable and efficient transport network.

It will achieve this by:

- Developing policies and strategies;
- Establishing ways to measure progress;
- Receiving progress reports;
- Considering officer advice;
- Debating topical issues;
- Providing advice on effective ways to engage and report progress to the Community; and
- Making recommendations to Council.

Membership: Open to all elected members.

Meeting Schedule: Monthly

Meeting Location: Council Chambers

Executive Officers: Executive Director Infrastructure, Development & Environment

Delegated Authority: None

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE
AGENDA – 10/11/2021

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1. DECLARATION OF OPENING

The Chief Executive Officer will call for nominations for the position of Chair and Deputy Chair of the Development and Infrastructure Services Committee.

Chair

Deputy Chair

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 past, present and emerging”.

3. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

Mayor

D Wellington

Councillors:

Member

P Terry

Member

A Cruse

Member

G Stocks

Member

M Traill

Member

T Brough

Member

M Benson-Lidholm JP

Member

J Shanhun

Member

D Baesjou

Member

S Smith

Member

A Goode JP

Member

C Thomson

Member

R Sutton

Staff:

Chief Executive Officer

A Sharpe

Executive Director Infrastructure, Development
and Environment

P Camins

Manager Planning & Building Services

J van der Mescht

Planning Co-ordinator

J Wardell-Johnson

Meeting Secretary

A James

Meeting Secretary

A Paulley

Apologies:

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

In accordance with City of Albany Standing Orders Local Law 2014 (as amended) the following points apply to Public Question Time:

- 5) The Presiding Member may decide that a public question shall not be responded to where—*
 - (a) the same or similar question was asked at a previous Meeting, a response was provided and the member of the public is directed to the minutes of the Meeting at which the response was provided;*
 - (b) the member of the public asks a question or makes a statement that is offensive, unlawful or defamatory in nature, provided that the Presiding Member has taken reasonable steps to assist the member of the public to rephrase the question or statement in a manner that is not offensive, unlawful or defamatory.*

7. PETITIONS AND DEPUTATIONS

8. CONFIRMATION OF MINUTES

RECOMMENDATION

THAT the minutes of the Development and Infrastructure Services Committee meeting held on 15 September 2021 as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

9. PRESENTATIONS

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

**DIS285: DRAFT LOCAL PLANNING SCHEME NO. 2 AND
RESOLUTION TO PROCEED TO ADVERTISE**

Land Description	:	City of Albany
Proponent / Owner	:	City of Albany
Attachments	:	1. Flowchart for the preparation of a new local planning scheme. 2. Local Planning Scheme No.2 – Text 3. Local Planning Scheme No.2 – Maps 4. Draft Engagement Strategy 5. Summary of changes between LPS1 & LPS2 with Model Provisions
Supplementary Information & Councillor Workstation	:	1. Link to online Scheme Map 2. Documentation for Lancaster Road rezoning request to Rural Enterprise zone 3. WAPC's Position Statement: Special Residential Zone
Report Prepared By	:	Senior Planning Officer – Strategic Planning (A Nicoll)
Authorising Officers:	:	Executive Director Infrastructure, Development and Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Place
 - **Outcome:**
 - Responsible growth, development and urban renewal.
 - Interesting, vibrant and welcoming places.
 - Local history, heritage and character is valued and preserved.
 - A safe, sustainable and efficient transport network.
 - **Pillar:** Planet
 - **Outcome:**
 - Sustainable management of natural areas; balancing conservation with responsible access and enjoyment.
 - A resilient community that can withstand, adapt to, and recover from natural disasters.
 - **Pillar:** Prosperity
 - **Outcome:**
 - A strong, diverse and resilient economy with work opportunities for everyone.
 - A highly sought-after tourist destination.
 - **Pillar:** Leadership
 - **Outcome:** Grow awareness, understanding and engagement in City projects, activities and decisions.

2. The Albany Local Planning Strategy 2019, the local planning strategy sets out the long-term planning directions for the Scheme area. This report aligns with the implementation of the strategic objectives and actions identified under the City of Albany *Local Planning Strategy 2019* (the Planning Strategy).

In Brief:

- The purpose of this report is for Council to consider proceeding to advertise draft Local Planning Scheme No. 2 (LPS2), without modification, in accordance with the Planning Regulations.
- Draft LPS2 has been prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Planning Regulations).
- Draft LPS2 seeks to:
 - Ensure consistency with the state planning framework (including reflecting any recent changes to the Planning Regulations, state planning policies, guidelines and state policy direction);
 - Implement the aims and strategic direction of the City's *Local Planning Strategy 2019*;
 - Ensure other supporting components of the local planning framework are consistent and up to date, including existing local planning policies, local structure plans and local development plans.
- Once finalised, draft LPS2 will replace existing Local Planning Scheme No. 1 (LPS1).

RECOMMENDATION

DIS285: AUTHORISING OFFICER RECOMMENDATION

THAT Council RESOLVE to:

1. **Not incorporate the requested modification to draft Local Planning Scheme No. 2 to rezone Lot 156 (No. 322) Lancaster Road and Lot 155 (No. 34) Reddale Road, McKail from General Agriculture to Rural Enterprise zone, for the following reasons:**
 - a) **The proposal in its current form is inconsistent with the strategic direction of the Planning Strategy, does not provide sufficient rationale or justification for the inconsistency to the Strategy, and does not satisfactorily address or incorporate the minimum requirements outlined under the State Planning Policy and associated Guidelines for subdivision and/or development in the Rural Enterprise zone for the subject site.**
 - b) **Further strategic work is required to consider the broader application of the Rural Enterprise zone across the municipality. This work could be considered as part of a minor review to the City's Local Planning Strategy 2019, to run parallel with delivery of the Local Planning Scheme No. 2. A minor review of the Planning Strategy is the appropriate avenue for the local government to consider the broader strategic application and appropriate locations for the zone. Recommendations from the minor review can then be incorporated in to Local Planning Scheme No. 2, either following closure of advertising or as a scheme amendment following gazettal.**
2. **ADVISE the proponent of its decision and reasons to NOT INITIATE the requested modification to draft Local Planning Scheme No. 2 to rezone Lot 156 (No. 322) Lancaster Road and Lot 155 (No. 34) Reddale Road, McKail from General Agriculture to Rural Enterprise zone.**

DIS285: AUTHORISING OFFICER RECOMMENDATION

THAT Council RESOLVE to:

- 1. Pursuant to Section 72 of the *Planning and Development Act 2005* and Regulation 21(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, PROCEED TO ADVERTISE the draft City of Albany Local Planning Scheme No. 2 (LPS2) included in Attachment 2 & 3 without modification.**
- 2. In accordance with the requirements of Regulation 21 and 22 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, DELEGATE the Chief Executive Officer to**
 - i) Refer LPS2 to the Environment Protection Authority to consider if LPS2 needs to be assessed pursuant to Section 48A of the *Environmental Protection Act 1986*.**
 - ii) Provide two copies of LPS2 to the Commission, and seek the Commission's advice on LPS2 and if it considers that any modification to the document is required prior to advertising.**
 - iii) Make modifications to LPS2 to the satisfaction of the Environmental Protection Authority and/or Commission prior to commencement of advertising.**

And

 - iv) Provide public notice of LPS2 and ensure arrangements are in place for LPS2 to be made available for inspection by the public for a period of not less than 90 days.**

BACKGROUND

3. The City's current LPS1 was originally gazetted in 2014 and was prepared in alignment with the strategic direction set out under the now superseded *Local Planning Strategy 2010*. Amendments to LPS1 have been implemented since its gazettal in 2014, including significant changes that were required, following gazettal of the Planning Regulations in 2015.
4. The Planning Regulations require local governments to regularly review their local planning strategies and local planning schemes. In early 2019, the City commenced a review of LPS1 and following the outcomes of the review, Council resolved in November 2019 to recommend to the Western Australian Planning Commission (WAPC) that LPS1 should be repealed, and a new scheme be prepared. In August 2020, the WAPC agreed with the City's recommendation to repeal the current scheme and prepare a new scheme in its place.
5. Local planning schemes are required to implement the strategic direction and aims set out under a Planning Strategy. Draft LPS2 ensures this alignment between the strategic and statutory aspects of the City's local planning framework, as well to the state planning framework.
6. The gazettal of the Planning Regulations in 2015 introduced standardised requirements for state and local planning frameworks across WA, including requirements for local governments to follow in delivering their responsibilities within their respective local planning frameworks, specifically:
 - Through implementing the requirements of the 'Deemed Provisions' (Schedule 2). The Deemed Provisions contain standardised processes for state and local planning frameworks, and specifically for local governments for the processing of development applications, specific development exemptions and the processes for the preparation of various local planning framework documents (such as structure plans and local development plans).

- In preparing local planning schemes in accordance with the 'Model Provisions' (Schedule 1), a standardised pro-forma template all local governments are required to follow.
7. The WAPC endorsed the City's current Planning Strategy in late 2019. The Planning Strategy had been prepared in accordance with the Planning Regulations and superseded the previous *Local Planning Strategy 2010*. The Planning Strategy defines the policy direction of the City for the next 10-15 years, with its primary aims being:
- To direct the delivery of future residential and commercial growth through consolidation of existing urban areas, to improve efficiency and maximise the potential of existing developed land, and conserve and protect places and areas of Aboriginal and historic heritage significance.
 - To protect existing agricultural land from urban expansion and facilitate the growth of sustainable rural villages to support agricultural and hinterland communities.
 - Deliver a more compact liveable city, providing a diversity of housing types, where residents live close to local shops, community facilities, services and employment, with easy access to public and active transport options.

DISCUSSION

8. The process for the preparation, advertising, modification and approval of a local planning scheme is set out in the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*. See Attachment 1 for a simplified flowchart for the preparation of a new local planning scheme.
9. By implementing the Model Provisions of the Planning Regulations, the format and layout of draft LPS2 looks substantially different to LPS1.
10. Draft LSP2 involves the following changes to ensure alignment with strategic direction and legislative requirements:
- Implementation of the Model Provisions, including:
 - Introduction of predominantly new standardised land use zones and reserve classifications
 - Introduction of some new land use classifications (also known as land use definitions)
 - Deletion or amendments to some existing land use classifications
 - Introduction of additional uses for some reserve areas
 - Introduction of new Special Control Areas and modifications to existing Special Control Areas
 - The inclusion of:
 - Rezoning and new development requirements to align with strategic direction, such as the conversion of some of the existing areas of 'Light Industry' zone to the new 'Mixed Use' zone on the fringe of Albany's central business district in Centennial Park
 - Changes to land use zoning and development requirements to address state policy direction, such as the discontinuing of the 'Special Residential' zone. 'Special Residential' zone areas are now classified as 'Residential'. A density code and provisions apply to manage lot size and development characteristic of individual areas that were zoned 'Special Residential'
 - Additional supplementary approval exemptions to those contained under the Deemed Provisions, for specific works and land uses
 - Modifications to existing additional use and restricted use provisions and Special Use zone areas

- Consolidated provisions from relevant existing local planning into the scheme, where required by the Planning Regulations and recent changes to state planning policies
- Local structure plan and local development plan maps and associated provisions
- Proposed modifications to current state planning policies to address specific local considerations.

11. Refer to Attachment 5 of this report for a summary of changes to the land use zones and land use classifications between LPS1 and LPS2.

12. More detail is provided below as a rationale for any significant zoning or classification of land.

Implementation of the Planning Strategy

Urban consolidation

13. The Planning Strategy identifies opportunities to guide urban consolidation within central Albany, increase residential density and housing types, and support a mixture of land uses adjacent to inner city employment and recreational and community facilities.

14. The inner city locality of Centennial Park, which is approximately 186ha in area and has a combination of various lot sizes, vacant underutilised land, and pre-existing mixed land uses, presents an opportunity to create a mixed use inner city community in close proximity to key recreational opportunities, CBD retail and cultural opportunities and services.

15. Draft LPS2 identifies rezoning of some areas within Centennial Park 'Light Industry' to the new 'Mixed Use' zone. This would allow for:

- A more diverse range of land uses and density;
- Better utilise available land;
- Enhance the attractiveness of the area; and
- Reduce the need for people to travel by car.

16. Draft LPS2 contains provisions to manage the potential for any land use conflict between existing intensive (industrial) and sensitive (residential) land uses. For example, prior to the issue of development approval for an application involving residential accommodation in the Mixed Use zone, a developer may-be required to:

- Provide a legal mechanism to notify the owner, their heirs and successors in title, of the possible loss of amenity from adjoining land uses;
- Undertake a land use, acoustic and traffic analysis; and
- Design the residential building and provide a site layout responsive to the analysis.

Tourism zone

17. Some actions from the Planning Strategy have been implemented through LPS2 provisions, although the action under the Planning Strategy originally required a different output.

18. An action identified in the Planning Strategy required the City to develop a Tourism Planning Strategy.

19. Initial scoping and background work for a Tourism Planning Strategy was undertaken in 2020 through a consultant, following direction by DPLH for the City to initiate the action. However, following completion of the scoping work, changes to policy positions from DPLH and the progress in developing LPS2, DPLH indicated that the outcomes of the scoping work and implementing the strategic aim of the action could be addressed via provisions under draft LPS2, rather than developing a separate Tourism Planning Strategy.

20. Following this, in accordance with the Model Provisions and informed by the scoping and background documentation, draft LPS2 contains the following:

- Introduction of the new Tourism land use zone, that consolidates former LPS1 zones Hotel/motel and Caravan and Camping zones
 - Discontinuance of the Tourist Residential zone from LPS1, conversion of this zone to either Tourism zone if applicable to a specific tourism development site, or to Residential zone.
 - Introduction of new land use classifications and update of the Zoning Table to reflect the introduction of new land use zones, land use classifications and informed by the scoping and background work.
21. For areas where Tourist Residential zone have been converted to Tourist zone or Residential, the following changes are proposed to the converted Tourist Residential zone:
- Tourist accommodation development incentive provisions no longer applicable:
 - Dual density coding provisions and dual code provisions from under LPS1 discontinued
 - Middleton Beach and Barry Court sites that are proposed to be converted from Tourist Residential to Residential zone higher density code to be deleted
 - Existing tourist accommodation sites that have been built to higher density coding, will become non-conforming uses and not be able to intensify further.
 - Tourist zone sites will have no density coding applied, provisions to allow for performance based assessments.
22. Holiday house, holiday accommodation and other tourist accommodation land uses are determined by permissibility designated for each zone under the Zoning Table. Future holiday accommodation development (grouped dwellings or multiple dwelling developments) will be assessed against the designated base coding.
23. A Local Planning Policy addressing Tourist Accommodation more generally is being prepared to be implemented following endorsement of LPS2.

Rural Enterprise zone

24. A new zone 'Rural Enterprise' is to be introduced to draft LPS2, in accordance with the Model Provisions. The Rural Enterprise zone allows for Rural Living style lots, but with the emphasis on predominant use to operate light industrial uses, with an ancillary residential dwelling on one lot.
25. The zone provides economic development opportunities that support small businesses or tradespeople who want the flexibility to live on site and operate their low scale light industrial business, within proximity to urban/rural townsites areas. The objectives and designated land uses permitted within the Rural Enterprise zone will enable sole operators or small-scale businesses to undertake light-industry related land uses such as microbreweries, small scale welding or carpentry businesses.
26. The Rural Enterprise zone could be utilised as:
- An alternative zone suitable for users that are seeking to operate small scale light industry home based businesses on larger size lots, whereas other current Rural Living zones (Rural Residential or Rural Small Holding) are not necessarily designed to support home based small scale light industrial uses. The Rural Enterprise zone provides an alternative zone for this type of development to be located elsewhere in appropriate locations, reducing potential land use conflicts within other existing Rural Living zones, and ensuring the amenity of the other Rural Living zones can be maintained.
 - A 'transitional' zone, for example to provide infill development opportunities of land directly adjacent to the inner side of the Albany Ring Road and land zoned for urban residential development.

27. Lot size, layout and operational elements of development in the zone would be required to be in accordance with the State Planning Policy and Guidelines. General considerations and provisions, including minimum site area and development requirements for the Rural Enterprise zone are set out under relevant State Planning Policy and associated Guidelines. Considerations and provisions related to:
- Minimum site areas are to be between one to four hectares.
 - Design outcomes of development within the zone needs to achieve reasonable separation between residential and business activities and address amenity (within the site and with adjoining sites within and adjacent to the zone), but based on the understanding that the zone objectives are to provide opportunities for larger scale industrial based structures (large sheds) to support
 - Residents of the zone would need to accept a degree of nuisance from business operations, however development provisions for the zone would also need to carefully consider design and operational aspects to ensure a level of amenity is provided and maintained.
28. The Rural Enterprise zone was introduced after the strategic work of the Planning Strategy had been substantially progressed, and therefore the Strategy is currently silent on the broader strategic application of this zone.
29. Furthermore, direction outlined under the Planning Strategy specifically restricts further rezoning of existing agricultural zoned land to Rural Living, in order to ensure existing agricultural land is protected, to restrict urban sprawl and also promote urban infill and consolidation of existing urban zoned land.
30. Therefore, draft LPS2 only identifies a number of sites at Bakers Junction adjoining the Local Centre zone, to be rezoned to Rural Enterprise zone from General Agriculture. The proposed rezoning of these sites is due to the existing smaller lot sizes, the legacy of previous development and current land uses operating on these sites (light industrial/rural based light industry with existing residential in direct proximity), and their location directly adjacent to major arterial roads and the existing Local Centre zone.
31. In order to continue progressing LPS2, the application of the zone elsewhere to Bakers Junction has not been considered at this stage. Further strategic work is required to consider the broader strategic application of the zone to identify other appropriate locations for the zone across the municipality. City staff recommend that the most appropriate avenue for this work to be delivered would be as part of a minor review to the Planning Strategy, following significant progression in delivering LPS2. The strategic work would involve consideration of the specific objectives and intended desired outcomes for the Rural Enterprise zone and the subsequent implications that inform identification of suitable locations for the zone such as:
- Potential impacts on residential amenity, including on residential uses permitted within the zone and on existing and proposed residential development and sensitive uses adjoining the zone.
 - Access requirements for the zone, including the preference for sites with direct access to major transport routes, the type of vehicles and increase in traffic volumes expected servicing the zone, the impact of these aspects on the existing network and the amenity of adjoining residential development, and.
 - Environmental considerations (noise, odour, dust) and potential impacts on amenity to adjoining urban zoned land.
32. The City received documentation in October 2021 for a proposal to rezone land between Lancaster Road and Reddale Road from General Agriculture to Rural Enterprise. The proposal was submitted as a request for Council to be included in draft LPS2, prior to advertising. City staff acknowledge that the proposed rezoning has some planning merit, including the site's location on the inner side of the Albany Ring Road.

33. However, in its current form the proposal is inconsistent with the strategic direction of the Planning Strategy, does not provide sufficient rationale or justification for the variation sought to the Strategy, and also does not meet the minimum requirements of the SPP and the Guidelines in the provisions proposed for the zone.
34. Council have the opportunity to include the application for rezoning of this portion of land to Rural Enterprise zone in draft LPS2. However, it should be noted that by accepting the subject application in its current form, potentially creates a risk in delaying the delivery of draft LPS2, as the broader strategic implications in considering the Rural Enterprise zone across the municipality have not been adequately considered at this time.
35. Subsequently, City staff have not included the proposed rezoning of the subject sites on Lancaster Road in draft LPS2 for advertising. Future strategic work to consider the application of the Rural Enterprise zone across the municipality would commence following substantial progression of delivering draft LPS2.

Implementation of revised state policy direction

Discontinuing the 'Special Residential' zone

36. The 'Special Residential' zone was originally created for the LPS1 to allow for lots of a size which offered a spacious lifestyle at densities lower than traditional 'quarter acre' residential lots, but higher than those found in the 'Rural Residential' zone (one to four hectares). Typically, special residential lots in Albany range in size from 2,000m² to 5000m².
37. The WAPC indicated in a recently published 'Position Statement: Special Residential (May 2021)' that, as local planning schemes are reviewed, land currently zoned special residential will be required to be identified as an alternative zone, such as Residential, with an appropriate code of R2, R2.5 or R5.
38. Following the release of the Position Statement, the City raised its concerns with DPLH regional office regarding the change in policy direction and lack of prior engagement with affected local governments on the matter. The City also raised its concerns with the Western Australian Local Government Association (WALGA) at the time, requesting coordination of a response from the City and other affected local governments.
39. In the interim, in response to the change in policy direction, the City has developed draft site specific provisions under LPS2 to ensure future development within these areas maintains the desired amenity outcomes and also addresses unique development constraints applicable for each site.
40. The draft provisions are consistent with the requirements of the Model Provisions, however sign off by the WAPC is still required. As at the time of writing this report, WALGA advised the City that DPLH were in the process of preparing alternative avenues to the new policy measure, but no timeframe had been given on the expected release of these.

Consolidation of Local Planning Policy Provisions

41. Changes to the Planning Regulations in February 2021 and to the R-Codes Volume 1 in July 2021 identify changes to the purpose of local planning policies and their relationship with provisions in a local planning scheme. The Planning Regulations and direction from DPLH outlines that provisions contained under LPPs are given 'due regard'. The primary purpose of LPPs are to provide parameters for the exercise of discretion to development provisions contained under a local planning scheme or relevant 'design principles' of the R-Codes. Other purposes for LPPs are to provide guidance for developments to meet specific design outcomes (for example through design guidelines) identified for an area or for a type of development.
42. The Planning Regulations state that specific requirements of the R-Codes that do not have the ability to be varied by an LPP require further WAPC approval. Direction from DPLH also indicates that the preference in local governments obtaining approval from the WAPC is via provisions in a local planning scheme, to provide the provisions greater statutory weight than available through an LPP.

43. Refer to Attachment 5 of this report for a summary of the provisions consolidated from existing adopted LPPs into draft LPS2.
44. To manage the scope and ensure the timely delivery of draft LPS2, the majority of LPP provisions have been inserted directly into draft LPS2, without substantial review. Some modifications have been made where required following recent updates to state planning policy or following recent events.
45. It was considered that a formal review of all current LPPs was not warranted at this stage of the project, with a wholesale review of the remaining LPPs to be undertaken as draft LPS2 progresses. The review would be informed by the consolidation of relevant policy provisions into draft LPS2, and submissions received during advertising. It is estimated that a wholesale review of the LPPs would be completed, with a suite of revised LPPs presented as draft LPS2 enters the final approval stage.
46. Following the above, examples of provisions to be consolidated from existing LPP provisions into draft LPS include:
 - Non-habitable Structures Policy
 - Flood prone areas

Non-Habitable Structures Policy

47. The City's *Non-Habitable Structures Policy* includes provisions that vary specific requirements of the R-Codes, and specifically for Outbuildings (as defined where located in the Residential zone). The current provisions of the policy expands on the requirements of the R-Codes to enable larger scale Outbuildings (through increased maximum permitted floor area, wall and building height) than permitted under the R-Codes. Under the policy, the parameters for allowable limits on the area and height requirements are based on the applicable land use zone. Performance criteria is also contained in the policy where an application seeks further discretion.
48. Under the R-Codes, Outbuildings provisions for maximum permitted floor area are not able to be varied by an LPP and require further approval by the WAPC. To provide easier navigation of the local planning framework, the entire suite of provisions relating to Outbuildings and Non-habitable structures (as they're defined if not located within the Residential zone and not subject to the R-Codes) contained under the LPP are proposed to be consolidated under draft LPS2 with associated land use zones and general development requirement provisions.
49. To address preliminary comment from Elected Members, additional performance criteria has also been proposed in draft LPS2 to provide additional guidance on the extent of discretion that can be sought for 'Outbuildings' in the Residential zone (where modifying the provisions of the R-Codes), and for 'Non-habitable structures' in remaining applicable land use zones. The provisions for Outbuildings in the Residential zone, including the additional performance criteria are contained under Part 4 clause 26 (5), of the LPS2 Scheme Text. The specific provisions for Non-habitable structures are contained under the applicable land use zone in Table 12 of Schedule of Schedule 5, with the additional performance criteria contained under Table 13 of Schedule 6 (Refer Attachment 2).

Flood Prone Areas

50. Following the above, an example of provisions currently in LPPs that require greater statutory weight relate to requirements for subdivision and development in flood prone areas.
51. To address recent significant weather events and ensure the provisions within the local planning framework adequately address matters relating to obvious risk, current policy requirements for development in areas subject to coastal inundation and/or flooding have been consolidated into draft LPS2, through the creation of new Special Control Areas.
52. Under the Model Provisions, provisions within a Special Control Area target a single issue or related set of issues, that relate to overlapping zone and/or local reserve boundaries. Provisions under Special Control Areas guide future subdivision and potential intensification

of land, and are created to ensure that future development is designed to mitigate identified site specific ongoing risk and/or nuisance factors. Provisions guide site layout, and ensure that development is constructed to minimum appropriate standards.

53. Provisions currently contained under the *Development in Flood Prone Areas* policy requiring habitable buildings in areas that are subject to coastal inundation and flooding being constructed to minimum floor levels above Australian Height Datum (AHD), have been inserted as Special Control Areas under draft LPS2. This approach was recommended by DPLH, to ensure these provisions have greater statutory weight and are in line with the Model Provisions and state policy direction.

Areas Local Structure Plan and Local Development Plan

54. Local structure plans and local development plans are tools used in the planning framework to guide site specific zoning, future subdivision and development requirements and are given 'due regard' when considering subdivision and development.
55. The Planning Regulations set out the process for local governments to prepare these documents. To provide greater statutory weight to specific provisions of local structure plans and local development plans the Model Provisions provide mechanisms to insert specific provisions from these documents into a local planning scheme, to provide these provisions statutory weight.
56. In accordance with the Planning Regulations, local structure plans and local development plans have a duration of 10 years from its commencement date, unless revoked prior to expiry. Furthermore, all existing approved local structure plans in effect at the time of commencement of the Regulations (19 October 2021) will expire after 10 years (i.e. 2025).
57. An applicant or the local government (on behalf of land owners) may apply to the WAPC to extend the approval period of a structure plan. An application for an extension to the approval period is to be made prior to the expiration of the structure plan.
58. Following the above, draft LPS2 incorporates provisions from some of the local structure plans into the scheme text to:
- Address and mitigate changes to state policy direction, including the discontinuance and conversion of Special Residential zone to Residential).
 - Ensure future development responds to site specific development constraints, with the provisions given statutory weight.
 - Incorporate the provisions from existing local structure plans that were in effect at commencement of the Planning Regulations, as part of a strategic approach, prior to their expiry in 2025.
59. To ensure draft LPS2 is progressed, this work was specifically undertaken for the Special Residential areas to be rezoned Residential. Existing local structure plans in effect for these areas (formerly known as subdivision guide plans) will also remain. However it was identified that there was a risk of the statutory weight of these provisions being lost, following the zoning conversion.
60. The zoning conversion and requirement for draft LPS2 to follow the Model Provisions, resulted in the provisions for Special Residential zoned areas in their current form under LPS1 being deleted. As outlined above, a solution has been identified to ensure the provisions retain their statutory weight and ensure the desired outcomes and amenity of those areas can still be achieved. The solution involves reinstating the provisions in LPS2 under relevant clauses and tables in accordance with the Model Provisions, and preparation of associated maps for each individual area, that spatially identifies the specific constraints and development requirements.
61. A formal review of the remaining local structure plan and local development plans expiring by 2025 will be undertaken as a separate project, following finalisation of LPS2.

GOVERNMENT & PUBLIC CONSULTATION

Summary

62. The resolution includes a section to forward copies of the draft Scheme to the Commission for certification to advertise the documents, and a section to refer draft LPS2 to the EPA to consider if it requires assessment.
63. Subject to favourable advice from the EPA and the Commission, the City can proceed to advertise draft LPS2 in accordance with the Planning Regulations.
64. Following closure of advertising, and the consideration of all public and agency submissions, draft LPS2 will be referred back to Council to resolve to either support draft LPS2 with or without modifications, or not support draft LPS2.

Following Council's resolution

65. Pursuant to r. 21 of the Planning Regulations, if the local government resolves to proceed to advertise a draft local planning scheme, the local government must, before advertising the scheme, submit 2 copies of the draft local planning scheme document to the WAPC.
66. The documents must be submitted within 21 days of the local government resolution or such longer period as the WAPC allows.
67. The WAPC must, within 90 days or such longer period as the Minister or an authorised person allows, of receiving the documents submitted, examine the documents and advise the local government if the WAPC considers that any modification to the documents is required before the draft local planning scheme is advertised.

Following WAPC & EPA approval to advertise

68. Pursuant to r. 22 of the Planning Regulations, the local government must advertise the draft local planning scheme for public inspection as follows:
 - a) Publish in accordance with r. 76A:
 - the notice; and
 - the draft local planning scheme
 - b) Give a copy of the notice to each public authority that the local government considers is likely to be affected by the draft local planning scheme
 - c) Advertise the draft local planning scheme as directed by the WAPC and in any other way the local government considers appropriate.
 - d) The period for making submissions on a draft local planning scheme is:
 - the period of 90 days after the day on which the notice is first published; or
 - a longer period approved by the WAPC.
69. In addition to the above minimum advertising requirements, City staff have developed a draft Stakeholder and Community Engagement Plan in accordance with the City's *Community Engagement Policy* (refer Attachment 4 The draft Engagement Plan identifies opportunities for engagement to be undertaken during in the advertising phase of the project, in addition to the minimum requirements set out under the Planning Regulations. The draft Strategy sets out the purpose of the engagement activity, and identifies relevant communications, materials, messages, timing and actions required to successfully communicate and engage with stakeholders and the community on the project.
70. The purpose of the engagement is to inform stakeholders and the community about the changes that are introduced with draft LPS2 and to provide an opportunity for the City to answer questions and address concerns.

Consideration of submissions

71. Pursuant to r. 25 of the Planning Regulations, the local government must consider all submissions on a draft local planning scheme lodged with the local government within 120 days after the end of the submission period for the draft scheme.

STATUTORY IMPLICATIONS

72. A local planning scheme comes into force in a similar manner to an Act of Parliament. A local planning scheme, and amendments thereto, must therefore receive the consent of the Minister for Planning before it becomes a legal document. Once a scheme is gazetted, it sets up a statutory framework for the development of the Municipality and becomes the primary tool to guide private sector investment.

73. Part 6, Division 1 of the Planning Regulations requires that in each fifth year following the date a scheme was last published in the Government Gazette, the Local Government is to:

- a) Prepare a report of a review of its local planning scheme;
- b) Approve the report by resolution; and
- c) Provide the approved report to the Commission.

74. The above actions have been completed. The local government and the WAPC have agreed on a 'Report of Review', which recommends repealing the current scheme and preparing a new scheme in its place.

75. The process to prepare a local planning scheme is out in accordance with the planning legislation and regulations, as outlined above.

POLICY IMPLICATIONS

76. There are no policy implications relating to the proposal to introduce a new local planning scheme.

77. As outlined above, provisions from a number of local planning policies are proposed to be consolidated into draft LPS2, in accordance with state direction and recent changes to the Planning Regulations.

78. As outlined above, a formal review of all current LPPs was not warranted at this stage of the project, with a wholesale review of the remaining LPPs with provisions not being consolidated into draft LPS2 to be undertaken as draft LPS2 progresses. A formal review of LPPs would be informed by the outcomes of draft LPS2 and submissions received during advertising. A wholesale review of the LPPs would be completed, with a suite of revised LPPs presented as draft LPS2 enters the final approval stage.

79. In accordance with Part 5, s.77A of the *Planning and Development Act 2005*, the Minister may, on the recommendation of the Commission, order a local government to prepare and submit for the approval of the Minister an amendment to a local planning scheme for the purpose of rendering the local planning scheme consistent with a specified State planning policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><i>Business Operation, Reputation & Financial.</i></p> <p><i>Risk:</i> <i>There is a risk that by not updating the City's Local Planning Scheme to conform with City Strategy and State</i></p>	<i>Likely</i>	<i>Moderate</i>	<i>Medium</i>	<i>If the proposed scheme is not endorsed, staff will review and address areas of concern.</i>

<i>Regulation, decision making may fall out of line with community and state expectations.</i>				
<i>Reputational risk : Public concern about being affected by zoning changes (i.e.) Injurious affection</i>				<i>No additional reservations of private land is being proposed</i> <i>Comprehensive Consultation plan outlining opportunities for landowners to identify if they will be affected with the proposed changes to their land.</i>
<i>Opportunity: Consistency and understanding of rules for City, community and state.</i>				

FINANCIAL IMPLICATIONS

81. The proposal is within Planning Budget.

LEGAL IMPLICATIONS

82. The proposed scheme has been developed to minimise the potential for any legal implications, including claims for injurious affection.

83. A landholder may make a claim for compensation for injurious affection for land that is reserved in a scheme or subject to a special control. A claim for compensation for injurious affection can be made if:

- a) Private Sale – the landholder sells the property on the open market at a reduced price (due to the effect of the reservation or special control); or
- b) Refused development – the City has either refused a development application over the property or approved it subject to conditions that are unacceptable to the applicant.

ENVIRONMENTAL CONSIDERATIONS

84. Pursuant to section 81 of the *Planning and Development Act 2005*, the local government is not to advertise that local planning scheme or amendment until:

- a) The local government has referred the proposed local planning scheme or amendment to the EPA by giving to the EPA:
 - written notice of that resolution; and
 - such written information about the local planning scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the EP Act in relation to the local planning scheme or amendment.

ALTERNATE OPTIONS

85. In accordance with the Planning Regulations, Council may:

- Resolves to proceed to advertise draft Local Planning Scheme No. 2 **with modifications**; or
- Resolves **not** to proceed to advertise draft Local Planning Scheme No. 2.

CONCLUSION

86. This report represents the midway point for the LPS2 project as defined by phases outlined in planning legislation and regulations. Draft LPS2 seeks to ensure that appropriate planning controls exist for land use and development within the municipality of Albany, in accordance with strategic intent and state regulatory standards.

87. The officer recommendation is for Council to agree to proceed to advertise draft LPS2, without modification.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Planning Scheme No.1.</i>• <i>Planning and Development (Local Planning Schemes) Regulations 2015.</i>• <i>Local Planning Strategy 2019.</i>• <i>City of Albany Strategic Community Plan.</i>
File Number (Name of Ward)	:	DB.PLA.8
Previous Reference	:	DIS184 26/11/2019 DIS268 24/08/2021 DIS271 24/08/2021

DIS286: C21012 – DESIGN, SUPPLY AND INSTALLATION OF ROOFTOP SOLAR PHOTOVOLTAIC (PV) SYSTEMS

Land Description	: Albany Leisure and Aquatic Centre, Harry Riggs Airport and the Albany City Library
Proponent / Owner	: City of Albany
Attachments	: Commercial in Confidence - Confidential Briefing Note under separate cover
Report Prepared By	: Building Infrastructure Officer (A Glendinning)
Authorising Officer:	: Executive Director Infrastructure, Development & Environment (P Camins)

CONFIDENTIAL ATTACHMENT

It is recommended that if discussion is required in regards to details contained within the Confidential Attachment, that the matters are discussed behind closed doors, in accordance with section 5.23(2)(c) & (e)(ii) of the Local Government Act 1995, being: a contract which may be entered into and information that has commercial value.

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Planet
 - **Outcome:** Shared responsibility for climate action.

In Brief:

- In December 2020 (DIS242), Council received the *Renewable Energy Installation on City Facilities* Business Case and adopted the Annual Budget to implement phase 1 of the solar panel program in July 2021.
- Following a competitive tender process, Council approval is sought to award the tender for the Contract C21012 – Design, supply and install rooftop Solar PV Systems
- The contract is for the installation of solar panels to 3 city owned locations:
 1. Albany Leisure and Aquatic Centre
 2. Albany City Library
 3. Albany (Harry Riggs) Regional Airport

RECOMMENDATION

DIS286: AUTHORISING OFFICER RECOMMENDATION

THAT Council AWARD Contract C21012 – DESIGN, SUPPLY AND INSTALLATION OF ROOFTOP SOLAR PV SYSTEMS to the tenderer recommended by the evaluation panel, as detailed in the Confidential Briefing Note attached to this report.

BACKGROUND

2. Council has declared its intention to reduce its power station generated power usage by adopting a Solar Powered alternative.
3. In the Annual Budget, Council adopted the recommendations for 2021/2022 of the *Renewable Energy Installation on City Facilities* Business Case, which includes installing solar panels on these three buildings in this financial year.
4. Tenders were called for C21012 Design, supply and install rooftop solar PV systems.

DISCUSSION

- The tender was advertised, issued to 23 interested companies and a total of 7 tender responses were received by close of tenders on Wednesday 20 October 2021.

Evaluation of Tenders

- The tender panel evaluated tenders using the weighted criteria methodology across six (6) areas, shown in Table 1.

Table 1 – Evaluation Criteria

Criteria	% Weighting
Cost	30%
Relevant Experience	20%
Key Personnel Skills and Experience	20%
Tenderer's Resources	10%
Demonstrated Understanding	15%
Corporate Social Responsibility	5%
Total	100%

- The following Table 2 summaries the tenders and the overall evaluation scores applicable.

Table 2 – Summary of Tender Submissions

Tenderer	Weighted Score
Tenderer A	731.56
Tenderer B	718.36
Tenderer C	669.05
Tenderer D	634.88
Tenderer E	531.88
Tenderer F	423.45
Tenderer G	375.71

- Tenderer A ranked highest with the highest total weighted score.
- From the evaluation scoring, clarification and financial check process, Tenderer A is the preferred tender.
- It is recommended that their tender be accepted and the contract awarded.

GOVERNMENT & PUBLIC CONSULTATION

- A request for tenders was published in the West Australian on Wednesday 29 September 2021 and the Albany Weekender on Thursday 30 September 2021. It was also displayed on the City notice board. The closing time and date of tender was 2pm Wednesday 20 October 2021.

STATUTORY IMPLICATIONS

- Regulation 11 of the Regulations requires Council to publicly tender if the contract is, or expected to be, worth more than \$250,000.
- Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
- Regulation 19 of the Regulations requires Council to advise each tenderer in writing of Council's decision.
- Voting Requirement: **Simple Majority**

POLICY IMPLICATIONS

16. The City of Albany Purchasing Policy (Tenders and Quotes) and Buy Local Policy (Regional Price Preference) are applicable to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Service Delivery Interruption <i>Risk: Interruption to power supply at individual locations on certain days.</i>	Likely	Moderate	Low	Power disruption at mutually agreed times.
Community <i>Risk: Non-compliance with contract or business failure resulting in delays</i>	Unlikely	Moderate	Low	General conditions of contract allow for contract termination.
People Health and Safety <i>Risk: Public health with contractors working overhead</i>	Low	High	Low	Only Tenders for companies with specific site safety plans considered.
Opportunity: To dramatically reduce the load and consequent expense to supplying station-generated power to City buildings while reducing the City of Albany’s carbon emissions.				

FINANCIAL IMPLICATIONS

18. The cost (weighted 30%) was calculated by fixed price submissions.
19. The costs for the works are within budget. Further information is provided in the Confidential Briefing Note.

LEGAL IMPLICATIONS

20. Nil.

ENVIRONMENTAL CONSIDERATIONS

21. Successful tenderer A has an environmental policy in place.

ALTERNATE OPTIONS

22. The options are:
- a. Council may elect to accept the recommended tender; or
 - b. Not approve any tender.

CONCLUSION

23. It is recommended, based on the evaluation scoring, clarification and financial check processes that the tender be awarded to Tenderer A.

Consulted References	:	<ul style="list-style-type: none"> • City of Albany Strategic Community Plan 2032 • City of Albany Climate Change Action Declaration 2021. • City of Albany Carbon Footprint Reduction Strategy. • City of Albany Carbon Footprint Reduction Strategy Action Plan 2014-15. • City of Albany Environmental Policy.
File Number (Name of Ward)	:	C21012 (Frederickstown, Yakamia and Kalgan Wards)
Previous Reference	:	<p>DIS242 - Renewable Energy Installation On City Facilities - Dec 2020</p> <p>CCS367 - 2021-22 Budget Adoption - July 2021</p> <p>Previous contracts awarded under delegation.</p> <p>Previous works includes the Albany Day-care and the North Road offices.</p>

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