



AGENDA

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING

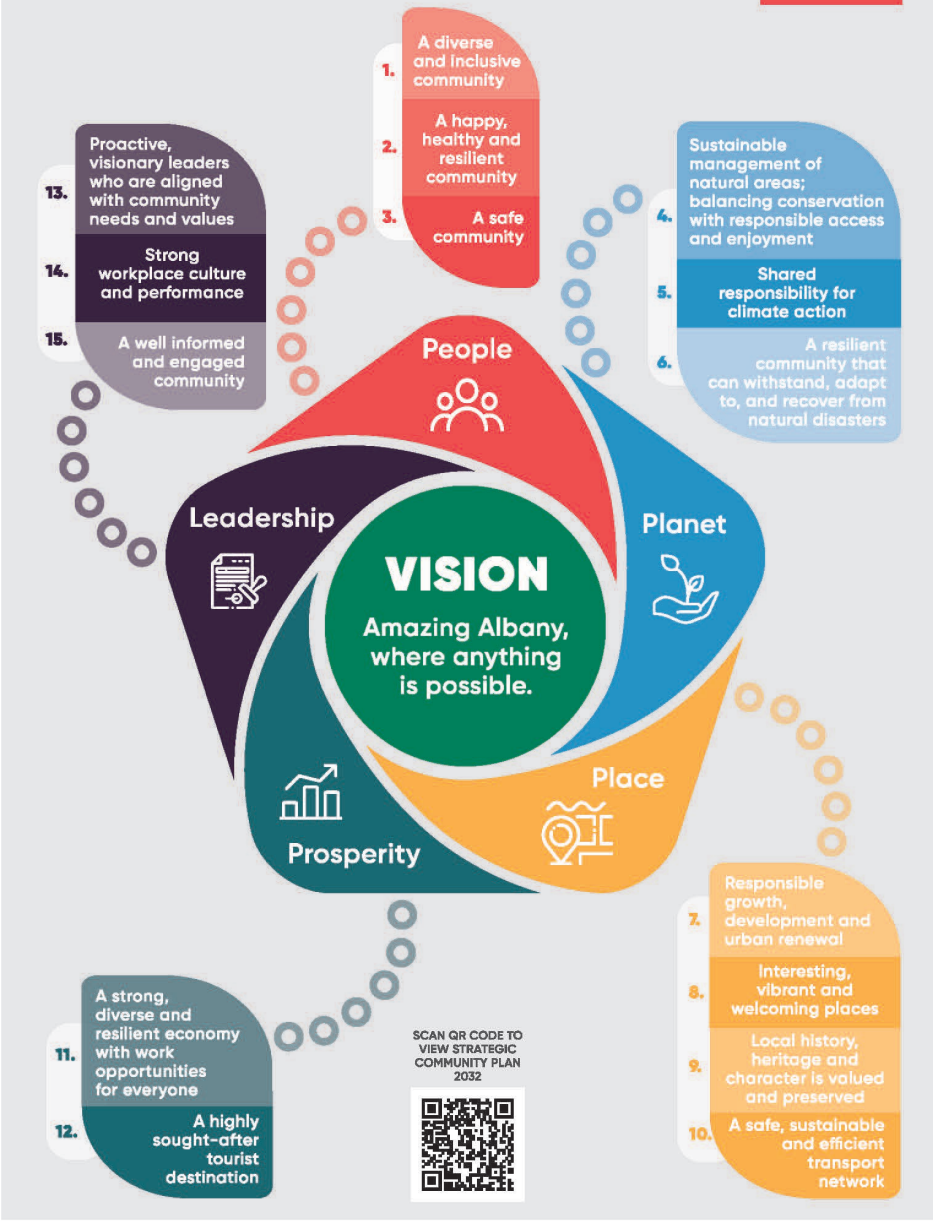
Wednesday 15 February 2023

6.00pm

Council Chambers



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

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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 past, present and emerging”.

3. **RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE**

Mayor	D Wellington
Councillors:	
Member	C Thomson (Chair)
Member	R Sutton (Deputy Chair)
Member	P Terry
Member	M Traill
Member	G Stocks
Member	T Brough
Member	M Benson-Lidholm JP
Member	J Shanhun
Member	D Baesjou
Member	A Cruse
Member	S Smith
Member	S Grimmer
Staff:	
Chief Executive Officer	A Sharpe
Executive Director Infrastructure, Development & Environment	P Camins
Manager Engineering and Sustainability	R March
Manager Planning and Building	J van der Mescht
Coordinator Planning Services	J Wardell-Johnson
Meeting Secretary	P Ruggera
Meeting Secretary	N Banyard

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:

- Clause 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

DRAFT MOTION

THAT the minutes of the Development and Infrastructure Services Committee meeting held on 30 November 2022 as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

9. PRESENTATIONS

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

DIS331: CORPORATE POWER PLAN 2023-2028

Attachments	: Corporate Power Plan 2023-2028
Report Prepared By	: Environmental Sustainability Officer (K Outhwaite) and Manager Engineering and Sustainability (R March)
Authorising Officer:	: 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 or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Planet
 - **Outcomes:** Shared responsibility for climate action
 - **Objective:** Work towards net zero greenhouse gas emissions

In Brief:

- The proposed Corporate Power Plan 2023-2028 (Plan) is a five-year plan designed to provide a framework for the management and minimization of corporate power at the City of Albany.
- The purpose of the Plan is to guide the transition of City assets to 100% renewable energy by 2030.
- The Plan supersedes the *Carbon Footprint Reduction Strategy (2021)* and is one of the outcomes of the *Climate Change Action Declaration (2020)*.

RECOMMENDATION

DIS331: AUTHORISING OFFICER RECOMMENDATION

THAT Council ADOPT the Corporate Power Plan 2023-2028.

BACKGROUND

2. The Corporate Power Plan is one of the outcomes of the City of Albany Climate Change Action Declaration (2020), developed in collaboration with the Youth Advisory Council.
3. This plan supersedes the *Carbon Footprint Reduction Strategy (2021)*.
4. While the greenhouse gas emissions produced from the City of Albany's corporate operations are a fraction of the total community emissions, actions undertaken represent strong commitment and demonstrated leadership to act on climate change.
5. The title 'Corporate Power Plan' has been chosen to represent the scope of the plan, which is focused on the transition of corporate buildings and facilities to 100% renewable energy.

DISCUSSION

6. The plan outlines major achievements to date and opportunities and challenges going forward.
7. There are four key priorities, these being:
 - Renewable Energy
 - Energy Efficiency
 - Data and Reporting
 - Engagement
8. Corporate Fleet has not been included under Key Priorities as this plan is focused on the transition of City-owned buildings to 100% renewable energy.
9. Corporate Fleet is however discussed under the “Challenges and Opportunities” section and will be addressed in further detail in the Corporate Net Zero Plan.
10. It is intended that this document will be replaced by a Corporate Roadmap to Net Zero.
11. The Strategy’s Actions will be monitored on an Action Plan Scorecard and reported on annually.

GOVERNMENT & PUBLIC CONSULTATION

12. No government consultation is required for this item.
13. The Draft Corporate Power Plan was presented to Elected Members at the Strategic Workshop on the 6 December 2022.
14. There has been no specific community consultation in relation to this item, although consideration has been given to outcomes of consultation for the City of Albany Community Strategic Plan 2030.

STATUTORY IMPLICATIONS

15. Nil

POLICY IMPLICATIONS

16. This item relates to the City of Albany Environmental (Climate Change) Policy (2017) and the City of Albany Climate Change Action Declaration.

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
Community: There is a risk that community expectations raised by the Corporate Power Plan are not met.	Possible	Moderate	Medium	If adopted, Council allocates resources to accommodate actions identified in the Strategies in a timely manner.
Operations: There is a risk of additional costs and not achieving goals set out in the Climate Change Action Declaration if there is no clear direction.	Likely	High	High	Adopt the Plan and communicate progress regularly to Council and stakeholders.
Reputation: There is a risk that Future Council decisions are inconsistent with the Climate Change Action Declaration resulting in a lack of community confidence.	Possible	High	High	All future waste planning to be informed by current best-practice and up-to-date research, with Strategy reviewed as required.
<p>Opportunity: Demonstrate the City's commitment to climate change action, its leadership on greenhouse gas reduction and support of energy efficiency measures.</p> <p>Opportunity: Develop a Corporate Roadmap to Net Zero Action Plan to further reduce corporate emissions beyond the scope of this plan</p>				

FINANCIAL IMPLICATIONS

18. The most significant costs of delivering actions under the four key priorities have previously been approved.
19. Budget for rooftop solar PV installation has been previously approved through endorsement of the Business Case: Renewable Energy Installation on City Facilities (Phase 1) and is due for completion in 2024-25.
20. The LED Street Lighting Bulk Replacement (DIS311) was endorsed on 10/08/2022, with the expected cost of the replacement program of \$2,615,000 to be considered as part of the 2023/24 and 2024/25 budgets
21. The Power Purchase Agreement is a 3-year contract, current until 31 March 2025.
22. Funding for the WALGA South Coast Alliance Project Grant was received and the 'Sustainable Built Design Audit' is underway
23. Costing for additional projects to be undertaken as part of the Corporate Power Plan will be outlined as part of the Action Plan

LEGAL IMPLICATIONS

24. There are no legal implications associated with this item.

ENVIRONMENTAL CONSIDERATIONS

- 25. The Climate Change Action Declaration states that ‘climate change is occurring and requires immediate and urgent action’
- 26. This plan demonstrates a commitment to action on climate change through corporate emissions reduction
- 27. The next step is to implement the actions in the Plan and transition towards a Corporate Net Zero Plan

ALTERNATE OPTIONS

- 28. Council may elect to request amendments to the proposed Corporate Power Plan 2023-2028.

CONCLUSION

- 29. It is recommended that Council adopt the proposed Corporate Power Plan 2023-2028.

Consulted References	:	<i>Carbon Footprint Reduction Strategy (2021)</i> <i>Climate Change Action Declaration (2020)</i>
File Number (Name of Ward)	:	All Wards
Previous Reference	:	Nil

DIS332: DRAFT LOCAL PLANNING POLICY 2.1: NON-RESIDENTIAL DEVELOPMENT IN THE RESIDENTIAL ZONE

Land Description	:	City of Albany
Proponent	:	City of Albany
Business Entity Name	:	City of Albany
Attachments	:	1. Draft LPP 2.1: Non-Residential Development in the Residential Zone
Supplementary Information & Councillor Workstation	:	2. State Planning Policy 7.3 – Residential Design Codes Volume 1 (July 2021)
		3. State Planning Policy 7.3 – Residential Design Codes Volume 2 (May 2019)
		4. Designing Out Crime Guidelines (June 2006)
Report Prepared By	:	Acting Senior Planning Officer (D Ashboth) Acting Coordinator Planning Services (Jessica Anderson)
Authorising Officer:	:	Executive Director Infrastructure, Development & Environment (P Camins)

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed amendment, the Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2019* (the Planning Strategy) and *Strategic Community Plan – Albany 2032*.
3. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Place
 - **Outcome:** Interesting, vibrant and welcoming places.
 - **Pillar:** Place
 - **Outcome:** Responsible growth, development and urban renewal.
4. The item relates to the following objectives and strategic directions of the Planning Strategy.

Objectives:

 - Consolidate existing urban form and improve land use efficiency.

In Brief:

5. City officers have recently commenced a periodic review of the City's existing Local Planning Policy Manual. As part of this review, the City has identified the need for a further policy guidance in relation to non-residential development in the Residential Zone.
6. Officers have subsequently prepared draft Local Planning Policy (LPP) 2.1 Non-Residential Development in the Residential Zone which aims to:
 - Provide development standards for non-residential development in the Residential Zone.
 - Ensure that non-residential development is compatible with the existing scale and character of the surrounding residential area.
 - Ensure undue impacts of non-residential development on surrounding residences is appropriately managed.
7. Draft LPP 2.1 is proposed to replace the existing Consulting Rooms, Public Worship & Child Care Centres LPP.
8. Council is requested to endorse the draft LPP2.1 for advertising.

RECOMMENDATION

DIS332: AUTHORISING OFFICER RECOMMENDATION

THAT Council, in pursuance of Schedule 2, clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to ENDORSE draft Local Planning Policy 2.1: Non-residential Development in Residential Zones for the purpose of advertising.

BACKGROUND

9. City officers have recently commenced a periodic review of the City's existing LPPs. The last in-depth policy review occurred in 2014.
10. As part of this review, staff identified a number of key matters relating to non-residential development in the Residential Zone, which will benefit from clarification and refinement, in the form of the proposed draft Local Planning Policy 2.1: Non-Residential Development in the Residential Zone (LPP2.1).
11. The provisions of *State Planning Policy 7.3 Residential Design Codes (R-Codes)* apply to all zones with an R-Coding in the State. For this reason, the *City of Albany Local Planning Scheme No.1 (LPS1)* contains limited development standards applicable to the Residential Zone.
12. However, the provisions contained within the R-Codes are only applicable to 'Residential Development' which is defined as:
"Development of permanent accommodation for people, and may include all dwellings, the residential component of mixed-use development, and residential buildings proposing permanent accommodation."
13. In addition to residential development, LPS1 allows the City to consider applications for land uses such as Aged Persons Village, Child Care Premise, Civic Use, Community Purpose, Consulting Rooms, Educational Establishment, Nursing Home, Place of Worship and Recreation – Private in the Residential Zone.
14. Given that development standards for non-residential development uses are not covered under the R-Codes, it is considered that development standards for non-residential development should be addressed through a Local Planning Policy.
15. The City has an existing LPP that partially address this shortfall (Consulting Rooms, Public Worship & Child Care Centres), however a review of the existing LPP found it no longer adequately address this shortfall and requires substantial update.
16. A number of recent decisions by the State Administrative Tribunal have highlighted the lack of policy or shortcomings of existing local policies relating to non-residential development in Residential Zones, particularly in regards to Child Care Centres.

DISCUSSION

Land use

17. The existing LPP (see above) applies only to Consulting Rooms, Public Worship and Child Care Centres in Residential Zones. Given there are a number of additional non-residential land uses that can be considered in the Residential Zone under LPS1 that have no associated development controls (see background), it was considered appropriate to expand the application and title of the LPP to include all non-residential development within the Residential Zone.
18. Non-residential development is defined as any form of development or land use that does not meet the definition of 'Residential development' under *State Planning Policy 3.7 – Residential Design Codes*.

19. The proposed LPP will not apply to Home Occupation, Home Business or Home Office given these land uses are either exempt from the requirements of obtaining development approval under cl. 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and/or are considered a low impact use able to be undertaken in association with the primary use of the site for residential purposes.
20. The amended LPP will also not apply to Holiday Houses or Bed and Breakfasts.

Advertising

21. The proposed LPP2.1 proposes to allow the City to advertise applications for non-residential uses in the Residential Zone at the officer's discretion. This will allow the City to determine whether aspects such as noise, traffic, built form or overlooking are likely to have any impact on surrounding residential land uses and warrant adjoining landowner comment.

Location

22. The proposed LPP2.1 also addresses preferred locations for non-residential development in the Residential Zone, with development located on a corner lot looked upon favourable as this allows for improved traffic distribution, provides a buffer to surrounding residences and reduce the impact on the streetscape.
23. The proposed LPP2.1 also states that battle-axe lots will generally not be supported for non-residential development as they limit the opportunity for the provision of car parking and can potentially cause traffic issues due to the concentration of activity.
24. LPP2.1 also contains a provision stating the City may take into consideration the likely impacts of both the proposed non-residential use and an overall cumulative effect of a concentration of non-residential uses. This will allow the City to consider possible impacts on matters such as existing amenity, social cohesion and situational crime in the area.

Building Design and Site Layout

25. The LPP also provides development standards for the construction of new buildings for non-residential land uses, to ensure built form is compatible with the surrounding residences.
26. To achieve this, LPP provisions state that built form and open space should be consistent with the surrounding area, taking into consideration the built form requirements of the R-codes.
27. Within the draft LPS2, it is stated that setback requirements for all buildings in the Residential Zone shall be consistent with R-Code requirements. Given the unknowns surrounding the content of LPS2 and the timeline for this document to become operational, it was decided that setbacks should also be addressed within LPP2.1. Provisions relating to setback can be revisited upon the subsequent adoption of LPS2.
28. LPS2 also provides development standards relating to site works, however for similar reasons to the above, a provision requiring development to be designed to minimise earthworks/retaining has been proposed within LPP2.1.
29. In order to ensure the privacy or surrounding residences is maintained, the draft LPP2.1 requires non-residential land uses to be designed in order to limit overlooking of any part of an adjoining residential property behind its street setback line, with R-code provisions adapted to the context of non-residential development.
30. Consistent with CPTED (Crime Prevention Through Environmental Design) principles, LPP2.1 requires facades of non-residential development fronting streets or the public domain to incorporate major openings to facilitate passive surveillance.
31. In addition to the above, LPP2.1 states that fencing to the secondary street or public open space should be visually permeable above 1.2m, with solid fencing portions assessed on their individual merit taking into account the need for noise mitigation and security. This provision has been developed to address presentation to secondary streets given corner lots have been identified as desirable within LPP2.1, and to ensure compliance with CPTED principles.
32. Due to traffic volumes normally associated with non-residential development, LPP2.1 states that car parking is to be contained entirely within the site and arranged in such a way that all vehicles can leave the site in a forward gear, in accordance with Australian Standards.

33. The LPP also encourages the provision of bicycle and end of trip facilities to reduce vehicular traffic in residential areas.
34. The draft LPP also requires service and bin storage areas, air conditioners and plant equipment to be screened from the street and adjoining residential development, in order to ensure visual impacts on the streetscape and adjoining residences is minimised.
35. The requirements for a Waste Management Plan is not addressed in LPP2.1 as this is proposed to be addressed within LPP1.9 (Waste Management), which was approved for advertising at the August 2022 OCM.
36. The R-Codes do not contain provisions that directly require a percentage of the site to be landscaped. There are also no landscaping provisions for Residential Zones under LPS1 nor the draft LPS2.
37. It is considered important that minimum landscaping requirements are established for non-residential uses in Residential Zones, just as they are in other zones that accommodate non-residential uses. Therefore, a 10% landscaping requirement is proposed within the draft LPP, which is comparable to the landscaping requirements of 'centre' zones.
38. For mixed use development, the above landscaping rate applies to the proportion of the development, which is for non-residential purposes only. Landscaping of the residential portion will be addressed under SPP 3.7 – Residential Design Codes.

Mitigating impact on residential land uses

39. The primary purpose of the Residential Zone is to accommodate residential land uses therefore, LPP2.1 will require the applicant to demonstrate that the proposal will not have any undue impact on surrounding residences.
40. In order to demonstrate impacts on adjoining residences have been considered, draft LPP2.1 contains a provision stating City may request a management plan to accompany any development application. If approved, compliance with the management plan will be on ongoing condition of approval.
41. It should be noted that management plans are currently requested for applications for non-residential development in the Residential Zone in most instances, however this requirement will now be supported by policy provisions. Capturing this requirement through a policy provision will provide additional certainty and clarity to applicants preparing their application.
42. Whilst it is expected that a management plan will be requested in most instances, LPP2.1 allows for officer discretion as this may not be considered necessary in all instances.
43. In addition to management plan requirements, draft LPP2.1 contains a provision stating that the City may also request a noise impact/acoustic assessment or a traffic impact assessment/statement in certain circumstances.
44. Noise impact assessments have commonly been requested for uses likely to generate substantial noise impacts such as childcare centres, whilst traffic management assessment are likely to be requested where the use abuts a major/primary roads and the use generates more vehicle movements than what would be expected from a residential use.

GOVERNMENT & PUBLIC CONSULTATION

45. Approval is sought to advertise the draft LPP2.1 in accordance with Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
46. If the Council resolves to support the draft LPP2.1 for advertising, a notice of the proposed policy will be placed in a newspaper circulating in the LPS1 area for 2 consecutive weeks.
47. The policy will also be published on the City of Albany website for 21 days.

48. Both the newspaper and the website will give details of:
- a) Where the draft Local Planning Policy can be inspected;
 - b) The subject and nature of the draft Local Planning Policy; and
 - c) In what form and during what period (21 days from the day the notice is published) submissions may be made.
49. A copy of the policy will also be made available for inspection at the City of Albany.
50. After expiry of the period within which submissions may be made, the Local Government is to:
- a) Review the draft Local Planning Policy in light of any submissions made; and
 - b) Resolve to adopt the Local Planning Policy with or without modification, or not to proceed with the Local Planning Policy.

STATUTORY IMPLICATIONS

51. Voting requirement for this item is **Simple Majority**.

City of Albany Local Planning Policy Review

52. The City of Albany has a suite of LPP's which it uses to augment the provisions contained under LPS1 to guide land use and development across the City, and inform the exercise of discretion when determining applications.
53. The State Administrative Tribunal has previously determined that the age of an LPP has direct relevance to the weight afforded to it. Therefore regular reviews are warranted and necessary, to ensure validity and relevance when used in decision-making.
54. Furthermore, it is critical that LPP's are maintained to be consistent with the latest legislation and State Planning Policies.

Preparation and adoption of new Local Planning Policies

55. The City of Albany *Local Planning Scheme No. 1* (LPS1) is a prescriptive instrument that sets out the statutory provisions for how land may be used and developed. Sole reliance upon it for regulating all forms of development under all circumstances is not always practical.
56. To address this, the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Planning Regulations) contains provisions enabling local governments to adopt local planning policies (LPP's) in order to:
- address specific planning and development matters unique to the local government's context.
 - amend or augment provisions set out by State Planning Policy, including the application of additional development controls or considerations for specific sites.
57. New or amended LPP's must be advertised in accordance with Schedule 2, clause 4 of the Planning Regulations prior to their formal adoption.
58. Following completion of advertising and review of submissions, a report must be prepared for council requesting formal adoption of the LPP, subject to modifications.

POLICY IMPLICATIONS

59. Adoption of proposed LPP2.1 will add an additional LPP to the City of Albany Local Planning Policy Manual.
60. An LPP may be revoked by:
- A subsequent LPP adopted in accordance with the Planning Regulations, that expressly revokes the local planning policy; or
 - A notice of revocation prepared and published by the local government, in accordance with the Planning Regulations.
61. Draft LPP2.1 aims to update relevant provisions from the existing Consulting Rooms, Public Worship and Child Care Centres LPP, with this policy to be revoked following formal adoption of LPP2.1.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Reputation Advertising the proposed policy could give rise to objectionable comments from developers and landowners owners concerned with additional requirements that may apply to them.</p>	Possible	Minor	Low	<p>Built form outcomes are generally consistent with the development provisions contained within State Planning Policy 7.3 – Residential Design Codes.</p> <p>The Policy can be amended once feedback is assessed; this is the purpose of advertising prior to final adoption.</p>
<p>Opportunity: Ensure non-residential development in the residential zone is compatible with adjoining residences and does not detract from residential amenity.</p>				

FINANCIAL IMPLICATIONS

63. There are no financial implications beyond what will be used for advertising.

LEGAL IMPLICATIONS

64. There are no legal implications relating to endorsing the proposed draft LPP2.1 for advertising.

ENVIRONMENTAL CONSIDERATIONS

65. There are no environmental implications relating to endorsing the proposed draft LPP2.1 for advertising.

ALTERNATE OPTIONS

66. Council has the following alternate options in relation to this item, which are:
- To resolve to proceed with advertising the policy without modification;
 - To resolve to proceed with advertising the policy subject to modification; and
 - To resolve not to proceed with advertising the policy.

CONCLUSION

- 67. The City has identified the need for the Non-Residential Development in Residential Areas Local Planning Policy to address a gap in development control.
- 68. The proposed Local Planning Policy 2.1: Non-Residential Development in Residential Zones seeks to address this gap by identifying development standards and additional information requirements for non-residential development to ensure that these uses do not adversely impact surrounding residential land uses.
- 69. Draft LPP 2.1 is proposed to replace the existing Consulting Rooms, Public Worship & Child Care Centres LPP.
- 70. Council is requested to resolve to endorse draft Local Planning Policy 2.1: Non-Residential Development in Residential Zones for advertising.

Consulted References	:	<ul style="list-style-type: none"> 1. <i>Local Planning Scheme 1</i> 2. <i>Draft Local Planning Scheme 2</i> 3. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> 4. <i>State Planning Policy 7.3 – Residential Design Codes Volume 1</i> 5. <i>State Planning Policy 7.3 – Residential Design Codes Volume 2</i> 6. <i>Designing Out Crime Guidelines</i>
File Number (Name of Ward)	:	All
Previous Reference	:	N/A

DIS333: ADOPTION OF DRAFT LOCAL PLANNING SCHEME NO. 2

Land Description	: City of Albany.
Proponent / Owner	: City of Albany.
Attachments	: 1. Advertised Local Planning Scheme No.2 – Text 2. Advertised Local Planning Scheme No.2 – Maps 3. DPLH Decision Modifications – prior to advertising 4. EPA Decision and Modifications – prior to advertising 5. City Submissions 6. Schedule of Submissions 7. Schedule of Modifications
Supplementary Information & Councillor Workstation	: Agency Attachments Public Attachments
Report Prepared By	: Senior Planning Officer – Strategic Planning (A Nicoll)
Authorising Officer:	: 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 Planning Strategy) is the local planning strategy that sets out the long-term planning directions for the Scheme area. The draft Local Planning Scheme No. 2 (LPS2) is developed to align with the strategic objectives and actions identified under the Planning Strategy.

In Brief:

- The draft LPS2 has been developed in accordance with the Planning and Development (Local Planning Schemes) Regulations (Planning Regulations), and upon gazettal will replace current Local Planning Scheme No. 1.
- The draft LPS2 aligns with the recommendations of the City's Planning Strategy and will provide consistency between the state and local planning frameworks, that includes state and local planning policies, plus local structure plans and local development plans.
- The draft LPS2 was advertised in accordance with the Planning Regulations, and agency and public submissions were received during the comment period. Following close of advertising, issues raised in the submissions have been considered, with a number of modifications proposed to draft LPS2 to address these.
- Staff recommend Council resolve to support draft City of Albany Local Planning Scheme No. 2 subject to modifications, and to advise the Western Australian Planning Commission (WAPC) accordingly.

RECOMMENDATION

DIS333: AUTHORISING OFFICER RECOMMENDATION

THAT Council Pursuant to Regulation 25(3) of the Regulations, advise the Western Australian Planning Commission (WAPC) that it SUPPORTS the draft scheme with proposed modifications to address issues raised during the advertising process.

BACKGROUND

3. The purpose of this report is for Council to pass a resolution to support the draft scheme subject to proposed modifications recommended to address issues raised during advertising.
4. Council resolved in November 2019, to recommend to the WAPC, that the City's Local Planning Scheme No. 1 (LPS1) be repealed, and a new scheme prepared in accordance with the outcomes of a review that was commenced in early 2019. For more information and background on the scheme review process to date, refer item DIS285 presented to the November 2021 Council meeting.
5. Draft LPS2 was subsequently developed, and at the November 2021 meeting, Council resolved to:
 - Proceed to advertise draft LPS2; and
 - Delegate the CEO to progress the required actions outlined under the Planning Regulations, including seeking WAPC certification of LPS2 and referral to the Environmental Protection Authority (EPA) to consider if LPS2 needed to be assessed pursuant to Section 48A of the *Environmental Protection Act 1986* (EP Act).
6. In May 2022, certification was granted by the WAPC, outlining their support for the advertising of the draft LPS2, subject to modifications (refer Attachment 3). The modifications generally involved ensuring consistency with the manner and form of the model provisions set out under the Schedule 1 of the Planning Regulations.

7. Following receipt of certification from the WAPC, draft LPS2 was subsequently referred to the EPA for consideration in late May 2022. As part of their preliminary consideration of draft LPS2, the EPA requested a number of modifications to address areas of concern, prior to undertaking their formal referral. Modifications included (refer Attachment 4):
- Additional provisions in relation to the use and development of land that incorporates or is in proximity to land with existing environmental values and/or constraints. These provisions related to matters such as improving habitat protection and retaining and protecting wildlife corridor connectivity, managing outcomes on unmanaged local reserves, siting and use of building envelopes, on-site effluent disposal, keeping of livestock and pets, setbacks from water resources, restricting dams in waterways, minimising risk of contamination and limiting further clearing of remnant vegetation.
 - Reinstating scheme 1 provisions and mapping associated with Special Use zone 12 (Lot 7250 Gwydd Close, Elleker).
8. In September 2022 the EPA notified the City that draft LPS2 should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) as it was concluded that environmental objectives could be appropriately managed through the proposed scheme text and maps. The EPA also noted in their advice that as the scheme provides for land uses which may generate trade waste, such as breweries, it was recommended that Schedule 6 of draft LPS2 be modified to include a requirement for the City to consider trade waste disposal at development approval stage. As per the City's schedule of modifications, it has been recommended that the following notation is included in the draft scheme (at Schedule 6, Table 12, Sewerage disposal):
- Note: The Environmental Protection Act 1986 (EP Act) currently regulates some types of premises that generate trade wastes. Prescribed premises under the EP Act require a licence for the discharge of the trade waste back into the environment. Trade waste includes any wastewater, discharged from a business or industry, aside from that which comes from staff amenities or office facilities.*
9. With certification received from the WAPC and a response from the EPA not requiring further assessment, the public consultation period commenced in late September 2022 for a minimum period of 90 days, concluding on 23 December 2022.
10. Formal public advertising included:
- Letters to ratepayers and state government authorities and agencies
 - Notice in the newspaper and media release
 - Publication and Distribution of Scheme Brochure and Frequently Asked Questions (FAQ) information.
 - Publication of the LPS2 consultation page on the City's website, that included
 - Copies of scheme text and map to download
 - Online mapping portal
 - Online submission form
 - Supporting information including brochure and FAQs
 - Two drop-in information sessions at the Waterfront in October and November
 - Hard copies of draft LPS2 scheme text and map at City of Albany North Road offices and Albany library
11. Public and agency submissions were received during the advertising period, primarily submitted through the online submission form that was made available on the City's LPS2 consultation page.

DISCUSSION

12. A schedule of submissions (refer Attachment 6) and a schedule of modifications (refer Attachment 7) are attached to this report item.
13. The schedule of submissions is divided into two sections:
 - a) Agency submissions
 - b) Public submissions
14. The schedule of submissions includes a response to each comment.
15. There is also a schedule dealing with City staff recommended modifications (refer to Attachment 5)
16. The schedule of modifications outlines suggested changes to the advertised scheme (combination of staff recommendations and recommendations stemming from the advertising process).
17. The proposed modifications are not considered significant in accordance with the Planning Regulations, and therefore additional advertising is not warranted.
18. Proposed modifications include:
 - Zone and reserve map classification changes for various properties to make it consistent with current scheme classifications and current land uses
 - Text changes to strengthen provisions and correcting terminology
 - Permissibility changes for various land uses for different zones
 - Text changes to provisions dealing with the management of domestic animals covered by other legislation
 - Within public drinking water resource areas, allowing the consideration of uses, that are considered incompatible with other agency land use compatibility tables
 - Exempting the need for approval to undertake tree farming, which is incorporated with agriculture (agroforestry) or is for environmental restoration.

Zone and Reserve Map changes

19. Modifications have been recommended for the scheme maps, in-particular where discrepancies exist between the current and draft new schemes and between land use characteristics and zone or reserve classifications.

General text changes

20. Modifications have been recommended for some scheme provisions to provide clarity and consistency with current scheme standards, policy position statements and state legislation.

Land Use Permissibility

21. Modification to the permissibility of some land uses has been recommended, especially where the land use conforms with zone objectives.

Pets

22. It has been recommended that provisions dealing with the keeping of pets are deleted.
23. The planning system does not manage the keeping of domestic pets. Pets are managed in accordance with the Animals Local Law 2020, Dog Local Law 2017, the Dog Act 1976 and Cat Act 2011.
24. The provisions associated with the keeping of pets were suggested during early discussions with the Environmental Protection Authority. The WAPC may subsequently liaise with the EPA on this matter.

Land Uses in Public Drinking Water Source Areas

25. The Department of Water and Environmental Regulation (DWER) has adopted a land use compatibility table, which outlines land uses and activities that need to be avoided in drinking water source areas. For example, floriculture, market garden (horticulture), turf farm, garden centre, transport depot, restaurant/café, brewery, workforce accommodation, golf course and grouped dwellings are considered incompatible for areas within the Priority 2 Public Drinking Water Source Areas.
26. Some of the land uses identified as being incompatible in the DWER land use compatibility table, may be considered in accordance with the draft new scheme (Table 3. – Zoning Table), for the ‘Rural Residential’, ‘Rural Smallholdings’, ‘Priority Agriculture’ and ‘Rural’ zones, which are located within Priority 2 public drinking water source areas.
27. The Draft new scheme, at schedule 8, Table 17, Special Control area 2, (3)(b) states:
Notwithstanding the land use permissibility set out in Table 3. – Zoning Table, a use which is identified as incompatible within the relevant priority area classification shall not be approved, unless exceptional circumstances apply.
28. The Table 3 in the scheme lists permissibility for land uses. The provision (3)(b) contradicts the permissibility classifications in Table 3. The provision (3)(b) has the potential to create uncertainty.
29. It has been recommended that the provision (3)(b) be modified to state:
“Notwithstanding the land use permissibility set out in Table 3. – Zoning Table, a use which is identified as incompatible within the relevant priority area classification shall not be approved, Unless risks or impacts associated with the proposed land use to the satisfaction of the Local Government in consultation with relevant referral agency can be adequately managed or mitigated.”
30. The provisions associated with DWER land use compatibility table were suggested during early discussions with the Environmental Protection Authority. The WAPC may subsequently liaise with the EPA on this matter.

Tree Farming

31. The new scheme seeks to change the ‘General Agriculture’ name classification to the ‘Rural’ name classification, in-line with the State’s model scheme. For both the ‘Rural’ and ‘Priority Agriculture’ zoned areas, the new scheme proposes that tree farms (greater than 4ha) are not permitted unless the local government has exercised its discretion by granting development approval.
32. Land holders and the tree farming industry objected to the proposed permissibility change for tree farming in the ‘Rural’ zone, believing that this creates a level of unnecessary “red tape” and affects their ability to plant trees for shelter belts, corridor plantings or revegetation of degraded areas.
33. In the current scheme, tree farming is permitted (‘P’) in the ‘General Agriculture’ zone and not permitted in the ‘Priority Agriculture’ zone. Note that if a use of land is identified in a zone as being a P use, the local government may not refuse an application for development approval for that use on a lot in that zone. It does not mean that a development application for the works is not required.
34. Under LPS1, the works associated with a tree farm are not exempt under the regulations and Development Approval is required. The Development Application must comply with the standards of the scheme which include the industry developed code of conduct. LPS1 also includes a list of matters (Section 4.7.3 Tree Plantation Activities page 68) that should be taken into consideration when an application for the works (planting and provision of infrastructure) is lodged and assessed.

35. For the new scheme, it is proposed that tree farms in the ‘Rural’ zone are not permitted unless the local government has exercised its discretion by granting development approval (“D” use). The discretionary decision-making process gives the local government the opportunity to assess plantation management plans and fire management plans to ensure development occurs in accordance with scheme and industry standards, including:
- Appropriate setbacks to sensitive uses (bushfire risk)
 - Management of public roads
 - Development of water tanks for a permanent source of water for firefighting purposes
 - Appropriate management of weeds
 - Appropriate development of plantation cells and including firebreaks (max cell sizes)
 - Appropriate development of internal access (min widths and passing bays)
 - Visual amenity to key tourist locations
36. The proposed level of assessment is fairly consistent throughout Planning Schemes of the Local governments in the South West, Great Southern and along the South Coast (e.g. Esperance) as per the following Land use comparison table;

Shire/LGA	Land use	Priority Ag	Rural/General Ag
Shire of Denmark	Plantation	No Priority Ag	AA (similar to D)
Shire of Augusta-Margaret River	Plantation	D	Gen Ag - D
Shire of Manjimup	Plantation	A	Gen Ag – A.
Shire of Boyup Brook	Tree Farm	No Priority Ag	Rural - A
Shire of Esperance	Tree Farm	No Priority Ag	Rural – D
Shire of Harvey	Forestry	No Priority Ag	Gen Farming – AA Forestry zone - P
Shire of Cranbrook	Plantation/ agroforestry	No Priority Ag	Rural – D
Shire of Nannup	Tree farm	D	Rural – D
Shire of Kojonup	Plantation/Agroforestry	No Priority Ag	Special rural & rural - IP
Shire of Plantagenet	Tree Farm	No Priority Ag	P

‘IP’ means that a use is not permitted unless it is determined by the Council to be incidental to the predominant use.

“Plantation” has the same meaning as in the Code of Practice for Timber Plantations in Western Australia (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers;

37. Tree farming can potentially tie up the land for long periods of time (20 years), which may conflict with the aim of the priority agriculture zone, which is to protect the use of the land for food production. The “A” use allows for consideration of agency and neighbouring landholder comment and ensures that development and on-going management occur in a manner that meets the objective of the zone.
38. It has been recommended that approval is not required, where the planting of trees is for environmental restoration or is incorporated with broadacre farming (agroforestry). E.g. shelter belts or corridor plantings or revegetation of degraded areas.

It is important to clarify this in the new Planning Scheme and a modification is being made to include these uses as a specific Scheme exemption, thus identifying that a discretionary approval is only required for tree farms that are of a commercial scale and nature.

Clearing of Native Vegetation (in mainly the Yakamia area).

39. The scheme has identified areas for 'Urban Development' in accordance with endorsed structure and strategic planning documents. The purpose of the 'Urban Development' zone is to allow for residential expansion. Areas of native vegetation exist within some areas identified for 'Urban Development' e.g. Yakamia.
40. Comments were submitted seeking modifications to the scheme to ensure native vegetation is protected, especially on land in the Yakamia area and on freehold land owned by the City.
41. It has been recommended that consideration regarding protection of native vegetation or clearing of native vegetation to accommodate residential expansion, first occur via a review of the Local Planning Strategy 2019 and the Yakamia/Lange Structure Plan.
42. The Department of Planning, Lands and Heritage is currently undertaking a review of the Yakamia/Lange Structure Plan.
43. If strategic documents (such as Structure Plans) identify alternative recommendations after Local Planning Scheme 2 is approved, the Scheme can be amended.

GOVERNMENT & PUBLIC CONSULTATION

44. Draft LPS2 was advertised in accordance with r. 22 of the Planning Regulations.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Notice in Advertiser	22/09/22	180 public submissions received 15 state government agency submissions received	Yes
Consult	Public comment – City website	Between 22/09/2022 and 23/12/2022		Yes
Consult	Mail out to ratepayers and state government agencies and authorities	Comment period held between 22/09/2022 and 23/12/2022		No
Consult	Drop-in information sessions	9am-12pm 15 October 2022 & 5 November 2022		No
Note: Nil				

45. The drop-in information sessions were held at the Waterfront, across from the Albany Entertainment Centre, with staff available to answer queries about LPS2.
46. Draft LPS2 was referred to various relevant state government agencies and authorities for comment, with individual responses outlined under the attached Scheduled of Submissions.
47. In accordance with the Planning Regulations, submissions on draft LPS2 were required to be made in writing, in a form approved by the WAPC, and had to include a minimum level of information, such as the submitter's name, address and a statement about the capacity in which the person was making the submission.
48. In considering the submissions, it is important to note the consultation period was not designed to gather quantitative, representative data but to gather qualitative data. Accordingly, all submissions were given due regard.

49. Details and discussion on the most pertinent and broader themes arising from the submissions received and specific modifications proposed are outlined above.
50. Details on individual submissions, associated officer comment and where a specific modification is proposed in response to a submission, are outlined under the attached Schedule of Submissions.
51. All proposed modifications are outlined under the attached Scheduled Modifications.

STATUTORY IMPLICATIONS

52. Regulation 25 the Planning Regulations outline requirements for local government consideration of submissions received during advertising of a new draft local planning scheme, and subsequent consideration of proposed modifications to the draft new local planning scheme in response to submissions.
53. In accordance with r. 25 of the Planning Regulations, local governments are required to consider all submissions received during advertising and pass a resolution to either support a draft scheme with or without modification, or otherwise not support a draft scheme, within 120 days after the end of the submission period for the draft scheme, or otherwise a day approved by the WAPC.
54. In this instance, the proposed modifications are not considered significant to warrant further advertising. It is therefore recommended that Council resolve to support draft LPS2 subject to modifications in their current form, which will then be referred to the WAPC for formal consideration.
55. Regulation 26 of the Planning Regulations sets out the process and timeframes local governments are required to follow, should Council consider that a proposed modification is significant to warrant further advertising and therefore defer the current item to allow for this process to be undertaken.

POLICY IMPLICATIONS

56. Draft LPS2 has been prepared in alignment with the requirements of relevant state planning policies. Where variations to state planning policy requirements are identified under draft LPS2, these have been addressed through specific provisions.
57. As outlined in item DIS285 presented to Council in November 2021, provisions from a number of local planning policies are recommended to be incorporated into draft LPS2, in accordance with state direction and recent changes to the Planning Regulations. Where these provisions are progressed under draft LPS2, the applicable local planning policies will subsequently be reviewed upon gazettal of LPS2, and either updated where appropriate and referred to Council for consideration, or otherwise revoked in their entirety.
58. The suite of remaining existing local planning policies will also be updated to reflect relevant administrative changes required, following gazettal of LPS2.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Business Operation, Reputation & Financial.</p> <p><i>Not updating the City’s Local Planning Scheme to conform with City Strategy and State Regulation may result in decision making that is not in line with community and state expectations.</i></p>	<i>Likely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Staff to review and address any areas of concern prior to reconsideration and adoption by Council.</i>
<p>Reputation : <i>Public concern about being affected by zoning changes (i.e.) Injurious affection</i></p>				<i>No additional reservations of private land is being proposed.</i>
<p>Opportunity: <i>Consistency and orderly, proper planning.</i></p>				

FINANCIAL IMPLICATIONS

60. The proposed scheme has been developed within budget, with estimated future administrative costs adequately catered for within the current and forecasted budget.

LEGAL IMPLICATIONS

- 61. The proposed scheme has been developed to minimise the potential for any legal implications, including claims for injurious affection.
- 62. 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

- 63. A number of matters were identified by the EPA in their preliminary consideration of draft LPS2 that resulted in modifications to address various environmental considerations. These modifications were subsequently incorporated into draft LPS2 for EPA’s final consideration for certification.
- 64. In the EPA’s certification notice from September 2022, Schedule 6 of draft LPS2 was recommended for further modification to allow for the consideration of trade waste disposal. A scheme modification has been recommended to deal with this matter.
- 65. There are two recommended modifications, which vary from previous discussions with the Environmental Protection Authority. These include the management of domestic pets and uses in public drinking water resource areas. The WAPC may subsequently liaise with the EPA on this matter.

ALTERNATE OPTIONS

66. In accordance with r. 25 of the Planning Regulations, Council may resolve to:
- a) support the draft advertised scheme without modification; or
 - b) support the draft advertised scheme subject to modifications proposed to address issues raised during the advertising process; or
 - c) not support the draft advertised scheme.
67. Where Council consider that a proposed modification is significant and that advertising should therefore be undertaken, the item currently before Council should be deferred, until the relevant process outlined under r. 26 of the Planning Regulations are completed.

CONCLUSION

68. Draft LPS2 has now been advertised.
69. Submissions received during the public advertising period have been duly considered and the schedule of submissions includes a response to each comment.
70. The schedule of modifications outlines suggested changes to the advertised scheme.
71. The proposed modifications are not considered significant in accordance with the Planning Regulations, and therefore additional advertising is not warranted.
72. As there was an acceptable level of engagement and general support of the document, it is recommended that draft LPS2 is supported by Council, to allow submission to the Western Australian Planning Commission and subsequent endorsement by the Minister.

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 DIS285 23/11/2021

DIS334: ROAD RATIONALISATION – LEDGE BEACH ROAD, GULL ROCK AFFECTING RESERVE 27107 GULL ROCK NATIONAL PARK

Land Description	: Ledge Beach Road and unused road reserves, Gull Rock.
Proponent	: Department of Planning Lands & Heritage & Department of Biodiversity Conservation & Attractions
Attachments	R27107 Map Ledge Beach Ablution Location Map
Report Prepared By	: Lands Officer (A. Veld)
Authorising Officer:	: Executive Director Infrastructure, Development and Environment (P. Camins)

STRATEGIC IMPLICATIONS

- This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - Pillar:** Place.
 - Outcomes:** A safe, sustainable and efficient transport network.
 - Pillar :** Planet
 - Outcomes:** Sustainable management of natural areas; balancing conservation with responsible access and enjoyment.

Maps and Diagrams:



In Brief:

- The Department of Biodiversity Conservation & Attractions (DBCA) is seeking Council support to establish the road reserve over the long-constructed Ledge Beach Road. Unused road reserves in the vicinity will also be closed and incorporated into the adjacent Reserve 27107, Gull Rock National Park.
- This Council recommendation is an administrative process only and does not require any on-ground works.
- This administrative change will allow for DBCA to construct an ablution block within the Ledge Beach carpark area and resolve a historical road anomaly matter.

RECOMMENDATION

DIS334: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

1. **REQUEST the Minister for Lands to excise 10.6Ha of land from Reserve 27107 for dedication as Ledge Beach road reserve, pursuant to section 56 of the *Land Administration Act 1997*, subject to final survey;**
2. **INDEMNIFY the Minister for Lands from any claims for compensation in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request, pursuant to section 56(4) of the *Land Administration Act 1997*;**
3. **REQUEST the Minister for Lands to close 12.3Ha of the original road reserve for Ledge Beach, in addition to 8Ha of unnamed, unused road reserves, pursuant to section 58 of the *Land Administration Act 1997*, subject to final survey;**
4. **REQUEST the Minister for Lands to incorporate the closed roads into Reserve 27107, Gull Rock National Park.**

BACKGROUND

2. The Department of Biodiversity Conservation & Attractions (DBCA) intends to install an ablution block at the Ledge Beach carpark.
3. As part of their due diligence, they have identified that the area under consideration for the location of the toilet block is within a road reserve. The City of Albany Planning Scheme does not permit public infrastructure of this nature to be installed within a road reserve.
4. Furthermore, it was identified that almost the entire Ledge Beach Road has been built outside of this designated road reserve. There are also two other road reserves that have remained unconstructed, with no intentions to develop these for future access.
5. The land containing the currently constructed Ledge Beach Road must be excised from Reserve 27107 and the undeveloped road reserves must be closed to allow for the proposed infrastructure installation and to resolve this historical road alignment anomaly.

DISCUSSION

6. In April 2022, the City of Albany received a formal request from the Department of Planning Lands & Heritage (DPLH) on behalf of the DBCA to create a road reserve over the constructed Ledge Beach Road as it has been built through Reserve 27107, Gull Rock National Park.
7. In addition, DPLH are requesting the City to close the original, unconstructed road reserve for Ledge Beach as well as two other unmade road reserves for inclusion into Gull Rock National Park.

8. These actions will better reflect the current use of the land and allow for the construction of an ablution block in the carpark in a suitable location with minimal disturbance to the existing vegetation.

GOVERNMENT & PUBLIC CONSULTATION

9. Pursuant to section 58 of the *Land Administration Act 1997*, the City of Albany is required to undertake public consultation on the proposed road closures.
10. Public advertising of the proposal was undertaken, with the public comment period being open for 36 days from 17 November to 23 December 2022. Two community members sought further clarification of the proposal however no further comments or any objections were received.
11. Service providers were asked to provide comment from 6 December 2022 to 10 January 2023. Four replies were received with no objections to the proposal.
12. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Public Notice in locally distributed newspaper	17 November 2022 - 23 December 2022		Yes
Consult	Public Comments page on City of Albany website	17 November 2022 - 23 December 2022		Yes
Consult	Letters and email to public service providers	6 December 2022 – 10 January 2023	7	Yes

STATUTORY IMPLICATIONS

13. Section 56 of the *Land Administration Act* allows a local government to request the Minister for Lands to dedicate land acquired for use by the public as a road under the care, control and management of the local government.
14. Section 58 of the *Land Administration Act* allows for a local government to request the Minister for Lands to close a road permanently.

POLICY IMPLICATIONS

15. There are no policy implications relating to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Legal & Compliance. <i>Risk: There is a risk that by not having a designated road reserve over the constructed road that the City doesn't have legal jurisdiction over the care, control and management of the road reserve.</i></p>	Almost Certain	Major	Extreme	Council supports the rationalisation of the Ledge Beach road reserve by excising land along the current alignment of the constructed road and closure of the unused road reserves for inclusion into R27107.
<p>Environmental <i>Risk: That by keeping the current alignment of the existing road reserve, DBCA will either not be able to install an ablution block or have to situate the infrastructure in a less desirable location.</i></p>	Almost Certain	Moderate	High	Council supports the road closure to allow for infrastructure installation.
<p>Opportunity: To clear up a historical land tenure anomaly to better reflect the current use of the land. Opportunity: Allow much needed infrastructure to be built which will reduce the current detrimental impacts the lack of ablution facilities is having on this area of National Park and adjoining coastal assets and with minimal disturbance to existing vegetation.</p>				

FINANCIAL IMPLICATIONS

17. The costs of advertising the road closures have been allocated out of the Lands budget 1142970. Any associated costs for surveying the new road reserve will be jointly shared between the DBCA and the City of Albany, with the City's apportioned costs being allocated from the Lands budget 1142970.

LEGAL IMPLICATIONS

18. There are no legal considerations relating to this item.

ENVIRONMENTAL CONSIDERATIONS

19. Public health concerns in relation to certain activities of visitors to Ledge Beach and the adjoining National Park would be mitigated by being able to have ablution facilities installed at this location.
20. Currently the most appropriate location for this infrastructure is in a high traffic area that is currently degraded and will minimise the need for further vegetation clearing.

ALTERNATE OPTIONS

21. Council may choose to;
- Refuse this request; or
 - Support this request with modifications.

CONCLUSION

22. Rationalisation of Ledge Beach Road will allow for the constructed road to be contained within a designated road reserve.
23. It will also allow for much needed ablution facilities to be installed at the Ledge Beach carpark.
24. Officer recommendation is for Council to support the proposed road rationalisation.

Consulted References	:	<i>Land Administration Act 1997</i> <i>Land Administration Regulations 1998</i>
File Number (Name of Ward)	:	Kalgan
Previous Reference	:	none

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