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# MINUTES

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## **DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING**

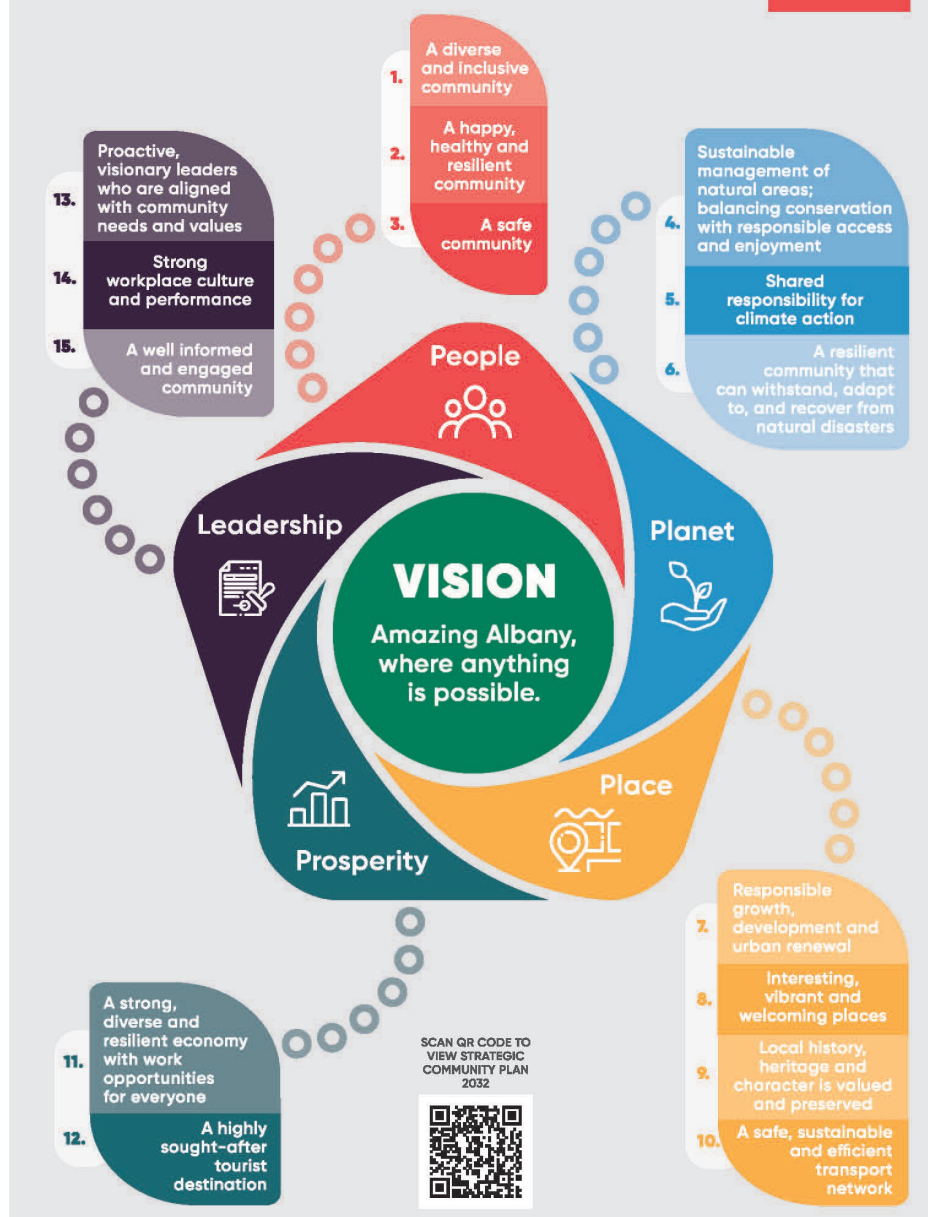
**Wednesday 30 November 2022**

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

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE  
MINUTES – 30/11/2022

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DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE  
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1. **DECLARATION OF OPENING** – The Chair declared the meeting open at **6.00pm**.

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
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**Councillors:**

Member	C Thomson (Chair)
Member	P Terry
Member	M Traill
Member	T Brough
Member	M Benson-Lidholm JP
Member	J Shanahun
Member	D Baesjou
Member	A Cruse

**Staff:**

Chief Executive Officer	A Sharpe
Executive Director Infrastructure, Development & Environment	P Camins
Manager Planning and Building	J van der Mescht
Coordinator Planning Services	J Wardell-Johnson
Meeting Secretary	P Ruggera

**Apologies:**

Member	S Smith (Apology)
Member	G Stocks (Apology)
Member	R Sutton (Apology)

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest
Councillor Baesjou	DIS328	<b>Impartiality.</b> The nature of the interest being that Councillor Baesjou is the former business partner of the consultant representing the proponent. Councillor Baesjou remained in the Chamber and participated in the discussion and vote for this item.
Councillor Traill	DIS329	<b>Financial.</b> The nature of the interest being that Councillor Traill is co-host of a short-term accommodation property in Bornholm since April 2022. Councillor Traill receives fees from the owner of the property who resides in Perth. Councillor Traill left the Chamber and was not present during the discussion and vote for this item.

**RESOLUTION**

**MOVED: MAYOR WELLINGTON**

**SECONDED: COUNCILLOR BROUGH**

**THAT mobile phones be PERMITTED in the Chamber for the remainder of the Committee Meeting due to Fire Emergency happening in City of Albany region.**

**CARRIED 9-0**

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE – Nil

6. PUBLIC QUESTION TIME

**Mr Nick Ayton, 42 Hare Street Middleton Beach.**

**Summary of Key points:**

Mr Ayton spoke in support of the Authorising Officer Recommendation DIS328 – Modifications to approved Local Development Plan No. 1 – Lots 1 and 2 Frenchman Bay Road, Frenchman Bay (Tourist Development, Caravan Park (Glamping) and Restaurant)

**Mr Paul King, 417 Rokeby Road, Shenton Park.**

**Summary of Key points:**

Mr King spoke in support of the Authorising Officer Recommendation DIS328 – Modifications to approved Local Development Plan No. 1 – Lots 1 and 2 Frenchman Bay Road, Frenchman Bay (Tourist Development, Caravan Park (Glamping) and Restaurant)

**Mr Richard Vogwill, 53 La Perouse Road, Goode Beach.**

**Summary of Key points:**

Mr Vogwill spoke in support of the Authorising Officer Recommendation DIS328 – Modifications to approved Local Development Plan No. 1 – Lots 1 and 2 Frenchman Bay Road, Frenchman Bay (Tourist Development, Caravan Park (Glamping) and Restaurant)

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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 – Nil**

**8. CONFIRMATION OF MINUTES**

**RESOLUTION**

**MOVED: COUNCILLOR BROUGH  
SECONDED: COUNCILLOR TRAILL**

**THAT the minutes of the Development and Infrastructure Services Committee meeting held on 12 October 2022 as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**CARRIED 9-0**

There was no DIS Committee meeting held in November 2022 due to there being no agenda items.

**9. PRESENTATIONS - Nil**

**10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS - Nil**

**DIS328: MODIFICATIONS TO APPROVED LOCAL DEVELOPMENT PLAN NO. 1 – LOTS 1 AND 2 FRENCHMAN BAY ROAD, FRENCHMAN BAY (TOURIST DEVELOPMENT, CARAVAN PARK (GLAMPING) AND RESTAURANT)**

<b>Land Description</b>	: Lots 1 & 2 Frenchman Bay Road WA 6330
<b>Proponent / Owner</b>	: Ayton Planning / Frenchman Bay Albany Pty Ltd
<b>Business Entity Name</b>	: Frenchman Bay Albany Pty Ltd
<b>Attachments</b>	: <ol style="list-style-type: none"><li>1. Proposed modified Local Development Plan (LDP1) and associated provisions for Lots 1 And 2 Frenchman Bay Road, Frenchman Bay (Tourist Development, Caravan Park (Glamping) And Restaurant)</li><li>2. Application report, including original proposed modified LDP (April 2022)</li><li>3. (a) Schedule of Submissions (b) Applicant Modifications to Original Schedule of Submissions</li><li>4. Bushfire Management Plan (September 2022)</li><li>5. Local Water Management Strategy (1 September 2022)</li><li>6. Site and Soil Evaluation (August 2022)</li><li>7. Coastal Hazard Assessment and CHRMAP (January 2021)</li><li>8. Surface and Groundwater Monitoring Plan (October 2022)</li></ol>
<b>Supplementary Information &amp; Councillor Workstation</b>	: Public submissions (in full) Agency submissions (in full)
<b>Report Prepared By</b>	: Planning Officer (D Ashboth) Coordinator Planning Services (J Wardell-Johnson)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development & Environment (P Camins)

Councillor Baesjou declared an Impartiality Interest in this item. Councillor Baesjou remained in the Chamber and participated in the discussion and vote for this item.

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:

**Pillar:** Planet

**Outcome:** A resilient community that can withstand, adapt to, and recover from natural disasters.

**Objective:** Increase community readiness and resilience to bushfires and floods.

**Pillar:** Place

**Outcome:** Local history, heritage and character is valued and preserved.

**Objective:** Identify, preserve, and showcase significant local history and heritage.

**Pillar:** Prosperity

**Outcome:** A highly sought-after tourist destination.

**Objective:** Create a competitive and sustainable tourism offer.



3. The item relates to the following strategic objectives of the City of Albany Local Planning Strategy 2019 (the Planning Strategy).
- Enable tourist growth and diversification through land use planning mechanisms.
  - Integrate environmental and natural resource management with broader land use planning and decision-making.
  - Ensure that planning proposals on the coast will not be impacted by coastal processes.
  - Build resilience to bushfire risk through appropriate planning and building mechanisms.

**Maps and Diagrams:** Lots 1 & 2 Frenchman Bay Road



**In Brief:**

- A draft modified Local Development Plan (LDP) has been prepared by the proponent to replace the existing approved Local Development Plan 1 (LDP1), to guide the future redevelopment of Lots 1 and 2 Frenchman Bay Road, Frenchman Bay for the purposes of 'Tourist Development, Caravan Park (Glamping) and Restaurant'.
- The LDP was advertised for public comment and referred to service providers and State Government agencies for comment.
- The proponent submitted an amended draft LDP to address concerns raised during advertising, and in response to a number of matters raised in feedback from service providers and State Government agencies.
- The location and context of the subject site and specific aspects required to be considered and addressed by the modified LDP are various and complex.
- The recommended provisions prepared to support the proposed modified LDP, aim to ensure future development achieves a balanced outcome that mitigates potential risks and impacts, compliments the existing Frenchman Bay public recreation area, whilst delivering a high quality tourist development.
- In order to continue progressing the application and noting the proponent has submitted an amended modified LDP to address matters raised during assessment of the proposal, it is recommended that Council approve the modified LDP1, subject to application of recommended provisions.

**RECOMMENDATION**

**DIS328: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR WELLINGTON**  
**SECONDED: CONCILLOR SHANHUN**

**THAT the Authorising Officer Recommendation be ADOPTED.**

**CARRIED 8-1**

**Record of Vote**

Against the Motion: Councillor Thomson

**DIS328: AUTHORISING OFFICER RECOMMENDATION**

THAT Council resolves to APPROVE Local Development Plan No. 1 and associated provisions for Lots 1 & 2 Frenchman Bay Road, Frenchman Bay (Tourist Development, Caravan Park (Glamping) and Restaurant).

**BACKGROUND**

4. The draft modified LDP has been prepared to replace the existing LDP1 that was approved in 2015. The draft modified LDP incorporates the following:
  - A two storey 10-12 bedroom lodge
  - 26 chalets
  - Camping area;
  - Associated amenities to support the tourist development, including a day spa and restaurant/cafe.
5. A report prepared by the proponent outlining the proposed modifications to the existing LDP1 and including supporting documentation, was submitted as part of the original application (refer Attachment 2). The report contains outdated and unsupported information, therefore it is recommended that this is not approved as part of this application.
6. The application for modifications to LDP1 was formally accepted for assessment by the City in May 2022. There has been an extended period of time to receive City-requested supporting documentation to address various outstanding matters. These matters include mitigation response to bushfire risk, proposed clearing of vegetation outside of lot boundaries and management of on-site effluent disposal.
7. These outstanding matters have still not been fully addressed by the proponent to provide absolute certainty in all aspects. Notwithstanding this, at the proponent's request, the proposed provisions allow for lodgement of the required information prior to or in conjunction with a development application.

Site details:

<b>Local Planning Scheme</b>	City of Albany Local Planning Scheme No. 1
<b>Zone</b>	Special Use 13
<b>LPS1 Special Uses</b>	Holiday Accommodation, Shop, Caretaker's Dwelling, Restaurant (Incidental) – Special Uses Permitted
<b>Lot Size:</b>	Lot 1: 13,607m <sup>2</sup> Lot 2: 18, 987m <sup>2</sup>
<b>Existing Land Use:</b>	Vacant
<b>Bushfire Prone Area:</b>	Yes
<b>State Planning Policies:</b>	SPP 3.7 – Planning in Bushfire Prone Areas SPP 2.6 – State Coastal Planning Policy
<b>Local Planning Policies:</b>	Significant Tourist Accommodation Sites Policy Frenchman Bay Tourist Development Site Policy
<b>Local Development Plan:</b>	Local Development Plan 1 – Lots 1 and 2 Frenchman Bay Road

8. The existing LDP1 was approved in 2015 and incorporates 25 holiday accommodation units and associated amenities.

**DISCUSSION**

Proposal

9. The proposed modifications to LDP1 has been assessed against the relevant provisions contained under LPS1, and State and local planning policies.
10. The draft modified LDP1 was advertised to all Goode Beach residents via direct mail out, with a sign erected on-site and the proposal documentation made available on the City website.
11. At the closing of the public advertising period, 27 responses were received, 13 in support or having no objection, 8 in support subject to modification and 6 objections.
12. The application was also referred to service providers and State Government agencies. A detailed summary of the submissions and responses received, officer comment and recommendation and the proponent's response is contained in the Schedule of Submissions (refer Attachments 1 (a) and 1(b)).
13. Concerns raised in submissions received during advertising included the following:
  - Bushfire management
  - Protection of native vegetation and fauna
  - Confusion relating to staging of development
  - Loss of public access to beachfront due to coastal erosion.
  - Coastal erosion concerns (development should not be permitted).
  - Safety of heritage stairs.
  - LDP does not accommodate heritage trail.
  - Concerns with appropriate water supply.
  - Impacts of effluent disposal on Vancouver Springs.
  - Impacts of development located within Vancouver Springs setback area.
  - Separation to groundwater.
  - Car parking numbers are not sufficient.
  - Concerns with permanent residential development.
  - Lack of consultation with Albany's Menang Noongar population.
  - Intensity of development and impacts of tourists.
  - Impact on whaling station ruins.

14. In response to concerns raised during advertising and feedback received from State agencies and service providers, the proponent made further amendments to the modified LDP and also submitted updated supporting documentation.
15. Assessment and detailed discussion below is based the amended modified LDP and updated supporting documentation, in relation to variations sought to state planning policy requirements, submissions received during advertising, and advice received from state government agencies.

#### Land Use

16. Schedule 4 –SU13 provisions of LPS1 identifies Caravan Park, Caretakers Dwelling, Holiday Accommodation, Shop and incidental Restaurant as uses permitted within the zone.
17. The modified LDP proposes future development of the site to incorporate Tourist Development, Caravan Park (Glamping) and Restaurant land uses.
18. As outlined above, concerns were raised during advertising regarding the intensity of proposed future development of the site, resulting impacts on the locality from tourists, and also the potential for permanent residential development.
19. Although LPS1 uses the outdated 'Holiday Accommodation' definition (now refers to use of dwellings for short-term accommodation) to identify acceptable uses in the SU13 zone, it is considered the form of development proposed as shown on the modified LDP is consistent with the intent of the zone and the land use statement identified in the Frenchman Bay Tourist Development Site Policy.
20. Tourism WA were referred the proposed modified LDP, who advised they would be pleased to see this proposal proceed, as it would provide the City with further diversification of its accommodation offering, and offer visitors a greater selection of hospitality options.
21. Intensity of future development of the site is limited by a number of aspects including bushfire management requirements, environmental constraints (such as management of on-site effluent disposal, groundwater runoff and stormwater disposal) and also coastal impacts.
22. Permanent residential development is not permitted in accordance with LPS1, with any application for this use directly conflicting with the use permissibility of the scheme and therefore not supported.
23. Recommended provisions to the modified LDP state that no building is permitted to be used/occupied as a 'caretaker's dwelling' until such time as a tourist development on the same lot has commenced operations, to ensure the primary intent of the site for tourist development is complied with.
24. The LDP includes two caretaker's dwellings, however there are a number of conditions that would have to be fulfilled under LPS1 before this could be considered.
25. Rather than asking the applicant to remove the second caretaker's residence, it is considered the LDP can progress with a provision being included outlining criteria for circumstances to consider a caretaker's dwelling directly associated with a tourist development.
26. The LDP also identifies building 'C' as bar/kitchen/shop, yet no bar type uses are permitted within the zone. A condition is therefore recommended that the reference to 'bar' be removed from the LDP, as an LDP is unable to vary Local Planning Scheme requirements.

#### Mitigation and response to impacts from coastal processes

27. As outlined above, concerns were raised in submissions received during advertising relating to risk of impacts from coastal processes, including whether the proposed future development of the site was appropriate in this location, and the subsequent risk of potential loss of public access to the foreshore if development were to proceed.

28. In accordance with State Planning Policy 2.6 – Coastal Planning a Coastal Hazard Assessment had been undertaken prior to submission of the application to modify LDP1.
29. A Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) was also required to be prepared in accordance with SPP2.6 and informed by the outcomes of the Coastal Hazard Assessment. The CHRMAP was submitted by the proponent as part of the application to support consideration for the modifications to the existing LDP1.
30. The application including the CHRMAP was referred DPLH (Coastal) for advice, who provided no objection to the proposed modifications to LDP1 and outlined recommended provisions to be applied to the modified LDP.
31. Key recommendations from the CHRMAP and subsequent advice from DPLH (Coastal) related to how the future development of the site addresses and responds to identified coastal hazards, and requirements for future ceding of land to ensure ongoing provision of a foreshore in public ownership. Recommended provisions aim to ensure these matters are addressed, including,
  - application of time limited approvals for development, triggered by identified scenarios
  - future development embedding design considerations and to facilitate managed retreat protocols
  - notifications being placed on titles identifying the risk of coastal hazards
  - circumstances where the foreshore would be required to be ceded to public ownership
32. As recommended in the CHRMAP and outlined in the response from DPLH (Coastal), any development on the site should be time limited (temporary planning approval) and shall cease to have effect when any of the identified situations occur.
33. Both DPLH (Coastal) and the CHRMAP recommend that a 39-year timeframe be listed as a situation in which the temporary planning approval expires.
34. However, the City did not include the 39-year timeframe in this provision, due to industry doubts over the science involved in determining the timeframe, and that the other situations outlined in the provision involved greater finality and certainty.
35. In accordance with SPP2.6 and DPLH (Coastal) advice, once the development approval expires in accordance with the above, the development will need to be removed and potentially relocated to a safe position on the lot (if possible).
36. The land will need to be rehabilitated to its pre-development condition and the affected area (processes area and foreshore) shall be ceded to the Crown, free of cost and without any payment of compensation by the Crown.
37. The proponent has disputed the requirement to cede the land without compensation. However, ensuring public access to the beach is retained in perpetuity resulting in an appropriate and balanced outcome for the community and the locality.
38. In addition to SPP2.6, the requirements to cede a foreshore free of cost is also established under LPS1 Schedule 4 – Special Use Zone No. SU13 (5) and a foreshore to be ceded was identified on the previously approved LDP for the site (determined using an older method).
39. The proponent has also disputed the requirements to place a notification on the title of the affected lots advising of the coastal hazard and the requirement to cede a foreshore without payment. However, this advice is consistent with SPP2.6 and if the City disclose this risk, the City may be liable to legal action being taken against it.
40. The provisions to be applied to the modified LDP aim to ensure a balanced outcome that aims to mitigate the risk of potential impacts from coastal processes on future development of the site and the public recreation area, whilst maintaining ongoing public access to the foreshore in perpetuity.

41. The issues raised by the proponent are acknowledged. However, on balance the recommended provisions are considered to address the concerns raised during advertising, incorporate advice received from state agencies, and are in accordance with the requirements outlined under LPS1 and SPP2.6.
42. Furthermore, application of the requirements at the LDP stage of the development process is the most appropriate, to ensure that future development outcomes on the site appropriately mitigate and respond to the potential impacts of coastal processes at a holistic and strategic level, with the likelihood that these matters would be more difficult to address at later development application stages.

Bushfire considerations

43. As outlined above, submissions raised concerns regarding future development of the site and management of bushfire risk.
44. The subject site is located within a bushfire prone area and therefore the requirements of State Planning Policy 3.7 – Planning in Bushfire Prone Areas applies. A Bushfire Management Plan (BMP) was prepared and submitted as part of the application.
45. The modified LDP was referred to the Department of Fire and Emergency Services (DFES). Advice from DFES outlined they were unsatisfied that the BMP adequately addressed the performance principles relating to the location of the vulnerable land use, vehicular access, or otherwise provision of an on-site shelter.
46. Staff considered DFES's advice in their assessment of the draft modified LDP. With the exception of DFES's position on the proposal's non-compliance with the location requirements outlined under Element 1 of the SPP3.7 Guidelines, the City's consideration of the proposal generally aligned with the remaining DFES advice.
47. Detailed discussion regarding consideration of proposed bushfire management for future development of the site, DFES advice and how the recommended provisions to the modified LDP1 address these matters is outlined below.
48. The location and context of the site and risk of bushfire is acknowledged however the proposal is located on a legacy site where land uses classified as vulnerable under SPP3.7 are permitted in accordance with LPS1.
49. The current planning framework therefore limits the City's consideration of such matters, and its ability to further restrict land uses permitted under LPS1, where in the circumstances a proposal and supporting documentation such as a BMP adequately demonstrates compliance with applicable requirements.
50. DFES outline in their advice that the proposal does not meet Element 1 of the SPP3.7 Guidelines (in relation to strategic planning proposals).
51. The advice was noted however staff formed an alternate position, whereby the modified LDP was considered to meet the acceptable solution requirements of Element 1 for a strategic development proposal, as the BMP demonstrates future development of the site would be likely to achieve a rating of BAL-29 or below.
52. The modified LDP does not meet the acceptable solutions set out under Element 5 of the SPP3.7 Guidelines in relation to vehicular access for vulnerable uses (tourist accommodation).
53. The site is located on a peninsula, where public road access in two different directions is unable to be provided and access to a compliant suitable destination is currently unavailable.
54. The modified LDP and the current version of the BMP does not demonstrate compliance with Element 5, whereby any vulnerable tourism use proposed on site that has a capacity of up to a maximum of 100 guests and staff at any one time, is provided with an on-site shelter, or a compliant secondary suitable destination is otherwise nominated (where available).

55. This includes one of the requirements for an on-site shelter is that it be located to avoid exposure to a radiant heat flux exceeding 10kW/m<sup>2</sup> (BAL-10). The BAL contour plan provided with the BMP indicated the lowest BAL-rating on-site to be BAL-12.5.
56. The bushfire consultant has advised that a suitable area for on-site shelter, with radiant heat flux not exceeding 10kW/m<sup>2</sup> can be provided through a Method 2 (alternative) assessment. However, the City is not satisfied that the current version of the BMP adequately demonstrates this requirement as being met.
57. To address this, a provision is recommended to be applied to the modified LDP requiring submission of a written declaration to the City by a Level 3 bushfire consultant, confirming that a suitable area for on-site shelter, with radiant heat flux not exceeding 10kW/m<sup>2</sup> can be provided on-site to service the entire development.
58. This condition is in accordance with 6.3(c) of SPP 3.7 that outlines a strategic planning application must provide *“clear demonstration that compliance with the bushfire protection criteria in the Guidelines can be achieved in subsequent planning stages.”*
59. The current version of the BMP also does not nominate an acceptable secondary suitable destination. The City’s position is that it is unlikely that a secondary destination that meets the requirements of SPP 3.7 Guidelines will become available within the expected timeframes for commencement of a tourist development on the subject site, and therefore the requirement for demonstration in the BMP for the provision of a compliant on-site shelter remains.
60. Following the above, an updated BMP was requested by staff to address the above outstanding matters and enable the City in progressing its consideration of the modified LDP. However, an updated BMP has not been forthcoming, with the proponent subsequently requesting the modified LDP and supporting documentation be referred to Council for determination in its current form and without submitting this requested information.
61. A late amendment to the LDP included an ‘Indicative Tent Area’ within an area identified as BAL-FZ/BAL-40. Due to concerns raised by DFES over ‘Glamping tents’ in this area on a previous iteration of the LDP, there is uncertainty as to whether these structures will be permitted in a BAL-40/FZ area (tolerable loss) in accordance with SPP 3.7.
62. Although it is likely these tents would be considered tolerable loss and therefore supportable from a bushfire perspective, this element has not been adequately addressed, and therefore it is recommended that a provision be attached to the LDP stating the indicative tent area was permitted, subject to compliance with SPP3.7.
63. It is also noted that DFES also advised that A5.9 – Water of SPP3.7 Guidelines has not been met within the BMP. This has been in part due to uncertainty over whether a reticulated water supply will be brought to the site.
64. The BMP in its current form is also not supported and therefore not endorsed by the City, given the number of outstanding matters relating to bushfire management. As outlined above, in order to continue progressing the application, provisions recommended to be applied to the modified LDP1 to address the above outstanding matters including:
  - Requirement for submission of updated BMP for the City’s endorsement that addresses the outstanding matters,
  - Submission of a written declaration confirming that a suitable area for on-site shelter can be provided on-site to service the entire development,
  - Limitation of the total on-site capacity to 100 guests and staff, unless an appropriate performance solution can be provided under the Guidelines; and
  - Requirement for strategic on-site water to be provided in accordance with the SPP3.7 Guidelines.

Environmental considerations

65. As outlined above, submissions raised concerns regarding impacts on native vegetation and fauna, separation of groundwater, and the Vancouver Spring Catchment Area from future development of the site.
66. A provision is recommended to be applied to the modified LDP that requires submission of a fauna management plan, to manage threatened species during each stage of the development works.
67. Clearing of vegetation is proposed outside of lot boundaries, in accordance with the supporting BMP, to facilitate provision of a compliant on-site shelter (as outlined above).
68. The proposed clearing of vegetation outside of the lot boundaries was referred to City of Albany Reserves who provided in principle support, with the exception of:
  - Frenchman Bay road reserve along the eastern boundary; and
  - The vegetation on the slope between the picnic area and the toilets at the top car park, (north of the access road to the beach).
69. Proposed clearing of vegetation within the verge along Frenchman's Bay Road was not supported due to the potential presence of a threatened orchid, that has been recorded within proximity to the site.
70. The section of verge was also identified as being of environmental significance providing wildlife corridors connecting the adjacent Torndirrup National Park and City managed natural reserves.
71. Proposed clearing of vegetation above the picnic area was not supported due to the steepness of the location and the potential erosion impacts.
72. It should be noted that final approval of clearing of vegetation outside of lot boundaries falls under separate legislation, and therefore is unable to be granted as part of the modified LDP.
73. It is acknowledged that the development outcomes of the modified LDP and specifically bushfire considerations required to be addressed significantly rely upon approval being issued for clearing of vegetation.
74. Resolution of these matters is however ultimately the responsibility of the proponent, and therefore a provision is recommended to be applied to the modified LDP requiring all necessary approvals being obtained for any proposed clearing of vegetation.
75. The Site and Soil Evaluation Report was approved by Department of Health and City of Albany Environmental Health. DWER raised concerns in relation to soil categories used in the report, believing some soils on site display characteristics of clay, which have lower permeability.
76. Should further investigations determine this is the case, the application areas required for the effluent disposals systems would be larger than currently indicated in the report, which in turn could impact the viability of the development as proposed.
77. It is therefore recommended that a provision requiring in-situ soil infiltration testing to the satisfaction of the DWER is undertaken. This condition should also require the Site and Soil Evaluation Report to be updated to ensure the correct soil categories are identified.
78. The original draft modified LDP that was advertised identified some development within the Vancouver Springs Setback Area, identified under SU13 provisions of LPS1. The revised modified LDP submitted by the proponent removed all development from the setback area.
79. DWER, Department of Health and City Environmental Health Officers advised there were no concerns with the proposed effluent disposal subject to soil permeability testing, with the requirement that all land application areas must be located a minimum of 100m from the Vancouver Spring Catchment Area.



80. DWER in their advice also raised concerns in relation to the proposed setback to Vancouver Spring, the need for a Local Water Management Strategy (LWMS), and groundwater monitoring. To address these matters, the proponent prepared and submitted a Groundwater Monitoring Plan and Local Water management Strategy.
81. These were referred to DWER for additional comment, who indicated in principle approval, subject to implementation. Provisions are recommended to be applied to the modified LDP requiring implementation of any identified actions from these supporting documents.
82. In regards to off-site stormwater impacts, City of Albany Reserves identified existing drainage issues in the Frenchman Bay picnic area, that resulted in serious erosion to the carpark area last winter. The applicant has been advised that any future development/works on the subject site must not increase the amount of water flowing downhill into the public recreation area.
83. In response, the proponent advised that the LWMS indicates the development will not increase the amount of water flowing downhill into the public recreation area.
84. To further address this concern, the proponent suggested extending the outlet pipe from the basin down to the coastline (within the access road reserve) with rock pitching/erosion measures installed at the outlet end, and direct flow path for outflow to coast to prevent any further erosion of foreshore.
85. As stormwater is required to be maintained on site as part of any future development, these matters are expected to be addressed at the development application stage.
86. Based on the above, the supporting documentation and recommended provisions to the modified LDP are considered to adequately address matters raised in submissions received during advertising and advice from state agencies in relation to mitigating potential impacts on environmental values on the subject site and within the adjoining reserves.

#### Car parking

87. Concerns were raised during advertising regarding insufficient car parking be provided for future development of the site in the modified LDP.
88. An LDP cannot vary a requirement of a local planning scheme, and therefore the car parking areas identified on the LDP have been labelled as 'indicative'.
89. A variation to LPS1 car parking requirements could be sought as part of a future development application and would be assessed on its merit at the time.
90. A provision is recommended to be applied to the modified LDP requiring car parking being provided in accordance with the requirements of the local planning scheme and AS 2890.

#### Heritage considerations

91. Whilst the history of the site is acknowledged, the subject site is not included on the City's Heritage List and is not afforded protection status as a heritage-protected place in accordance with the Planning Regulations.
92. The subject site however adjoins the Frenchman Bay Whaling Station (ruin) (P16612) (including Kep Mardjit / Vancouver Spring & Dam). Frenchman Bay Whaling Station (ruin) is included on the State Register of Places and the City's Heritage List and the curtilage (area) of historic heritage significance includes the existing concrete steps from the subject site down to the public recreation area.
93. Following significant erosion events within the precinct and the resulting impacts on the public foreshore, the City engaged Archae-aus to prepare the Frenchman Bay Whaling Station Archaeological Management Plan.
94. The AMP aims to provide guidance and recommendations for stakeholders in the ongoing management of the archaeological and historic heritage aspects of the place, including considerations for future development within the public reserve and the adjoining subject site.

95. Provisions are recommended to be applied to the modified LDP that ensure heritage considerations of the adjoining site are adequately addressed as part of future development, including actions relating to monitoring of archaeological elements during associated construction works.
96. Heritage considerations relating to proposed redevelopment of the existing concrete steps within the adjoining reserve are discussed below.
97. The application was also referred to the Department of Planning, Lands & Heritage – Aboriginal Heritage Operations who advised that the proposed works and land parcels do not intersect with any known Aboriginal Sites or Heritage Places.

Public Access to Frenchman Bay recreation area

98. Concerns were raised in submissions regarding the safety of the existing heritage stairs.
99. The City of Albany Infrastructure Team also advised that the existing stairs from the lots in question to the foreshore (east of lot 1) do not meet Australia Standards and will be a hazard if used by the public.
100. Furthermore, these stairs are located within the curtilage of the adjoining Frenchman Bay Whaling Station (ruin) and inform the cultural heritage significance of the place. Any proposed substantial redevelopment or full removal and replacement of these stairs will be required to consider impacts on heritage.
101. Given the above, and the fact that the existing vehicular access to the beach is unsafe for pedestrian use, a provision is recommended to be applied to the modified LDP requiring suitable arrangements be made with the City of Albany for pedestrian access from the subject site to the foreshore/beach, prior to any application for a tourist development land use.
102. Arrangements are expected to involve a contribution for provision of safe access between the foreshore recreation area and the publicly accessible areas of the subject site. The layout and design of this access is expected to be guided a Foreshore Management Plan, to be prepared for the Frenchman Bay recreation area.

Implementation of future development of the site

103. Issues raised in relation to implementation of future development of the site included confusion regarding the proposed staging of the development, concerns that the modified LDP did not accommodate the proposed heritage trail and whether there was appropriate water supply for future development of the site.
104. The proposed modified LDP was referred to Water Corporation for comment, who provided no objection, with advice that further detail was required as to how the development will be serviced with water. To address this requirement, detail is expected to be provided with any future development application lodged for the site.
105. The SU13 provisions under LPS1 require all development on the subject site to be connected to reticulated water supplied by a licenced provider.
106. An LDP cannot vary a requirement of a local planning scheme, and therefore a provision is recommended to be applied to the modified LDP to address this requirement.
107. However, a variation could be sought as part of any future development application, and should the proponent seek to vary this requirement, detailed hydrological studies and associated environmental impact reports would be required to be provided, demonstrating to the City, in consultation with relevant state government agencies, that there would be no detrimental impacts on the groundwater or wider environment.
108. The concerns raised regarding heritage trail not being included in the proposed modified LDP are noted.

109. The landowner has advised they do not intent to incorporate the heritage trail within the future development of the site, as they don't believe it to be compatible with the proposed tourist concept. Although the proposed heritage trail is desired by the local community, there is no planning requirement that this be provided by the landowner.
110. Any reference to staging of development has been removed from the LDP.
111. It should be noted that there are expected to be significant interdependencies across future developments and land uses of the subject site, due to the proposed layout and associated operational matters (such as on-site effluent disposal, vehicle access and parking, waste collection and bushfire management considerations).
112. Following this, it would be the City's preference for the lots to be amalgamated. This was a requirement under the previously approved LDP. The applicant however has advised they wish to sell one of the lots to another operator, and therefore does not support the requirement for amalgamation.
113. It is therefore recommended that a provision be applied to the modified LDP that requires the proponent to formalise these interdependencies through easements on the title.
114. These easements should formalise reciprocal access rights, reciprocal access to a strategic water supply, reciprocal access to an on-site shelter and the right to use adjacent lots for effluent disposal purposes. Easements should also formalise access rights for emergency fire purposes in favour of the local government and state emergency services provider.

#### GOVERNMENT & PUBLIC CONSULTATION

115. The application was advertised to all Goode Beach residents via direct mail out a sign was erected on-site and the plans were made available on the City website.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail Out	04/05/2022 to 15/06/2022	27 submissions received	No
Consult	Public Comment – City website	04/05/2022 to 15/06/2022		Yes
Consult	Sign on site	04/05/2022 to 15/06/2022		No

116. Through this process a total of twenty-seven (27) responses were received, thirteen (13) in support or having no objection, eight (8) in support subject to modification and six (6) objections.
117. As outlined above, a concern raised in submissions received during advertising related to a lack of consultation with Albany's Menang Noongar population.
118. This is not a statutory requirement for consideration of the LDP process, however it is understood the landowner has engaged a project manager to undertake consultation with the local Menang Noongar community in relation to the modified LDP and future development of the site.
119. The draft modified LDP was also referred to service providers and state government agencies, with responses received from the following:
  - Department of Biodiversity, Conservation and Attractions
  - DWER
  - DPLH Coastal
  - DPLH Aboriginal Heritage Operations
  - Tourism WA
  - Water Corporation
  - Department of Health
  - DFES

## **STATUTORY IMPLICATIONS**

120. The subject lots are zoned 'Special Use' under LPS1. Clause 1, Schedule 4 – Special Use Zone SU13 of LPS1 requires that "All land use and development shall be consistent with a Development Guide Plan prepared by the landowner and adopted by the Local Government".
121. An LDP (also formerly known as Development Guide Plans) is a mechanism used to coordinate and assist in achieving better built form outcomes over larger development sites, by linking lot design to future development.
122. Consideration of new LDPs and modifications to current LDPs are assessed in accordance with the processes set out under Part 6 of the Planning and Development (Local Planning Schemes) Regulations 2015 Deemed Provisions, including requirements for advertising and referrals.
123. Clause 52 of the Planning Regulations Deemed Provisions allows the local government to approve a Local Development Plan with or without requiring modifications.
124. Voting requirement for this item is **Simple Majority**.

## **POLICY IMPLICATIONS**

125. The proposal is not consistent with the 'Acceptable Solutions' relating to Element 5: Vulnerable Tourism Land Uses of the SPP3.7 Guidelines for Planning in Bushfire Prone Areas.
126. Approving the modified LDP at this stage in its current form, without outstanding matters being adequately addressed, specifically in relation compliance with bushfire requirements, is likely to have unintended consequences on the implementation of development of the subject site.
127. Approval of the modified LDP at this stage, does not guarantee nor provide greater certainty that future development of the site for tourist development will be able to be implemented to the fullest extent currently proposed.
128. To address the risk of potential unintended consequences and to create a degree of certainty demonstrating the capability of future development of the site, staff requested the outstanding matters be addressed at this stage, rather than through submission of updated supporting documentation.
129. Staff made the proponent aware of the risks in progressing the modified LDP in its current form, however it was requested to refer the proposal to Council with these matters remaining outstanding and addressed at a later stage.
130. Although not the preferred outcome, in order to continue progressing the modified LDP at the proponent's request, staff recommend provisions be applied aimed at identifying approaches to adequately address the outstanding matters, including compliance with bushfire requirements.
131. By approving the modified LDP in its current form, without these matters being addressed, creates a degree of uncertainty in the future development potential of the site. This is likely to result in additional delays to implementation timeframes, as these matters are still required to be addressed at a later stage, with potential modifications to the LDP.
132. The remaining provisions of the Frenchman Bay Tourist Development Site policy that relate to built form are not applicable at this stage and would be assessed as part of any future development application.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Community.</b> <b>Risk:</b> Approving an application with unresolved issues may cause reputational damage to the council if outstanding information ensures the LDP is unable to proceed in its approved form.	Possible	Minor	Medium	The application was assessed against the relevant statutory framework. Mitigation of impacts to be achieved through adoption and enforcement of conditions.
<b>People Health and Safety:</b> <b>Risk:</b> The proposed development may result in risk to human safety during a bushfire event.	Rare	Major	Low	Mitigation of impacts to be achieved through adoption and enforcement of conditions.
<b>Opportunity:</b> Responds to the need to position the City of Albany as a highly sought-after tourist destination.				

## FINANCIAL IMPLICATIONS

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

## LEGAL IMPLICATIONS

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

## ENVIRONMENTAL CONSIDERATIONS

138. Prior to the commencement of the tourist development, 12 months of groundwater monitoring must be undertaken in accordance with the Surface Water and Ground Water Monitoring Plan.
139. It is the responsibility of the proponents and landowners to ensure that all obligations under the *Environment Protection and Biodiversity Conservation Act 1999*, *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and *Government Sewerage Policy* are fulfilled.

## ALTERNATE OPTIONS

140. Council has the following alternate options in relation to this item, which are:
- a) To require the proponent to modify the LDP in a manner specified, and resubmit the modified LDP for approval; or
  - b) To refuse to approve the proposed modifications to LDP1, subject to reasons.

## CONCLUSION

141. The proponent requested that the application for proposed modifications to LDP1 (Tourist Development, Caravan Park (Glamping) and Restaurant) at Lots 1 & 2 Frenchman Bay Road be attached on the agenda for determination at the December 2022 Ordinary Council Meeting.
142. Further information and justification remain outstanding that are required to address a number of unresolved issues including bushfire, clearance outside of lot boundaries and on-site effluent disposal.
143. To keep the application progressing, provisions are recommended to be applied to the modified LDP, to ensure these unresolved matters are capable of being addressed, primarily through the submission of updated supporting documentation.
144. The provisions aim for ensuring a balanced outcome from future development of the site that results in a high quality tourist accommodation destination, that meets relevant policy requirements, responds to the context and constraints of the site, minimises the impacts on environmental and heritage matters and compliments the adjoining public recreation area.
145. It is recommended that Council approve the modifications to Local Development Plan No.1 and associated provisions for Tourist Development, Caravan Park (Glamping) and Restaurant at Lots 1 & 2 Frenchman Bay Road, Frenchman Bay.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. Local Planning Scheme No.1</li> <li>2. State Planning Policy 3.7 – Planning in Bushfire Prone Areas.</li> <li>3. Guidelines for Planning in Bushfire Prone Areas</li> <li>4. State Planning Policy 2.6 – Coastal Planning</li> <li>5. Significant Tourist Sites Local Planning Policy.</li> <li>6. Frenchman Bay Tourist Development Site Local Planning Policy.</li> <li>7. Government Sewerage Policy.</li> </ol>
<b>File Number (Name of Ward)</b>	:	LDP1 Vancouver Ward
<b>Previous Reference</b>	:	<p>O.C.M. 19/05/2009 – Item 11.1.1</p> <p>O.C.M. 24/03/2015 – Item PD075</p> <p>OCM. 22/09/2015 – Item PD092</p>

## DIS329: DRAFT LOCAL PLANNING POLICY 1.6: SHORT-TERM ACCOMMODATION

<b>Land Description</b>	: City of Albany
<b>Proponent / Owner</b>	: City of Albany
<b>Business Entity Name</b>	: City of Albany
<b>Attachments</b>	: 1. Proposed Local Planning Policy 1.6: Short-term Accommodation 2. Schedule of submissions
<b>Supplementary Information &amp; Councillor Workstation</b>	: Copies of submissions
<b>Report Prepared By</b>	: Planning Officer (D Ashboth) Coordinator Planning Services (J Wardell-Johnson)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development & Environment (P Camins)

**6.54PM:** Councillor Trill declared a Financial Interest in this item and left the Chamber

### 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. Relevant elements, objectives and strategic directions of these documents relevant to this item are outlined under the Strategic Implications section of the previous report item DIS305, presented to Council in June 2022.

### In Brief:

- Draft *Local Planning Policy 1.6: Short-Term Accommodation* was advertised for public comment, following Council's endorsement to advertise.
- Concerns raised during the consultation period primarily relate to car parking, bushfire, management requirements and inconsistent regulation of short-term accommodation across the state.
- Some general and administrative modifications are proposed to draft LPP1.6, informed by submissions received.
- Staff recommend Council resolve to adopt final draft LPP1.6 (Attachment 1) with modification.

### RECOMMENDATION

#### DIS329: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR TERRY**  
**SECONDED: COUNCILLOR WELLINGTON**

**THAT the Authorising Officer Recommendation be ADOPTED.**

**CARRIED 5-3**

### Record of Vote

Against the Motion: Councillors Brough, Baesjou and Benson-Lidholm.

DIS329: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

- A) ADOPT Local Planning Policy 1.6: Short-term Accommodation, pursuant to Schedule 2, clause 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- B) NOTE Local Planning Policy 1.6: Short-term Accommodation supersedes existing Holiday Accommodation and Bed and Breakfast local planning policies, and that these policies are to be revoked following notice being issued in accordance with clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**BACKGROUND**

- 4. Draft LPP1.6 was prepared to address outcomes of a review of the City's existing *Holiday Accommodation* and *Bed and Breakfast* local planning policies.
- 5. Draft LPP1.6 aims to:
  - a) Consolidate and refine the relevant provisions of the existing policies and provide further consideration and guidance in addressing relevant planning matters consistently raised during the advertising process for short-term land uses.
  - b) Respond to strategic direction and state planning policy changes that inform decisions on short-term accommodation proposals, in relation to regulatory and operational matters, and proposals in bushfire prone areas.
- 6. Draft LPP 1.6 was advertised, following Council's endorsement at its meeting in June 2022, with five public and one agency submission received during the advertising period.

**DISCUSSION**

- 7. Concerns raised during the consultation period primarily relate to car parking, bushfire, management requirements and inconsistent regulation of short-term accommodation across the State. A summary of public and State government agency submissions is provided in the Schedule of Submissions (refer Attachment 1).
- 8. As previously mentioned, one of the primary purposes of preparing draft LPP1.6 was to consolidate existing local planning policies in relation to short-term accommodation, following a substantial review, and update some provisions to ensure consistency with recent changes to state planning policy, specifically in relation to bushfire.
- 9. The provisions contained under the existing Holiday Accommodation policy conflicted with these recent state policy changes, and therefore required to be updated.
- 10. The outcomes of the review of the existing Holiday Accommodation and Bed & Breakfast policies and proposed replacement draft LPP1.6 that consolidates them, and purpose of the amendments to support State government policy changes are discussed in more detail in the previous item DIS305 and summarised below in response to submissions received.
- 11. Final draft LPP 1.6 involves recommended modifications, informed by submissions received during advertising and further minor administrative improvements that were highlighted during the consultation period.



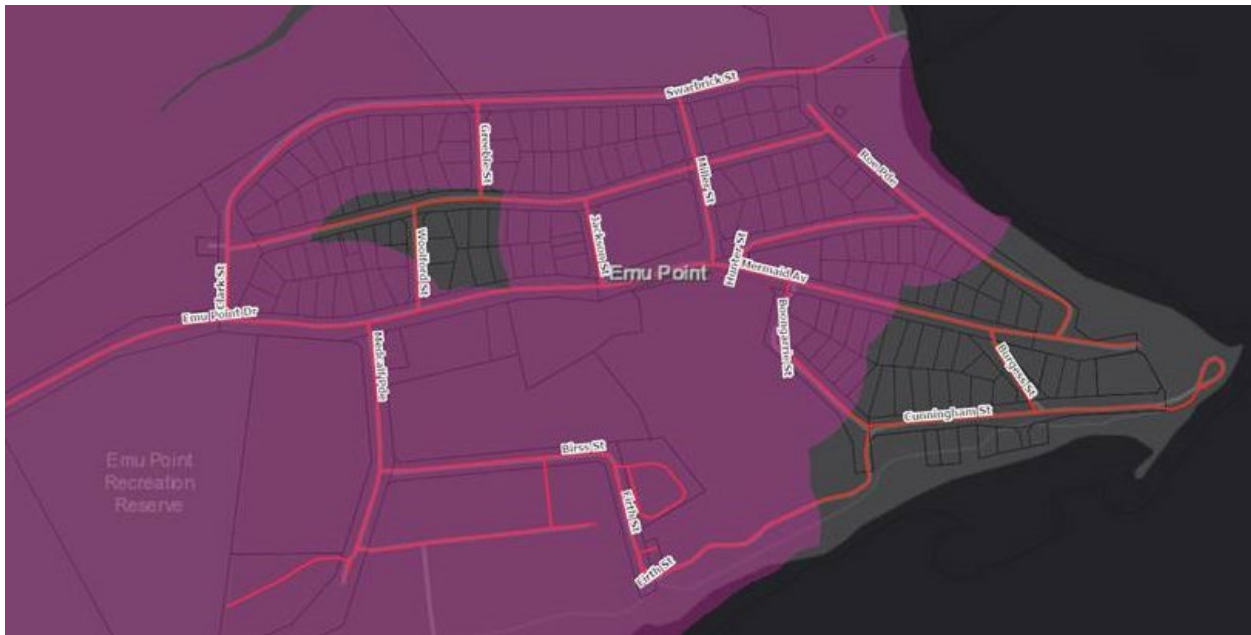
Designated short-term accommodation area

12. Concerns raised in submissions received related to the creation of a 'short-term accommodation area' unfairly excluding some residents.
13. The review of the *Holiday Accommodation* policy involved amendments to:
  - Reclassifying the 'Preferred holiday accommodation area' to 'Short-term accommodation area'
  - The size and location of the reclassified 'Short-term accommodation area', by removing Little Grove and Goode Beach from the designated area. These amendments were primarily to address recent changes to requirements under the SPP3.7 Bushfire Guidelines, as new proposals in these areas are generally unable to meet the requirements of the Guidelines.
  - Additional provisions outlining performance criteria for the assessment of new proposals located outside of the designated short-term accommodation area. These additional provisions were an identified improvement outcome following review of the existing Holiday Accommodation policy.

Bushfire

14. The Department of Fire and Emergency Services (DFES) advised that no references to specific elements of the Bushfire Guidelines should be made within the policy, particularly given *State Planning Policy 3.7 – Planning in Bushfire Prone Areas* (SPP3.7) and the associated Guidelines are currently undergoing further review.
15. As a result, provision 26 has been replaced with a broad provision stating short-term accommodation will be assessed against SPP3.7 and the associated Guidelines.
16. DFES also advised that draft provision 27 incorrectly infers that a Bushfire Emergency Evacuation Plan (BEEP) can be prepared by a bushfire practitioner, when these documents should be prepared by an emergency management practitioner. The reference to a 'suitably qualified bushfire practitioner' has therefore been amended to a 'suitably qualified practitioner'.
17. Draft provision 30 was also removed as it referred to specific elements of SPP3.7 and associated Guidelines. The original intention of the provision to provide certainty for decision-makers and applicants was also not being achieved, and therefore deletion was the preferred outcome in this instance.
18. DFES also recommend removal of Emu Point from the Short-term Accommodation Area and advised that the area cannot currently comply with Element 5, Acceptable Solution A5.5 of the Bushfire Guidelines in terms of vehicular access and is surrounded by an extreme hazard.
19. Element 5 Acceptable Solution A5.5 of the Guidelines require (amongst other things) public road access to be provided in two different directions to at least two different suitable destinations. A Suitable Destination is defined as:

*"An area that is not classified as bushfire prone on the Map of Bush Fire Prone Areas, or is greater than 100 metres from classified vegetation as per AS 3959 and can provide shelter during a bushfire event."*
20. This advice was questioned by the City, given there are large portions of land within Emu Point that are not bushfire prone (see grey area in image below) and therefore can be considered 'suitable destinations' under the Guidelines (see image below) and which, in conjunction with the Albany CBD, ensure public road access in two directions to suitable destinations.



21. In response to further questions by the City, DFES advised that whilst not specifically defined within the Guidelines, DFES considers shelter to be an area suitable of providing some protection in the event of a bushfire.
22. They also advised that they have not finalised guidelines clarifying exactly what “shelter” may be recognised/supported by DFES but this is something they hope to develop in the near future.
23. It is therefore apparent that this advice from DFES has not been provided against the provisions of the Guidelines, developed by the Department of Planning, Lands and Heritage and goes beyond the mechanisms made available to officers to consider bushfire risk in matters related to planning.
24. Previous advice to the City has indicated that an application is unable to be refused for bushfire reasons if the Acceptable Solutions of the Guidelines have been achieved.
25. Given Emu Point (unlike Goode Beach and Little Grove) is capable of providing public road access in two different directions to at least two different suitable destinations (Albany CBD and eastern section of Emu Point), a proposal in this location is likely to meet the Acceptable Solutions, and it is therefore recommended Emu Point remain in the designated ‘Short-term accommodation area’.
26. This matter can be revisited following any subsequent changes to SPP3.7 and associated Guidelines or the bushfire prone area.
27. In their advice DFES also advised that Emu Point is likely subject to an extreme Bushfire Hazard Level (BHL) and therefore DFES were of the view that this hazard cannot be ignored.
28. DFES suggested the City could address this matter by considering a BHL assessment be undertaken to confirm the BHL of Emu Point.
29. This advice is noted however this is a separate process and not required to be undertaken through consideration of the subject LPP.
30. Following this and matters outlined above, short-term accommodation proposals in Emu Point, and specifically compliance with bushfire requirements, are considered to be adequately addressed through the development application process and assessment under the provisions of SPP3.7 and associated Guidelines.

Car parking

31. Comments received during advertising related to matters including the proposed car parking provisions outlined under draft LPP 1.6, raising concerns that one car per three people is too high.
32. The car parking provisions under the existing *Holiday Accommodation* and *Bed and Breakfast* local planning policies are proposed to be retained without modification under draft LPP1.6. The review of the existing parking provisions considered whether they were still appropriate and relevant, taking into account the following:
  - Outcomes of approved short-term accommodation proposals, including consideration of any known complaints or issues that related car parking
  - The location and context of the proposed short-term accommodation area and mitigating potential conflict with adjoining uses, including:
    - Consideration of proposals on narrow streets in the Albany's historic town centre, where a reduction to on-site parking requirements would be likely to cause land use conflict and potentially have a detrimental impact on existing users
    - Private vehicles remains the dominant transport mode for visitors to Albany, with public transport and taxi availability limited, ridesharing such as Uber unavailable and many attractions and activities requiring private transport to access.
  - Although visitors may travel in groups of more than 3 people per car, there's a potential they may also travel with 3 or less people per car. As the provisions of the policy only capture maximum number of guests and vehicles, and not how a group of guests to a short-term accommodation use may be structured, the provisions in their current form are considered to adequately account for these variables.
33. Following the above, it is considered that the existing car parking requirements requiring one-car park per three guests continue to remain relevant and reasonably mitigate potential impacts and land use conflict on adjoining land uses from short-term accommodation proposals.

Proposed amendments to operational requirements for short-term accommodation uses

34. Submissions received during advertising outlined concerns relating to operational requirements for short-term accommodation proposals:
  - The policy changes create unnecessary barriers and red tape,
  - Unreasonable to expect property manager to be contactable 24 hours a day and visit site within 2 hours.
35. As outlined above and under previous item DIS305, other than provisions requiring to be updated to reflect state planning policy, the majority of provisions from the existing *Holiday Accommodation* and *Bed & Breakfast* policies are remaining unmodified, with the exception of some additional requirements relating to operational requirements for short-term accommodation proposals.
36. The proposed additional requirements are aimed at further addressing amenity concerns and neighbour objections consistently raised during consideration of short-term accommodation proposals.
37. The additional requirement for 24-hour availability by an operator is considered reasonable and is intended to provide greater certainty to adjoining residents that short-term accommodation uses will be appropriately managed whilst in operation.
38. If an operator is unable/unwilling to meet these requirements, consideration should be given to engaging a short-term accommodation property management operator that offer this service.

39. Submissions suggested more clarity was required regarding the extent the approved management plan should be distributed by the property manager under provision 15. In response, an advice note was added to this provision stating the property manager should contact the City of Albany to confirm the extent to which the management plan should be distributed.
40. This was considered the most appropriate response given the adjoining landowners deemed to be impacted would vary significantly by area. For instance, short-term accommodation in a rural area with large lots may only impact the direct neighbours, whilst short-term accommodation in high density residential areas may impact more properties given their closer proximity to the short-term accommodation.
41. The operational amendments outlined above are not expected to place unreasonable burden on short-term accommodation proposals and are intended to ensure responsible management of short-term accommodation uses, that assist in mitigating potential land use conflict or detrimental impacts on adjoining properties and the locality.

Implementation of State government strategic direction and policy

42. Concerns raised in submissions received during advertising related to the application of consistent short-term accommodation policy across WA, the City should await the outcome of the WA Government's ongoing consultation and reform process on the same topic prior to proceeding with any regulatory reform at the local level. and implementation of State government direction prior to finalisation.
43. In relation to the application of a consistent short-term accommodation policy across WA, these comments are noted and supported in principle. However, this is a long-term action to be driven by State government through regulatory reform program, with modifications to be made to the policy as and when required.
44. The proposed updates incorporated into draft LPP1.6 that reflect State government policy changes relate to recent regulatory changes under the SPP3.7 Bushfire Guidelines.
45. General amendments proposed relate to use of terminology, however as the current local planning scheme definitions have been formally changed, these changes are relatively minor, being applied for consistency,
46. It is acknowledged that substantial changes as a result of State government reform have not been finalised, and therefore any changes as a result of these would be incorporated into the LPP at a later date where required.

**GOVERNMENT & PUBLIC CONSULTATION**

47. The LPP was advertised in accordance with Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
48. City officers also directly consulted the Little Grove Progress Association and the Frenchman Bay Association, given the removal of Little Grove and Goode Beach from the Short-term Accommodation Area.
49. A meeting was subsequently arranged with the Frenchman Bay Association to discuss the implication of the proposed LPP.
50. South Coast Progress Association declined the option for a meeting given the LPP would not impact existing, approved short-term accommodation. They also support the removal of Little Grove from the Short-term Accommodation Area.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Notice in Advertiser	28/07/2022	5 submissions received	Yes
Consult	Public comment – City website	28/07/2022 to 06/09/2022		Yes
Consult	Mail Out	28/07/2022 to 06/09/2022		No
<b>Note:</b> Frenchman Bay Association and South Coast Progress Association were directly contacted (emailed) with an invitation to meet and discuss the LPP.				

51. Following the close of advertising five public submissions were received: three in support, one support subject to modification and one objection.
52. The comments, including the proponent's and staff recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are summarised and discussed above.
53. The draft LPP was also referred to the Department of Planning Lands and Heritage (Bushfire) and the Department of Fire and Emergency Services for comment.
54. Agency comment is summarised below. Officer comments and recommendations are provided in the attached schedule, while broad issues are discussed above.
55. DFES provided the following advice, which is outlined in the Schedule of Submissions and in further detail above:
  - Advised the LPP should not be supported until additional information has been provided including a bushfire assessment, identification of any bushfire hazard issues; and an assessment against the bushfire protection criteria.
  - Recommend removal of Emu Point from the Short-term Accommodation Area and advised that the area cannot currently comply with Element 5, acceptable solution A5.5 in terms of vehicular access and is surrounded by an extreme hazard.
  - Advised references to specific elements of SPP3.7 and the associated Guidelines should be removed.

## STATUTORY IMPLICATIONS

56. Voting requirement for this item is **Simple Majority**.
57. A periodic review of the City's local planning policy (LPP) suite is currently underway.
58. Consideration of draft new LPPs and proposed modifications to existing LPPs require resolution of Council for endorsement to advertise and final adoption following advertising, subject to modifications, in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015* (Planning Regulations).
59. Should Council resolve to adopt LPP1.6 a notice of the policy must be published in accordance with clause 87 of the Planning and Development (Local Planning Schemes) Regulations 2015.
60. The City must publish a notice of revocation in accordance with clause 87 of the Planning and Development (Local Planning Schemes) Regulations 2015 for LPPs revoked due to adoption of LPP1.6.

## POLICY IMPLICATIONS

61. Draft LPP1.6 is consistent with SPP 3.7 Planning in Bushfire Prone Areas and associated Guidelines.
62. Draft LPP1.6 aims to consolidate and update relevant provisions from the existing Holiday Accommodation and *Bed and Breakfast* LPPs, with these policies to be revoked following formal adoption of LPP1.6.

### Minor general and administrative changes to advertised draft LPP1.6

63. Minor general and administrative changes are proposed to the advertised version of draft LPP1.6:
  - Inconsistent wording was used when referring to applications for short-term accommodation, including 'proposals', 'land use proposals' and 'development applications'. The inconsistent terminology has been remedied with the term 'application' now consistently applied throughout the LPP.
  - Provision 5 has been amended to explicitly mention 'Short-term accommodation' as an inclusion to the LPP application. This term was not previously mentioned given it captures a number of land uses defined under LPS1, such as Bed and Breakfast, Holiday Accommodation and Holiday House.
  - It is considered this amendment will provide more clarity to the policy application and responds to a perceived lack of clarity as to whether the same provisions apply to short-term applications within and outside the identified short-term accommodation area.
  - A definition for 'Holiday Accommodation' has also been provided given the reference to this term within provision 5.
  - Provision 7 and the associated title (short-term accommodation area) has been amended to remove reference to 'proposals' and infer a slightly more restrictive position in relation to applications outside of the 'short-term accommodation area'.
  - Provision 12 was incorrectly included under the heading 'Proposals located outside the short-term accommodation area'. As this provision applies to short-term accommodation both within and outside of the short-term accommodation area, a separate heading has been created for this provision.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation</b> <i>Policy position may make it more difficult to establish short-term accommodation or discourage applications for short-term accommodation.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>Provisions within the Policy have been drafted to provide consistency with updated legislation and State Planning Policies, and to identify the City's position on minimising the adverse impacts of short-term accommodation on surrounding landowners.</i>
<b>Opportunity:</b> <i>Ensure consistency with legislation and State Planning Policies and encourage a higher standard of short-term accommodation proposal.</i>				

## FINANCIAL IMPLICATIONS

65. There are no financial implications beyond what will be used for notice of adoption and revocations.

## LEGAL IMPLICATIONS

66. There are no legal implications relating to adopting LPP1.6.

## ENVIRONMENTAL CONSIDERATIONS

67. There are no environmental implications relating to adopting LPP1.6.

## ALTERNATE OPTIONS

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

- To resolve to proceed with the policy without modification;
- To resolve not to proceed with the policy.

## CONCLUSION

69. Submissions received during advertising have been taken into account and resulted in minor modifications proposed to draft LPP1.6, that was previously considered by Council at its Ordinary meeting in June 2022.
70. Based on the discussion above, staff recommend Council resolve to adopt LPP1.6: Short-term Accommodation, with modification.
71. Upon formal adoption of LPP1.6, a notice will be published advising of the revocation of existing *Holiday Accommodation* and *Bed and Breakfast* local planning policies.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme 1</i></li> <li>2. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i></li> <li>3. <i>Holiday Accommodation Local Planning Policy</i></li> <li>4. <i>Bed and Breakfast Local Planning Policy</i></li> <li>5. <i>Draft Position Statement: Planning for Tourism</i></li> <li>6. <i>Draft Planning for Tourism Guidelines</i></li> <li>7. <i>Planning Bulletin 99 – Holiday Homes Guidelines</i></li> <li>8. <i>Planning Guidelines – (Holiday Homes) Short Stay Use of Residential Dwellings.</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	All
<b>Previous Reference</b>	:	Strategic Workshop April 2022 Item 3 OCM 21/06/2022 – DIS305

**7.23PM:** Councillor Traill returned to the Chamber. Councillor Traill was not present during the discussion and vote for this item.

**11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN - Nil**

**12. MEETING CLOSED TO THE PUBLIC**

**13. CLOSURE -**

There being no further business the chair declared the meeting closed at **7.24pm.**

*(Unconfirmed Minutes)*

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Councillor Thomson  
**CHAIR**