

Mr Andrew Sharpe
Chief Executive Officer
City of Albany
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Our Ref: CMS 18213
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Dear Mr Sharpe

DECISION UNDER SECTION 48A(1)(a)
Environmental Protection Act 1986

SCHEME	City of Albany Local Planning Scheme 2
LOCATION	Whole of Scheme Area
RESPONSIBLE AUTHORITY	City of Albany
DECISION	Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Not to be Assessed Under Part IV of the EP Act. Advice Given. (Not Appealable)

Thank you for referring the above scheme to the Environmental Protection Authority (EPA).

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the attached advice and recommendations. I have also attached a copy of the Chair's determination of the scheme.

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.
- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of the Chair's determination, this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'R Hughes', with a stylized flourish at the end.

Dr Robert Hughes
Delegate of the Environmental Protection Authority
Director
EPA Services

12 September 2022

Encl. Chair's Determination
Scheme Advice and Recommendations

**ADVICE UNDER SECTION 48A(1)(a)
ENVIRONMENTAL PROTECTION ACT 1986**

City of Albany Local Planning Scheme 2

Location: City of Albany

Determination: Scheme Not Assessed – Advice Given (not appealable)

Determination Published: 12 September 2022

Summary

The City of Albany (the City) has initiated Local Planning Scheme (LPS) 2 to replace the existing LPS 1 and update scheme text in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* and to implement the aims and strategic direction of the City's *Local Planning Strategy 2019*.

The EPA has considered the scheme in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers LPS 2 is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The EPA has based its decision on the information provided by the City. Having considered this matter, the following advice is provided.

1. Environmental Factors

The EPA has identified the following preliminary environmental factors relevant to this scheme:

- Flora and Vegetation
- Terrestrial Fauna
- Social Surroundings
- Inland Waters

2. Advice and Recommendations regarding Environmental Factors

The proposed scheme will allow for a range of new land uses which may have the potential to impact environmental values. Detailed information relating to the range of environmental impacts associated with future proposals is not available to the EPA in considering the LPS 2. Accordingly, the EPA expects that future proposals that appear likely, if implemented, to have a significant effect on the environment are referred to the EPA under Part IV of the EP Act.

The EPA notes that the City has proposed new provisions in LPS 2 to address the protection and management of significant environmental values within the scheme boundaries. The EPA supports the inclusion of such provisions, and notes that the scheme text may be further refined by additional technical input from other government agencies. In particular, the EPA recommends the City consults the Department of Biodiversity, Conservation and Attractions and Department of Water and Environmental Regulation regarding the proposed scheme text for wetland protection, 'Special Control Area 2 – Public Drinking Water Source Areas', and separation distance from water resources.

The EPA notes that the scheme provides for land uses which may generate trade waste, such as breweries. It is recommended that Schedule 6 is modified to include a requirement for the

City to consider trade waste disposal at development approval stage. This may include extending the definition of sewage disposal/wastewater disposal.

The EPA also notes that LPS 2 proposes to redefine existing reserves under new reserve types and objectives, including several areas under 'Parks and Recreation' reservation in LPS 1. It is noted that some of the existing 'Parks and Recreation' reserves contain significant environmental values, such as priority or threatened ecological communities and priority or threatened fauna species. The EPA considers that redefinition of current 'Parks and Recreation' reserves as 'Environmental Conservation' reserves would be most appropriate for managing areas containing significant environmental values. The EPA understands achieving this outcome for some reserves is administratively challenging, due to existing management body and/or lease arrangements over the areas. As an alternative to reserving the areas as 'Environmental Conservation', the City has proposed additional environmental provisions within LPS 2 to facilitate the protection of the environmental values within the reserves. The EPA supports this approach and suggests that future strategic planning is utilised to identify opportunities to redefine the reserve boundaries and create new 'Environmental Conservation' reserves, or other scheme protection measures, over areas of significant environmental value with relevant environmental provisions as needed.

The EPA supports the proposed extensive text provisions in particular, Schedule 6. The EPA recommends that these environmental management provisions are retained in the process of finalising the scheme.

Conclusion

The EPA concludes that the proposed scheme can be managed to meet the EPA's environmental objectives through the scheme text and map mechanisms. Future structure planning and proposals should also further identify, manage and protect the above environmental factors, including avoiding conflicts between incompatible land uses. The requirements of Part IV and V of the EP Act for environmental impact assessment, clearing permits and works approvals and licences should also be considered for future proposals.

The EPA also expects that future proposals that appear likely, if implemented, to have a significant effect on the environment are referred to the EPA under Part IV of the EP Act.