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# AGENDA

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**PLANNING AND DEVELOPMENT COMMITTEE**

**08 October 2014**

5.30pm

City of Albany Council Chambers

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

**VISION**

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

**VALUES**

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

**Focused: on community outcomes**

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

**United: by working and learning together**

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

**Accountable: for our actions**

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

**Proud: of our people and our community**

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

PLANNING AND DEVELOPMENT COMMITTEE

AGENDA –08/10/2014

\*\* REFER DISCLAIMER \*\*

**TERMS OF REFERENCE**

**(1) Function:**

The Planning and Development Committee will be responsible for the delivery of the following Liveable Environmental Objectives contained in the City of Albany Strategic Plan:

- (a) To advocate, plan and build connected, liveable communities;
- (b) To create a community that supports people of all ages and backgrounds;
- (c) To create vibrant neighbourhoods which are safe yet retain our local character and heritage.

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

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

**(3) Chairperson:** Councillor V Calleja

**(4) Membership:** Open to all elected members, who wish to be members

**(5) Meeting Schedule:** 1<sup>st</sup> Wednesday of the Month

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

**(7) Executive Officer:** Executive Director Planning & Development Services

**(8) Delegated Authority:** None

PLANNING AND DEVELOPMENT COMMITTEE

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**1. DECLARATION OF OPENING**

**2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**

*“Heavenly Father, we thank you for the peace and beauty of this area. Direct and prosper the deliberations of this Council for the advancement of the City and the welfare of its people. Amen.”*

*“We would like to acknowledge the Noongar people who are the Traditional Custodians of the Land.*

*We would also like to pay respect to Elders both past and present”.*

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

**Councillors:**

Member	A Hortin JP
Member	A Goode JP
Member	G Gregson
Member	R Sutton
Member	S Bowles
Member	N Williams

**Staff:**

Executive Director Planning & Development Services	D Putland
Manager Planning	J van der Mescht
Senior Planning Officer	Craig McMurtrie
Minutes	J Cobbold

**Apologies:**

<b>Mayor</b>	Mayor D Wellington (Deputy Chair)
Member	V Calleja JP (Chair)
Member	B Hollingworth
Member	R Hammond

PLANNING AND DEVELOPMENT COMMITTEE

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\*\* REFER DISCLAIMER \*\*

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest

5. REPORTS OF MEMBERS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

7. PUBLIC QUESTION TIME

8. APPLICATIONS FOR LEAVE OF ABSENCE

9. PETITIONS AND DEPUTATIONS

10. CONFIRMATION OF MINUTES

**DRAFT MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the minutes of the Planning and Development Committee Meeting held on 03 September 2014, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

11. PRESENTATIONS

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

**PD053: ADVERTISE DRAFT KALGAN RURAL VILLAGE DEVELOPER CONTRIBUTION POLICY**

**Land Description** : Kalgan Rural Village Structure Plan area  
**Proponent** : City of Albany  
**Owner** : Various  
**Business Entity Name** : Not applicable  
**Attachments** : Draft Kalgan Rural Village Developer Contribution Policy  
: Kalgan Rural Village Road Contributions Plan  
**Appendices** : Nil  
**Councillor Workstation** : Nil  
**Report prepared by** : Planning Officer (C McMurtrie)  
**Responsible Officer:** : Executive Director Planning and Development Services  
(D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

**Key Theme:** 2 Clean, green and sustainable

**Objective:** 2.2 To maintain and renew City assets in a sustainable manner

**Strategy:** 2.2.1 Deliver effective asset planning and delivery programs

**Key Theme:** 3 A connected built environment

**Objective:** 3.1 To advocate, plan and build friendly and connected communities

**Strategy:** 3.1.1 Improve connectedness and traffic flows

**In Brief:**

- The adoption of the *Kalgan Rural Village Structure Plan* has led to a number of applications for subdivision within the area. This intensification of residential land use will increase the population of the area and create significant demands on existing infrastructure.
- Council is requested to consider a draft Local Planning Policy that will establish a developer contribution plan, which prescribes appropriate financial contributions from developers toward the upgrade of infrastructure within the Structure Plan area.

**RECOMMENDATION**

**PD053: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council ENDORSES the draft Kalgan Rural Village Developer Contribution Policy for ADVERTISING for a period of 28 days.**

**BACKGROUND**

1. The *Kalgan Rural Village Structure Plan* was finally adopted by Council on 21 June 2011 and subsequently endorsed by the Western Australian Planning Commission. However, the Structure Plan did not incorporate a development contribution plan to apportion cost contributions to developers for upgrade of infrastructure within the Structure Plan area.

2. It is requested that Council adopt, for the purpose of public advertising, the draft *Kalgan Rural Village Developer Contribution Policy*, which prescribes cost contributions for the upgrade of infrastructure that are to be paid by developers upon subdivision of land within the *Kalgan Rural Village Structure Plan* area.

## **DISCUSSION**

3. Since the adoption of the *Kalgan Rural Village Structure Plan*, a number of applications for subdivision within the area have been received. This intensification of residential land use will increase the population of the area and create significant demands on existing infrastructure.
4. A number of road upgrades are necessary to ensure that the road network in the area is safe and will meet the expectations of the current and future land owners. The endorsed *Kalgan Rural Village Structure Plan* requires that contributions are made to upgrade a number of roads within the Structure Plan area.
5. This contribution amount was not determined as part of the development of the Structure Plan and has left developers unsure of the contributions that are required.
6. The total road upgrade cost has been calculated for the entire development area to meet the needs of a 'build-out scenario' (i.e. all lots able to be created, are created) and apportioned across the development. Road upgrading may be paid for 'in kind' by the provision of works rather than as a contribution where appropriate and only by agreement with the City of Albany or Main Roads as applicable.
7. By adopting a policy position on the matter, the City of Albany will give developers a clear directive on appropriate financial contributions to assist with the upgrade of infrastructure within the Structure Plan area.

## **GOVERNMENT & PUBLIC CONSULTATION**

8. If the Council resolves to adopt the draft *Kalgan Rural Village Developer Contribution Policy* for advertising, *Local Planning Scheme No. 1, Part 2 – Policy Planning Framework*, clause 2.4 *Procedures for making or amending a Local Planning Policy* requires that the Local Government:
  - “(a) Is to publish a notice of the proposed Local Planning Policy once a week for two consecutive weeks in a newspaper circulating in the Scheme area, giving details of:
    - (i) Where the draft Local Planning Policy can be inspected;
    - (ii) The subject and nature of the draft Local Planning Policy; and
    - (iii) In what form and during what period (being not less than 21 days from the day that the first notice is published) submissions may be made.
9. 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**

10. *Local Planning Scheme No. 1, Part 2 – Policy Planning Framework*, clause 2.2 *Local Planning Policies* states that:

“The Local Government may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area so as to apply:



- (a) *Generally or for a particular class or classes of matters;*
- (b) *Throughout, or in one or more parts of the Scheme area and may amend, add to, or rescind a Local Planning Policy so prepared.”*

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

## **POLICY IMPLICATIONS**

- 12. The proposed draft *Kalgan Rural Village Developer Contribution Policy* has been designed to be consistent with the principles set out in Western Australian Planning Commission *Statement of Planning Policy 3.6 – Development Contributions for Infrastructure*. It allows the City to implement the *Kalgan Rural Village Road Contributions Plan*, which has calculated the developer contribution on a per lot basis for each new lot created, as a condition of subdivision in accordance with *SPP 3.6*.
- 13. *SPP 3.6* was gazetted in 2009. The WAPC and Local Government are required to have regard to *SPP 3.6* when seeking developer contributions for infrastructure.

The Policy sets the following principles for the levy of development contributions:

**“1. Need and the nexus**

*The need for the infrastructure included in the development contribution plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).*

**2. Transparency**

*Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.*

**3. Equity**

*Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.*

**4. Certainty**

*All development contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of a development.*

**5. Efficiency**

*Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.*

**6. Consistency**

*Development contributions should be applied uniformly across a Development Contribution Area and the methodology for applying contributions should be consistent.*

**7. Right of consultation and arbitration**

*Land owners and developers have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe that the calculation of the contributions is not reasonable in accordance with the procedures set out in the draft Model Scheme Text in appendix 2.*

**8. Accountable**

*There must be accountability in the manner in which development contributions are determined and expended.”*

Part 5.3.2 of the Policy makes provision for development contributions to be calculated and applied:

*“Development contributions are generally calculated and applied by way of conditions of subdivision, strata subdivision or development, particularly in greenfield areas. Development contributions may also be sought in infill and redevelopment areas at the time of subdivision, strata subdivision or development.*

*They may be calculated and applied as –*

- *Standard conditions of subdivision or strata subdivision;*
- *Conditions of development.”*

The Policy states that it should be implemented through:

*“...the day-to-day consideration of zoning, subdivision, strata subdivision and development proposals and applications, together with the actions and advice of agencies in carrying out their responsibilities.”*

**RISK IDENTIFICATION & MITIGATION**

9. The following risk matrix is presented for consideration:

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<i>If the proposal is not supported, the City of Albany will almost certainly be liable for significant expenditure on infrastructure upgrades.</i>	<i>Almost certain</i>	<i>Severe (financial)</i>	<i>Extreme</i>	<i>By adopting the draft Kalgan Rural Village Developer Contribution Policy, the City will secure appropriate financial contributions from developers, to assist with the upgrade of infrastructure within the Kalgan Rural Village Structure Plan area.</i>
<i>Developers may dispute the contribution amounts prescribed.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Contributions are based on sound principles and financial analysis.</i>

**FINANCIAL IMPLICATIONS**

10. Should Council decide not to adopt the draft *Kalgan Rural Village Developer Contribution Policy* to obtain developer contributions for infrastructure upgrades, the City may become liable for significant costs associated with road and intersection upgrades.

**LEGAL IMPLICATIONS**

11. There are no legal implications related to the item.

**ENVIRONMENTAL CONSIDERATIONS**

12. There are no environmental implications relating to this item.

**ALTERNATE OPTIONS**

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

- Not to adopt the draft *Kalgan Rural Village Developer Contribution Policy* for advertising for a period of 28 days; or
- To adopt the draft *Kalgan Rural Village Developer Contribution Policy* for advertising for a period of 28 days, subject to modification.

**SUMMARY CONCLUSION**


14. It is recommended that Council advertises the draft *Kalgan Rural Village Developer Contribution Policy* for 28 days.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. Local Planning Scheme No. 1</li> <li>2. Albany Local Planning Strategy 2010</li> <li>3. City of Albany Strategic Community Plan 2023</li> <li>4. City of Corporate Business Plan 2013-2017</li> <li>5. WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP3.6</li> </ol>
<b>File Number (Name of Ward)</b>	:	N/A (Kalgan Ward)
<b>Previous Reference</b>	:	NIL

**PD054: CONSIDERATION OF SCHEME AMENDMENT REQUEST –  
LOTS 124 AND 125 SOUTH COAST HIGHWAY, MARBELUP**

<b>Land Description</b>	: Lots 124 and 125 South Coast Highway, Marbelup
<b>Proponent</b>	: Ayton Baesjou Planning
<b>Owner</b>	: B L Fuller and E S & G A Bail
<b>Business Entity Name</b>	: Not applicable
<b>Attachments</b>	: Location plan : Submissions : Local Planning Scheme Amendment Request No. 1 report
<b>Appendices</b>	: Albany Local Planning Strategy Excerpts
<b>Councillor Workstation</b>	: NIL
<b>Report prepared by</b>	: Planning Officer (C McMurtrie)
<b>Responsible Officer:</b>	: Executive Director Planning and Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

Council is required to exercise its quasi-judicial function in this matter.

When exercising its discretion in relation to planning matters, the pertinent strategic document is the Albany Local Planning Strategy (ALPS).

This proposal is not consistent with the strategic direction set in ALPS.

**In Brief:**

Council is requested to consider a Local Planning Scheme Amendment Request (LSAR) to determine whether it will give in principle support to the rezoning of Lots 124 and 125 South Coast Highway, Marbelup from the 'General Agriculture' zone to the 'Rural Residential' zone.

**RECOMMENDATION**

**PD054: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council:**

1. **RESOLVES** to advise the proponent that it is not prepared to entertain the submission of a formal scheme amendment to rezone Lots 124 and 125 South Coast Highway, Marbelup from the 'General Agriculture' zone to the 'Rural Residential' zone at this time. Further, advise the proponent that the potential land use will be considered during the current review of ALPS.

**BACKGROUND**

1. LSAR No. 1 has been prepared to gauge whether the City of Albany would be inclined to lend its support to the proposed rezoning of Lots 124 and 125 South Coast Highway, Marbelup for rural residential purposes.

2. “The proponent seeks to rezone approximately 108.55ha of land from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone. The two subject lots are currently used for racehorse agistment and a mixture of grazing and sand and gravel extraction; however, the proposal seeks to create 57 rural living lots, as indicated on the supplied concept plan.”

## DISCUSSION

3. The ALPS has already designated a number of areas as being suitable for rural living areas and to allocate further land would be at odds with the aim of minimising the development footprint on the landscape. Similarly, the creation of an additional rural living area would create a further car-dependent community on the periphery of the Albany urban area with few services and no social infrastructure. This would not:
  - promote energy conservation;
  - minimise journey length from home to work/school/services;
  - encourage the use of public transport or walking; or
  - reduce government expenditure on servicing future populations.
4. The relevant strategic aims and objectives are set out in Section 8.3.1 *Strategic Settlement Direction* of the ALPS (see Appendix 1).
5. The Department of Agriculture has identified the subject lots as Priority Agricultural Land (PAL), and this status has also been applied in the ALPS. PAL can “represent land that is prime for any intensive agricultural pursuit, which could include high value livestock grazing – such as race horse agistment and stud breeding.” Lot 124 is currently used for race horse agistment and although Lot 125 may not be used to its full potential currently, the PAL status that has been assigned to these lots indicates that they have potential to be used for productive agriculture. To allow this land to be developed for rural living would be at odds with the above strategic objectives outlined in Sections 8.3.5 *Rural Living* and 8.5.5 *Agriculture* of the ALPS (see Appendix 1); a position that has been reiterated in the advice received from the Department of Agriculture and Food and the Department of Planning.
6. In conclusion, the Department of Agriculture and Food, Department of Planning and City planning Staff do not support the rezoning of Lots 124 and 125 South Coast Highway, Marbelup from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone, due to its inconsistency with the current strategic direction set by the ALPS (see Appendix 1) and SPP 2.5 (see *Policy Implications*).

## GOVERNMENT & PUBLIC CONSULTATION

7. The LSAR was referred to Telstra, Water Corporation, Western Power, the Department of Agriculture and Food, the Department of Health, the Department of Water, the Department of Environment Regulation, Main Roads WA and the Department of Planning. Responses were received from Telstra, the Department of Agriculture and Food, the Department of Health, the Department of Water, Main Roads WA and the Department of Planning. The responses and comments from Staff can be seen in the appended table.

## STATUTORY IMPLICATIONS

8. Assessment of an LSAR is not a statutory process under the *Planning and Development Act 2005*. The purpose of the LSAR process is to give an applicant feedback as to whether a formal proposal to amend the Local Planning Scheme is likely to be supported or not, and to identify the issues that must be addressed in the amendment documents.
9. If a proponent decides to lodge a formal proposal to amend the local planning scheme, Council will be required to formally consider that proposal.
10. Voting requirement for this item is **SIMPLE MAJORITY**

## POLICY IMPLICATIONS

11. The proposal is inconsistent with the key policy measures identified in Western Australian Planning Commission *Statement of Planning Policy (SPP) 2.5 – Agriculture and Land Use Planning*, as it would lead to the creation of a rural residential estate within an area identified as PAL. This inconsistency is supported by the advice from the Department of Planning.
12. *SPP 2.5* was gazetted in 2002 and has provided a comprehensive review and refinement of the previous DC Policy *3.4 Rural Land Use Planning* (1989). The WAPC and Local Government are required to have regard to *SPP 2.5* in planning for the development of rural areas.

The Policy advises that:

*“Agricultural production from rural areas is a significant part of the Western Australian economy. It provides essential food and fibre products, and employment and value adding opportunities. Agricultural production in Western Australia is worth nearly \$5 billion per annum. Careful planning is required to maintain these benefits to regional economies and to encourage ongoing investment in agriculture and the supporting resource base.”*

The four key objectives of *SPP 2.5* are summarised as:

- *Protect significant agricultural resources within the State from inappropriate land use and development;*
- *Provide for sustainable rural settlement growth within community expectations and ensure adequate community service and infrastructure is available to support the growth;*
- *Minimise potential land use conflicts between incompatible land uses; and*
- *Manage natural resources and prevent land degradation.*

## RISK IDENTIFICATION & MITIGATION

13. The following risk matrix is presented for consideration:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>The proposal risks setting an undesirable precedent and lead to other landowners in the vicinity seeking rezoning of agricultural land for rural residential development.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>By accepting only proposals that are consistent with the strategic direction set by the ALPS Council will provide certainty to developers and the community.</i>

## FINANCIAL IMPLICATIONS

14. Should Council support the creation of further ‘Rural Residential’ areas, the City will be liable for ongoing costs, including road maintenance and household refuse collection.

## LEGAL IMPLICATIONS

15. There are no legal implications related to the item.

## ENVIRONMENTAL CONSIDERATIONS

16. The subject land is located approximately 7.3km west-north-west of Albany town centre and has a total area of 108.55ha, with Lot 124 being 25.63ha, Lot 125 being 82.92ha in area. The lots are separated by Reserve 44753, which is a reserve for drainage covering Five Mile Creek, which runs in a north-westerly to south-easterly direction.
17. Lot 124 is generally flat and cleared of vegetation, only sloping upward in a medium grade along its western boundary. The lot is bisected by shelter belts in a cruciform arrangement and dotted with dams, while a house, large shed and attendant small outbuildings, water tanks, etc. stand at its centre, setback approximately 200m from South Coast Highway. There is a band of vegetation, including numerous large trees, along the edge of the creek line.
18. Lot 125 lies over the end of a ridge, which slopes downward in a medium grade toward the west through the middle of the lot. The easternmost extent of the lot atop the ridge is relatively flat, as is the land in the south-west corner of the lot. The lot is largely cleared, although a large stand of remnant vegetation covers the slopes toward the north of the lot, facing South Coast Highway. There are a number of dams scattered across the lot, while a house stands near the top of the ridge, setback approximately 270m from the Highway and hidden behind the trees. Approximately 150m south-south-west of the house is a yard area adjacent to two large sheds and animal pens. Two-hundred metres to the east of this, by the eastern lot boundary, is a gravel extraction/storage area.
19. The Department of Water (DoW) has advised that the subject lots are located within the Torbay Catchment and that the water draining from them enters Lake Powell and Torbay Inlet. The DoW has invested considerable resources into this catchment to restore water quality over many years, through the implementation of the *Watershed Torbay Catchment Restoration Plan*, and would not wish to see a negative impact on water quality as an outcome of the proposal. Should the proposal be supported, the DoW has recommended that the waterlogged areas are identified as development exclusion zones, restrictions are placed on the keeping of stock on some lots, and that waterways are fenced and revegetated to assist with minimising impacts on water quality.
20. Furthermore, the DoW has advised that Lot 124 appears to contain several minor waterways on the property and is adjoined by the more significant Five Mile Creek. Should the proposal be supported, the DoW recommends that these waterways are restored with fencing and revegetation as required. The DoW has also noted that while the Five Mile Creek is contained within a drainage reserve, there may still be opportunities to enhance the ecological values of this waterway, including the undertaking of some restoration works, without interfering with the access and maintenance requirements of Water Corporation.

## ALTERNATE OPTIONS

21. Council has the following alternate option in relation to this item, which is:
  - To advise the proponent that it is prepared to entertain the submission of a formal Scheme Amendment to rezone Lots 124 and 125 South Coast Highway, Marbelup from the 'General Agriculture' zone to the 'Rural Residential' zone.

## SUMMARY CONCLUSION

22. It is recommended that Council advise the proponent that it is not prepared to entertain the submission of a formal scheme amendment to rezone Lots 124 and 125 South Coast Highway, Marbelup, as the proposal is inconsistent with the strategic direction currently set within the ALPS and SPP 2.5.

<b>Consulted References</b>	:	<ol style="list-style-type: none"><li>1. Local Planning Scheme No. 1</li><li>2. Albany Local Planning Strategy 2010</li><li>3. City of Albany Strategic Community Plan 2023</li><li>4. City of Corporate Business Plan 2013-2017</li><li>5. WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 &amp; SPP 2.5</li></ol>
<b>File Number (Name of Ward)</b>	:	LSAR1 (West Ward)
<b>Previous Reference</b>	:	NIL



**PD055: PLANNING SCHEME CONSENT – ANIMAL HUSBANDRY - INTENSIVE (ROTATIONAL OUTDOOR PIGGERY) LOT 5758 AND 5759, 381 HAZZARD ROAD GREEN VALLEY WA 6330**

<b>Land Description</b>	: lot 5758 and 5759, 381 Hazzard Road Green Valley WA 6330
<b>Proponent</b>	: Perry Cusack and Kaylene Parker
<b>Owner</b>	: Benmore Grazing Trust (Perry Cusack) and Judith Martin
<b>Business Entity Name</b>	: Benmore Grazing Trust
<b>Attachments</b>	: Location plan : Environmental Management Plan : EMP Table : Schedule of Submissions
<b>Appendices</b>	: NIL
<b>Councillor Workstation</b>	: Original Submission
<b>Report prepared by</b>	: Planning Officer (J van der Mescht)
<b>Responsible Officer:</b>	: Executive Director Planning and Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

Council is required to exercise its quasi-judicial function in this matter.

With regards to the statutory planning matters the most relevant the strategic document is the Albany Local Planning Strategy (ALPS).

1. This proposal is consistent with the strategic direction set in ALPS.

Section 5.5.4 *Intensive Animal Keeping* of the ALPS sets the following Planning Objective:

*“Facilitate a sustainable intensive animal-keeping industry and ensure its locations and management practices are compatible with adjoining land uses.”*

**In Brief:**

2. Council is requested to consider a proposal for a rotational outdoor piggery (breeder) at lot 5758 and 5759, 381 Hazzard Road Green Valley WA 6330.
3. The application has been assessed against and meets the following industry guidelines;
  - Australian Pork Limited’s Environmental Guidelines for Rotational Outdoor Piggeries 2013 (EGROP 2013)
  - Australian Pork Limited Fact Sheet, Design and Management of Outdoor Free Range Areas for Pigs July 2011 (APL Fact Sheet 2011).
4. The application is compliant with the exception that it is located in an area which receives more than 760mm of rainfall a year. It is necessary to note that this would preclude much of the City of Albany area. However, this matter can be addressed by the construction of appropriately located interceptor drains as recommended by the Department of Water and

also by reducing the stocking rate from 24 boars and sows per hectare to 20 boars and sows and 50 Weaners per hectare as recommended by the Department of Agriculture.

5. One of the adjoining land owners has objected to the proposal for various reasons as discussed later in the report.
6. These concerns can be addressed through the proposed conditions and managing the piggery in accordance with the relevant industry guidelines.
7. The proposal meets the LPS1 provisions and generally those of the industry guidelines (EGROP 2013). The proposal can therefore be supported subject to a number of conditions to ensure that the operation is appropriately managed.

## **RECOMMENDATION**

### **PD055 RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for Animal Husbandry - intensive (rotational outdoor piggery - Breeding) at lot 5758 and 5759, 381 Hazzard Road Green Valley WA 6330 Subject to the following conditions:**

1. **Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur in accordance with the stamped, approved plans.**
2. **Appropriately designed and located interceptor drains to protect the waterways are to be constructed and maintained in consultation with the Department of Water to the satisfaction of the City of Albany.**
3. **Vegetated filter strips shall be planted and maintained in appropriate locations along the waterway abutting Rotational Outdoor Piggery Sites**
4. **The development shall be constructed of materials which blend with the natural landscape. Please note that unpainted zinalume, white and off white colours are not permitted.**
5. **All rotational areas shall be located above the 45m AHO contour, in order to achieve sufficient groundwater separation.**
6. **The piggery shall comply with, and be managed in accordance with the National Environmental Guidelines for outdoor rotational piggeries including all setbacks to watercourses, lot boundaries and and dwellings on adjoining properties.**
7. **The piggery shall be registered and operated in accordance with the Australian Pork Industry Quality Assurance Program (APIQ®).**
8. **The pigs shall be rotated on a regular basis In accordance with the National Environmental Guidelines for Rotational Outdoor Piggeries.**
9. **Appropriate mortalities management practices shall be implemented to prevent groundwater and surface water contamination, odour nuisance, spread of infectious diseases and vermin breeding. In accordance with the National Environmental Guidelines for Rotational Outdoor Piggeries.**
10. **Remnant vegetation areas abutting Rotational Outdoor Piggery areas shall be fenced to the satisfaction of the City of Albany.**

- 11. All Rotational Outdoor Piggery Sites shall be adequately fenced to contain all pigs to the satisfaction of the City.**
- 12. The maximum stocking densities permitted is 20 Sows and Boars and 50 Weaners per hectare.**
- 13. All runoff from impervious surfaces shall be contained within the property and disposed of to Council's satisfaction.**
- 14. No processes shall be conducted or machinery installed, that may cause a detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.**
- 15. The Piggery shall be Registered with the City of Albany Environmental Health Section as an offensive trade.**

## **BACKGROUND**

8. The City received a Planning Scheme Consent (PSC) application for a rotational outdoor piggery (breeder) on the subject lots.
9. The subject land comprises of Lots 5758 and 5759 Hazzard Road and is situated in the locality of Green Valley, approximately 13.5km north-west of the Albany central business district.
10. Lot 5758 comprises 229.80ha and Lot 5759 comprises 229.75ha with the total area of the subject land being 459.55ha.
11. The subject land is zoned 'Priority Agriculture' under the City of Albany LPS No. 1.
12. Piggeries are defined as 'Animal Husbandry - Intensive' under the City of Albany Local Planning Scheme No.1(LPS1), which is a discretionary ('D') use.
13. According to LPS1 "Animal Husbandry – Intensive" means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) and other livestock in feedlots.
14. This application is supported by an Environmental Management Plan (EMP) prepared by environmental consultants Aurora Environmental. The EMP outlines how the operation will be managed to ensure that unacceptable impacts will not occur.
15. The EMP was prepared in accordance with the Environmental Guidelines for Rotational Outdoor Piggeries 2013 (EGROP 2013).
16. The proposal involves a breeding unit for approximately 1,035 animals, consisting of 35 boars, 600 sows and 400 piglets on four fixed rotational outdoor piggery areas. The operation will have an output of approximately 10,800 weaners per year.
17. The proposed piggery will be a rotational based operation, consisting of four rotational areas, each of approximately 26 Ha in size.
18. The piggery operation is only undertaken on one of the rotational areas. After 2 years the operation is relocated to the next rotational area. The previous rotational area is then rested to allow for pasture to regenerate or cropped to assimilate nutrients and reduce the risk of land degradation and disease.

19. The rotational area is proposed to have 130 farrowing shelters and 16 Skid mounted shelters. The farrowing shelters will be placed in the southern end of the rotational areas. Farrowing shelters are relatively small with dimensions of 2.4m x 2.4m x 1.4m high. The farrowing shelters are proposed to be constructed from timber panels (black) with a zincalume roof and are mounted on sleepers so they can be moved.
20. The 16 Skid mounted shelters will be for non farrowing pigs that share communal shelters in 16 different paddocks. Each of the 16 shelters is proposed to be 8m x 6m x 3m high constructed out of zincalume and skid mounted.
21. The proposal also includes an area for silo/s for food storage and a storage area for straw for bedding. Silos and straw storage will be located at least 50m from Hazzard Road, consistent with site requirements outlined in LPS1.
22. The silo and straw storage will be relocated periodically, to be in proximity to rotation units.
23. The existing house on the property is proposed to be used as a site office, the house can however still be used for residential purposes.
24. Feed for the pigs will be transported to the site every three weeks using a B double truck using Hazzard Road. Food for the pigs comprises of pellets, which will be stored in silos.
25. Maiden pigs (gilts) are brought in from another piggery on a single day each month in a semi trailer. Piglets are transported one day a week, directly to an offsite grower; Piglets (as weaners) are transported using a small rigid truck.

## **DISCUSSION**

26. It is acknowledged by the pork industry body, Australian Pork Limited (APL), that for a piggery to operate in an ecologically sustainable manner, piggeries need to be sited, sized, designed, constructed and managed to protect aspects of the environment such as soil, water and biodiversity. The preservation of community amenity and cultural heritage is also considered important.
27. The factors that can potentially impact on community amenity includes; the effects of piggery odour, visual impacts, dust, flies, noise and vehicle movements.
28. One of the adjoining land owners has objected to the proposal for various reasons that include concerns regarding; odour, flies, visual impact, proximity to rural residential areas (Millbrook and Willyung), rare flora and nutrient runoff and its impact on the waterways. The concerns are detailed in the attached letter. The concerns raised and the appropriate mitigation measures will be addressed via the headings below.
29. In addition to the City's Local Planning Scheme, the most pertinent documents used for the assessment are the following state and industry guidelines;
  - a. EPA - Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses No. 3 June 2005 (EPA 2005).
  - b. The Environmental Guidelines for Rotational Outdoor Piggeries 2013 (EGROP 2013).

The EGROP 2013 encapsulates a national approach to environmental management for rotational outdoor piggeries. These guidelines include best practice environmental management for rotational outdoor piggeries and complement the industry's quality assurance program - APIQ® Free Range.

- c. Australian Pork Limited Fact Sheet, Design and Management of Outdoor Free Range Areas for Pigs July 2011 (APL Fact Sheet 2011)

The fact sheet summarises the desired site selection characteristics, buffer distances and nutrient management actions specifically for free range piggeries. The fact sheet provides a reference for the assessment of the suitability of the site for the development of a free-range piggery, and independent verification of the proposed management practices. These site selection characteristic requirements are based on extensive research and industry consultation.

- d. Australian Pork Industry Quality Assurance Program (APIQ®)

APIQ® provides the framework and standards by which Australian pig producers can demonstrate they are responsible farmers who care for their animals and the environment by following safe and sustainable practices contained in the EGROP 2013.

30. According to the EGROP 2013; “Amenity issues are avoided by selecting a suitable site and layout, integrating best practice environmental management into the everyday operation of the piggery and providing adequate separation distances between the piggery complex and nearby sensitive land uses”.
31. Out of these documents the pertinent factors that should be addressed includes appropriate separation distances for community amenity and the environment and also appropriate site selection.

#### Buffers/Separation distances

32. The EPA guidelines require a 1km setback to sensitive land uses, it should be noted that a residential dwelling on an adjoining rural lot is not considered a sensitive land use. A sensitive land use would typically be a residential subdivision, community hall or a school etc. This guideline is complied with as there are no sensitive uses within 1 Km of the piggery operation
33. The application has also been assessed and meets the setback requirements set by the EGROP 2013 (Tucker and O’Keefe, 2013).A summary of compliance with these setbacks is as per the attached table extracted from the EMP.

#### Site Selection

34. The National Environmental Guidelines for piggeries lists matters to be considered when selecting sites for piggeries. This application meets all the preferred criteria except for the annual rainfall criteria.
35. Annual rainfall is listed as a matter to be considered when undertaking site selection for piggeries. The guideline states that the preferred location for piggeries is in areas where the rainfall is less than 750mm per annum. The annual rainfall for this site is 940mm per annum the selected site therefore does not meet this preference.

#### Nutrient runoff and Waterway protection

36. Increased rainfall levels can however be addressed by the construction of appropriately located and designed interceptor drains as recommended by the Department of Water. The matter is also mitigated by reducing the stocking rate from 24 boars and sows per hectare to 20 boars and sows and 50 weaners per Hectare, as recommended by the Department of Agriculture and Food.
37. A further condition requiring the planting of appropriately located vegetated filter strips will assist with nutrient stripping and further protect waterways.

38. In order to achieve sufficient groundwater separation, a requirement to locate all ROP areas above the 45m AHO contour is also recommended.
39. The application was referred to adjoining landowners, Department of Environmental Regulation Department of Water and the Department of Agriculture and Food.
40. The application is supported by the Department of Agriculture and Food and the Department of Water subject to conditions.

Officers note that the proposed Piggery is appropriately setback and buffered from the adjoining lots, dwellings on adjoining rural land, waterways, public roads and rural residential areas in accordance with the guidelines Odour Risk

41. According EGROP 2013 3.1 *“Rotational outdoor piggeries may pose different amenity risks to those of indoor piggeries (conventional piggeries and deep litter piggeries). APL-funded research has shown very low levels of odour, dust and noise from rotational outdoor piggeries, and the implementation of odour, dust and noise reduction strategies on outdoor piggeries appears unnecessary at this stage. To date, APL is not aware of amenity complaints about these types of systems...”*
42. According EGROP 2013, *“free range piggeries and outdoor piggeries generally produce very little odour compared with intensive systems because manure is much less concentrated. It is also very low compared to mean emissions from similar sources such as feedlots.”*
43. Odour from the proposed piggery is therefore unlikely to have a detrimental impact on the adjoining lots or affect the rural residential area as long as the piggery is managed appropriately in accordance with the relevant guidelines.
44. A condition requiring the piggery to be managed appropriately in accordance with the guidelines and APIQ accreditation is recommended to deal with adjoining landowner concerns.
45. A requirement for APIQ accreditation provides an additional level of compliance to ensure that the piggery is managed and operated at an industry compliant level, standard. Accreditation therefore reduces the risk of having a piggery that could potentially have a negative effect on the amenity of adjoining areas.

#### Risk of Flies

46. Appropriate management of the piggery in accordance with the guidelines, in conjunction with compliant buffer distances, will ensure concerns regarding flies are appropriately mitigated.

#### Visual Impact

47. Concerns regarding visual impact can be addressed through conditions requiring the proponents to construct all shelters out of non reflective materials or alternatively, paint the roofs of these structures in non reflective colours.

#### Rare flora

48. The concerns raised regarding rare flora are noted. However, the rotational areas will be located on already cleared paddocks. The rare flora is likely to be located in areas with remnant vegetation located in the northern section of the lots.

#### Mortalities management

49. Mortalities management is an important part of any piggery operation. The EGROP 2013 provides a number of guidelines for managing mortalities including burial pits and how to deal with mass mortalities.

50. It is recommended that a condition be placed on any approval to require Mortalities Management to occur in accordance with the appropriate guidelines. In addition to this, if any burial pits are to be used, they are appropriately set back from all boundaries and managed appropriately in accordance with the guidelines.

Vehicle access

51. Hazzard Road is not currently a RAV route, the proponents will therefore have to contact Main Roads WA and apply for the road to become a RAV route and upgrade the road accordingly before it can be used for vehicles larger than a semi trailer.
52. The proposal meets the LPS1 provisions and generally those of the industry guidelines (EGROP 2013).

**GOVERNMENT & PUBLIC CONSULTATION**

53. The application was referred to the Department of Agriculture and Food, Department of Water, and the Department of Environmental Regulation.
54. Comments were received from the Department of Water and the Department of Agriculture and Food. These Departments do not object to the proposal, but recommend conditions to be applied to any approval. The comments include the construction of interceptor drains to protect the waterway and reducing the stocking rate of the pigs from 24 per Ha to 20 and 50 weaners per Ha.
55. The referral of this type of application to adjoining owners is not a requirement of the Local Planning Scheme or any City Policies. However, given the nature of the application, the matter was referred to adjoining land owners for comment.
56. One of the adjoining land owners objected to the proposal for various reasons that included concerns about; Odour, Flies, visual impact, proximity to rural residential areas (Millbrook and Willyung), Rare Flora and Nutrient Runoff and its impact on the waterways.
57. Officers also met the concerned neighbours on their property to discuss their concerns and to provide them with a copy of the EMP.

**STATUTORY IMPLICATIONS**

58. The subject land is zoned under the City of Albany Local Planning Scheme No. 1 (LPS).
59. Piggeries are defined as 'Animal Husbandry - Intensive' under the City of Albany Local Planning Scheme (LPS) No.1, which is a discretionary ('D') use in the 'Priority Agriculture' Zone.
60. Environmental Protection Act 1986
- Rotational outdoor piggeries do not constitute a prescribed activity under the Environmental Protection Act 1986 and therefore do not require works approval or licensing from the Department of Environment Regulation (DER).
61. Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses No. 3 June 2005 (EPA 2005).

This document provides generic buffer (separation) distances referred to in the State Buffer Policy 1997 (Government of Western Australia). These generic distances set out in Appendix 1 are based on the experience of the Department of Environment Regulation and other regulatory authorities for industries that historically have been associated with amenity impacts from gaseous, dust, noise and odorous emissions as well as with elevated levels of off-site risk to the public.

Appendix 1

<i>Industry</i>	<i>Description of industry</i>	<i>Buffer distance in metres and qualifying notes</i>
<i>Piggery - extensive</i>	<i>Premises on which pigs are fed, watered and housed in outside paddocks or enclosures.</i>	<i>1,000 for all extensive piggeries.</i>

The buffer distances included in the EGROP 2013 and the APL Fact Sheet 2011 are specific to rotational outdoor piggery operations (free-range) and these guidelines are more up to date and relevant when proposing to develop rotational outdoor piggeries. The guidelines include the latest scientific data and provide specific advice on buffer requirements for rotational outdoor piggeries. Rotational outdoor piggeries are seen as intensive due to their method of operation even though they may be on a large property.

62. Health Act 1911 (as Amended) - Piggery is defined as an offensive trade and must be registered with the local authority on an annual basis.

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

**POLICY IMPLICATIONS**

64. The proposal is generally consistent with the key policy measures identified in the most relevant state policy WAPC SPP 2.5 State Planning Policy 2.5. Land Use Planning in Rural Areas these

65. *SPP 2.5* was gazetted in 2012 and has provided a comprehensive review and refinement of the previous DC Policy 3.4 *Rural Land Use Planning* (1989). The WAPC and Local Government are required to have regard to *SPP 2.5* in planning for the development of rural areas.

The Policy advises that:

*“Agricultural production from rural areas is a significant part of the Western Australian economy. It provides essential food and fibre products, and employment and value adding opportunities. Agricultural production in Western Australia is worth nearly \$5 billion per annum. Careful planning is required to maintain these benefits to regional economies and to encourage ongoing investment in agriculture and the supporting resource base.”*

66. The key objectives of *SPP 2.5* are summarised as:

a) To protect rural land from incompatible uses by:

i) Requiring comprehensive planning for rural areas;

ii) making land use decisions for rural land that support existing and future primary production and protection of priority agricultural land, particularly for the production of food; and

iii) Providing investment security for the existing and future primary production sector.

b) To promote regional development through provision of ongoing economic opportunities on rural land.

c) To promote sustainable settlement in, and adjacent to, existing urban areas.

d) To protect and improve environmental and landscape assets.



e) To minimise land use conflicts.

### RISK IDENTIFICATION & MITIGATION

67. The following risk matrix is presented for consideration:

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<i>The proposal is supported and a detrimental impact on the amenity and environment of the area is created.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>The risk can be mitigated by requiring the piggery to be APIQ accredited and Requiring the piggery to be managed in accordance with the National Environmental Guidelines the risk is mitigated.</i>
<i>Difficulty in obtaining approval, or the imposition of onerous conditions, may cause operators to move their piggeries to other areas.</i>	<i>Likely</i>	<i>Major</i>	<i>High</i>	<i>The risk can be mitigated by supporting the application subject to appropriate conditions to mitigate the other risks.</i>

### FINANCIAL IMPLICATIONS

68. There are no financial implications related to the item.

### LEGAL IMPLICATIONS

69. There are no legal implications related to the item.

### ENVIRONMENTAL CONSIDERATIONS

70. The Department of Water (DoW) has advised that the proposed free range piggery is located adjacent to the King River, a significant tributary to Oyster Harbour.

71. DoW are satisfied that the nominated buffers, to the King River and the floodplain boundary are sufficient to mitigate the risk of nutrients being exported from the site.

72. DoW require all run off from the rotational outdoor piggery (ROP) to be contained on the site. Runoff is not allowed to drain to the King River. In addition given that the rainfall in the locality significantly exceeds the site selection preferences DOW further require the use of cut-off drains and basins to manage the water on the site.

73. DOW also requires the ROP areas be located above the 45m AHO contour, in order to achieve sufficient groundwater separation.

### ALTERNATE OPTIONS

74. Council has the following alternate option in relation to this item;

Council resolves to ISSUE a Notice of Planning Scheme Consent refusal for Animal Husbandry - intensive (rotational outdoor piggery - Breeding) at lot 5758 and 5759, 381 Hazzard Road Green Valley WA 6330.

**SUMMARY CONCLUSION**

75. It is recommended that Council resolves to ISSUE a Notice of Planning Scheme Consent for Animal Husbandry - intensive (rotational outdoor piggery - Breeding) at lot 5758 and 5759, 381 Hazzard Road Green Valley WA 6330 Subject to a number of conditions as discussed.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. Local Planning Scheme No. 1</li> <li>2. Albany Local Planning Strategy 2010</li> <li>3. WA Planning Commission (WAPC) Statements of Planning Policy SPP 2.5</li> <li>4. Australian Pork limited's Environmental Guidelines for Rotational Outdoor Piggeries 2013 (EGROP 2013)</li> <li>5. Australian Pork Limited Fact Sheet, Design and Management of Outdoor Free Range Areas for Pigs July 2011 (APL Fact Sheet 2011).</li> </ol>
<b>File Number (Name of Ward)</b>	:	A164349 and A164353
<b>Previous Reference</b>	:	NIL

PLANNING & DEVELOPMENT COMMITTEE MEETING  
AGENDA – 08/10/2014  
\*\*REFER DISCLAIMER\*\*

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
16. **REPORTS OF CITY OFFICERS**
17. **MEETING CLOSED TO PUBLIC**
18. **CLOSURE**