



MINUTES

PLANNING AND DEVELOPMENT COMMITTEE

30 November 2016

6.00pm

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.

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 N Mulcahy

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

(5) Meeting Schedule: 1st Wednesday of the Month

(6) Meeting Location: Council Chambers

(7) Executive Officer: Executive Director Development Services

(8) Delegated Authority: None

PLANNING AND DEVELOPMENT COMMITTEE
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1. **DECLARATION OF OPENING BY THE MAYOR** [6:00:19 PM](#)

2. **THE CHAIR AND DEPUTY CHAIR ARE APOLOGIES FOR THIS MEETING**

THE ACTING EXECUTIVE DIRECTOR PAUL CAMINS ASKED FOR NOMINATIONS FROM THE MEMBERS TO CHAIR THE MEETING.

**Councillor Stocks Nominated Mayor Wellington
Seconded by Councillor R Sutton
Mayor Wellington accepted to Chair**

3. **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”.

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

Mayor Mayor D Wellington

Councillors:

Member	A Goode JP
Member	R Hammond
Member	R Sutton
Member	G Stocks

Staff:

Acting Executive Director Development Services	P Camins
Manager Planning Services	J van der Mescht
Strategic Planning Officer	C Simpson
Senior Planning Officer	A Bott
Minutes	J Cobbold

Apologies/Leave of Absence:

Member	N Mulcahy (Chair)
Member	B Hollingworth (Deputy Chair)
Member	J Shanahun
Chief Executive Officer	A Sharpe

PLANNING AND DEVELOPMENT COMMITTEE
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5. **DISCLOSURES OF INTEREST - Nil**
6. **REPORTS OF MEMBERS - Nil**
7. **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE - Nil**
8. **PUBLIC QUESTION TIME**
 - [6:01:24 PM](#) Mr John Shaylor – PD128 – Spoke against
 - [6:02:59 PM](#) Mr Graham Barrett – PD149 – Spoke against
 - [6:03:58 PM](#) Sue Bennett-Ng – PD149 – Spoke For
 - [6:05:00 PM](#) Richard Swater – PD149 – Spoke against
 - [6:06:02 PM](#) Kelli Liva – PD128 – Spoke For
9. **APPLICATIONS FOR LEAVE OF ABSENCE - Nil**
10. **PETITIONS AND DEPUTATIONS - Nil**
11. **CONFIRMATION OF MINUTES**

DRAFT MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR HAMMOND

THAT the minutes of the Planning and Development Committee Meeting held on 02 November 2016 as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED: 5-0

12. PRESENTATIONS

Spencer Park Urban Renewal MOU – Tiffany Allen – Department of Housing
ALPS – Cindy Simpson – City of Albany

13. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS - Nil

PD128: PROPOSED HOME BUSINESS AND FILL – LOT 355, 307-321 EMU POINT DRIVE, COLLINGWOOD PARK

Land Description : Lot 355, 307-321 Emu Point Drive, Collingwood Park
Proponent : F G Liva
Owner : F G Liva and K J Liva
Business Entity Name : N/A
Directors
Attachments : 1. Area Plan
2. Site Plan
3. Earthworks Plan
4. Schedule of submissions
Supplementary Information & Councillor Workstation : Copy of submissions
Report Prepared by : Senior Planning Officer (A Bott)
Responsible Officer : Executive Director Development Services (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the strategic directions identified in the *Albany Local Planning Strategy*.

Maps and Diagrams:



In Brief:

- Council is asked to consider a development application for a Home Business and Fill at Lot 355, 307-321 Emu Point Drive, Collingwood Park.
- The application was advertised for public comment and referred to surrounding landowners in writing.
- Thirteen letters of objection have been received from nearby residents. The objections primary relate to concerns over traffic, amenity impacts and environmental impacts.
- The application was originally deferred at the June Planning Committee and was consequently withdrawn from the agenda pending a review of the application.
- The originally proposed dam has consequently been removed from the application. The proponent has also engaged an engineer and prepared an earthworks plan for the subject lot.
- Staff recommend that Council approve the proposed development, subject to conditions.

RECOMMENDATION

PD128: RESOLUTION (ALTERNATE MOTION BY COUNCILLOR SUTTON)

**MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR GOODE**

That Council resolves to REFUSE the development application for a Home Business and Fill at Lot 355, 307-321 Emu Point Drive, Collingwood Park.

CARRIED:5-0

Reason: Compatibility of the development in the area and the significant effect on the amenity of the area.

PD128: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for a Home Business and Fill at Lot 355, 307-321 Emu Point Drive, Collingwood Park:

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 dated (**insert date**).
- (2) Earthworks and management of stormwater drainage shall be undertaken in accordance with the earthworks plan, including proposed levels
- (3) Surface water management shall be undertaken to ensure that the vehicle storage area is suitably drained and sealed.
- (4) All vehicle wash-downs shall be undertaken off-site at the appropriate commercial facilities and there shall be no direct discharges from the vehicle storage area.
- (5) No servicing of vehicles shall be undertaken on the premises.

- (6) A landscaping plan detailing the size, species and location of trees/shrubs shall be submitted for approval in writing and implemented to the satisfaction of the City of Albany.
- (7) All landscaped areas shall be maintained as per the approved landscaping plan(s) to the satisfaction of the City of Albany.
- (8) The new crossover(s) shall be constructed to the specifications, levels and satisfaction of the City of Albany.

Advice:

A 'Permit for Vehicle Crossover Construction' from the City of Albany is required prior to any work being carried out within the road reserve, which shall be in accordance with drawing nos. 97024 1/3 – 97024 3/3 (refer to the City of Albany's Subdivision and Development Guidelines).
- (9) The level of noise emanating from the premises shall not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.
- (10) The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
- (11) No preparation of bitumen shall be undertaken on the premises.
- (12) There shall be no storage of construction materials or dumping of construction waste (including asphalt) on the premises.

BACKGROUND

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. The subject lot lies to the north side of Emu Point Drive, approximately five kilometres north-east of Albany city centre. The lot has an area of approximately 1.44 hectares and is zoned 'General Agriculture' under *City of Albany Local Planning Scheme No. 1*.
6. The land to the south is zoned 'Future Urban' and is bounded by 'Parks and Recreation' local scheme reserve. The land to the north and west is zoned 'General Agriculture', while the land to the east is covered by the 'Parks and Recreation' local scheme reserve.
7. The application was advertised for public comment, in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and clause 9.4 of *Local Planning Scheme No. 1*. Surrounding landowners were directly notified in writing. A total of 13 submissions were received, all of which objected to, or raised concerns around the proposal.
8. The proponent was granted a clearing permit by the Department of Environmental Regulation on 29 May, 2014. The permit granted clearing of an area of vegetation within the north-western quadrant of the property. Clearing has occurred, and all vegetation within the clearing area removed.
9. The application was originally laid on the table at the June Planning Committee meeting and was consequently withdrawn from the June Ordinary Council meeting pending a review of the application.

10. The application has subsequently been amended by the proponent, with an earthworks plan developed and the originally proposed dam removed from the proposal.
11. Council is now requested to consider whether to grant development approval.

DISCUSSION

12. The proposal now consists of the two elements, being earthworks and truck parking/ storage.
13. The truck and equipment storage is associated with the proponent's bitumen spraying business, which has operated within Albany for the past ten years.
14. The proponent does not propose to mix bitumen material on the site and the current zoning does not allow the City of Albany to approve this use on the site.
15. As outlined above, a total of 13 letters of submission were received during the public advertising period, all of which raised concerns around the proposal.

The main concerns that have been raised and the proposed mitigation measures are addressed as follows:

Traffic

16. A number of submissions have raised concerns regarding the truck movements from the site.
17. The proponent has stated in the application that at most, two trucks would leave and return to the premises on a daily basis. The business will be run by the landowners, with no additional employees. All business is undertaken off site and there are no customers attending the premises.
18. In terms of restricting the use of Emu Point Drive, the City of Albany does not have the statutory authority to control the direction of vehicles which are classified as 'as of right' vehicles by Main Roads WA. An 'as of right' vehicle is defined as any vehicle that is not a Restricted Access Vehicle. Rigid trucks and semi-trailers are not classed as Restricted Access Vehicles and do not require any permits or exemptions from regulatory requirements.

Amenity

19. Impact on amenity is a concern consistently raised in the submissions. Concerns primarily relate to noise generated from the proposed development and impacts on visual amenity.
20. With regard to noise issues: Any operations would be subject to ongoing compliance with the *Environmental Protection (Noise) Regulations 1997*. All work will be undertaken off the premises, including the cleaning and servicing of vehicles and machinery, and the preparation of bitumen. Therefore, the only noise generated would be from vehicles travelling to and from the premises.
21. In terms of mitigating visual impact, the location of the storage area has been proposed at the rear of the premises.
22. There is also a 70 metre section of established screening vegetation which runs east from the crossover along Emu Point Drive, which will also reduce the visual impact from public vantage points.
23. In addition to the above, the proponent has submitted a landscaping plan for the lot. The proponent has proposed to plant peppermint trees and Melaleucas along the road verge, adjoining property and storage areas.
24. It is considered that the landscaping, in conjunction with the stated scale of the operation, will assist in mitigating amenity issues. However, it is recommended that the implementation and ongoing maintenance of the landscaping and rehabilitation planting be stipulated as a condition of development approval.

Environment

25. Concerns regarding environmental impacts were consistently raised in the submissions.
26. The proposed dam on the original proposal was the subject to a number of concerns raised in submissions. The dam has now been removed from the application.
27. The Department of Water was consulted and has advised the City that standard water control conditions are applicable to the proposal, which includes surface water management being undertaken by the developer. It is recommended that water management measures are applied as condition of development approval.
28. City of Albany engineers have reviewed the proponent's engineers plan request to fill sections of the lot. The proposed plan will allow fill to be undertaken to expand the useable area of the land, while maintaining the natural floodplain and drainage functions of the area. Compliance with the submitted earthworks plan is recommended as a condition of development approval.
29. A number of submissions have also raised the issue of clearing of native vegetation. It is apparent from these submission that there is a level of misunderstanding within the community regarding the approval of the clearing that has taken place. Some members of the community believe that the City of Albany had granted approval for clearing. To clarify, the Department of Environmental Regulation is the statutory authority for clearing permits within Western Australia and has issued approval for clearing within the north-western quadrant of the subject lot.
30. The proponent has submitted a landscaping details for the planting of additional native vegetation. The planting and ongoing maintenance is recommended as a condition of consent.

GOVERNMENT & PUBLIC CONSULTATION

31. The proposal was advertised for public comment for a period of 21 days, in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and clause 9.4 – *Advertising of Applications* within *Local Planning Scheme No. 1*. Surrounding landowners were directly notified in writing.
32. A total 13 submissions were received during the public advertising period. All 13 submissions objected or raised concerns around the proposal. Staff comments are provided in the attached schedule of submissions, while the broad issues are discussed above.

STATUTORY IMPLICATIONS

33. A 'Home Business' is classified as a 'D' use within the 'General Agriculture' zone under *Local Planning Scheme No. 1*, meaning that the use is not permitted, unless the local government has exercised its discretion by granting planning approval.
34. Voting requirement is a **Simple Majority**.

POLICY IMPLICATIONS

35. The site is within the City of Albany's *Development in Flood Prone Areas Policy*. In the context of this application, the primary objectives of the policy are to ensure that there are no interruptions to the natural drainage system of the area.
36. The proposed earthworks plan relating to fill have been developed in consultation with City of Albany engineers. The plan has the with the intention of allowing the proponent to increase the levels on the site and subsequent useability of the site, while maintaining the natural drainage function of the area. It is recommended a condition be applied requiring compliance with the approved earthworks plan.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation The proposed use could give rise to unacceptable detrimental impacts on the environment and or amenity of the area.</p>	Possible	Moderate	Medium	Mitigation of impacts to be achieved through adoption and enforcement of appropriate planning conditions.

FINANCIAL IMPLICATIONS

- 38. All costs associated with the development will be borne by the proponent.
- 39. Should the proponents seek a review of Council’s decision or any attached 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

- 40. Council may use its discretion to approve or refuse the proposal. An proponent 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*.
- 41. 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

- 42. The subject lot is largely cleared and slopes downward from Emu Point Drive towards the north-west. The lot was subject to a clearing permit issued by the Department of Environment Regulation. The permit was fulfilled and has now expired.

ALTERNATE OPTIONS

- 43. Council may consider alternate options in relation to this item, such as:
 - To determine that the proposed use is unacceptable and to resolve to refuse the application; or
 - To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

SUMMARY CONCLUSION

- 44. The matters raised in the submissions received during the public advertising period have been broadly addressed and can be mitigated through the application of appropriate planning conditions.
- 45. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

Consulted References	:	1. <i>Local Planning Scheme No. 1</i>
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		2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Development in Flood Prone Areas</i> local planning policy
File Number (Name of Ward)	:	A145789 (Breaksea Ward)
Previous Reference	:	O.C.M. 28/06/2016 – Item PD128 (withdrawn by proponent)

**PD149: DEVELOPMENT APPLICATION – TELECOMMUNICATIONS
INFRASTRUCTURE – LOT 14, 43 BOTTLEBRUSH ROAD, GLEDHOW**

Land Description	:	Lot 14, 43 Bottlebrush Road, Gledhow
Proponent	:	Daly International
Owner	:	D P & C A Meade
Business Entity Name	:	Optus Pty Ltd
Attachments	:	1. Copy of Development Application (DA) 2. Copy of photomontages
Supplementary Information & Councillor Workstation	:	1. <i>State Planning Policy 5.2 – Telecommunications Infrastructure</i> 2. Western Australian Planning Commission <i>Guidelines for the location, siting and design of telecommunications infrastructure</i> 3. Australian Radiation Protection and Nuclear Safety Agency <i>Mobile Phone Base Stations and Health</i> fact sheet 4. Copy of submissions 5. Proponent's response to submissions
Report Prepared By	:	Senior Planning Officer – Strategic Planning (A Nicoll)
Responsible Officers:	:	Acting Executive Director Development Services (P Camins)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the following Strategic Objective of the *Albany Local Planning Strategy 2010* (ALPS):

6.4.4 Telecommunications

"To encourage the extension and maintenance of high quality telecommunications for the whole Albany district"

Maps and Diagrams:

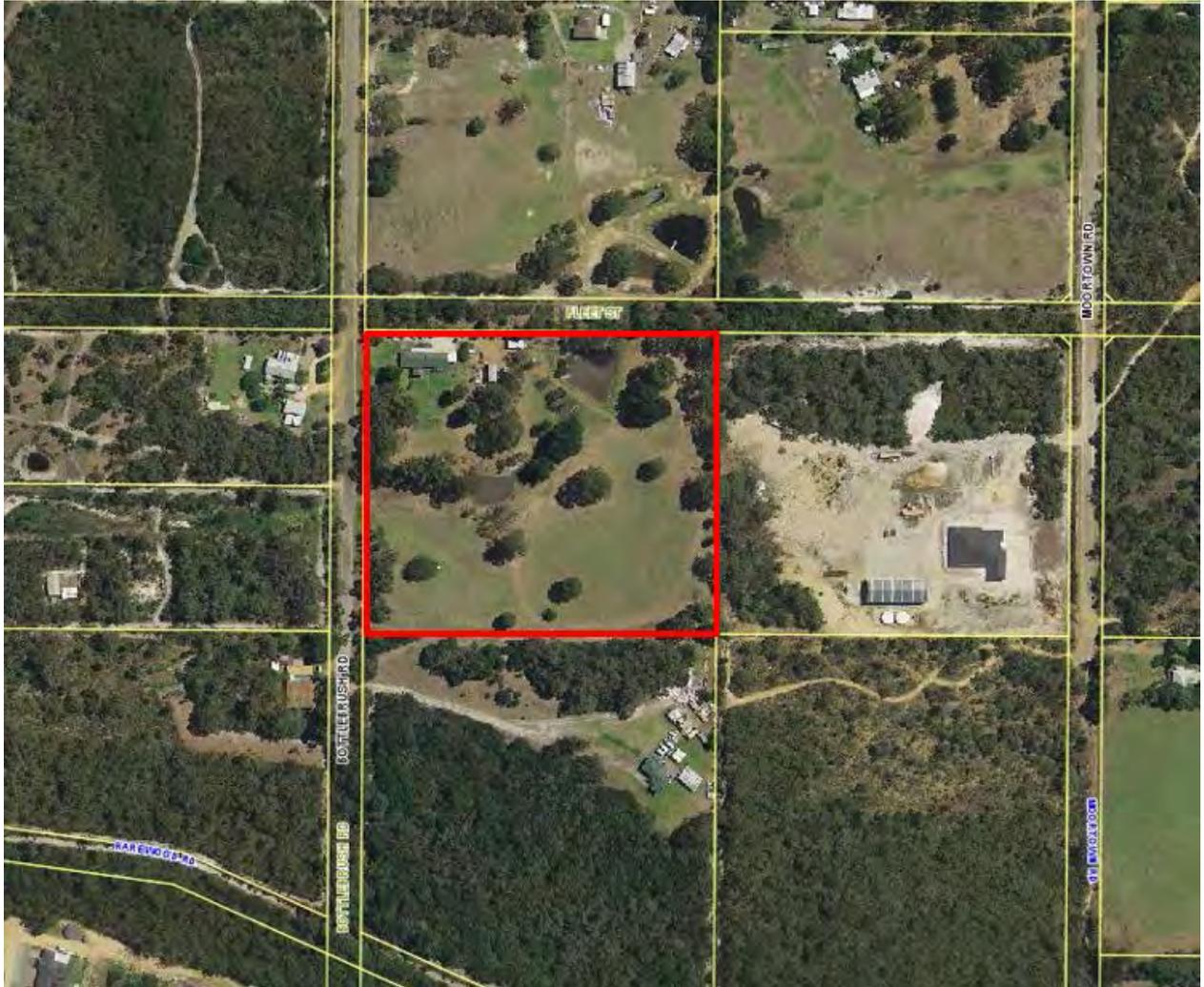


Figure 1: Location plan

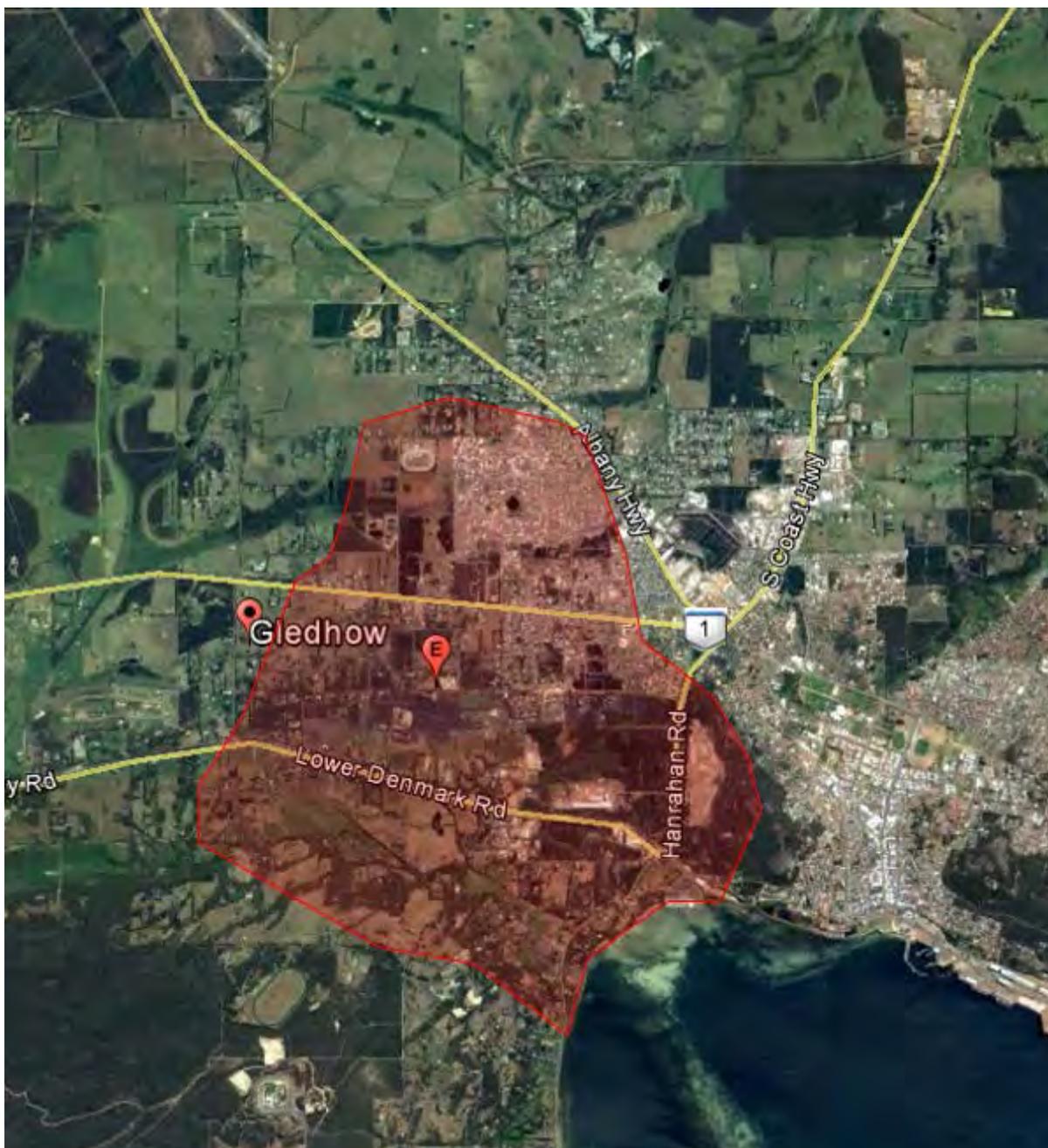


Figure 2: Expected service area

In Brief:

- Council is asked to consider a Development Application (DA) for the installation of a new 35 metre tall monopole telecommunications mast and associated equipment at Lot 14, 43 Bottlebrush Road, Gledhow.
- The application was referred to surrounding landowners in writing for a period of 14 days.
- Eight submission were received, each raising objections to the proposed development. One submission included a petition with 33 signatories
- Staff recommend that Council approve the proposal, subject to conditions.

RECOMMENDATION

PD149:COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR STOCKS**

THAT the Responsible Officer Recommendation be ADOPTED

CARRIED: 5-0

PD149: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting development approval, with conditions for Telecommunication Infrastructure at Lot 14, 43 Bottlebrush Road, Gledhow, subject to the following conditions:

- (1) Prior to commencement of development, 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) Prior to commencement of development, a schedule of materials and colours to be used on the structures hereby approved shall be submitted for the approval in writing of the City of Albany.

Advice:

Colours shall be selected to minimise the visual impact of the structure against its predominant background.

- (3) Lighting devices are to be positioned and shielded so as not to cause any direct, reflected or incidental light to encroach beyond the property boundaries, in accordance with Australian Standard AS4282/1997.

BACKGROUND

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. The subject lot lies to the eastern side of Bottlebrush Road, approximately 4.7 kilometres west-north-west of Albany city centre. The lot has an area of approximately 3.8 hectares and is zoned 'General Agriculture' under *Local Planning Scheme No. 1*. It is predominately covered by cleared pasture, with mature trees scattered across its extent. The land slopes downward from the north and a high point in the south-east corner of the lot toward the west, where a slight valley begins to form. A single house and associated outbuildings have been developed toward the north-western corner of the lot.
6. Surrounding lots to the north, east, south and south-west are also zoned 'General Agriculture' and are largely cleared through the north and east. The lots to the south and south-west are largely covered by remnant vegetation, as is the 'Parks and Recreation' local scheme reserve that lies to the south-east of the subject lot. The two lots to the west of the subject lot are zoned 'Rural Residential' and are largely covered by remnant vegetation. A 'Public Use' local scheme reserve for the purpose of 'Conservation of Flora and Fauna' lies to the north-west

of the subject lot and is covered by remnant vegetation. A single house and associated outbuildings has been developed on each of the surrounding 'General Agriculture' and 'Rural Residential' zoned lots. These houses are located between approximately 110 and 300 metres from the proposed site of the telecommunications infrastructure.

7. Optus has advised the City of Albany that they have undertaken analysis of their mobile network in the Gledhow area and identified that coverage and network quality needs to be improved. They have concluded that upgrading their existing infrastructure would not provide sufficient coverage for the target area due to distance and so it is necessary to install a new monopole telecommunications mast. Optus have stated that if this infrastructure is not installed, users may have difficulty connecting to the mobile network or their calls may drop out and they may experience reduced data transfer speeds, longer download times and poor network performance at busy times of the day.
8. Before deciding on a suitable location for new infrastructure, Optus examined a range of possible locations in the Gledhow area, taking into account the availability of a cleared site, the willingness of a landowner to lease their land for the location of infrastructure and the improvements to coverage and network performance that would be gained.
9. The subject lot was considered to be a suitable location due to a number of factors. The lot is largely cleared of native vegetation and is elevated in the south-east, which is conducive to good network coverage and performance. The location of the lot will minimise development costs associated with the provision of utilities and the owners are willing to lease a portion of their land. Furthermore, the surrounding lots contain large stands of remnant vegetation that will help to screen the installation from surrounding residences and public vantage points.
10. The application was directly referred to nearby landowners for comment, in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and clause 9.4 of *Local Planning Scheme No. 1*.
11. Eight written submissions were received in response to the referral, with each raising objections.
12. These matters were discussed with the proponent, who has provided additional information in an attempt to mitigate the concerns raised.
13. Council is now requested to consider whether to grant development approval.

DISCUSSION

14. City of Albany *Local Planning Scheme No. 1* defines Telecommunications Infrastructure as "*land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or any other structure used, or for use in or in connection with a telecommunications network*".
15. The proposed works will involve the installation of a 35 metre tall monopole fitted with a single parabolic transmission antenna at 25 metres and topped by a triangular headframe carrying three 12 port panel antennas, giving the structure an overall height of 36 metres. This will be accompanied by a 7.5m² equipment cabin and an elevated cable ladder connecting it to the mast. The complete installation will be located within a 77.52m² leased compound enclosed by a 2.4 metre tall chain link security fence. Power will be supplied to the installation from the nearest transformer, located on Bottlebrush Road, by means of an underground cable.
16. Following referral of the application to nearby landowners, the City received eight submissions raising objections to the proposal. One submission included a petition with 33 signatories.

17. The main concerns raised and responses to these matters from the proponent and City staff are as follows:

18. The need for additional infrastructure

One submission stated that the Optus network currently receives a strong signal in the locality and questions the need for the installation of new infrastructure.

The proponent has advised that additional base stations are required where surrounding facilities cannot provide sufficient coverage to a target area or connection speeds slow due to the number of users accessing the network. The proponent has claimed that new infrastructure is needed in the Gledhow locality to improve connection speeds and reduce the occurrence of drop-outs from the network.

The proponent has also provided a diagram showing the geographical area that they expect to be serviced by the proposed installation (see *Figure 2: Expected service area* above).

19. Electromagnetic emissions

Seven submissions claim that telecommunications infrastructure emits unknown levels of radiation which may impact on public health.

All mobile communications facilities across Australia are required to operate within strict operational standards set by the Australian Communications and Media Authority (ACMA) and Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

The Federally established Australian Radiation Protection and Nuclear Safety Agency enforce the Radiation Protection Standard for maximum exposure levels to radiofrequency fields – 3kHz to 300GHz. The electromagnetic energy report submitted by the proponent states that the maximum calculated electromagnetic energy level from the proposed installation would be 0.47% of the public exposure limit (updated from 0.27%), or over 200 times lower than the maximum safe levels mandated by the Federal Government.

ARPANSA's fact sheet *Mobile Phone Base Stations and Health* states that health authorities around the world, including the World Health Organization and ARPANSA themselves, have examined the scientific evidence regarding possible health effects from base stations. Current research indicates that there are no established health effects from the low exposure to the radiofrequency field electromagnetic energy emitted from mobile phone base station antennas. Furthermore, no adverse health effects are expected from continuous exposure to this radiofrequency field electromagnetic energy.

20. Suitability of a rural setting for the installation of telecommunications infrastructure

Four submissions question why the installation of telecommunications infrastructure is being considered in a rural area, indicating that it would be more appropriate in an industrial area.

Local Planning Scheme No. 1 makes provision for telecommunications infrastructure to be considered as a discretionary land use in most zones, including the 'General Agriculture' zone.

The Western Australian Planning Commission *Guidelines for the location, siting and design of telecommunications infrastructure* states that "telecommunications towers should be located within commercial, business, industrial and rural areas and areas outside identified conservation areas".

The proponent has also advised that infrastructure must be located close to the area it is intended to serve in order to be effective.

21. Visual Amenity

Three submissions state that the proposed installation will be detrimental to the visual amenity of the area, with one submission describing it as a “blight” on the landscape.

It is acknowledged that the proposed installation will be visible from some neighbouring properties and public vantage points in the surrounding area. However, due to the screening provided by surrounding trees, only the top of the tower will be visible from most locations. The proponent has provided a number of photomontages showing the visual impact of the proposed installation from a number of locations around the site (see attachment two).

Mobile phone base stations must be located in close proximity to the communities they are intended to serve and are relatively commonplace in today’s landscape. The proposed installation is also located well away from more densely populated areas to the east, which limits its perceived visual impact.

22. Devaluation of property

One submission states that the proposed installation will result in significant devaluation of property due to its visibility and the impact that it would have on views in the area. However, any effect on property value, whether negative or positive, is not a valid planning consideration and cannot be taken into account in the assessment of a development proposal.

GOVERNMENT & PUBLIC CONSULTATION

23. The proposal was directly referred to nearby landowners in writing, for comment for a period of 14 days, in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and clause 9.4 – *Advertising of Applications* within *Local Planning Scheme No. 1*.

24. A total of eight submissions were received during the public comment period, each objecting to the proposal for various reasons. One submission included a petition with 33 signatories. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed in paragraphs 16 – 22 above.

STATUTORY IMPLICATIONS

25. Telecommunications Infrastructure is classified as a ‘D’ use within the ‘General Agriculture’ zone under *Local Planning Scheme No. 1*, meaning that the use is not permitted, unless the local government has exercised its discretion by granting planning approval.

26. Councillors are also advised that licensed telecommunications carriers must operate under the provisions of the *Telecommunications Act 1997* and the *Telecommunications Code of Practice 1997*. Section 2.11 of *The Telecommunications Code of Practice 1997* sets out the design, planning and installation requirements for carriers to ensure that the installation of facilities is in accordance with industry ‘best practice’.

27. Voting requirement is a **Simple Majority**.

POLICY IMPLICATIONS

28. Applications for telecommunication infrastructure must be assessed against the objectives of *State Planning Policy 5.2 – Telecommunications Infrastructure*, which are as follows:

- a) *Facilitate the provision of telecommunications infrastructure in an efficient and environmentally responsible manner to meet community needs;*
- b) *Manage the environmental, cultural heritage, visual and social impacts of telecommunications infrastructure;*
- c) *Ensure that telecommunications infrastructure is included in relevant planning processes as essential infrastructure for business, personal and emergency reasons; and*

d) *Promote a consistent approach in the preparation, assessment and determination of planning decisions for telecommunications infrastructure.*

29. It is considered that the proposal is consistent with these objectives.
30. The Western Australian Planning Commission *Guidelines for the location, siting and design of telecommunications infrastructure* suggest that “*telecommunications facilities that have the potential to be visually intrusive should, where possible, be located in industrial, commercial, business or rural areas*”.
31. The Guidelines go on to state that “*visually intrusive facilities should generally not be situated within residential areas or in areas of particular environmental significance such as foreshores and Bush Forever sites. They should also not be prominently visible from significant vantage points including tourist routes and lookouts and recreation sites, in order to preserve the amenity and environmental value of these areas*”.
32. In this context, it is considered that the choice of site is appropriate, as the locality is predominately rural in character and has with no significant environmental significance. Furthermore, the site is remote from significant vantage points such as tourist routes and recreation sites.
33. The Guidelines suggest that “*design measures need to be employed to address visual impact*” in the case of free-standing installations, such as above-ground housing or towers. The Guidelines state that appropriate measures may include “*adjustment to the overall size (height and dimension) of the facility*” or “*colour to match the predominant background (e.g. sky, vegetation)*”.
34. It is considered that the design of the proposed installation as a monopole minimises its bulk and subsequent visual impact as much as possible. However, in order to further minimise any visual intrusion, it is recommended that the following planning conditions are applied to any approval:
- Prior to commencement of development, a schedule of materials and colours to be used on the structures hereby approved shall be submitted for the approval in writing of the City of Albany.
 - Lighting devices are to be positioned and shielded so as not to cause any direct, reflected or incidental light to encroach beyond the property boundaries, in accordance with Australian Standard AS4282/1997.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation</p> <p>The proposed infrastructure may be perceived as unacceptable by some members of the community</p>	Possible	Moderate	Medium	Mitigation of impacts to be achieved through adoption and enforcement of conditions.

Opportunity				
Improved Network coverage.				

FINANCIAL IMPLICATIONS

- 36. All costs associated with the development will be borne by the proponent.
- 37. Should the proponents seek a review of Council’s decision or any attached 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

- 38. Council may use its discretion to approve or refuse the proposal. A proponent 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*.
- 39. 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

- 40. The subject lot is predominately cleared pasture and has been developed with a single house and associated outbuildings. There are no environmental considerations relating to this proposal.

ALTERNATE OPTIONS

- 41. Council may consider alternate options in relation to this item, such as:
 - To determine that the proposed use is unacceptable and to resolve to refuse the application; or
 - To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

CONCLUSION

- 42. The proposal is not considered to conflict with the objectives of the ‘General Agriculture’ zone and is consistent with the objectives of *State Planning Policy 5.2 – Telecommunications Infrastructure*.
- 43. The matters raised in the public submissions received in response to the referral of the application to nearby landowners have been broadly addressed by the proponent. It is acknowledged that the proposed installation will be visible to some degree from some properties and public vantage points in the locality. However, it is considered that the chosen site strikes an appropriate balance between the proponent’s operational requirements and likely impacts on amenity.
- 44. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

Consulted References	:	<ul style="list-style-type: none"> • Western Australian Planning Commission <i>State Planning Policy 5.2 – Telecommunications Infrastructure</i> • Western Australian Planning Commission <i>Guidelines for the location, siting and design of telecommunications infrastructure</i>
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		<ul style="list-style-type: none"> • <i>Local Planning Scheme No.1</i> • <i>Telecommunications Act 1997</i> • <i>Telecommunications Code of Practice 1997</i> • <i>Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields</i> • <i>ARPANSA Fact Sheet – Mobile Phone Base Stations and Health</i>
File Number (Name of Ward)	:	A22189 (West Ward)
Previous Reference	:	Nil

PD150: CONSIDERATION OF ADOPTION OF LOCAL PLANNING SCHEME AMENDMENT – LOTS 16, 17 AND 541 MERCER ROAD AND LOTS 38, 371 AND 372 CATALINA ROAD, LANGE

Land Description : Lots 16, 17 & 541 Mercer Road and Lots 38, 371 & 372 Catalina Road, Lange

Proponent : Ayton Baesjou Planning

Owners : T W & K O'Donnell, R & R A Tognetti, W A & C J Greay, G P Wright & C J Waugh, G M Forbes & R J Haarbjoern, D J, M W & D J Marwick

Business Entity Name : Nil

Attachments : Local Planning Scheme Amendment No. 21 report

Supplementary Information & Councillor Workstation: : Nil

Report Prepared by : Planning Officer (C McMurtrie)

Responsible Officer : Acting Executive Director Planning and Development (P Camins)

Responsible Officer's Signature:

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

Maps and Diagrams



In Brief:

- A request has been submitted for Council to adopt a local planning scheme amendment to:
 - Rezone Lots 16, 17 & 541 Mercer Road and Lots 38, 371 & 372 Catalina Road, Lange from the 'General Agriculture' zone to the 'Future Urban' zone.
- City planning Staff support the local planning scheme amendment, as it is consistent with the strategic direction set in the *Albany Local Planning Strategy* and the *Yakamia/Lange Structure Plan*.
- The proposal will facilitate the development of land between the existing urban areas at Catalina Road and Yakamia.
- Structure planning of the subject lots has already taken place as part of the *Yakamia/Lange Structure Plan* and the proposed amendment seeks to rezone the land according to this plan. Therefore, the proposal may be entertained, as it does not conflict with the current moratorium on the initiation of significant local planning scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
- Council is requested to adopt the amendment for the purpose of public advertising and referral to public authorities.

RECOMMENDATION

PD150 COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR SUTTON**

THAT the Responsible Officer Recommendation be ADOPTED

CARRIED: 5.0

PD150 RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005*, resolves to:

1. Adopt Amendment No. 21 to amend *City of Albany Local Planning Scheme No. 1* by:
 - (1) Rezoning Lots 16, 17 & 541 Mercer Road and Lots 38, 371 & 372 Catalina Road, Lange from the 'General Agriculture' zone to the 'Future Urban' zone.
2. Note that the Amendment is basic under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
 - It is an amendment to the scheme map that is consistent with the structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme currently includes zones of all the types that are outlined in the plan.

BACKGROUND

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. Amendment No. 21 has been prepared to:
 - Rezone Lots 16, 17 & 541 Mercer Road and Lots 38, 371 & 372 Catalina Road, Lange from the 'General Agriculture' zone to the 'Future Urban' zone.
6. The subject lots are located approximately 3.3 kilometres north of York Street and have a cumulative area of approximately 47.29 hectares. They are composed primarily of cleared pasture, with some parkland cleared remnant vegetation on boundaries and around dwellings, mostly in the north-eastern quarter, adjacent to Mercer Road. The land slopes downward from its western extent toward the north-east, with a low valley running through the northern half of Lots 38 and 372 Catalina Road carrying a seasonal drainage line. Each lot has been developed with a single house and associated outbuildings.
7. The land to the west of the subject lots is partly zoned 'Residential' and partly zoned 'Future Urban'. The 'Residential' component is partially developed with an aged persons' village, while the 'Future Urban' component is undergoing gradual subdivision and the subsequent development of a single house on each new lot created. The land to the south of the subject lots is zoned 'Future Urban' and is currently under pasture, with a single house and associated outbuildings standing on each lot. The land to the east and north of the subject lots is zoned 'General Agriculture' and has largely been cleared for pasture. Some lots have been developed with a single house and associated outbuildings. Lot 36, which lies to the south-east of the subject land is currently designated as a 'Public Use' local scheme reserve for government purposes. However, this lot is currently being rezoned to the 'Future Urban' zone by means of a separate local planning scheme amendment.
8. The amendment document states that:

“Following recent local and state endorsement of the Yakamia – Lange Structure Plan (YLSP) it is proposed to rezone the northwest precinct to Future Urban.

The subject land comprises Lots 16, 17 & 541 Mercer Road and Lots 38, 371 & 372 Catalina Road, Lange.”

“The purpose of the Future Urban zone is twofold. Firstly, the development controls of the zone protect the land from inappropriate development or development that may make the Structure Plan more difficult to implement. In addition to this, the Future Urban zone signals clearly to local and state agencies and authorities that urban subdivision and development (in accord with the YLPS) is the preferred future for the land. This also gives landowners/developers the certainty required to invest in the downstream detailed planning processes needed to fulfil the vision provided by the Structure Plan.

Transferring the land to the Future Urban zone via an amendment to Local Planning Scheme No. 1 (LPS1) is the necessary first step in implementing the objective of the Yakamia – Lange Structure Plan.”

DISCUSSION

9. The City's planning Staff support the rezoning of Lots 16, 17 & 541 Mercer Road and Lots 38, 371 & 372 Catalina Road, Lange from the 'General Agriculture' zone to the 'Future Urban' zone, as it is consistent with the *Albany Local Planning Strategy*.
10. The *Albany Local Planning Strategy* identifies the subject lots as 'Future Urban' with a 'Priority 2' coding. The *Albany Local Planning Strategy* sets a strategic objective to "support the consolidation of serviced urban areas and facilitate fully-serviced incremental-development nodes". The *Albany Local Planning Strategy* further states that "Priority 2 promotes the continuing expansion of the fronts in...Yakamia... Priority 2 areas have been structure-planned and/or are the subject of current subdivision applications. They can supply new lots within a short to medium development timeframe."
11. Structure planning of the subject lots has already taken place as part of the wider *Yakamia/Lange Structure Plan* and proposed amendment seeks to rezone the land according to this plan. Therefore, the proposal may be entertained, as it does not conflict with the current moratorium on the initiation of significant local planning scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
12. The proposal is consistent with the *Albany Local Planning Strategy's* objective of supporting staged incremental development, as it will facilitate the development of land between the existing urban areas at Catalina Road and Yakamia.

GOVERNMENT & PUBLIC CONSULTATION

13. The *Planning and Development (Local Planning Schemes) Regulations 2015* require that a local planning scheme amendment be adopted by a resolution of Council prior to the proposal being advertised for public comment. Consequently, no other consultation has been undertaken at this stage.

STATUTORY IMPLICATIONS

14. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
15. Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning. Section 81 of the Act requires a local government to refer an adopted local planning scheme amendment to the Environmental Protection Authority to determine if it should be assessed.
16. Regulation 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to adopt a standard scheme amendment for advertising and referral to relevant public authorities.
17. The proposal is considered to be a basic scheme amendment for the following reasons:
 - It is an amendment to the scheme map that is consistent with the structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme currently includes zones of all the types that are outlined in the plan.
18. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

19. There are no policy implications directly relating to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation</p> <p>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	Possible	Minor	Medium	If not supported by the WAPC or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.
<p>Community, Organisational Operations and Reputation</p> <p>The proposal may attract objections from members of the public or other public authorities.</p>	Possible	Minor	Medium	Widely consulting with all parties who may be affected and all relevant public authorities should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.

FINANCIAL IMPLICATIONS

21. The *Yakamia/Lange Structure Plan* makes provision for the City to obtain a financial contribution from developers towards the upgrade and construction of roads and intersections in the vicinity of the development.
22. A comprehensive Road Contribution Plan was developed and appended to the Structure Plan. Western Australian Planning Commission *State Planning Policy 3.6 – Development Contributions for Infrastructure* allows the City to implement the Road Contribution 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 *State Planning Policy 3.6*.
23. The 'Public Parkland' areas identified on the Structure Plan for public open space and foreshore reserves are to be ceded to the Crown and vested with the City for management purposes, at the time of subdivision. The City will incur costs associated with the ongoing maintenance of the 'Public Parkland' areas.

LEGAL IMPLICATIONS

24. There are no legal implications directly relating to this item.

ENVIRONMENTAL CONSIDERATIONS

25. The design of the *Yakamia/Lange Structure Plan* was informed by the Office of the Environmental Protection Authority, and seeks to provide a balanced approach to protect environmentally sensitive areas and to accommodate development.
26. The low-lying land and seasonal drainage line that traverses the northern half of Lots 38 and 372 Catalina Road will be transferred into a Parks and Recreation reserve at the time of subdivision.

ALTERNATE OPTIONS

27. Council may consider alternate options in relation to this item, such as:

- To resolve not to adopt the amendment to the local planning scheme.

SUMMARY CONCLUSION

28. It is recommended that Council adopt Local Planning Scheme Amendment No. 21, as the proposal is consistent with the current strategic direction set within the *Albany Local Planning Strategy* and will facilitate the development of land between the existing urban areas at Catalina Road and Yakamia.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Albany Corporate Business Plan 2013-2017</i> 5. Western Australian Planning Commission <i>State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i>
File Number (Name of Ward)	:	LAMD21 (Yakamia Ward)
Previous Reference	:	O.C.M. 15/12/15 – Item PD093

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL - Nil**
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN - Nil**
16. **REPORTS OF CITY OFFICERS - Nil**
17. **MEETING CLOSED TO PUBLIC [6:09:35 PM](#)**

MOTION TO GO BEHIND CLOSED DOORS

**MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR GOODE**

CARRIED: 5-0

18. **CLOSURE-[7:30:00 PM](#)**