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# AGENDA

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## DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING

Wednesday 1 December 2021

6.00pm

Council Chambers

CITY OF ALBANY  
STRATEGIC COMMUNITY PLAN 2032



**Development & Infrastructure Services Committee**  
**Terms of Reference**

**Functions:** The Committee is responsible for:

The Development and Infrastructure Services Committee is responsible for delivery of the outcomes defined in the Strategic Community Plan 2032 under the **Planet Pillar** and **Place Pillar**:

- Sustainable management of natural areas, balancing conservation with responsible access and enjoyment;
- Shared responsibility for climate action;
- Responsible growth, development and urban renewal;
- Interesting, vibrant and welcoming places;
- Local history, heritage and character is valued and preserved; and
- A safe sustainable and efficient transport network.

**It will achieve this by:**

- Developing policies and strategies;
- Establishing ways to measure progress;
- Receiving progress reports;
- Considering officer advice;
- Debating topical issues;
- Providing advice on effective ways to engage and report progress to the Community; and
- Making recommendations to Council.

**Membership:** Open to all elected members.

**Meeting Schedule:** Monthly

**Meeting Location:** Council Chambers

**Executive Officers:** Executive Director Infrastructure, Development & Environment

**Delegated Authority:** None

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE  
AGENDA – 01/12/2021

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**1. DECLARATION OF OPENING**

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

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

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

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

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

Mayor D Wellington

**Councillors:**

Member	P Terry
Member	A Cruse
Member	G Stocks
Member	M Traill
Member	T Brough
Member	M Benson-Lidholm JP
Member	J Shanhun
Member	D Baesjou
Member	S Smith
Member	A Goode JP
Member	C Thomson (Chair)
Member	R Sutton (Deputy Chair)

**Staff:**

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

**Apologies:**

**4. DISCLOSURES OF INTEREST**

Name	Committee/Report Item Number	Nature of Interest

**5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**6. PUBLIC QUESTION TIME**

In accordance with City of Albany Standing Orders Local Law 2014 (as amended) the following points apply to Public Question Time:

- 5) The Presiding Member may decide that a public question shall not be responded to where—*
- (a) the same or similar question was asked at a previous Meeting, a response was provided and the member of the public is directed to the minutes of the Meeting at which the response was provided;*
  - (b) the member of the public asks a question or makes a statement that is offensive, unlawful or defamatory in nature, provided that the Presiding Member has taken reasonable steps to assist the member of the public to rephrase the question or statement in a manner that is not offensive, unlawful or defamatory.*

**7. PETITIONS AND DEPUTATIONS**

**8. CONFIRMATION OF MINUTES**

**RECOMMENDATION**

**THAT the minutes of the Development and Infrastructure Services Committee meeting held on 10 November 2021 as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**9. PRESENTATIONS**

**10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

**DIS289: LOCAL PLANNING SCHEME AMENDMENT NO.12 – LOT 1879 DAVIES ROAD, KALGAN.**

<b>Land Description</b>	: Lot 1879 Davies Road, Kalgan.
<b>Proponent / Owner</b>	: B & M O'Dea
<b>Attachments</b>	: 1. Advertised Scheme Amendment Document, which includes: <ul style="list-style-type: none"><li>• Land Capability and Geotechnical Assessment (2004);</li><li>• Local Water Management Plan (updated - 2012); and</li><li>• Fire Management Plan (2004).</li></ul> 2. Site Soil Evaluation (2020)
	3. Updated Bushfire Management Plan ( August 2021)
	4. Schedule of Submissions and Recommendations.
	5. Schedule of modifications to LPS1.
	6. Schedule of modifications to advertised Scheme Amendment Document.
<b>Supplementary Information &amp; Councillor Workstation</b>	: 1. Public submissions
	2. Draft revised Scheme amendment document (dated May 2021)
<b>Report Prepared By</b>	: Senior Planning Officer – Strategic Planning (A Nicoll)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development and Environment (P Camins)

**STRATEGIC IMPLICATIONS**

1. The application for consideration proposes an amendment to the City's Local Planning Scheme No. 1 (LPS1). The amendment proposes to rezone land from 'General Agriculture' to 'Rural Residential'.
2. Council is required to exercise its quasi-judicial function in this matter. In making a decision on the proposed amendment, the Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2019* (the Planning Strategy) and *Community Strategic Plan – Albany 2032*.
3. This item relates to the following elements of the City of Albany *Strategic Community Plan 2032*:
  - **Pillar: Place**
  - **Outcome:**
    - Responsible growth, development and urban renewal.
    - Interesting, vibrant and welcoming places.
  - **Pillar: Planet**
  - **Outcome:**
    - Sustainable management of natural areas; balancing conservation with responsible access and enjoyment.
    - A resilient community that can withstand, adapt to, and recover from natural disasters.
4. When exercising its discretion in relation to planning matters, the pertinent strategic document is the Planning Strategy. The amendment meets strategic planning for the following reason:
  - a) The overarching strategic direction of the Planning Strategy is not to support further urban sprawl beyond the existing supply of land zoned for settlement growth.
  - b) Notwithstanding this, the strategic direction set in the Planning Strategy for Lot 1879 Davies Road is to support 'Rural Living'. The planned growth is on the basis of a

decision in 2015 to initiate the rezoning of the land to 'Rural Residential' (OCM 25/08/2015 – Item PD087).

### Maps and Diagrams:



### In Brief:

- The purpose of this report is for Council to consider final adoption of the proposed Scheme Amendment No. 12 (LAMD12) to LPS1, to rezone Lot 1879 Davies Road, Kalgan from the 'General Agriculture' zone to 'Rural Residential' zone, subject to modifications.
- In August 2015, Council initiated LAMD12. The amendment was advertised in November 2015, with eleven (11) submissions received, nine from government agencies and two from neighbouring landholders.
- To address matters raised during advertising and updates to state planning procedures and policy requirements, the applicant updated required aspects of the documentation. The updated documentation was submitted to the City in late 2020 and most recently in July 2021.
- The outcomes of the documentation have been reviewed and accepted by the City.
- The updated resolution recommends modifications to relevant provisions of LPS1 and the associated local structure plan to address the outcomes of the documentation and outstanding matters raised during advertising.
- Modifications are also recommended to update the approved scheme amendment application document, subject to approval of LAMD12 by the Minister, to reflect the updated supporting documentation and ensure consistency.
- Following the above, it is recommended that Council resolve to adopt the proposed scheme amendment, subject to modifications.
- Although Council resolved to impose a moratorium on further amendments to LPS1 in August 2021 in order to progress delivery of draft Local Planning Scheme No. 2, existing amendments such as LAMD12 that were underway and subject to previous decisions of Council were exempted from the moratorium.



## RECOMMENDATION

### DIS289: AUTHORISING OFFICER RECOMMENDATION

THAT Council, pursuant to Part 5 of the *Planning and Development Act 2005*, resolves to:

1. **ADOPT** Scheme Amendment No. 12 to Local Planning Scheme No. 1, with modifications, as follows:
  - a) Rezone Lot 1879 Davies Road, Lower Kalgan from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone.
  - b) Amend Schedule 14 – RR9 Nanarup Road, Kalgan Rural Residential zone, as outlined in the attached ‘Schedule of Modifications to RR9’, regarding the following:
    - i. To incorporate Lot 1879; and
    - ii. Update existing text ‘*the Subdivision Guide Plan*’ with ‘*the Local Structure Plan*’.
  - c) Modify the Local Structure Plan accordingly to incorporate Lot 1879 and in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
  - d) Amend the Scheme Map accordingly.
2. Forward the amendment documentation, to the Western Australian Planning Commission with a request that the Minister for Planning grant approval to the amendment, subject to modifications contained the attached ‘Schedule of Modifications to Amendment Document’.
3. Notes the amendment is a Standard Amendment under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons.
  - a) It is an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
  - b) It is an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
  - c) It is an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment; and
  - d) It is an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
4. Note the submissions received as detailed in the Schedule of Submissions and Recommendations.
5. Notify the applicant and submitters of Council’s decision.

### BACKGROUND

5. Lot 1879 Davies Road is zoned ‘General Agriculture’ under LPS1.
6. In 2015, Council agreed to initiate and advertise a proposal to amend LPS1. The amendment involves rezoning the Lot 1879 Davies Road from the ‘General Agriculture’ zone, to the ‘Rural Residential’ zone and the ‘Parks and Recreation’ reserve.
7. Scheme Amendment No. 12 has been considered as a standard amendment to the local planning scheme, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Planning Regulations), for the following reasons:
  - It is an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;

- It is an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
  - It is an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment; and
  - It is an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
8. The amendment was referred to the Environmental Protection Authority and it was decided that the proposal is not significant to warrant a formal environmental assessment.
  9. The amendment application was advertised and concerns were raised regarding:
    - a) Capability of the land to manage effluent;
    - b) Management/protection of low lying area (watercourse); and
    - c) Bushfire management.
  10. In 2016, the City requested the Applicant to provide a “Site and Soil Evaluation” report and a Bushfire Management Plan (BMP).
  11. The updated “Site and Soil Evaluation” report was received in late 2020 and referred out for comment to Department of Water and Environmental Regulation (DWER) and the Department of Health (DOH).
  12. The BMP was submitted to the City in July 2021. The BMP was referred to the Department of Fire and Emergency Services (DFES) for their comment.
  13. In August 2021, Council agreed to a moratorium on further amendments to LPS1. The moratorium on amendments to the current scheme, does not affect any existing amendments, which have already been the subject of previous decisions of Council (e.g. Lot 1879 Davies Road, Kalgan).

## **DISCUSSION**

14. Lot 1879 is located 16 kilometres northeast of the Albany city centre and is accessed via Davies Road. The subject Lot is 14.16ha in area and is currently zoned General Agriculture.
15. The subject Lot is earmarked in the 2019 Albany Local Planning Strategy as being suitable for rural residential development. The Lot is located adjacent to land, which is being subdivided for rural residential purposes.

### Land capability for effluent disposal

16. It was commented by DWER that a Site Soil Evaluation needs to occur for the winter months, to inform whether or not the land is capable of handling on-site effluent disposal systems.
17. In response, the proponent employed a professional consultant to undertake a ‘Site Soil Evaluation’, which determined that:

*The land contains suitable areas for onsite effluent disposal and that building envelopes and land application areas should be located a minimum 100m from the creek line, which places them higher in the landscape and not subjected to flooding.*
18. DWER considered the ‘Site Soil Evaluation’ 2020 and agreed that on-site effluent disposal systems can be achieved.

### Management/protection of low lying area

19. A neighbouring landholder requested information pertaining to the management of a watercourse.
20. It was commented by DWER that a low lying area (watercourse) located in the southern portion of the subject Lot needs to be revegetated, fenced, ceded to the Crown for management by the local government and a provision included to ensure development is appropriately setback.
21. In response to the comments on the watercourse area, it is recommended that the amendment document is modified to include a concept plan identifying revegetation, fencing and buffers areas associated with the watercourse.

22. Contrary to DWER comments, it is recommended that the watercourse area is managed in private ownership and not ceded to the Crown. The expectation for the City to manage environmentally sensitive areas located within Rural Residential zone areas is impractical. These areas can be aptly managed in private ownership.

**Bushfire Management**

23. DFES commented that the BMP does not adequately address the policy requirements of the *State Planning Policy 3.7 Planning in Bushfire Prone Areas* and the Guidelines.
24. It is recommended that additional information/rationale is provided to address issues raised by the DFES.

**GOVERNMENT & PUBLIC CONSULTATION**

25. LAMD12 was advertised in November 2015 accordance with the requirements of the Planning Regulations.
26. In addition to the public consultation and agencies mentioned above, the proposal was also referred to the following state agencies and utility providers:
- ATCO Gas Australia
  - Telstra – Forecasting/Area Planning – South Western Access
  - Water Corporation
  - Western Power
  - Albany Department of Agriculture and Food
27. Nine (9) submissions were received from agencies, with two submissions received from adjoining landowners.
28. Additional consultation occurred in 2021 specifically in relation to the “Site and Soil Evaluation” report and the Bushfire Management Plan:
- a) The updated “Site and Soil Evaluation” report was referred to DWER and DOH.
  - b) The BMP was referred to DFES for their comment.
29. A ‘Schedule of Submissions’ has been developed to summarise comments. Modifications are recommended to address comments.
30. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail-out	Nov-Dec 2015	11 submissions	Reg’s 2015

**STATUTORY IMPLICATIONS**

31. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and the Planning Regulations.
32. 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.
33. Regulation 50(3) of the Planning Regulations allows Council to support a standard amendment, with or without modification.
34. Voting requirement for this item is SIMPLE MAJORITY

**POLICY IMPLICATIONS**

35. The proposal is considered to be consistent with the key policy measures identified in *State Planning Policy 2.5 – Land Use Planning in Rural Areas (SPP2.5)*. SPP2.5 supports land use change from rural to other uses where provided for in a planning strategy or scheme.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation.</b> <i>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>If not supported by the WAPC or Minister, the amendment will not be progressed and the City may be required to make modifications.</i>
<b>Opportunity:</b> <i>Increase opportunity for rural living.</i>				

### FINANCIAL IMPLICATIONS

37. There are no financial implications relating to the proposal to amend LPS1.

#### Regulatory Cost Implications:

38. Comments/objections are referred onto the Minister for deliberation.

### LEGAL IMPLICATIONS

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

### ENVIRONMENTAL CONSIDERATIONS

40. There are no environmental implications relating to the proposal to amend LPS1.

41. As per Section 48(A) of the *Environmental Protection Act 1986*, the proposal was referred to the Environmental Protection Authority and environmental assessment was not deemed necessary.

### ALTERNATE OPTIONS

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

- To resolve to support the scheme amendment without modification(s);
- To resolve not to support the scheme amendment and advise the Western Australian Planning Commission, in writing, of the reasons for doing so.

### CONCLUSION

43. It is recommended that Council finally endorse LAMD12, as the proposal is consistent with the strategic direction currently set within the City's Planning Strategy.

44. This scheme amendment proposes to rezone land from 'General Agriculture' to 'Rural Residential'.

45. The proposal provides an opportunity for rural lifestyle lots in accordance with the Planning Strategy.

46. The amendment was advertised with no fundamental issues raised.

47. It is recommended that Council adopt LAMD12, with modifications.

<b>Consulted References</b>	:	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. <i>WA Planning Commission State Planning Policy 1 – State Planning Framework Policy (Variation No. 2) and State Planning Policy 2.5 – Land Use Planning in Rural Areas.</i>
<b>File Number (Name of Ward)</b>	:	LAMD12 (Kalgan Ward)
<b>Previous Reference</b>	:	OCM 18/05/04 – Item 11.3.2 OCM 25/08/2015 – Item PD087

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