

1.3: SCHEME AMENDMENT REQUEST - LOT 4 COSY CORNER ROAD, KRONKUP

- Land Description** : Lot 4 Cosy Corner Road, Kronkup
- Proponent** : Craig Pursey Planning
- Owner** : Golden Eight (WA) Pty Ltd and Mr & Mrs B Carman
- Director of Owner Company** : Nicola Pagano (resides in Perth)
- Business Entity Name** : Golden Eight (WA) Pty Ltd
- Appendices** : Scheme Amendment Request document
Supplementary Report – January 2011
- Responsible Officer** : Executive Director Planning & Development Services
(G Bride)

Maps and Diagrams:



CEO:	RESPONSIBLE OFFICER:
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IN BRIEF

- Council is requested to consider a Scheme Amendment Request proposal that deals with the future rezoning of Lot 4 Cosy Corner Road, Kronkup from the 'Rural' zone to the 'Special Rural' zone in Town Planning Scheme No. 3.

ITEM 1.3: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council;

1. **ADVISE** the proponent that it is **PREPARED** to consider a formal scheme amendment to rezone Lot 4 Cosy Corner Road, Kronkup from the 'Rural' zone to 'Special Rural' zone, subject to the following matters being addressed and/or included as part of that formal amendment application:
 - A. An Agricultural Impact Statement (as per SPP 2.5, Appendix 3) being prepared by a suitably qualified professional to determine the impact of the proposal on existing agricultural operations and whether sufficient separation distances between building envelopes and existing rural activities, inclusive of the Olive Grove, are appropriate.
 - B. A land capability report being prepared to determine that the proposed building envelopes are capable of supporting the development envisaged.
 - C. A Fire Management Plan being prepared to determine whether there is sufficient separation between the proposed building envelopes and the vegetated areas.
2. **AGREES** to update the Albany Local Planning Strategy (ALPS), by amending Figure 19 (Torbay Hill Town Site) to include Lot 4 Cosy Corner Road, Kronkup within the boundary of the Torbay Hill Town Site when the ALPS is next reviewed in mid to late 2011.

BACKGROUND

1. Scheme Amendment Request (SAR) 149 has been submitted to Council to assess the potential to rezone Lot 4 Cosy Corner Road, Kronkup from the 'Rural' zone to the 'Special Rural' zone.
2. The subject land is zoned 'Rural' and has a total land area of 22.73 hectares and forms part of Torbay Hill, sloping down to the Kronkup flats along its northern boundary. Minor hills and drainage lines dissect the property. The subject land slopes down from a high point of 76m AHD in the south west corner of the lot to a low point of 30m AHD in the north eastern corner of the lot.
3. The subject land is currently developed with an olive grove, a single residence and a number of sheds used as outbuildings to the residence and as storage for farm equipment and olive oil reserves. The land is used for rural purposes with the olive grove producing limited commercial quantities with the remainder of the lot being grazed with cattle. There are large areas revegetated with native vegetation and a karri forest in the south eastern corner of the property.

4. Surrounding land uses include the following;
 - the land to the north is used for agricultural purposes (grazing of cattle and are identified as priority agricultural land);
 - the land to the south and west is being used for rural residential purposes and the land adjoining the site to the east is used as the Torbay Motel, chalets and a general store and cafe that has been closed for some time.
5. Council is now required to determine its support, or otherwise, for the current SAR proposal.

DISCUSSION

6. The SAR deals with a proposal that if supported and subsequently rezoned into the future will result in approximately six 'Special Rural' zoned lots, with an average lots size of four hectares.
7. The subject land shares the same characteristics as the remainder of Torbay Hill with some cleared areas and large areas of remnant vegetation. The introduction of additional dwellings contemplated under the proposal should not have a detrimental impact on the amenity of the area, as the area is already characterised by this type of development. The provision of a landscaped strip along the property's northern boundary is proposed; this will serve as a vegetated buffer to the large grazing areas to the north and as a visual buffer to Torbay Hill when viewed from Cosy Corner Road.
8. The subject land could be incorporated into the neighbouring subdivision guide plan as an extension of the Townsite and the scheme provisions for Special Rural Area 30 could be directly applied to this site.
9. Council's decision on the Scheme Amendment should be consistent with the strategic objectives of the Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.
10. The most pertinent sections of the ALPS are as follows;

a) *"Section 6.2.4 Rural Town sites*

...The planning and development of rural townsites need to be based on appropriate development options to maintain their function and the availability of infrastructure and community facilities...

Actions: Identify in the LPS1 the settlements of Redmond, Manypeaks, Youngs Siding, Elleker, Torbay Hill, Kalgan, Wellstead, South Stirling and Cheyne Beach as existing rural focal points and settlement centres with the potential for additional development in accordance with Table 5. Structure planning is required for each townsite (CoA)."

b) *"Section 8.3.4 Protection of Future Urban Land*

.....The ALPS does not support the continued growth of rural living areas as fragmented isolated developments, within Priority and General Agriculture areas or the future Albany townsite's fully-serviced urban fringe and other area with future urban development potential..."

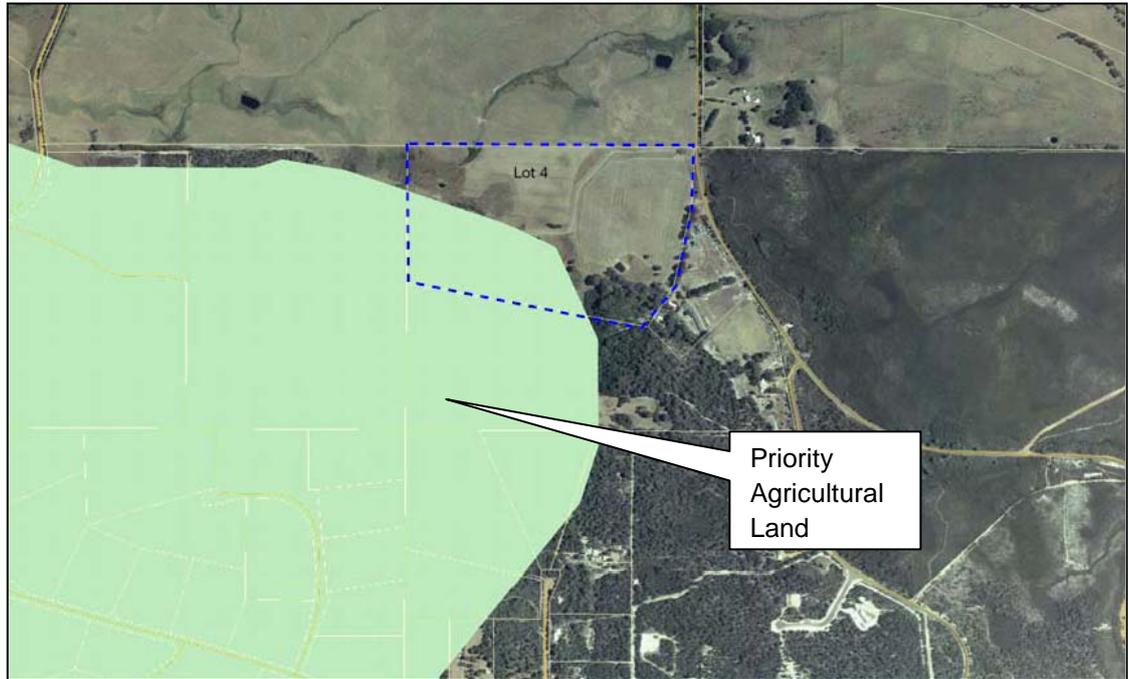
c) "Section 8.3.5 – Rural Living

...Ensure that future rural living areas are planned and developed in an efficient and co-ordinated manner by being located either adjacent to Albany as designated on the ALPS maps, or within existing rural townsites in accordance with Table 5 along with adequate services and community infrastructure...."

"The strategy's objectives for Rural Living areas are to:

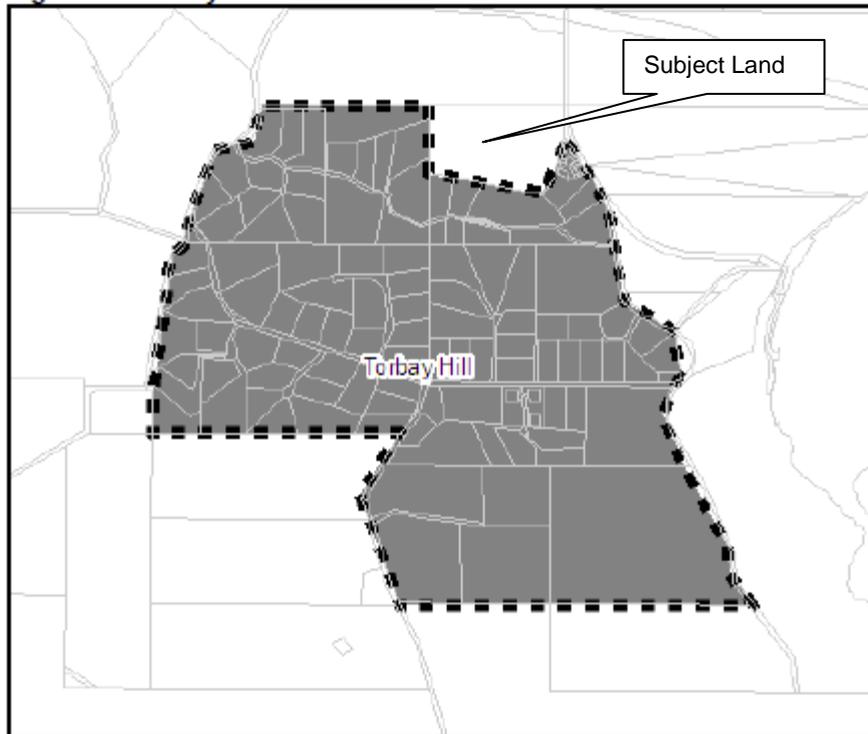
- *Avoid the development of Rural Living areas on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.*
- *Provide for compact growth of selected existing rural townsites in accordance with Table 5, based on land capability and available services and facilities..."*

11. The subject land is within an area that is identified by the ALPS as Priority Agricultural land.
12. Staff have sourced a copy of the priority agriculture mapping from the Department of Agriculture and Food WA (DAFWA) which identifies that only the south-western portion of the subject land is located within the priority agricultural area (refer diagram below). The proponent has identified that the existing priority agricultural area in this locality, being to the west and south of the subject land, is situated over existing special rural allotments, and due to their size and zoning do not support intensive agriculture. For these reasons the proponent argues that the proposal would not detrimentally impact existing or future agricultural production in the immediate locality.



13. The subject land is not within the Townsite Boundary as per Figure 19: Torbay Hill (refer below) and Table 5 of the ALPS recommends no further expansion of the Town Site.

Figure 19: Torbay Hill.



14. The proponent has stated that the inclusion of the subject land into the same zoning (Special Rural) as surrounding land parcels to the west and south would be a logical 'rounding off'. In relation to precedent concerns the proponent states:

- This property shares the same land characteristics as the existing special rural development (being the last property before the land flattens off into the Kronkup flats);
 - The land is surrounded by non-rural land uses on three sides;
 - The land is virtually the last smaller lot in the immediate area capable of being developed for rural residential purposes. Nearby land that is not located on the flats is designated as Priority Agriculture and is of a size capable of being further developed for agricultural purposes.
 - Hortin Road forms a boundary to rural residential development to the west. Cosy Corner Road forms a logical boundary to the east.
15. The boundaries of the Torbay Hill townsite (as identified in Figure 19 above) appear to have been based on the existing special rural areas that were in place at the time or were in the final stages of a scheme amendment process. The subject land, being zoned 'Rural' and identified as suitable for Priority Agriculture use in the ALPS, was therefore specifically excluded. The proponent has identified that with the exception of the subject land being outside of the townsite boundary, the proposal meets all relevant objectives of the ALPS as it relates to the creation of Rural Living areas as:
- The land will not create an 'additional' rural townsite;
 - The small portion of the land is affected by the priority agricultural land designation, however the balance of this cell is over existing special rural lots, and therefore the proposal will not detrimentally affect opportunities for priority agriculture. The proposal will also retain the Olive Grove.
 - The land is not in an area of extreme bushfire risk and is not subject to flooding.
 - The land is beyond the area identified in ALPS as future urban or long term residential.
16. Table 5 within the ALPS identifies no additional growth for the Torbay Hill town site, and states that a maximum yield of 100 lots is envisaged. The number of existing and proposed lots within the town site boundary, as defined by Figure 19 of the ALPS, is approximately 102 (which includes the final yield identified in the relevant subdivision guide plans for the existing special rural areas). If Council accepts the proponent's position in relation to precedent, the addition of 6 lots as proposed would have a marginal impact on the maximum lot yield envisaged for the town site.
17. Whilst the land is not included within the boundaries of the Torbay Hill town site, the proposal meets all other relevant objectives identified within the ALPS, and it is recommended that the proposal be supported. Consistent with the advice from the DAFWA the inclusion of an agricultural impact statement consistent with Statement of Planning Policy 2.5 should also be included with the amendment, to the extent that appropriate buffer distances from the Olive Grove and surrounding rural uses to proposed building envelopes should be examined. It is clear that the opportunity to develop the adjacent priority agricultural area to the west and south has been lost by the past conversion of this area to special rural development.

GOVERNMENT CONSULTATION

18. The SAR was referred to the Department of Planning, WA Gas Networks Pty Ltd, Telstra, Water Corporation, Western Power, the Department of Agriculture and Food, the Department of Health, the Department of Water, the Department of Environment and Conservation and the Fire and Emergency Services Authority. Responses were received from the Water Corporation, Department of Water, Department of Health, Department of Planning and the Department of Environment and Conservation who commented as follows:

Water Corporation:

19. The Water Corporation has no facilities or infrastructure within this parcel of land and therefore has no objection to this proposal.

Department of Water:

20. The Department of Water has assessed the proposal and has no comment to offer at this stage of the planning process.

Department of Health:

21. The Department of Health is prepared to support the rezoning proposal when site suitability for onsite wastewater disposal is demonstrated via a land capability report, and information regarding the provision of an adequate buffer to conflicting land uses are presented for further consideration at the formal scheme amendment stage.

Department of Environment and Conservation:

22. The Department of Environment and Conservation has no substantive comments to offer with regard to this proposal.
23. The Department has noted that despite the property being already largely cleared, due consideration appears to have been given to the limited opportunities for conservation of flora and fauna and wildlife corridors on the indicative subdivision guide plan. The Department also advised that the property remains an active participant in the Land for Wildlife Program.

Department of Planning:

24. The Department of Planning had originally objected to the SAR proposal on the basis that the subject land was outside of the town site boundary for Torbay Hill and was identified as being suitable for Priority Agriculture within the ALPS. The Department after reviewing additional information provided by the proponent (refer supplementary report, January 2011) have since provided an updated response in support of the proposal on the following grounds:
- The land's location between existing Special Rural to the west and the Special Use site to the east lends support to its inclusion within the Torbay Hill Rural Town site.

- The lot shares a common boundary with Special Use Site 8 which includes permissible uses such as chalet, accommodation and shop which have the potential to negatively impact on the lot's ability to expand future uses.
- Further consolidation around Special Use Site 8 is supported by Statement of Planning Policy 3 – Urban Growth.
- The priority agricultural status of the south western corner of the property will not be impacted by a rezoning to Special Rural as the section of property is vegetated and not available for agricultural use.

Department of Agriculture and Food:

25. The Department of Agriculture and Food did not object to the proposed rezoning of Lot 4, Cosy Corner Road, Kronkup to the 'Special Rural' zone, however the following comments were made:

- Although the identification of Priority Agricultural Land (prepared by the Department of Agriculture and Food, 2003), only occupies the rear portion of the property under investigation, there is insufficient information provided in the assessment report, to justify that the total area of the subject land is not suitable for intensive agriculture.
- In general the Department does not support the rezoning of Rural land to Special Rural for Rural Residential development (adjacent areas of Priority Agricultural Land) due to the following concerns:
 - a. Rezoning to Special Rural and subsequent development of Rural Residential areas effectively alienates rural land from agriculture and food production.*
 - b. Special Rural/Rural Residential developments which rely on surface or groundwater supplies for domestic and stock use will reduce the amount of sustainable water supply available for agriculture.*
 - c. Approval of this subdivision proposal would possibly set an undesirable precedent to support the subdivision of Rural Zone land where it is not in accordance with the objectives and intent of SPP2.5 Agriculture and Rural Land Use Planning, both in this locality and others.*
 - d. Special Rural zoned areas (with rural residential development) are normally adjacent to agricultural areas and the development of these areas without appropriate buffers has the potential to increase land use conflict.*
- The Department also advised that any changed land use on agricultural land needs to include buffers on the re-zoned land to minimise land use conflict. To ensure agricultural operations on land next to re-zoned areas are not restricted, the Department recommends that minimum setbacks/buffers should be incorporated into the re-zoned areas in accordance with the EPA guidelines: Separation Distances between Industrial and Sensitive Land Uses.

26. The Department of Agriculture and Food provided an additional response to the supplementary report provided by the proponent and advised:

- To avoid land use conflict buffers between the proposed building envelopes and the existing Olive Grove and adjacent lot boundaries need to be established within the subject land to the satisfaction of the Department.
- It would be appropriate that an Agricultural Impact Assessment in accordance with SPP2.5 (Appendix 3) is prepared to determine the impact the proposal would have on adjacent rural land parcels, inclusive of the surrounding priority agricultural land to the west and south of the subject land.

STATUTORY IMPLICATIONS

27. A SAR is not a statutory process under the *Planning and Development Act 2005*. The purpose of the SAR process is to give an applicant feedback as to whether an amendment is likely to be supported or not, and the issues to be addressed in the Scheme Amendment documents.
28. If an applicant decides to pursue a Scheme Amendment, Council will be required to formally consider that request.

FINANCIAL IMPLICATIONS

29. Should Council ultimately support the rezoning of the land, the indicative subdivision guide plan indicates a new access road to serve the new lots. This road once constructed by the proponent would be maintained by Council thereafter.
30. The proponent has paid the appropriate fee in accordance with Council's adopted Planning Fees Schedule.

STRATEGIC IMPLICATIONS

31. Council's decision on the Scheme Amendment should also be consistent with the objectives of the ALPS as the principal land use planning strategy for the City.
32. In addition to the strategic implications identified in the discussion section of this report, the following excerpt from the ALPS is also relevant:

Section 8.5.5 – Agriculture sets the following Strategic Objective:

“Facilitate the protection of priority and general agriculture land from incompatible land use, developments and land-management practices.”

33. The continuing loss of prime agricultural land to other land uses, particularly to rural living areas in and around Albany's urban fringe, has a detrimental impact on the viability of agricultural areas.
34. The ALPS identifies Priority Agricultural areas should be retained and protected as a finite resource. These are areas that contain land suitable for general rural activities plus irrigated annual horticulture, irrigated perennial horticulture and other irrigated crops and pasture.

POLICY IMPLICATIONS

35. Council is required to have regard to any Western Australian Planning Commission (WAPC) Statements of Planning Policy (SPP) that apply to the Scheme Amendment Request. Any Amendment to the Town Planning Scheme would require assessment by the WAPC to ensure consistency with the following State and Regional Policies:
36. **SPP 2.5 – Agriculture and Rural Land Use Planning**

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. The Western Australian Planning Commission and Local Government are required to have regard to SPP 2.5 in planning for the development of rural areas. *WAPC SPP No. 2.5 Agricultural and Rural Land Use Planning* provides the framework for the protection of Priority and General Agricultural areas.

The Policy states 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 4 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.*

The City shall have regard to the general provisions and policy statements under SPP 2.5 in considering proposals for development that affects rural land.

As identified in the discussion section of this report, the priority agricultural designation affects a small portion of the subject land, which includes a significant remnant vegetation area that will be maintained under the proposal. The adjacent priority agricultural cell is located over existing special rural areas that are unable to be developed for agricultural use; therefore no loss of prime agricultural land will result under the proposal.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

37. Council has the following options in relation to this item, which are:
- To support the SAR proposal without modifications;
 - To support the SAR proposal with modifications; or
 - To reject the SAR proposal.

38. The SAR process is not a statutory process under any planning legislation. It is used by the City (and other adjoining Local Governments in the region) as a precursor to the formal Scheme Amendment process. It is designed to provide the proponent with a simple and informal assessment of a proposal to gauge the views and comments of the City and other State Government agencies on the merits and likely support to be expected.
39. Should Council support the SAR proposal, it will progress to a formal Scheme Amendment; the Amendment undergoes a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*. All Scheme Amendments require the endorsement of the WA Planning Commission and approval from the Minister for Planning.
40. If Council were to reject the SAR proposal, the proponent would have the following options:
- To not proceed with a formal scheme amendment document;
 - To lodge a formal Scheme Amendment and request consideration by Council, irrespective of the outcome of the SAR.

SUMMARY CONCLUSION

41. Whilst the subject land is outside of the boundaries for the Torbay Hill Townsite as identified in the ALPS, the proposal is considered to be consistent with all other objectives identified in the ALPS and is not likely to set a precedent for the further expansion of the townsite.

Consulted References	Albany Local Planning Strategy
File Number (Name of Ward)	SAR149 (West Ward)