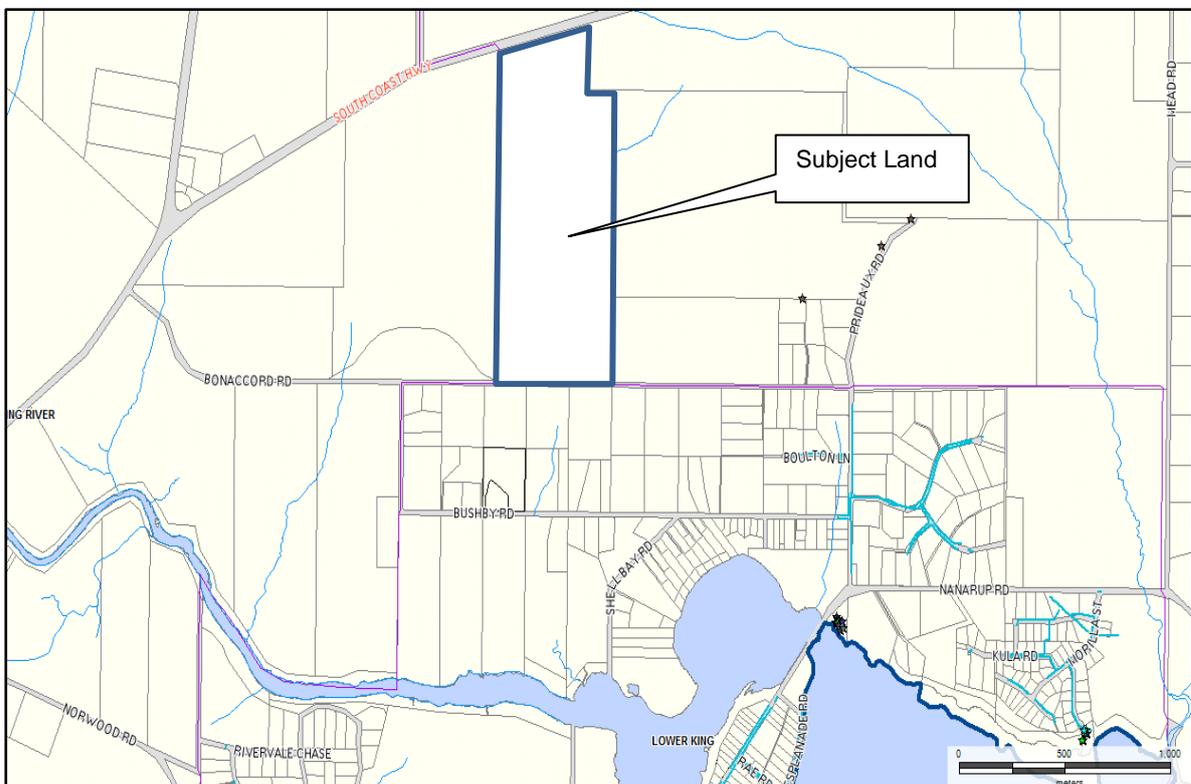


1.2: SCHEME AMENDMENT REQUEST (SAR 146) – LOT 5241, 207 BON ACCORD ROAD, KALGAN

Land Description	: Lot 5241 (207) Bon Accord Road, Kalgan
Proponent	: Harley Global
Owner	: ED Register
Business Entity Name	: Karrabin Pty Ltd
Directors	: Edward Francis and Janice Marie Register (residents of Albany)
Attachments	: Nil
Appendices	: SAR146 document
Councillor Workstation	: Letters from government agencies
Responsible Officer(s)	: Executive Director Planning & Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- Council is requested to consider a Scheme Amendment Request (SAR) proposal that deals with the future rezoning of a portion of Lot 5241 (207) Bon Accord Road, Kalgan from the 'Rural' zone to the 'Special Rural' zone in Town planning Scheme 3.

ITEM 1.2: RESPONSIBLE OFFICER RECOMMENDATION

THAT the proponent be advised that Council is NOT PREPARED to entertain the submission of a formal scheme amendment to rezone a portion of Lot 5241 (207) Bon Accord Road, Kalgan from the 'Rural' zone to the 'Special Rural' zone on the basis that:

- A. The land is not identified within the Albany Local Planning Strategy (ALPS) for Rural Living purposes.
- B. The land is designated within the ALPS under Map 5B as 'Priority Agriculture' and based on the priority agriculture mapping undertaken by the Department of Agriculture and Food would have a high potential for intensive agriculture pursuits.
- C. The development of the land for Rural Living purposes would set an undesirable precedent for the development of rural land outside the development framework established by the ALPS.

ITEM 1.2: ALTERNATE MOTION BY COUNCILLOR DUFTY

THAT Council ADVISE the proponent that it is PREPARED to entertain the submission of a formal scheme amendment to rezone a portion of Lot 5241 (207) Bon Accord Road, Kalgan from the 'Rural' zone to the 'Special Rural' zone subject to the following issues being suitably addressed:

- A. An Agricultural Impact Statement being undertaken by a suitably qualified professional in accordance with Statement of Planning Policy 2.5 to confirm that the land is not of sufficient quality to be retained for agricultural production.**
- B. The northern portion of the lot (of approximately 17 hectares) being retained in the rural zone.**
- C. A land capability study being undertaken to determine that the land is capable of supporting effluent disposal and future buildings proposed by the development.**
- D. A fire management plan being prepared by a suitably qualified consultant to ensure there is adequate separation from the vegetated areas on and adjacent to the property to the proposed building envelopes.**

ITEM 1.2: RESOLUTION (Alternate Motion by Councillor Dufty)

MOVED: COUNCILLOR DUFTY

SECONDED: COUNCILLOR SUTTON

THAT the Alternate Motion by Councillor Dufty be ADOPTED.

CARRIED 8-4

Councillor Reason:

The land is immediately opposite an existing special rural area to the south, and is surrounded by reserves on its eastern and western boundary, and with the creation of a wildlife corridor between the proposed subdivision and the rural block fronting South Coast Highway would provide a natural boundary.

It appears from the evidence supplied by Mr Rogister and a personal inspection of the property that the land is not priority agricultural land. The proposed subdividable portion is either iron stone or gravel rock on deep sand. It has quite good kikuyu pasture and is suitable for subdivision but would be totally uneconomic for vineyards or intensive horticulture because of lack of water supply.

OFFICER'S REPORT (G Bride)

STATUTORY IMPLICATIONS

1. No change.

POLICY IMPLICATIONS

2. No change.

FINANCIAL IMPLICATIONS

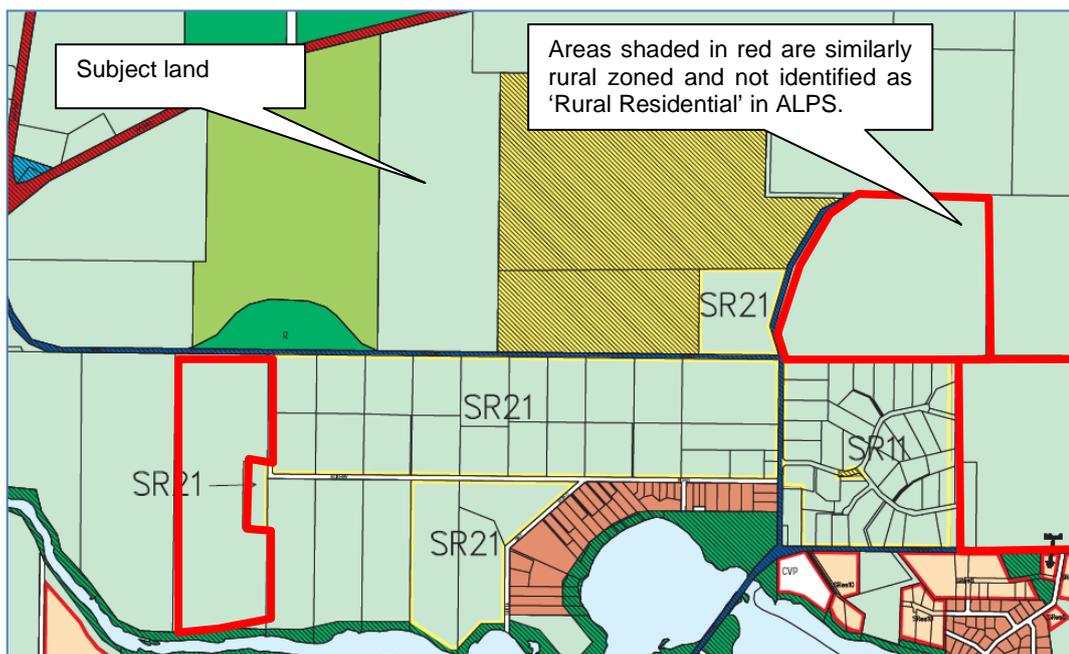
3. No change.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

4. As stated within the officer's report the land is not designated within the Albany Local Planning Strategy (ALPS) for 'Rural Residential' purposes.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

5. There are other rural zoned properties adjacent to the existing special rural area, and if this request was supported may lead to similar requests.



COMMENT:

6. Whilst the land has been designated on Map 5b of the ALPS as 'Priority Agriculture', and the proponent may be able to prove that the broad agriculture priority agriculture mapping undertaken by Agriculture WA is not a true indication of the agricultural potential of the site, the fundamental issue is whether the land should be converted to special rural outside of the area identified in the ALPS and whether a precedent would be set for similar proposals in the locality.

BACKGROUND

1. Scheme Amendment Request (SAR) 146 has been submitted to Council to consider the potential for rezoning the southern portion of Lot 5241, 207 Bon Accord Road, Kalgan from the 'Rural' zone to the 'Special Rural' zone, therefore allowing the land to the south of the drainage line to be subdivided into special rural lots.
2. The subject land is zoned 'Rural', has a total land area of 66.76 hectares and is located on a ridgeline, with views to the southern coast and rural views in the north. The property currently has one dwelling and a number of sheds. The majority of the site is cleared of remnant vegetation and is used for grazing.
3. The adjoining land to the north is reserved for "Parks and Recreation", the land to the west is reserved for "Private Clubs and Institutions" and the land to the east of the subject lot is reserved as "Public Purposes", while the land to the south, on the opposite side of Bon Accord Road, forms part of Special Rural Area No. 21.
4. Council is required to determine its support, or otherwise, for the SAR proposal.

DISCUSSION

5. The SAR proposal involves rezoning two thirds of the lot (southern portion of around 40 hectares) from Rural to Special Rural, facilitating the creation of six lots with a minimum lot size of 6 hectares. Around 10 hectares of the lot is proposed to be an environmental corridor with the remaining 17 hectares retained for agricultural uses.
6. Council's decision on the Scheme Amendment should be consistent with the objectives of the Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.

7. The ALPS identifies the area as 'Priority Agriculture' land in Maps 5a and 5b.
8. The ALPS strategically earmarks the land as priority agriculture in Map 9a and general agriculture in Map 9b. Advice from Agriculture WA confirms that the land is within the priority agricultural area as mapped by this Department in 2003; this mapping was utilised to identify the priority agricultural areas identified in the ALPS.
9. The area has been identified as priority agricultural land and it is considered that the proposal in establishing rural residential uses is contrary to the objectives of ALPS and it is therefore recommended that Council does not support the SAR proposal.

GOVERNMENT CONSULTATION

10. The SAR was referred to WA Gas Networks, Telstra, Water Corporation, Western Power, the Department of Agriculture and Food, the Department of Water, the Department of Minerals and Energy, the Department of Environment and Conservation and the Department of Planning. The following agencies responded as follows:

Water Corporation

11. The Water Corporation advises that reticulated water can be supplied to this development. However, there will be a requirement for the extension of the reticulation main in the order of 1000 metres from Bushby Road to service the southern portion. The extension of approximately 3100 metres from Millbrook Road and upgrading of 840 metres will be required to service the northern area.

Western Power

12. No objection.

Department of Water

13. No comments at this stage.

Department of Minerals and Energy

14. No objection and no impact on mineral or petroleum resources.

Department of Agriculture and Food

15. *"Department of Agriculture and Food does not support the proposal to irreversibly rezone the subject land from "Rural" to "Special Rural" leading to the redevelopment of the southern portion of the land into subdivided special rural lots for the following reasons:*

- a) *Based on Priority Agricultural Land mapping prepared by the WA Department of Agriculture and Food (2003), the property is identified as having considerable coverage of Priority Agricultural Land (PAL). Recent refinements (2010) to the PAL mapping,*

which now incorporates high quality soil and land resources with water resource availability and lot size, identifies the whole property as having greater than 60 per cent of Priority 2 high quality agricultural land (i.e highly capable land for irrigated agriculture comprising perennial horticulture, for example vines, etc).

- b) *The combination of the high quality soils, undulating landscape, potential water resource availability, and lot size (66 ha), together with natural buffering from adjacent blocks of remnant vegetation and close proximity to supply markets and export facilities all make this property relatively unique in the Albany area for a range of intensive or irrigated agricultural pursuits.*
- c) *There is insufficient information provided in the assessment report prepared by Harley Global to justify that the subject land is not suitable for intensive agriculture.*

Therefore, any future proposal to rezone the subject land would need to provide additional information on the following:

- *An Agricultural Impact Assessment (as per Appendix 3 of the State Planning Policy 2.5)*
- *Information on suitable agricultural land uses for the proposed northern 17 ha lot "8" on the Site Plan. The proposal is that this land would remain under a Rural zone, but this is highly likely to result in a sixth "lifestyle" lot.*
- *The Department supports the concept of linking the neighbouring vegetated reserves with an environmental corridor. However, the ownership and management of such a corridor needs to be resolved to ensure the corridor is established and maintained. Ideally this would include a management plan which addresses fire, pest and weed management in the corridor. If this is not undertaken there is a considerable risk that the Environment Corridor would become an extra 10 ha "lifestyle" lot."*

Department of Environment and Conservation

16. *"DEC has no objection to the proposal and provides the following comments.*

The planning consultants involved with this proposal contacted DEC in August 2009 to discuss the plan prior to this referral. The evidence of those consultations is tabled in an appendix in the SAR documentation.

*DEC advised at that time, and reiterate now, that the concept of creating a wildlife corridor is supported, as it will provide connectivity between the Crown Reserves that exist on each side of the subject site, including DEC estate, the Bon Accord Nature Reserve. The proposed corridor will also provide additional protection of the Declared Rare Flora (DRF), *Chordifex arborlivus*, present in Reserve 18779.*

However, the location of the proposed corridor contains minimal existing native vegetation, and the proponents have been advised that creating an effective wildlife corridor "from scratch" is a long process, requiring many years of maintenance to ensure plant survival and protection from weeds. As such, DEC suggests that the wildlife corridor be relocated to the south of the subject site, where the corridor can encompass small pockets of mature vegetation.

This mature vegetation will provide a seed source that will allow for some natural recruitment of vegetation. The corridor in this location will be of greater ecological value, given the higher density (and fauna habitat value) of the vegetation on the southern boundaries of both reserves. The Bon Accord Nature Reserve which is located to the west of the subject site would adjoin a southern corridor. This Reserve has recordings of threatened flora and fauna.

It is also possible that by locating the corridor in the southern end of the property, that there will be a conflict with access to the proposed lots. However, to overcome this, it is suggested that, the access track to the lots could be combined with the fire break.

While it is understood that the proposed wildlife corridor will also act as a buffer between the two different land uses on the site, rural (where farming practices will continue) and rural residential, it may be possible to establish the wildlife corridor near the southern boundary of the site, and use other methods to screen the two land uses, such as a plantation. Should the proposed corridor be established further south, then DEC may request additional measures to protect the DRF adjacent to the subject site eastern boundary.”

Department of Planning

17. *“The Department of Planning does not support the proposed scheme amendment on the basis that it is contradictory to the long term planning directions that have been outlined within the Albany Local Planning Strategy (June 2010).*

Specifically, the proposal does not comply with the Albany Local Planning Strategy (June 2010) as it:

- (a) Is not within an area designated for Rural Living;*
- (b) Is designated within an area for Agriculture. The land is identified on Map 5b as within a "Priority Agriculture" area, and Maps 9A and 98 include the land into the "General Agriculture" designation;*
- (c) Development of the land for Rural Living purposes would set an undesirable precedent for the development of rural land which is outside the development framework established by ALPS.”*

PUBLIC CONSULTATION / ENGAGEMENT

18. Should the proponent wish to proceed with a formal scheme amendment application and Council initiates such amendment the proposal will be subject to comment from surrounding landowners.

STATUTORY IMPLICATIONS

19. 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.

20. If an applicant decides to pursue a Scheme Amendment, Council will be required to formally consider that request.

STRATEGIC IMPLICATIONS

21. Council's decision on the Scheme Amendment must also be consistent with the objectives of the ALPS as the principal land use planning strategy for the City.
22. The most pertinent ALPS objectives relevant to the proposal are:

Section 8.3.4

"...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 town site's fully-serviced urban fringe and other areas with future urban development potential..."

Section 8.3.5

".....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."

Section 8.5.5

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

23. Section 8.3.1 – *Strategic Settlement Direction* sets the following Strategic Objective:

"Facilitate and manage sustainable settlement growth for the urban area in the City of Albany."

This objective is supported by a set of aims that have been devised to contain the spread of fragmented urban and rural living areas in the City. They are as follows:

- *Providing for growth in urban areas, rural townsites and rural living areas as designated in ALPS.*
- *Minimising the development footprint on the landscape to help protect biodiversity and the environment.*
- *Promoting energy conservation.*
- *Providing greater housing choice.*
- *Minimising journey length from home to work/school/services and encouraging the use of public transport, cycling and walking.*
- *Reducing government expenditure on servicing current and future populations.*

24. Section 8.3.5 – *Rural Living* sets the following Strategic Objective:

“In the long term encourage the efficient use of existing rural living areas, based on land capability to maximise their development potential.

The ALPS expands on this by stating that *“The strategy’s objectives for Rural Living areas are to:*

- *Discourage the creation of additional rural townsites for living purposes.*
- *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.*
- *Avoid the development of Rural Living areas on future and potential long-term urban areas.*
- *Provide compact growth of selected existing rural townsites in accordance with Table 4, based on land capability and available services and facilities.*
- *Minimise potential for generating land-use conflicts.*

25. 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.”

26. 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.
27. *WAPC SPP No. 11 Agricultural and Rural Land Use Planning*¹ provides the framework for the protection of Priority and General Agricultural areas. Priority Agricultural is land of State and regional significance within other rural land identified as General Agriculture.
28. The ALPS identifies Priority Agricultural areas to 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.
29. Small-scale tourist activities, such as farm-stay accommodation, chalets and bed-and-breakfast businesses are supported in Priority Agricultural areas provided they are incidental to the primary agricultural use of the land.
30. Rural Residential and Rural Small Holdings, if not already in place, will not be supported in the Priority Agricultural area.

¹ <http://www.wapc.wa.gov.au/Publications/138.aspx>

31. The ALPS supports the retention and protection of General Agriculture areas because they contain land suitable for a wide range of activities including animal husbandry, grazing, cropping and tree farming. These General Agriculture areas make up the bulk of remaining rural areas that have not been identified for Priority Agriculture or other rural uses such as Rural Residential and Rural Small Holdings.
32. The proposal is considered to be inconsistent with the various Strategic Objectives and aims set out in the ALPS.

POLICY IMPLICATIONS

33. Council is required to have regard to any Western Australian Planning Commission (WAPC) Statements of Planning Policy (SPPs) 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:

SPP 2.5 SPP 2.5 – Agriculture and Rural Land Use Planning

34. SPP 2.5 was gazetted in 2002 and has provided a comprehensive review and refinement of the previous DC Policy 3.4 Rural Land Use Planning (1989). The WAPC and Local Government are required to have regard to SPP 2.5 in planning for the development of rural areas.
35. The Policy advises that:

“Agricultural production from rural areas is a significant part of the Western Australian economy. It provides essential food and fibre products, and employment and value adding opportunities. Agricultural production in Western Australia is worth nearly \$5 billion per annum. Careful planning is required to maintain these benefits to regional economies and to encourage ongoing investment in agriculture and the supporting resource base.”
36. The four key objectives of SPP 2.5 are summarised as:
 - *Protect significant agricultural resources within the State from inappropriate land use and development;*
 - *Provide for sustainable rural settlement growth within community expectations and ensure adequate community service and infrastructure is available to support the growth;*
 - *Minimise potential land use conflicts between incompatible land uses; and*
 - *Manage natural resources and prevent land degradation.*
37. The proposal is inconsistent with the key policy measures identified in SPP 2.5, as it would lead to the creation of a Rural Living area with in an area identified as priority agriculture.

RISK IDENTIFICATION & MITIGATION

38. The risk identification and categorisation relies on the City’s Risk Management Framework.

Risk	Risk Analysis	Mitigation
<i>If proposal is supported a precedent may be set for other landholdings adjacent to defined special rural areas within ALPS.</i>	<i>Medium</i>	<i>Mitigation measure entirely dependent on Council.</i>

FINANCIAL IMPLICATIONS

39. The relevant scheme amendment request fee has been paid by the proponent. Officer time has been expended in processing the application within current resources and budget lines.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

40. 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 refuse to support the SAR proposal.

41. 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 Government agencies on the merits and likely support to be expected.

42. 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.

43. If Council were to reject the SAR proposal, the proponent would have the following options:

- To not proceed with an application of a formal scheme amendment; or
- To lodge a formal scheme amendment and request consideration by Council, irrespective of the outcome of the SAR.

SUMMARY CONCLUSION

44. The ALPS does not identify the subject land as suitable for Rural Living (special rural) purposes and has instead identified that the land should be preserved for agricultural purposes. There is sufficient land identified in the ALPS for special rural development, and support for the proposal is likely to set a precedent for further expansion of such lifestyle lots in other locations, undermining the effectiveness of the ALPS.
45. The proposal aims to create a special rural area, which is considered to be contrary to the objectives of ALPS and is not supported by the Department of Planning and the Department of Agriculture and Food.
46. The SAR is considered to be inconsistent with the strategic planning direction set by the City.

Consulted References	N/A
File Number (Name of Ward)	SAR 146 (Kalgan Ward)
Previous Reference	OCM 21/09/10 – Item 1.1 (item withdrawn by proponent)