

**2.3: INITIATION OF AMENDMENT – LOT 422 AFFLECK ROAD AND LOT 183 NANARUP ROAD, KALGAN**

<b>Land Description</b>	: Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan
<b>Proponent</b>	: Dykstra Planning
<b>Owner/s</b>	: Golden Eight (WA) Pty Ltd and B & W Carman
<b>Business Entity Name</b>	: Golden Eight (WA) Pty Ltd
<b>Director of Owner Company</b>	: Nicola Pagano
<b>Attachment(s)</b>	: Subdivision Guide Plan (map only)
<b>Appendices</b>	: Amendment Document (AMD307)
<b>Councillor Workstation</b>	: Copy of OCM 16/11/10 – Item 1.4 (SAR 147) : Land Capability Study, Environmental Report and Local Water Management Strategy
<b>Responsible Officer(s)</b>	: E/Director Planning and Development Services (G Bride)

**Maps and Diagrams:**



**IN BRIEF**

- Determine whether to initiate the proposed Scheme Amendment to rezone Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Rural' zone and the 'Special Rural' to the 'Special Residential' zone.

<b>CEO:</b>	<b>RESPONSIBLE OFFICER:</b>
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**ITEM 2.3: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council:**

In pursuance of section 75 of the *Planning and Development Act 2005* resolves **TO INITIATE** Amendment No. 307 to Town Planning Scheme No. 3 without modification for the purposes of:

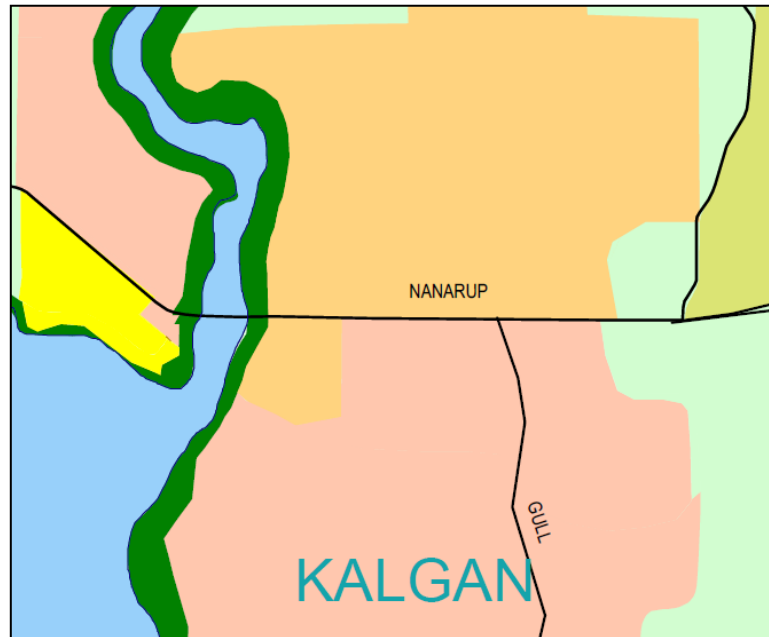
- 1) **Rezoning Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Special Rural' zone and the 'Rural' zone to the 'Special Residential' zone.**
- 2) **Amending Schedule IV – Special Residential Zones to include Special Provisions for Special Residential Area No. 21.**
- 3) **Amending the Scheme Maps accordingly.**

**BACKGROUND**

1. Amendment 307 proposes to amend Town Planning Scheme (TPS) No. 3 by rezoning Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Rural' zone and the 'Special Rural' to the 'Special Residential' zone.
2. A Scheme Amendment Request (SAR140) over the subject land was lodged with Council in 2008 requesting that the land be rezoned from 'Rural' to 'Special Rural' with the designation as a Special Control Area be considered. The designation as a Special Control Area related to an overlay plan that was intended to secure future development potential to a full urban standard, to meet the objectives of the draft Albany Local Planning Strategy (ALPS) which had earmarked the subject land as being suitable for future urban purposes.
3. Council considered SAR 140 at its Ordinary Meeting on 16 June 2009 and while there were concerns raised over the likely environmental impacts of the proposed overlay plan, there were also questions raised through the government consultation process as to the most appropriate future use for the subject land. Ultimately Council resolved not to support the formal submission of a Scheme Amendment and to review the designation of the subject land in the draft ALPS.
4. Following further discussion at the Planning and Environment Strategy and Policy Committee on 23 July 2009 and its Ordinary Meeting on 15 September 2009, Council resolved that the subject land should retain its 'Future Urban' designation in the draft ALPS.
5. At its meeting dated 15 June 2010 Council considered the final adoption of the Albany Local Planning Strategy (ALPS). As part of the adoption of the Strategy the City formally resolved the following in relation to the subject land:

*"THAT Council for land at Lower Kalgan agrees to MODIFY the 'Future Urban designation to 'Special Residential' on the north side of Nanarup Road and Lots 181, 184 and Pt Lots 183 and 422 on the south side of Nanarup Road (as per attached plan), and "Rural Residential" on the remainder of land on the south side of Nanarup Road and to the west of the Kalgan River."*

6. The excerpt from the ALPS (Map 9B) is attached below:



7. A further Scheme Amendment Request (SAR 147) over the subject land was considered at the Ordinary Council Meeting on 16 November 2010 and it was resolved that:

*“The proponent be ADVISED that Council is prepared to entertain the submission of a formal scheme amendment to rezone Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the ‘Rural’ and ‘Special Rural’ zones to the ‘Special Rural’ and ‘Special Residential’ zones subject to the following matters being addressed:*

- A. A detailed land capability and environmental report being prepared;*
  - B. The capacity of the land to be connected to reticulated water to be resolved;*
  - C. A fire management plan being prepared;*
  - D. The preparation of a Local Water Management Strategy in accordance with State Planning Policy 2.9 – Water Resources, Liveable Neighbourhoods (WAPC, 2007) and the Stormwater Management Manual for Western Australia (DOW 2004-2007); and*
  - E. The boundary of the foreshore reserve being mapped in consultation with Council and the Department of Water.”*
8. The matters outlined above have been addressed in the amending document and the detailed land capability report, which was prepared by Landform Research, with the exception of the boundary of the foreshore reserve being mapped in consultation with Council and the Department of Water. However, this can be addressed prior to finalisation of the Amendment.

## DISCUSSION

9. The subject land has an area of 44.64ha, with Lot 422 abutting the foreshore reserve along the eastern bank of Oyster Harbour and the mouth of the Kalgan River. Lot 183 lies to the north, between Lot 422 and Nanarup Road. The land rises gently from the north and west, towards the centre of Lot 422, where it levels out to form a broad ridge continuing to the south-east.
10. Much of the subject land has been cleared of vegetation in the past and is now under pasture. However, there are still substantial stands of remnant native vegetation, with the largest of these extending along the southern boundary of Lot 422, before reaching north in a reverse L-shape, in the eastern half of the lot. Another substantial area of remnant vegetation stands adjacent to the northern boundary of Lot 422 at its mid-point.
11. A dwelling and associated outbuildings stand in a loose cluster between the western boundary and the centre of Lot 422, with access to Nanarup Road via Affleck Road, which reaches the lot at its north-west corner. There is also a 10m wide Right of Way connecting the north-east corner of the lot back to Nanarup Road, whilst the southern boundary abuts the Swan Point Road Reserve. However, the constructed road ends approximately 180m from the lot boundary.
12. A dwelling and large outbuilding stand at the south-western corner of Lot 183 and a dam lies at the south-eastern corner. The northern boundary of Lot 183 fronts Nanarup Road and an access track runs from near the north-western corner of the lot to the house.
13. The land to the west of Lot 183, Lot 183 itself, the land to the east of Lots 183 and 422 and the land to the south of Lot 422 form part of 'Special Rural' Zone No. 6, which is comprised of lots of 2ha and above. Lot 14 Swan Point road, which lies at the south-west corner of Lot 422, is zoned 'Rural'.
14. The area has been identified as being suitable for 'Special Residential' development in the Albany Local Planning Strategy (ALPS) and is consistent with the objectives of Section 8.3.5 of the ALPS.
15. The attached Subdivision Guide Plan identifies:
  - A total of 74 special residential lots (ranging from 2052m<sup>2</sup> to 1.2 hectares);
  - The provision of 1.0 hectare and larger blocks at the interface of the subject land with the existing Swan Point Special Rural Area (consistent with lot sizes applicable to the Special Rural zone);
  - A widened foreshore reserve area adjacent to the Kalgan River which adds a further 2 hectares to the existing foreshore reserve;
  - The identification of two public recreation reserves that conserve the stands of very good and excellent vegetation identified in the land capability and environmental report;
  - The provision of a clear road hierarchy with a new and well positioned access point identified off Nanarup Road and integration back into the existing special rural area;
  - A subdivision overlay over Lot 181 and 184 to identify that the proposed subdivision guide plan will allow for these landowners to be serviced by a new road on their southern boundaries; and

- Indicative drainage design as recommended in the Local Water Management Strategy.
16. The subdivision guide plan and supporting information addresses the issues identified by Council as part of the Scheme Amendment Request. The foreshore reserve has been widened significantly and will be considered by the Department of Water as part of the advertising process should Council initiate the amendment.
  17. The land capability assessment has confirmed that the subject land is suitable for subdivision to 2000m<sup>2</sup> lots. It is generally characterised by sandy soils over silt, with a water table depth in excess of 1000mm and is considered to have 'high' land capability for dwellings and effluent disposal. Only proposed Lot 12 is described as having 'low' land capability, although the southern portion of this lot is of 'high' capability, providing an area suitable for effluent disposal.
  18. Given that the proposal is consistent with the objectives of the ALPS and would 'round-off' an established rural residential area, staff would recommend that Council initiate Amendment No. 307 without modification.

#### **GOVERNMENT CONSULTATION**

19. Should Council initiate the Amendment and the EPA decides not to assess the proposal, the Amendment will be referred to all relevant Government agencies for assessment and comment.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

20. Should Council initiate the Amendment and the Environmental Protection Authority (EPA) decides not to assess the proposal, the Amendment will be advertised to all affected and surrounding landowners.

#### **STATUTORY IMPLICATIONS**

21. All Scheme Amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
22. Council's resolution under Section 75 of the *Planning and Development Act 2005* is required to amend the Scheme.
23. An Amendment to a Town Planning Scheme adopted by resolution of a Local Government must then be referred to the EPA for assessment.
24. Advertising of an Amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the Amendment is environmentally acceptable.
25. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

#### **STRATEGIC IMPLICATIONS**

26. Council's decision on the Scheme Amendment should be consistent with the objectives of the ALPS as the principal land use planning strategy for the City.

27. 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.*

28. 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 5, based on land capability and available services and facilities.*
- *Minimise potential for generating land-use conflicts.*

*Existing Rural Residential areas in the ALPS are mainly on the fringe of the proposed Future Urban area.*

*Existing Special Rural and Special Residential zones in the City’s current Town Planning Scheme are fragmented and located within or next to rural areas on the periphery of the Albany urban area, along the King and Kalgan Rivers and around Princess Royal and Oyster Harbours. These zones are at different stages of development and not required to be*

*connected to reticulated sewerage. Some of the outer areas, such as Millbrook and most of Gull Rock, are also not connected to reticulated water”.*

29. The proposal is considered to be consistent with Section 8.3.5 of the ALPS, as it:
- discourages the creation of additional rural town sites for living purposes;
  - avoids the development of a Rural Living area on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity;
  - avoids the development of a Rural Living area on future and potential long-term urban areas, as the land has been identified in the ALPS as suitable for Special Residential purposes; and
  - will create lot sizes, particularly on the periphery of the subject land, similar to those adjoining the subject land, which are being used for similar rural residential living purposes, therefore minimising the potential for generating land-use conflicts.

## **POLICY IMPLICATIONS**

30. Council is required to have regard to any Western Australian Planning Commission Statements of Planning Policy (SPP) that apply to the scheme amendment. Any amendment to the Town Planning Scheme will be assessed by the Western Australian Planning Commission to ensure consistency with the following State and Regional Policies.

### **31. SPP 1 – State Planning Framework**

The Policy establishes state-wide key land use planning principles and informs the Commission, Local Government and others involved in the planning process in relation to sustainable land use and development across the State. It is designed to ensure there is coordination and integrated decision-making across all spheres of planning.

SPP1 describes the factors which represent good and responsible decision-making in land use planning:

#### **“Environment**

*The protection of environmental assets and the wise use and management of resources are essential to encourage more ecologically sustainable land use and development. Planning should contribute to a more sustainable future by:*

- i. *promoting the conservation of ecological systems and the biodiversity they support including ecosystems, habitats, species and genetic diversity;*
- ii. *State Planning Framework Policy 5*
- iii. *assisting in the conservation and management of natural resources, including air quality, energy, waterways and water quality, land, agriculture and minerals, to support both environmental quality and sustainable development over the long term;*
- iv. *protecting areas and sites with significant historic, architectural, aesthetic, scientific and cultural values from inappropriate land use and development;*

- v. *adopting a risk-management approach which aims to avoid or minimise environmental degradation and hazards; and*
- vi. *preventing environmental problems which might arise as a result of siting incompatible land uses close together.*

### **Community**

*Planning anticipates and responds to the needs of existing and future communities through the provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities. Planning should recognise the need for and, as far as practicable, contribute towards more sustainable communities by:*

- i. *accommodating future population growth and providing housing choice and diversity to suit the needs of different households, including specialist housing needs, and the services they require;*
- ii. *providing land for a range of accessible community resources, including affordable housing, places of employment, open space, education, health, cultural and community services;*
- iii. *integrating land use and transport planning and promoting patterns of land use which reduce the need for transport, promote the use of public transport and reduce the dependence on private cars;*
- iv. *encouraging safe environments, high standards of urban design and a sense of neighbourhood and community identity;*
- v. *promoting commercial areas as the focus for shopping, employment and community activities at the local, district and regional levels; and*
- vi. *providing effective systems of community consultation at appropriate stages in the planning and development process.*

### **Economy**

*Planning should contribute to the economic well-being of the State, regions and local communities by supporting economic development through the provision of land, facilitating decisions and resolving land use conflicts. In particular, planning should provide for economic development by:*

- i. *providing suitable zoned and serviced land for industry, business and other employment and wealth generating activities;*
- ii. *protecting agricultural land resources from inappropriate uses;*
- iii. *avoiding land use conflicts by separating sensitive and incompatible uses from industry and other economic activities with off-site impacts;*
- iv. *promoting local employment opportunities in order to reduce the time and cost of travel to work;*
- v. *providing sites for tourism accommodation and facilities taking account of their special location and servicing needs; and*
- vi. *ensuring that plans and policies are clear and certain, decisions are made in accordance with plans and policies, and decisions are made expeditiously.*

### **Infrastructure**



*Planning should ensure that physical and community infrastructure by both public and private agencies is coordinated and provided in a way that is efficient, equitable, accessible and timely. This means:*

- i. planning for land use and development in a manner that allows for the logical and efficient provision and maintenance of infrastructure, including the setting aside of land for the construction of future transport routes and essential services;*
- ii. protecting key infrastructure, including ports, airports, roads, railways and service corridors, from inappropriate land use and development;*
- iii. facilitating the efficient use of existing urban infrastructure and human services and preventing development in areas which are not well serviced, where services and facilities are difficult to provide economically and which creates unnecessary demands for infrastructure and human services; and*
- iv. encouraging consultation with providers of infrastructure, to ensure they have regard to planning policies and strategic land use planning when making their investment decisions, in order to ensure that land use and development are closely integrated with the provision of infrastructure services.”*

It is considered that the proposal will:

- prevent environmental problems which might arise as a result of siting incompatible land uses close together;
- accommodate future population growth and providing housing choice and diversity to suit the needs of different households, including specialist housing needs, and the services they require; and
- avoid land use conflicts by separating sensitive and incompatible uses from industry and other economic activities with off-site impacts.

### **32. SPP 3 – Urban Growth and Settlement**

SPP 3 sets out the key principles and planning considerations that apply to planning for urban growth and expansion of settlements in the State.

The key policy objectives in SPP 3 are as follows:

- *“To promote a sustainable and well planned pattern of settlement across the State, with sufficient and suitable land to provide for a wide variety of housing, employment, recreation facilities and open space.*
- *To build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities.*
- *To manage the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community values and constraints.*
- *To promote the development of a sustainable and liveable neighbourhood form which reduces energy, water and travel demand whilst ensuring safe and convenient access to*

*employment and services by all modes, provides choice and affordability of housing and creates an identifiable sense of place for each community.*

- *To coordinate new development with the efficient, economic and timely provision of infrastructure and services.”*

It is considered that the proposal will achieve the following objectives:

- *“To promote a sustainable and well planned pattern of settlement across the State, with sufficient and suitable land to provide for a wide variety of housing, employment, recreation facilities and open space.*
- *To build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities.”*

### **RISK IDENTIFICATION & MITIGATION**

33. There are no identifiable risks associated with this proposal as Council’s decision will be forwarded to the Western Australian Planning Commission, with the Minister for Planning ultimately deciding whether to finally approve the amendment.

### **FINANCIAL IMPLICATIONS**

34. There are no financial implications directly relating to this item. However, should Council support the Scheme Amendment, the City of Albany will be liable for maintaining the road network and public open space once the three year developer maintenance period is complete.

### **LEGAL IMPLICATIONS**

35. Under Part 5 of the *Planning and Development Act 2005*, and specifically section 75, Council can amend its Local Planning Scheme.

### **ALTERNATE OPTIONS**

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

- To resolve to initiate the Scheme Amendment without modifications;
- To resolve to initiate the Scheme Amendment with modifications; or
- To resolve not to initiate the Scheme Amendment.

37. A resolution to initiate an Amendment to a Town Planning Scheme adopted by resolution of a Local Government must be referred to the Environmental Protection Authority (EPA) for assessment.

38. Advertising of an Amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the Amendment is environmentally acceptable.

### **SUMMARY CONCLUSION**

39. Staff would recommend that Council initiate Amendment No. 307 without modification, on the basis that rezoning of the land would create a logical extension of an established rural residential area, in keeping with the objectives of Section 8.3.5 of the ALPS.

<b>Consulted References</b>	WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 & SPP 3
<b>File Number (Name of Ward)</b>	AMD307 (Kalgan Ward)
<b>Previous References</b>	OCM 16/06/09 – Item 11.2.1 OCM 15/09/09 – Item 15.5.2 OCM 15/06/10 – Item 13.2.8 OCM 16/11/10 – Item 1.4 (SAR 147)