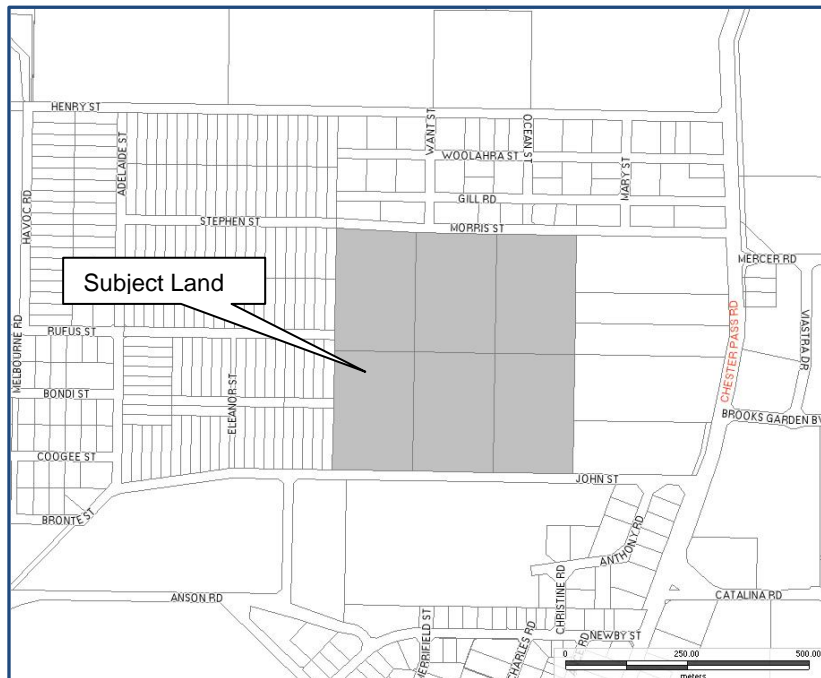


**2.1: FINAL APPROVAL OF DEVELOPMENT GUIDE PLAN – LOTS 873 – 875 JOHN STREET AND 870, 876 AND 877 MORRIS ROAD, MILPARA VERSION 2**

- Land Description** : Lots 873 – 875 John Street and 870, 876 and 877 Morris Road, Milpara
- Proponent** : Harley Global
- Owner/s** : Hysnex Pty Ltd and PG, EM & SJ Franey
- Business Entity Name** : Hysnex Pty Ltd
- Directors:** : Peter George Franey & Stephen John Franey
- Attachment(s)** : Schedule of Submissions  
ODP009 – Plan Only  
Amended ODP Plan (Attachment A)  
Exert plan from Traffic Study
- Appendices** : ODP009 – Full Report
- Councillor Workstation** : Copy of submissions  
Copy of AMD285 supporting documents
- Responsible Officer(s)** : E/Director Planning and Development Services (G Bride)

**Maps and Diagrams:**



**CEO:**

**RESPONSIBLE OFFICER:**

**IN BRIEF**

- Consider submissions received from Government Agencies and members of the public on the proposed Development Guide Plan for Lots 873 – 875 John Street and 870, 876 and 877 Morris Road, Milpara and determine whether to grant final approval.
- It is recommended that the Development Guide Plan be finally approved, subject to modifications.

RECOMMENDATION

ITEM 2.1: RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council:

- 1) ADOPT the Development Guide Plan for Lots 873 – 875 John Street and 870, 876 and 877 Morris Road, Milpara for final approval, subject to the following:
  - i. Modification of Development Guide Plan provision 2(d) to read as follows:

*“Appropriate fire management principles and mechanisms, including minimising impacts upon Vegetation Retention and Protection Zones, to be implemented within the industrial development.”*
  - ii. Modification of Development Guide Plan provision 2(f) to read as follows:

*“The ‘Development Exclusion Zone – Vegetation Retention and Protection’ and ‘Development Exclusion Zone – Landscape Buffer’ to be surveyed and demarcated prior to subdivision and/or development. No further development and clearing will be permitted in these areas.”*
  - iii. Modification of Development Guide Plan provision 2(g) to read as follows:

*“The protection of remnant vegetation outside Development Exclusion Zones in road reserves and within lots where practicable.”*
  - ii. Modification of Development Guide Plan provision 2(h) to read as follows:

*“The protection and maintenance of an ecological corridor through the ‘Development Exclusion Zone – Vegetation Retention and Protection’.”*
  - iii. Modification of the Development Guide Plan to show a temporary cul-de-sac on the northern end of the future north-south future neighbourhood contributor to prevent vehicular access onto Morris Street with the following notification being added:

*“Continuation of north-south distributor to connect with Henry Street, through Want Street, will be considered at a later stage after a traffic study addressing the local traffic impacts are undertaken which includes extensive public consultation. **In the interim period the area of road reserve north of the cul-de-sac head should be planted as per the adjacent landscape buffer, and include a barrier to prevent vehicles accessing the subject land from Morris Street (a dual use path to accommodate pedestrian access may be required as a condition of subdivision).”***
  - iv. Correction of the drafting error on the Development Guide Plan legend by removing the red markings within the POS reserve and replacing the word *Stylidium Plantagineum* in the legend with ‘*Stylidium Plantagineum*’ (which is a priority 4 declared rare flora species)’ for the purposes of clarity.
- 2) Formally REFER the Development Guide Plan to the Western Australian Planning Commission recommending endorsement.

## **BACKGROUND**

1. A Scheme Amendment (AMD 285) to rezone Lots 873 – 875 John Street and 870, 876 and 877 Morris Road, Milpara from the 'Rural' zone to the 'Light Industry' zone and 'Parks and Recreation' reserve was initiated by Council at its ordinary meeting held on 17 March 2009.
2. Following public advertising and referral to State Government agencies, the Amendment was considered by Council for final approval at its ordinary meeting held on 20 October 2009 whereby it was resolved:
  - i) *THAT Council in pursuance of section 75 of the Planning and Development Act 2005 and regulation 25(1)(c) of the Town Planning Regulations 1967 resolves to ADOPT WITH MODIFICATIONS Amendment No. 285 to Town Planning Scheme No. 3 as follows:*
    - (a) *Rezoning Lots 873 – 875 John Street and 870, 876 and 877 Morris Road, Milpara from the 'Rural' Zone to the 'Light Industry' Zone and the 'Parks and Recreation' Reserve;*
    - (b) *Inserting Schedule VII – Light Industry Zone into the scheme text, subject to "Bulky Goods Outlet" under provision 2c being moved under provision 2f; and*
    - (c) *Modifying the scheme maps accordingly;*

AND

- ii) *THAT Council RECEIVE the Schedule of Submissions and ADOPTS the officer's recommendation to either dismiss, uphold or note each individual submission as contained within the Schedule of Submissions.*
3. The Amendment was subsequently referred to the Minister for Planning for final approval. The Minister responded with instructions for final modifications to be made to the Amendment, which when implemented, allowed the Minister to grant final approval on 29 June 2011. The Amendment was then published in the Government Gazette on 8 July 2011.
4. The proponent had prepared a Development Guide Plan as required by the Town Planning Scheme which has been referred to adjoining landowners and relevant state government agencies for comment.
5. Council is now required to consider the submissions received and determine whether to grant final approval to the Development Guide Plan and seek the endorsement of the Western Australian Planning Commission.

## **DISCUSSION**

6. The subject lots cover a total area of 24.4 hectares and are located approximately 5km north of the Albany central area. The land slopes from east to west across the lots, from 53.1m AHD to 40.4m AHD, at the northwest corner of Lot 873 John Street. There is remnant native

vegetation on all of the subject lots, with significant stands on Lots 870 and 877 John Street and parkland cleared vegetation on portions of Lots 874 Morris Road and 876 John Street. Lot 877 John Street has a significant amount of vegetation cover, primarily to the north and east of the lot. Lot 870 John Street is almost entirely covered by vegetation, with the exception of boundary firebreaks, and an access way from the south-east corner following the eastern boundary to a cleared area of approximately 2200m<sup>2</sup>, which lies to the eastern boundary and the centre of the lot.

7. The subject lots have recently been rezoned from the 'Rural' zone to the 'Light Industry' zone, with 'Parks and Recreation' Reserve 'buffers' on the periphery, in order to remove the potential for land use conflicts with the adjoining 'Residential' zoned area to the north and west.
8. The Development Guide Plan has generally been supported by government agencies. However, the Department of Environment and Conservation has raised some minor concerns in relation to the proposal and a number of objections have been received from neighbouring landowners. The issues raised in the submissions can be effectively addressed through modifications to the development guide plan and the future subdivision and/or development application processes, as listed and discussed in the Schedule of Submissions.
9. The main concern raised through the public submission period involved the notation on the Development Guide Plan which states '*Future Connection to Henry Street*'. Two petitions signed by forty two residents has objected to a north-south distributor extending to the north of Morris Street through to Henry Street due to the increase in traffic and type of traffic (industrial/commercial) that will be diverted through existing residential areas. It is likely that the future distributor road to the north of Morris Street will not be needed for many years and will only be required when land to the north of Henry Street is developed. Henry Street will become an important east-west connection ultimately connecting Albany Highway with Chester Pass Road as the City continues to grow to the north (an exert from the traffic study prepared by Opus Consultants identifying the road hierarchy for the area is attached). Whilst it is good planning to cater for a future road connection it is considered that the Development Guide Plan could be altered to identify a temporary cul-de-sac in the interim period. The notation could then read:

*"Continuation of north-south distributor to connect with Henry Street, through Want Street, will be considered at a later stage after a traffic study addressing the local traffic impacts are undertaken which includes extensive public consultation. In the interim period the area of road reserve north of the cul-de-sac head should be planted as per the adjacent landscape buffer, and include a barrier to prevent vehicles accessing the subject land from Morris Street (a dual use path to accommodate pedestrian access may be required as a condition of subdivision)."*

10. Other issues relevant to the amendment raised within the submissions are as follows:
  - Protection of native vegetation;
  - Inadequate road infrastructure;
  - Inadequate drainage infrastructure;

- Potential noise nuisance;
- Potential road safety hazards; and
- Loss of residential amenity.

11. The Albany Local Planning Strategy (ALPS) identifies the subject land as 'Existing Urban'.
12. ALPS states that the existing Industrial zoned land to the south and east of the subject lots is intended to "*maintain an adequate supply and range of serviced industrial land in appropriate locations*". However, the majority of this land has already been developed, leaving little potential for further growth.
13. The characteristics and location of the subject land and its designation within the ALPS make it suitable for 'Light Industrial' uses. This expansion would also help to overcome the increasingly limited development potential within the existing industrial areas to the south and east.
14. By agreeing to the scheme amendment to create the 'Light Industry' zone which has since been applied to the subject land (through Amendment No. 285 to Town Planning Scheme No.3), Council's role now is to review the future subdivision layout and development control mechanisms that should apply to these lots.
15. The scheme report associated with Amendment No. 285, contained a number of appendices with supporting information, which are as follows:

#### **Land Capability Assessment**

16. The Land Capability Assessment report prepared by Opus International Consultants advises that the site has a moderate capability for light industrial development.
17. The report highlights the poor drainage of the area, in particular the susceptibility of buildings in the area to foundation soundness issues and water logging/inundation. The Development Guide Plan, through provision 3(c) has recommended that a geotechnical analysis be required at the time of subdivision to confirm the land capability and determine whether further remediation is required.

#### **Technical Buffer Assessment**

18. The Technical Buffer Assessment report prepared by Opus International Consultants recommended a 30 metre and 20 metre wide fully vegetated buffer areas or setbacks from existing residential properties to the west and north respectively. The Development Guide Plan identifies a 40 metre wide landscape buffer/setback along the western boundary of the subject site, incorporating a 20 metre road reserve and two 10 metre landscape buffers either side of the road reserve. A 20 metre wide landscape buffer has been provided along the northern boundary of the subject land.
19. The allocated buffers are consistent with the Technical Buffer Assessment and are further strengthened by identifying two land use precincts, with the precinct closest to existing residential areas (Precinct A) accommodating lighter industrial uses than those permitted

within Precinct B which adjoins existing industrial premises. The boundary of Precinct B is more than 150 metres from existing residential areas.

20. In a state context it is also important to note that under the Western Australian Planning Commission's *Statement of Planning Policy 4.1 – State Industrial Buffer*, there is no requirement for a buffer area between 'Light Industrial' and 'Residential' development.

### **Vegetation, Flora and Fauna Assessment**

21. The Vegetation, Flora and Fauna Assessment report prepared by Opus International Consultants contains a number of recommendations, inclusive of the retention of good stands of remnant vegetation on Lots 870 and 877 in Public Open Space (POS). A Spring Declared Rare Flora, Priority Listed Flora and Threatened Ecological Communities Addendum was also produced by Opus International Consultants which confirmed the identification of Priority 4 flora species (specifically *Stylidium plantagineum*) across part of Lots 870 and 877.
22. Before Amendment No. 285 was completed, further vegetation and flora survey work was undertaken by Bio Diverse Solutions in order to provide final guidance on the retention and protection of remnant vegetation across Lots 870 and 877. This in turn necessitated a redesign of the road layout and broad lot arrangements across the subject land, from the original draft Development Guide Plan that was provided with Amendment No. 285.
23. The final version of the Development Guide Plan indicates the proposed road structure and landscaped buffers to the western and northern boundaries. In addition, it retains the inner and outer precincts from the original version of the plan, with restrictions on land uses in each, as set out in Schedule VII of Town Planning Scheme No. 3. This is intended to ensure that any land uses that could cause amenity issues are located further from the adjacent residential areas. The plan also makes provision for the retention and protection of remnant vegetation across the subject land and specifically across Lots 870 and 877 through development exclusion areas, which has been supported by the Department of Environment and Conservation.

### **GOVERNMENT CONSULTATION**

24. The Development Guide Plan was referred to WA Gas Networks (WestNet Energy), Telstra, Water Corporation, Western Power, Department of Agriculture and Food, Department of Health, Department of Environment and Conservation, Fire and Emergency Services Authority (FESA), and Main Roads WA for assessment and comment. Responses were received from Water Corporation, Western Power, Department of Agriculture and Food, Department of Environment and Conservation and FESA and are summarised in the attached Schedule of Submissions.

## **PUBLIC CONSULTATION / ENGAGEMENT**

25. The DGP was advertised in accordance with the requirements of clause 6.9.2(A) of Town Planning Scheme No. 3 by advertisement in the local newspaper. Additionally, a sign was placed on-site, and letters were sent to affected and adjoining/nearby landowners and relevant State Government agencies.
26. A total of **seventeen** written submissions were received as attached. The submissions received are summarised and discussed with a recommendation for each submission in the attached Schedule of Submissions.

## **STATUTORY IMPLICATIONS**

27. Clause 2(a) of Light Industry Zone No. 1 within Schedule VII of Town Planning Scheme No. 3 requires the approval by the City of Albany and endorsement of the WAPC of a Development Guide Plan prior to subdivision and/or development of the land.
28. Clause 2(b) requires such a Development Guide Plan to have regard to the following:
  - The proposed road layout and impacts on the district distributor road system;
  - The requirement for a north-south neighbourhood connector;
  - Restrictions on vehicular access;
  - The proposed pedestrian and cycling layout and impacts on the existing network;
  - Topographic conditions, particularly drainage implications;
  - Preservation of the environment including the need to protect remnant vegetation on Lot 870 John Street in particular;
  - Landscaping and re-vegetation requirements;
  - Distribution of uses and appropriate setbacks to residential development and other sensitive uses; and
  - Designation of Development Exclusion Zones – ‘Vegetation Retention and Protection’ and ‘Landscaping Buffer’.
29. The Development Guide Plan as submitted by the proponent does address all the above issues identified in Clause 2(b) of the Scheme as it:
  - Includes a legible road network that seeks to pick up existing connections to the east of the subject land. Road reserve widths of 20 metres for internal roads have been provided to the City of Albany’s specifications.
  - Identifies and provides for the future north-south neighbourhood connector.
  - Restricts vehicular access along Morris Street and Rufus Street will not connect through to the industrial estate.
  - Identifies a Dual Use path (2.5 metres wide) along John Street with footpaths provided along the major internal roads.
  - Includes detailed contour information and identifies a drainage reserve in the north-west corner which represents the lowest level of the subject land. The Drainage Study that accompanied the Amendment Document is referenced in the Plan.
  - Identifies the retention of a significant portion of the vegetation on Lot 870 John Street which has been supported by the Department of Environment and Conservation and is identified as Development Exclusion Areas on the Plan.



- Identifies a 40 metre minimum setback distance between the boundaries of the residential and industrial allotments with at least 20 metres of this buffer being fully vegetated and acknowledges that land uses within Precinct A are lighter in nature than those identified for Precinct B.
- Includes vegetation protection and landscape buffer zones as development exclusion areas.

## **STRATEGIC IMPLICATIONS**

30. The subject land has been identified within the ALPS as 'Existing Urban'. This allows rezoning for a variety of purposes, provided that the land is capable and the use is appropriate in an urban context.
31. Council in supporting the rezoning of the subject land to 'Light Industry', via Amendment No. 285 to Town Planning Scheme No. 3, has already identified that this zone is appropriate for the area. The zoning will provide for a range of employment opportunities for the growing residential expansion of the City.
32. This item relates directly to the following element of the City's Strategic Plan (2011-2021):

### **Key Focus Area**

Sustainability and Development

### **Community Priority**

A diversified industrial base

### **Proposed Strategy**

Encourage an increase in Albany's industry base to ensure employment for school leavers and university graduates.

## **POLICY IMPLICATIONS**

33. The most relevant policies that apply to this proposal are Statement of Planning Policy 3 – Urban Growth and Settlement and Statement of Planning Policy 4.1 – Industrial Buffers.

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

34. SPP 3 sets out the key principles and planning considerations that apply to planning for urban growth and expansion of settlements in the State.
35. 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.”*

36. It is considered that the proposal:

- builds on existing communities with established local and regional economies;
- manages 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;
- promotes 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 (of transport); and
- coordinates new development with the efficient, economic and timely provision of infrastructure and services.
- coordinates new development with the efficient, economic and timely provision of infrastructure and services.

#### **SPP 4.1 – State Industrial Buffer**

37. SPP 4.1 sets out the requirements for buffers between industrial and sensitive land uses across the State. With regard to light industry, the policy contains the following statement:

*“Light and service industry and technology parks should retain all emissions and hazards on-site or at least within the zone or park area.*

*On-site buffer areas should be sufficient to address local amenity. Local governments should ensure that sufficient setback distances (including the treatment of setbacks, e.g. landscaping) are included in their town planning schemes to retain residual emissions and risks within site boundaries. Easements to provide protection for infrastructure such as drainage lines, transmission lines and gas and petroleum pipes should also be shown as these are one form of on-site buffer. Provisions should also be included to ensure acceptable levels of visual amenity.”*

38. It is considered that the proposal meets the objective of this policy, as it provides an off-site buffer area between the light industrial development area and the surrounding residential area. This buffer will also help to protect the visual amenity of the surrounding residential area.

**RISK IDENTIFICATION & MITIGATION**

39. The risk identification and categorisation relies on the City's Risk Management Framework.

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<i>Fire (threat to future buildings on the south-eastern quarter of the DGP area, which are adjacent to the Development Exclusion Zone – Vegetation Protection and Retention).</i>	<i>Possible</i>	<i>High</i>	<i>Extreme</i>	<i>The City of Albany will request that the Western Australian Planning Commission impose a condition at the time of subdivision, requiring the preparation of a Fire Management Plan in accordance with Planning for Bushfire Protection Guidelines Edition 2 or any policy or guidelines superseding it.</i>  <i>Furthermore, the provisions of the Planning for Bushfire Protection Guidelines Edition 2 will be considered on a site-specific basis at the Development Application stage.</i>
<i>Environmental (loss of remnant native vegetation).</i>	<i>Possible</i>	<i>Medium</i>	<i>High</i>	<i>Issues surrounding the loss of remnant native vegetation were resolved with Amendment No. 285. The proposed DGP incorporates a Development Exclusion Zone – Vegetation Protection and Retention, primarily to protect a Priority 4 flora species. Other DGP provisions direct that other remnant native vegetation should be protected without this area wherever practicable. This is consistent with advice given by the Department of Environment and Conservation.</i>
<i>Traffic safety/management (inadequacy of road network, in particular the intersection of John Street and Chester Pass Road, to support future development).</i>	<i>Possible</i>	<i>Medium</i>	<i>High</i>	<i>The proposed DGP includes potential future road links to channel traffic north and south away from John Street to east-west Integrator Arterial and Neighbourhood Connector Roads (Henry Street and Anson Road/Newbey Street) to alleviate traffic problems.</i>

**FINANCIAL IMPLICATIONS**

40. There are no direct financial implications directly relating to this item, except that when subdivision occurs the City will be responsible for managing the roads and public open space constructed and created by the proponent.

**LEGAL IMPLICATIONS**

41. There are no legal implications relating to this item. Should Council approve the Development Guide Plan the Western Australian Planning Commission will consider whether the plan should be ultimately endorsed.

**ALTERNATE OPTIONS**

42. Council has the following options in relation to this item, which are:
- To finally approve the Development Guide Plan without modification;
  - To finally approve the Development Guide Plan subject to modifications; or
  - To not grant final approval of the Development Guide Plan.
43. If Council was to not grant final approval no development and subdivision of the land could occur and the proponent would need to resubmit the guide plan to Council; in this instance specific guidance should be provided as to why the guide plan cannot be supported or could not be modified. Should Council be concerned with any aspect of the Development Guide Plan it is recommended that this issue be rectified by requesting an additional or altered modification to that included in the responsible officer recommendation.
44. In relation to the future north-south connector Council may wish to modify the Development Guide Plan to limit any future access from the site through to Henry Street, via Want Street through a restrictive covenant on the title. This would not be consistent with the existing Scheme provisions associated with the subject land, which required the Development Guide Plan cater for this road connection. If this option was pursued the Western Australian Planning Commission will ultimately decide whether such a modification is appropriate.

**SUMMARY CONCLUSION**

45. The Development Guide Plan indicates the proposed road structure and lot layout across the subject land also defines the extent of the landscaped buffers to the western and northern boundaries. In addition, it sets out the inner and outer precincts, with restrictions on land uses in each, as set out in Schedule VII of Town Planning Scheme No. 3. This is intended to ensure that any land uses that could impact on the amenity of the adjacent residential areas are located away from them, towards the established industrial areas to the south and east. The plan also makes provision for the retention and protection of remnant vegetation across the subject land and specifically across Lots 870 and 877.
46. Overall it is recommended that the plan be finally approved, subject to modifications, and referred to the Western Australian Planning Commission for endorsement.

<b>Consulted References</b>	WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1, SPP 3 & SPP4.1
<b>File Number (Name of Ward)</b>	ODP009 (Kalgan Ward)
<b>Previous References</b>	OCM 20/10/2009 – Item 13.2.1 (AMD285)