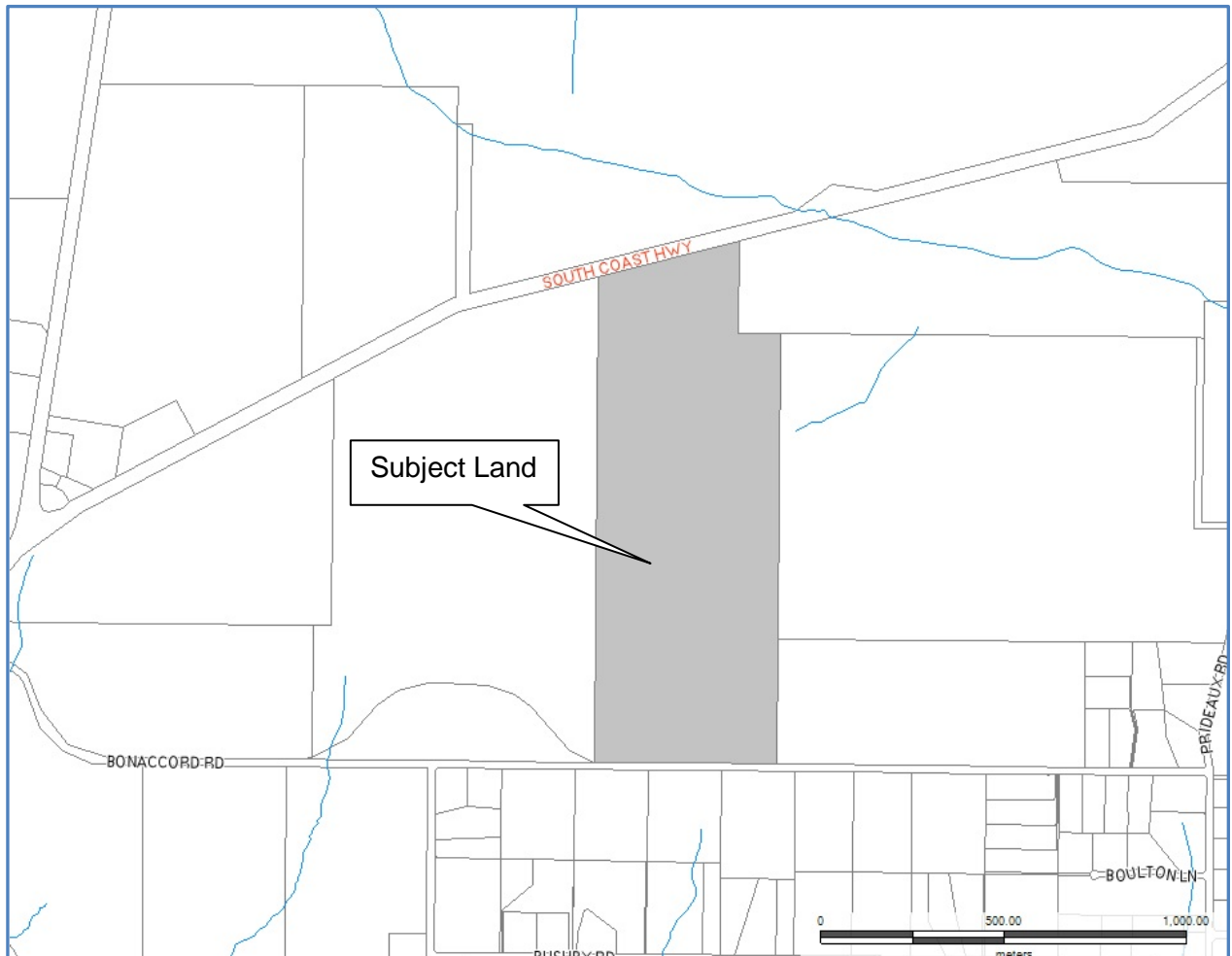


**2.5: INITIATION OF AMENDMENT – LOT 5241 BON ACCORD ROAD, KALGAN**

<b>Land Description</b>	: Lot 5241 Bon Accord Road, Kalgan
<b>Proponent</b>	: Harley Global
<b>Owner/s</b>	: Karrabin Pty Ltd ATF The Rogister Family Trust
<b>Business Entity Name</b>	: Karrabin Pty Ltd ATF The Rogister Family Trust
<b>Director/s of Company</b>	: Edward Francis Rogister & Janice Marie Rogister
<b>Attachment(s)</b>	: Subdivision Guide Plan
<b>Councillor Workstation</b>	: Amendment Document (AMD310)
	: Copy of OCM 19/04/11 – Item 1.2 (SAR146)
<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 a portion of Lot 5241 Bon Accord Road, Kalgan from the 'Rural' zone to the 'Special Rural' zone.

**CEO:**

**RESPONSIBLE OFFICER:**

**ITEM 2.5: RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council in pursuance of section 75 of the *Planning and Development Act 2005* resolves TO INITIATE Amendment No. 310 to Town Planning Scheme No. 3 with modifications for the purposes of:**

- 1) Rezoning a portion of Lot 5241 Bon Accord Road, Kalgan from the 'Rural' zone to the 'Special Rural' zone.**
- 2) Amending Schedule I – 'Special Rural Zones' to include reference to Lot 5241 Bon Accord Road, Kalgan in Special Rural Area No. 21.**
- 3) Amending the Scheme Maps accordingly.**

**BACKGROUND**

1. Amendment 310 proposes to amend Town Planning Scheme (TPS) No. 3 by rezoning a portion of Lot 5241 Bon Accord Road, Kalgan from the 'Rural' zone to the 'Special Rural' zone.
2. A Scheme Amendment Request (SAR146) was submitted to the City for assessment in July 2010 and reported to Council for consideration in April 2011, following consultation with various State Government agencies.
3. Staff recommended:

*"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."*

4. However, the following alternate motion was brought forward at the Ordinary Meeting of Council:

*"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.”*
5. The reasons given for the alternate motion were as follows:
- “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.”*
- The motion was carried by Council with an 8-4 majority.
6. An accordance with Council's adopted motion, the proposal has been modified to include a detailed Land Capability Assessment, incorporating an Agricultural Impact Statement, and the northern portion of the lot (approximately 17ha) has been designated to remain in the 'Rural' zone. Although a detailed fire management plan has not been prepared at this stage, the broad principles of *Planning for Bush Fire Protection Guidelines Edition 2* have been applied to the subject land, which is considered acceptable at the Amendment stage. A detailed fire management plan could be required as a Special Provision of the zone, to be prepared prior to subdivision of the land.
  7. Council has now been asked to initiate a scheme amendment to rezone a portion of Lot 5241 Bon Accord Road, Kalgan from the 'Rural' zone to the 'Special Rural' zone, consistent with its resolution of 19 April 2011.

## **DISCUSSION**

8. The subject land covers an area of 66.76 hectares and is predominantly cleared for grazing with scattered patches of vegetation remaining, mainly to the south and along the creek line that bisects the lot approximately two-thirds of the way between Bon Accord and Chester Pass Roads. The portion of the lot to the south of the creek line folds over a ridgeline, affording views to the south coast and the rural hinterland to the north. A single dwelling currently stands on the lot towards the western boundary, set back approximately 250m from

Bon Accord Road. A number of sheds stand to the rear of the dwelling and a larger shed stands approximately 250m further back into the lot.

9. 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 for "Public Purposes", while the land to the south, on the opposite side of Bon Accord Road, forms part of Special Rural Area No. 21.
10. A minor point to be noted is that the amending documentation refers to the subject land as Lot 5241 Bon Accord Road, Lower King, rather than its correct address of Lot 5241 Bon Accord Road, Kalgan. If Council should adopt the amendment for purposes of advertising, it is recommended that the amending documentation be appropriately modified to address this.
11. Despite the proposal being inconsistent with some of the Strategic objectives set out in the ALPS, it is consistent with a number of others. It is also broadly consistent with the key policy objectives of SPP 2.5 – Agricultural and Rural Land Use Planning. In addition, Council has previously lent its support to the proposal, subject to a number of requirements which have been met by the scheme amendment and supporting documents.
12. While this proposal could set an unwanted precedent for further development in the area, on balance this is a relatively minor deviation from the strategic direction set by the ALPS.

#### **GOVERNMENT CONSULTATION**

13. Should Council initiate the Amendment and the Environmental Protection Authority (EPA) decides not to assess the proposal, the Amendment will be referred to all relevant Government agencies for assessment and comment.

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

14. Should Council initiate the Amendment and the EPA decides not to assess the proposal, the Amendment will be advertised and affected and surrounding landowners will be specifically consulted.

#### **STATUTORY IMPLICATIONS**

15. All Scheme Amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
16. Council's resolution under Section 75 of the *Planning and Development Act 2005* is required to amend the Scheme.
17. An Amendment to a Town Planning Scheme adopted by resolution of a Local Government must then be referred to the EPA for assessment.
18. 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.

19. 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

20. 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.
21. 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.*

22. 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 not connected to reticulated water”.*

23. 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.”*

The ALPS expands on this by stating that:

*“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.*

*WAPC SPP No. 2.5 – Agricultural and Rural Land Use Planning provides the framework for the protection of Priority and General Agricultural areas. Priority Agricultural is land of State and regional significance and the balance of the rural land is identified as General Agricultural.*

*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. **Refer to Maps 9A and 9B for details.***

*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.*

*Rural Residential and Rural Small Holdings, if not already in place, will not be supported in the Priority Agricultural area.*

*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.”*

24. It is considered that the proposal would:

- provide greater housing choice;
- 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; and
- minimise potential for generating land-use conflicts.

25. However, the proposal is also considered to be inconsistent with the City of Albany's strategic planning direction, as set out in the ALPS, in a number of regards, as it would not:

- provide for a rural living area as designated in ALPS;
- minimise the development footprint on the landscape to help protect biodiversity and the environment;
- promote energy conservation;
- minimise journey length from home to work/school/services or encourage the use of public transport, cycling and walking; and
- reduce government expenditure on servicing current and future populations.

Additionally, the proposal would lead to the loss of Priority Agricultural land, as designated in the ALPS, which is to be retained and protected as a finite resource. According to ALPS, these are areas that contain land suitable for general rural activities plus irrigated annual horticulture, irrigated perennial horticulture and other irrigated crops and pasture. Furthermore, the ALPS states that Rural Residential and Rural Small Holdings, if not already in place, will not be supported in the Priority Agricultural area. However, the Agricultural Impact Statement provided with the amending document finds that the subject land is only suitable for perennial horticulture and grazing of livestock.

## **POLICY IMPLICATIONS**

26. 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.

### **27. SPP 2.5 – Agricultural and Rural Land Use Planning**

SPP 2.5 provides 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.

28. 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.”*

29. 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.*

In view of the findings of the Agricultural Impact Statement provided with the amending document, the proposal is considered to be broadly consistent with the key policy measures identified in SPP 2.5.

30. **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 policy objectives in SPP 3 relevant to this proposal 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 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**

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Supporting the rezoning of a portion of Lot 5241 Bon Accord Road from the 'Rural' zone to the 'Special Rural' zone may set an undesirable precedent for the development of rural land outside the development framework established by the ALPS.	Likely	High	High	Council does not support the rezoning of a portion of Lot 5241 Bon Accord Road from the 'Rural' zone to the 'Special Rural' zone in order to avoid setting precedent.

**FINANCIAL IMPLICATIONS**

31. There are no financial implications directly relating to this item. However, should Council support the Scheme Amendment, the City of Albany will ultimately be liable for maintaining the public road and verges.

**LEGAL IMPLICATIONS**

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

**ALTERNATE OPTIONS**

33. Council has the following options in relation to this item, which are:
- initiate the Scheme Amendment without modifications;
  - initiate the Scheme Amendment with modifications; or
  - not initiate the Scheme Amendment.

34. A resolution to initiate an Amendment to EPA for assessment.

**SUMMARY CONCLUSION**

35. On balance, Amendment No. 310 is a relatively minor deviation from the strategic direction set by the ALPS and addresses many of the other key strategic objectives set out in that document.

<b>Consulted References</b>	WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 & SPP 3
<b>File Number (Name of Ward)</b>	AMD310 (Kalgan Ward)
<b>Previous References</b>	OCM 19/04/1 – Item 1.2