

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3
AMENDMENT No. 308
SCHEDULE OF SUBMISSIONS**

| No. | Name/Address of Submitter | Summary of Submission | Officer Comment | Staff Recommendation |
|------------|--|---|--|---|
| 1 | Environmental Protection Authority Locked Bag 33 Cloisters Square PERTH WA 6850 | <p>The Environmental Protection Authority (EPA) has determined that the proposed scheme amendment should not be assessed under Part IV Division 3 of the <i>Environmental Protection Act 1986</i> (EP Act), but nevertheless provides the following advice and recommendations:</p> <p>1. Environmental Issues</p> <ul style="list-style-type: none"> • Clearing of Native Vegetation • Protection of natural watercourses <p>2. Advice and recommendations regarding Environmental Issues</p> <p>Clearing of Native Vegetation</p> <p>The EPA notes that there are two main areas of remnant vegetation within Lot 4 Cosy Corner Road. Future development should minimise the fragmentation and clearing of native vegetation by utilizing cleared land only.</p> <p>The EPA therefore recommends that building envelopes/development, access ways and associated building protection</p> | <p>The proposed subdivisional layout has been designed in such a way that building envelopes/development, access ways and associated building protection zones and hazard reduction zones will be located only in existing cleared areas.</p> <p>Staff from the Department of Water have since undertaken a biophysical assessment of the site and ascertained that the 'waterway' would be better described as a 'dampland' area that may only run with water infrequently. However, the DoW has echoed the EPA advice and recommended that stock is excluded from Lot W.</p> | <p>The submission is upheld.</p> <p><u>Modifications required:</u></p> <p>An additional provision 7.6 shall be added with the following wording:</p> <p><i>“Council will request the Commission to impose a condition at the time of subdivision requiring a foreshore management plan to be prepared for the ‘Creek protection area’ on Lot W.”</i></p> <p>Provision 4.1 shall be reworded as follows:</p> <p><i>“New intensive agricultural pursuits such as piggeries, and commercial scale horticulture and viticulture, and the keeping of stock on Lot W are not permitted.”</i></p> <p>Provision 10.4 shall be reworded as follows:</p> <p><i>“On Lots A, U and W on the</i></p> |

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| | | <p>zones and hazard reduction zones are located only in existing cleared areas. The EPA also recommends that the proposed Conservation of Flora and Fauna areas are fenced to exclude stock.</p> <p>Protection of natural watercourses</p> <p>The EPA is concerned that future development could lead to nutrient export. The amendment area is traversed by a perennial watercourse in a degraded condition and test pits have identified high groundwater levels.</p> <p>The EPA therefore makes the following recommendations:</p> <ul style="list-style-type: none"> • Prior to subdivision, a biophysical assessment of the watercourse is carried out to determine an appropriate width for a foreshore buffer, with a minimum buffer width of 30m either side of the watercourse. The buffer is to be rehabilitated/revegetated with local native species in order to increase foreshore stability and to filter nutrient enriched run-off, and fenced to exclude | | <p><i>Subdivision Guide Plan, subject to late winter groundwater testing, Council will allow either an alternative amended soil treatment and disposal system within the building envelope, or a system which pumps treated effluent to a disposal area within the lot which satisfies the required setbacks from water courses."</i></p> |

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| | | <p>stock. The EPA prefers that watercourse buffers are determined on biophysical criteria as outlined in the Water and Rivers Commission Water Notes 23 – <i>Determining foreshore reserves</i>.</p> <ul style="list-style-type: none"> • Prior to subdivision, further groundwater investigations at proposed building envelope sites to ensure a minimum separation of 0.5m between the natural ground level and the highest groundwater level. • The use of alternative treatment units for household effluent. | | |
| 2 | WA Gas Networks PO Box 3006 SUCCESS WA 6964 | No objections. | Nil. | The submission is noted. |
| 3 | Telstra – Forecasting & Area Planning – South Western Access Team Manager – Forecasting Network & Technology Locked Bag 2525 | No objections. | Nil. | The submission is noted. |

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AGENDA ITEM 2.5 REFERS

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| | PERTH WA 6001 | | | |
| 4 | Water Corporation PO Box 915 ALBANY WA 6331 | No objections. Scheme water supply is remote from the amendment area. It is noted from the report, Section 5.2 that the development will be supplied via on-site sources and that effluent disposal will also be on-site. | Nil. | The submission is noted. |
| 5 | Western Power Locked Bag 2520 PERTH WA 6001 | No objections. However, there are overhead powerlines and/or underground cables adjacent to, or traversing, the subject land. | Nil. | The submission is noted. |
| 6 | Department of Agriculture and Food 444 Albany Highway ORANA WA 6330 | It is acknowledged that this proposal has been sighted before. The revised document has satisfied the concerns previously raised by the Department of Agriculture and Food, WA (the Department). It is noted that the revised proposal with supporting literature is very comprehensive. While it is disappointing to see productive rural land subdivided into smaller lots, the Department has no specific objection to the proposal. | The proposal has incorporated appropriate separation distances and vegetated buffers to mitigate potential land use conflict between the ongoing operation of the olive grove and the proposed rural residential lots and surrounding land uses to the east. In view of submission number ten (see below) it is recommended that an additional vegetated buffer be incorporated into the Subdivision Guide Plan on the northern boundary | The submission is upheld. <u>Modifications required:</u> A vegetated buffer, similar to that proposed for the eastern boundary of Lot T shall be applied to the northern boundary of Lot U on the Subdivision Guide Plan. Provision 11.0(d) shall be reworded as follows: <i>“At the time of subdivision, Council may recommend that a Section 70A</i> |

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| | | <p>The Department recommends that any changed use on agricultural land needs to include sufficient buffers on the rezoned land to minimise land use conflict. To ensure agricultural operations on land next to rezoned areas are not restricted (e.g. the adjacent olive grove and surrounding rural land), the Department recommends that minimum setbacks/buffers should be incorporated into the rezoned areas in accordance with the EPA guidelines: <i>Separation Distances between Industrial and Sensitive Land Uses</i>. These guidelines set out minimum separation distances for a range of agricultural activities and are available on the EPA's website.</p> | <p>of Lot U to mitigate any potential land use conflict with the dairy farm to the north.</p> <p>Similarly, it is recommended that the proposed Section 70 notifications to be placed on titles at the time of subdivision, advising future purchasers of the ongoing operation of the olive grove, be expanded to include a reference to the dairy farm as well.</p> | <p><i>notification be placed on titles of Lots U, V, W, X and Y advising future purchasers that they may be affected by the operations associated with existing farming activities in the area, inclusive of the Olive Grove on Lot T and the dairy farm to the north."</i></p> |
| 7 | <p>Department of Water PO Box 525 ALBANY WA 6331</p> | <p>Land Capability</p> <p>Groundwater levels were tested in October to determine the highest groundwater levels. This testing identified high groundwater levels (0.4m below ground level) at test pit 3, which cannot meet the requirements of the Draft Country Sewerage Policy, which states a minimum separation of 0.5m between the natural ground level and the highest groundwater level is</p> | <p>It is acknowledged that further groundwater testing is required on Lots U and W prior to development, that a foreshore management plan for the 'Creek protection area' on Lot W will be required at the time of subdivision and that stock should be excluded from Lot W.</p> | <p>The submissions are upheld.</p> <p><u>Modifications required:</u></p> <p>An additional provision 7.6 shall be added with the following wording:</p> <p><i>"Council will request the Commission to impose a condition at the time of subdivision requiring a foreshore management plan to be</i></p> |

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| | | <p>needed. Although the test pit is not at the location of the building envelope for Lot W, it does question the suitability of Lot W for on-site disposal. Further groundwater investigations at the site of the building envelope are recommended.</p> <p>Additionally, more information is required about the depth to groundwater for the building envelope on Lot U. The building envelope is located closer to the waterway than test pit 1, so the results from test pit 1 may not reflect the site conditions at the building envelope. The low PRI of soil type 1 and 2 also creates risk of nutrient export from the site. All building envelopes in these tow soil types should require the use of ATUs for the treatment of household effluent.</p> <p>Waterway protection</p> <p>The subject site contains a minor, perennial waterway that from the aerial photography appears to be in a degraded condition. The department supports the recommendation in the planning report that the waterway be revegetated with local native species.</p> | | <p><i>prepared for the 'Creek protection area' on Lot W."</i></p> <p>Provision 4.1 shall be reworded as follows:</p> <p><i>"New intensive agricultural pursuits such as piggeries, and commercial scale horticulture and viticulture, and the keeping of stock on Lot W are not permitted."</i></p> <p>Provision 10.4 shall be reworded as follows:</p> <p><i>"On Lots A, U and W on the Subdivision Guide Plan, subject to late winter groundwater testing, Council will allow either an alternative amended soil treatment and disposal system within the building envelope, or a system which pumps treated effluent to a disposal area within the lot which satisfies the required setbacks from water courses."</i></p> |

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| | | | <p>Given that stock may be permitted on these blocks, as per the scheme provisions of Special Rural Area No. 30, it is recommended that the waterway be fenced to exclude stock.</p> <p>The department recommends that a biophysical assessment of the waterway be conducted to determine the appropriate width of the foreshore area. The minimum foreshore area should be no less than 30m. At the time of subdivision, the department will recommend the preparation of the foreshore management plan to assist with the long-term management of the waterway.</p> <p>Stormwater management</p> <p>The department will not require the preparation of any water management plans to support this development. The small scale of the development, combined with the large lot size and the requirement for households to supply their own water through the use of rainwater tanks, means that the post-development site conditions should not be significantly different to the pre-development site conditions. Some run-</p> | | |

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| | | | <p>off will be created from the road, but that can be managed through the use of roadside vegetated swales.</p> <p>Following a biophysical assessment of the site, the Department provides the following advice:</p> <p>Waterway</p> <p>Previously, the DoW raised concerns about protection of the waterway, and suggested that it would be best fenced, to protect water quality. Upon inspection, it was noted that the 'waterway' is less a creek, and more of a dampland area that may only run water infrequently. The dampland area does take up a large area on Lot W. The DoW would recommend that the dampland area be revegetated with native vegetation and rather than be fenced, that stock be excluded from Lot W.</p> <p>Effluent disposal</p> <p>Further proving of the site capability on Lot U & W can be determined at building approval stage. These lots will need to</p> | | |

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| | | <p>meet the requirements of the Country Sewerage Policy with regards to separation to groundwater. The DoW recommends that late winter testing be carried out at the locations of the building envelopes on Lots U & W, this year to prove up the suitability of the sites, but this information is not needed prior to the amendment being approved, however will be required prior to building approval.</p> <p>Other advice (need for ATUs on Lots U & W, foreshore management plan at subdivision) on the amendment previously sent to the City of Albany (letter dated 9 March 2012) still stands.</p> | | |
| 8 | Department of Environment and Conservation 120 Albany Highway ALBANY WA 6330 | <p>1. General Comments and Locality Setting</p> <p>The proposed amendment is located within land that is already substantially cleared of native vegetation and is therefore consistent with the Environmental Protection Authority (EPA) and City of Albany preference to see further residential expansion in and around Albany located on already cleared land.</p> | <p>The DEC's position on weed management is acknowledged and it is considered that an additional scheme provision requiring a weed management strategy to be prepared at the time of subdivision.</p> <p>The DEC's position on hazard reduction burning is noted. However, as the surrounding area has been developed and subjected to</p> | <p>The submission is upheld in part.</p> <p><u>Modifications required:</u></p> <p>An additional provision 7.7 shall be added with the following wording:</p> <p><i>"Council may request the Commission to impose a condition at the time of subdivision requiring a weed management strategy to be</i></p> |

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| | | <p>However, the subject land does include two areas of native vegetation plus some areas of revegetation to improve fauna linkages. An additional vegetation buffer is being proposed along the creek foreshore in the NW sector. The property has been registered under the DEC's 'Land for Wildlife' scheme since around 2001.</p> <p>2. Native Vegetation and Rehabilitation</p> <p>The proposed planning and management considerations in Section 7.5 of the amendment proposal booklet report (July 2011) are supported:</p> <ul style="list-style-type: none"> • Native vegetation is to be retained where possible and fenced off from grazing; • Rehabilitated wildlife corridors are to be maintained; • Weed management is to be undertaken in degraded areas; and • Revegetation strategies are to be aligned along the creek (riparian) areas and along the northern boundary to assist development of micro-ecological corridors linking southern remnant vegetation areas. | <p>modification of the vegetation, staff would support the advice presented in the Fire Management Plan. While it is unfortunate that burns lead to the loss of understorey vegetation, they are the only practical way to reduce fuel load to acceptable levels.</p> <p>The comments in relation to AS 3959 construction standards are also noted, although it is considered that due to the topography and vegetation types, only a dwelling on Lot X should be constructed to Bushfire Attack Level (BAL) 29. Any dwelling on Lot T should also be constructed to BAL 19. AS 3959, as a building standard, cannot be retrospectively applied to the existing dwelling on Lot Y.</p> | <p><i>prepared for Lots T – Y, to address weed management in both degraded areas and the 'Conservation of Flora and Fauna Areas'.</i></p> <p>Provision 9.9 shall be reworded as follows:</p> <p><i>"All new habitable buildings to be erected on Lots T and W shall be constructed to withstand Bushfire Attack Level (BAL) 19 under Australian Standard 3959 – Construction of Buildings in Bushfire-Prone Areas."</i></p> <p>A new provision 9.10 shall be added with the following wording:</p> <p><i>"All new habitable buildings to be erected on Lot X shall be constructed to withstand Bushfire Attack Level (BAL) 29 under Australian Standard 3959 – Construction of Buildings in Bushfire-Prone Areas."</i></p> |

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| | | <p>DEC recommends that dot point 3 above be expanded to also include weed management <u>within</u> the two major native vegetation areas.</p> <p>3. Fire Management Plan</p> <p>DEC does not support the proposed hazard reduction burning (Sections 5.4.4 and 9.1) within the two major native vegetation remnants as this would permanently reduce ground fuels and lead to the loss of understorey species, thereby also impacting upon fauna habitat.</p> <p>It should be noted that, other than through approved exceptions, regular modification of native vegetation by physical action (e.g. slashing, selective grubbing out or thinning) or regular burning may constitute 'clearing' (<i>Environmental Protection Act 1986</i>, Section 51A (a), (b) and (d)).</p> <p>Furthermore, the Environmental Protection Authority (EPA) has clearly indicated in its advice on this proposed amendment (letter to the City of Albany dated 23 January</p> | | |

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| | | | <p>2012) that:</p> <p>“...building envelopes/development, access ways and associated building protection zones <u>and hazard reduction zones are located only in existing cleared areas</u>” (our underlining).</p> <p>In order to avoid damage to the vegetation in this manner and meet the EPA advice, the minimum fire protection building construction standard should be raised from BAL 19 to BAL 29 across the subject land, thereby significantly reducing, or negating altogether, the need for any fire hazard separation zone beyond the 20m Building Protection Zones which are presently proposed in already cleared areas, thereby meeting the EPA advice. Amendment of building envelope locations to increase separation from the native vegetation blocks may also be applied. There should be no exemption for existing residential buildings which should therefore be modified and retrofitted to meet BAL 29 standards if necessary.</p> | | |

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| 9 | Ms N Atanassoff PO Box 5471 ALBANY WA 6332 | <p>Submits the following concerns, queries and comments in relation to the proposed amendment:</p> <ol style="list-style-type: none"> 1. I could not find Lot A in the Plan, which lot would that be? 2. What is a Conservation of Flora Fauna Area? Does this mean existing areas cannot be cleared? 3. The wildlife corridor is a fantastic idea, but does not seem to go anywhere. For a corridor to function it must allow animals to move through the area. 4. Lot U's building envelope seems too close to Hortin's property. I was under the impression that one must be about 200m away from the fence line. 5. Could you please justify Lot T's special status? No other landowner around the Torbay Hill can have more than one dwelling, a craft studio, a restaurant, a nursery, etc. The blocks that have been subdivided in the past are for residential living only. Given the small size of the olive grove, I object to the idea of having special provisions for Lot T. The Cosy Corner Chalets struggle with high vacancies at the moment, so there is no | <p>Lot A refers to an existing lot on the subdivision guide plan for the adjacent 'Special Rural' zoned land.</p> <p>Conservation of Flora and Fauna Areas are existing areas of good quality bushland that will be retained for this purpose and protected from clearing.</p> <p>The wildlife corridor on the proposed Subdivision Guide Plan connects to the wildlife corridor identified on the Subdivision Guide Plan for the adjoining 'Special Rural' zoned land.</p> <p>It is acknowledged that provision 5.1(a) for 'Special Rural' area No. 30 requires a 100m setback from the 'Rural' zoned land to the north. However, with the provision of a vegetated buffer and Section 70A notification to mitigate potential land use conflict arising from noise and/or spray drift nuisance, it is considered that an exception can be made for Lot U.</p> | The submission is noted. |

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| | | <p>need for further chalets. A garden centre and horticulture is not in line with what is happening in the surrounding area and there is an existing restaurant 100m away.</p> <p>6. May I suggest that ALL dwellings must be bushfire-proof?</p> <p>The rest of the subdivision seems well thought out.</p> | <p>Lot T has been given provision for additional uses to be developed to improve the viability of the olive grove.</p> <p>Only the dwellings constructed on lots adjacent to bushland (Lots T, W and X) require construction to AS 3959. The house on Lot Y is existing and this requirement cannot be applied retrospectively.</p> | |
| 10 | <p>Mr R Hortin Hortin Grazing Co. Pty Ltd 2458 Lower Denmark Road KRONKUP WA 6330</p> | <p>I am concerned about the close proximity of the building envelopes to our western boundary, as we operate a dairy farm on this land, which involves spraying both insecticides and herbicides.</p> <p>I would like to see an effective buffer zone along our boundary, as is indicated on the western side of the olive grove.</p> <p>A special provision could also be placed on the subdivision to protect our right to continue farming into the future without intrusion from this project.</p> | <p>To mitigate potential land use conflict, it is recommended that an additional vegetated buffer be incorporated into the Subdivision Guide Plan on the northern boundary of Lot U to mitigate any potential land use conflict with the dairy farm to the north.</p> <p>Similarly, it is recommended that the proposed Section 70 notifications to be placed on titles at the time of subdivision, advising future purchasers of the ongoing operation of the olive grove, be expanded to include a reference to the dairy farm as well.</p> | <p>The submission is upheld.</p> <p><u>Modifications required:</u></p> <p>A vegetated buffer, similar to that proposed for the eastern boundary of Lot T shall be applied to the northern boundary of Lot U on the Subdivision Guide Plan.</p> <p>Provision 11.0(d) shall be reworded as follows:</p> <p><i>“At the time of subdivision, Council may recommend that a Section 70A notification be placed on titles of Lots U, V, W, X and Y advising future purchasers that they may be affected by the operations associated with existing farming</i></p> |

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| | | | | <i>activities in the area, inclusive of the Olive Grove on Lot T and the dairy farm to the north."</i> |