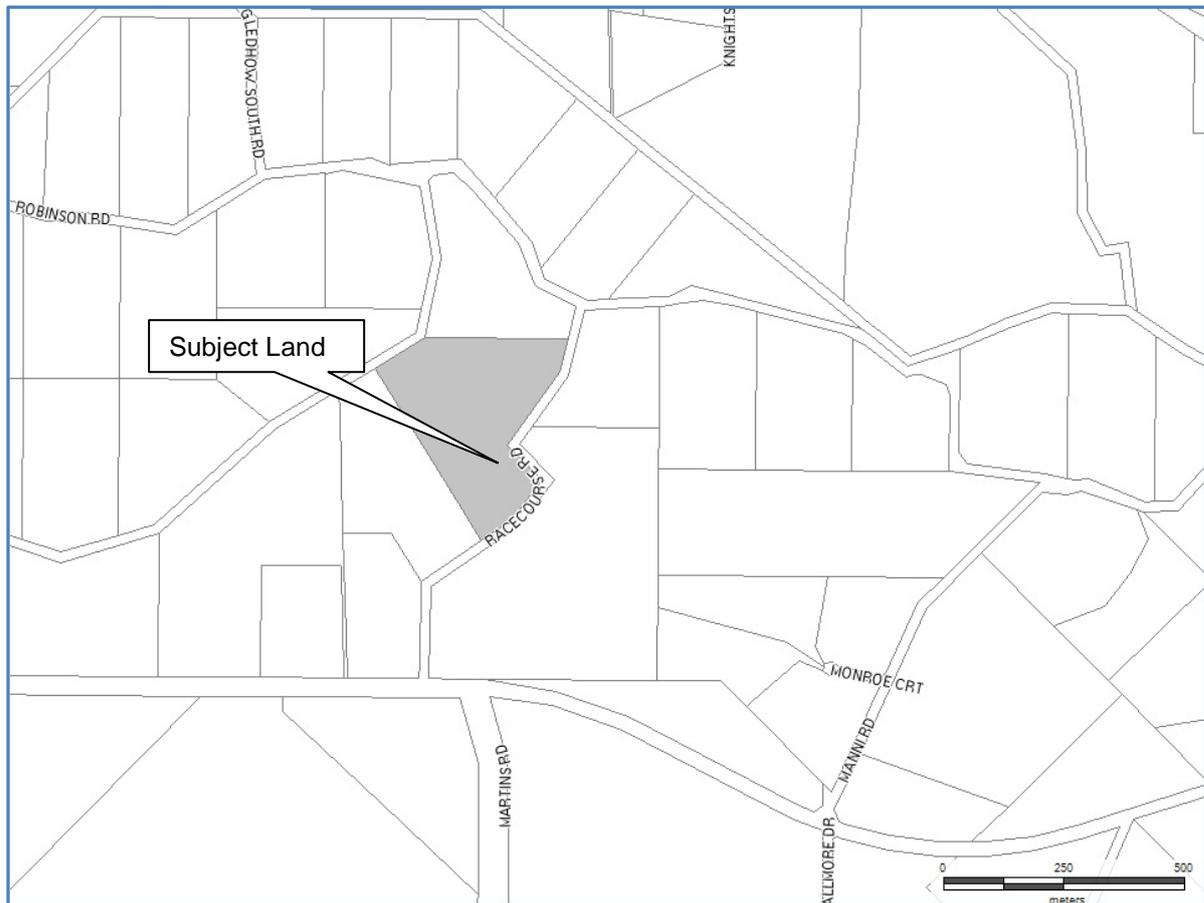


2.9: FINAL APPROVAL OF AMENDMENT – LOT 5 RACECOURSE ROAD, ROBINSON

Land Description	: Lot 5 Racecourse Road, Robinson
Proponent	: Harley Global
Owner/s	: M Paynter & M Bennett
Business Entity Name	: N/A
Attachment (s)	: Schedule of Submissions
Councillor Workstation	: Copy of OCM 21/02/12 – Item 2.12 : Amendment Document (AMD314) : Copy of submissions
Responsible Officer(s)	: Executive Director Planning and Development Services (D Putland)

Maps and Diagrams:



IN BRIEF

- Final approval is sought for the proposed scheme amendment to modify the Subdivision Guide Plan for Special Rural Zone No. 29 by amending the Development Exclusion Area on Lot 5 Racecourse Road, Robinson.

**ITEM 2.9: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

- 1) In pursuance of section 75 of the *Planning and Development Act 2005* and *Regulation 17(2)* of the *Town Planning Regulations 1967* **ADOPTS WITHOUT MODIFICATION** Amendment No. 314 to Town Planning Scheme No. 3 for the purposes of:
 - i) **Modifying the Subdivision Guide Plan for ‘Special Rural’ zone area no. 29 by amending the Development Exclusion Area on Lot 5 Racecourse Road to create an additional building envelope on the former sand extraction area adjacent to Racecourse Road; and**
 - ii) **Modifying the Scheme provisions accordingly.**
- 2) **NOTES** the staff recommendations within the attached Schedule of Submissions and **ENDORSES** those recommendations.

BACKGROUND

1. Amendment No. 314 proposes to amend Town Planning Scheme (TPS) No. 3 by modifying the Subdivision Guide Plan (SGP) for Special Rural Zone No. 29 by amending the Development Exclusion Area on Lot 5 Racecourse Road, Robinson to create an additional building envelope within a former sand extraction area.
2. The development of Lot 5 Racecourse Road, which lies within Special Rural Zone No. 29, should be in accordance with the SGP and the Special Provisions set out in TPS No. 3, *Schedule 1 – Special Rural Zones*.
3. The current SGP specifies a Development Exclusion Area on Lot 5 to protect a band of remnant vegetation that runs from Lots 24 and 33 Racecourse Road to the east, through Lot 5, forming a link to Lot 80 Racecourse Road to the west and Lot 103 Robinson Road to the north.
4. However, the landowner has identified a preferred house site on a former sand extraction area within the eastern edge of the Development Exclusion Area on Lot 5 (proposed Lot 8 on the SGP), adjacent to Racecourse Road. Given that the Development Exclusion Area is fixed on the SGP and there is a requirement within the attendant scheme provisions for former sand extraction areas to be rehabilitated, a town planning scheme amendment is necessary, as it is the only statutory instrument that can be used to modify the Development Exclusion Area and scheme provisions.
5. At the Ordinary Council Meeting on 21 February 2012 it was resolved:

“THAT Council in pursuance of section 75 of the Planning and Development Act 2005 resolves TO INITIATE Amendment No. 314 to Town Planning Scheme No. 3 without modification for the purposes of:

- i) *Modifying the Subdivision Guide Plan for 'Special Rural' zone area no. 29 by amending the Development Exclusion Area on Lot 5 Racecourse Road to create an additional building envelope on the former sand extraction area adjacent to Racecourse Road; and*
 - ii) *Modifying the Scheme provisions accordingly."*
6. Council is required to consider the submissions received from the public consultation period and determine whether to grant final approval to the proposed scheme amendment.

DISCUSSION

7. The subject lot covers an area of 9.49ha and lies to the west of Racecourse Road, approximately 5km west of the Albany central area. The modification to the SGP concerns the former sand extraction area on proposed Lot 8 on the SGP. Proposed Lot 8 is relatively flat at its southern extent and rises towards the north, narrowing along the ridge that extends northward through Lot 5, adjacent to Racecourse Road. The flatter area of proposed Lot 8 and the former sand extraction area have been cleared, while the remainder of the proposed lot is covered by parkland cleared peppermint trees.
8. The surrounding land is primarily zoned 'Special Rural' and will be subject to the same planning controls as the subject lot, with only Lot 24 Racecourse Road to the east remaining in the 'Rural' zone.
9. Much of the subject lot is constrained by a Development Exclusion Area, which extends over the parkland cleared vegetation and the former sand extraction area. This is complimented by a notation on the SGP and a scheme provision, which require rehabilitation of the sand extraction area.
10. Although the flatter, cleared land at the southern extent of the subject lot could accommodate a dwelling and has an open aspect to the west, it is relatively low-lying and can become waterlogged in winter.
11. The proposed development area within the former sand extraction area is located where the landowner has indicated a desire to build. Although more elevated, this location is not atop the ridge, but rather between five and ten metres below the ridge, which rises to the north. The proposed development area is also surrounded to the south, west and north by the parkland cleared peppermint trees that grow across much of the lot. The trees will partially screen any new dwelling, thereby reducing its visual impact on the landscape.
12. It should also be noted that the existing cleared area is large enough to allow for the construction of a dwelling and the establishment of an appropriate building protection/hazard separation zone, in accordance with the methodology set out in *Planning for Bush Fire Protection Guidelines Edition 2*. The amendment documentation includes a fire management plan and a copy of written advice from the Department of Environment and Conservation, both of which recommend the establishment of a building protection/hazard separation zone of no less than 31m, (which may require minor pruning or thinning of trees on the periphery of the proposed development area), and the construction of any new dwelling to Australian Standard 3959 *Construction of Buildings in Bushfire Prone Areas* in order to withstand Bushfire Attack Level 19.

13. A further consideration is that one of the objectives of the 'Special Rural' zone is to "...allow for low intensity rural pursuits", which the flatter land at the southern end of the site would be suitable for. When viewed in this context, it makes practical sense to allow development of a dwelling and associated outbuildings in the proposed location, so as not to prejudice the use of the flatter land for rural pursuits.

GOVERNMENT CONSULTATION

14. The amendment was referred to WA Gas Networks, Telstra, Water Corporation, Western Power, Department of Health, Department of Water, and Department of Environment and Conservation for assessment and comment. Responses were received from WA Gas Networks, Water Corporation, Western Power, Department of Health, Department of Water, and Department of Environment and Conservation. These submissions are summarised, discussed and accompanied by appropriate recommendations in the attached Schedule of Submissions.

PUBLIC CONSULTATION / ENGAGEMENT

15. The Amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 3 May 2012 to 14 June 2012 by placement of a sign on-site, direct referral to affected and adjoining/nearby landowners and advertisement in the local newspaper.
16. No submissions were received from adjoining/nearby landowners or members of the public.

STATUTORY IMPLICATIONS

17. All Scheme Amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
18. Council's decision on the final approval of the amendment requires endorsement by the WAPC and the approval of the Minister for Planning.

STRATEGIC IMPLICATIONS

19. There are no strategic implications relating directly to this item.

POLICY IMPLICATIONS

20. 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.

21. **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.

RISK IDENTIFICATION & MITIGATION

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Potential bushfire risk</i>	<i>Likely</i>	<i>High</i>	<i>High</i>	<i>Application of the methodology set out in Planning for Bush Fire Protection Guidelines Edition 2 and Australian Standard 3959 Construction of Buildings in Bushfire Prone Areas.</i>

FINANCIAL IMPLICATIONS

22. The prescribed planning fee of \$2500 has been received and staff has processed the application within existing budget lines.

LEGAL IMPLICATIONS

23. Section 75 of the *Planning Development Act 2005* allows Council to amend its Town Planning Scheme.
24. Regulation 17(2) (a) of the *Town Planning Regulations 1967* allows Council to adopt the Scheme with or without modification.

ALTERNATE OPTIONS

25. Council has the following options in relation to this item, which are:
- To adopt the Scheme Amendment without modifications;
 - To adopt the Scheme Amendment with modifications; or
 - To resolve not to adopt the Scheme Amendment and advise the WAPC of the reasons for not doing so.

SUMMARY CONCLUSION

26. The proposal will create an additional building envelope, as a preferred house site, on a former sand extraction area within the eastern edge of the Development Exclusion Area on Lot 5.
27. The proposal has adequately addressed environmental and fire management concerns and is broadly consistent with the objectives of SPP1.

Consulted References	WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1
File Number (Name of Ward)	AMD314 (Vancouver Ward)
Previous References	OCM 21/02/12 – Item 2.12

CITY OF ALBANY TOWN PLANNING SCHEME No. 3
AMENDMENT No. 314
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	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) and that it is not necessary to provide any advice or recommendations.	Nil.	The submission is noted.
2	WA Gas Networks PO Box 3006 SUCCESS WA 6964	No objections.	Nil.	The submission is noted.
3	Water Corporation PO Box 915 ALBANY WA 6331	No objections.	Nil.	The submission is noted.
4	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.
5	Department of Health	The DoH provides the following comment: 1. Mosquito-borne Disease Control Programs and Service The project is proposed in a region where	As stated in the DoH submission, mosquito nuisance in this area is not of major concern. The City of Albany Environmental Health Officers undertake a mosquito monitoring and control program across the entire local	The submission is noted.

AMENDMENT No. 314

SCHEDULE OF SUBMISSIONS

No.	Name/Address of Submitter	Summary of Submission	Officer Comment	Staff Recommendation
		<p>mosquito-borne disease is not generally a major concern. However, under certain conditions the region can experience problems with nuisance and virus-carrying mosquitoes. Cases of Ross River virus have been reported in recent months from the Albany. Therefore, the relevant local government should identify health or nuisance impacts that could result from mosquitoes breeding in natural environments surrounding the proposed development site.</p> <p>There may be seasonal mosquito breeding habitat within close proximity to the subject land. Additionally, there is the potential for mosquitoes to breed in on-site infrastructure and constructed water bodies if poor engineering results in water retention, the growth of invasive vegetation and/or water stagnation.</p> <p>It is the recommended that the proposed infrastructure and site works do not create additional mosquito breeding habitat as follows:</p> <p>Changes to topography resulting from</p>	<p>government area. If there are complaints from residents, or an increase in mosquito-borne disease is noted in a specific area, then the Environmental Health Officers will focus their attention on that area in an effort to reduce the mosquito population. Education with regard to reducing exposure to mosquitoes, and eliminating any areas that mosquitoes can breed, is also part of the Environmental Health Officers' roles.</p> <p>As part of the City of Albany's Planning approval process, both the Environmental Health and Planning Officers undertake an assessment of the application to ensure that the proposal does not impose a health or amenity impact.</p>	

AMENDMENT No. 314

SCHEDULE OF SUBMISSIONS

No.	Name/Address of Submitter	Summary of Submission	Officer Comment	Staff Recommendation
		<p>earthworks (e.g. the installation of pipelines or roads) must prevent the run-off from creating surface ponding;</p> <p>Water tanks and other water-holding containers must be sealed or screened to prevent mosquito access and breeding. If this cannot be achieved, regular monitoring for mosquito larvae and treatment with larvicide is required;</p> <p>Constructed water bodies (drainage infrastructure, ponds and swales, settling ponds, wetlands, etc.) must be located, designed and maintained (including removal of vegetation) so they do not create or contribute to mosquito breeding;</p> <p>The 'Chironomid midge and mosquito risk assessment guide for constructed water bodies' (Midge Research Group, 2011) should be referred to during the early stages of planning to ensure that the potential for on-site mosquito breeding is minimised.</p> <p>Mosquito-proof design be incorporated into building design for residential and recreation facilities (such as mosquito mesh on all</p>		

AMENDMENT No. 314

SCHEDULE OF SUBMISSIONS

No.	Name/Address of Submitter	Summary of Submission	Officer Comment	Staff Recommendation
		<p>doors and windows and the inclusion of an enclosed outdoor recreation area) in order to minimise exposure to mosquito bites.</p> <p>2. Scheme Amendments</p> <p>The new Public Health Bill will require integration of Public Health Planning into existing plan and strategies. This is an opportune time to start incorporating such public health principles and objectives into existing planning schemes and strategies.</p> <p>Health concerns about buffers are not limited to the industries and infrastructures. Consideration must be given to the need for adequate buffers to protect residents from lifestyle and public health impacts such as mosquitoes or pesticide spray drift from agricultural activities for example.</p> <p>You may wish to consider incorporating Health Impact Assessment (HIA) and/or Public Health Assessment (PHA) principles in your decision making process.</p>		
6	Department of Water PO Box 525	The subject site is located in within a Priority 2 Area of the South Coast Water Reserve	It is acknowledged that further assessment will be required to determine the site's suitability for	The submission is noted.

AMENDMENT No. 314

SCHEDULE OF SUBMISSIONS

No.	Name/Address of Submitter	Summary of Submission	Officer Comment	Staff Recommendation
	ALBANY WA 6331	Public Drinking Water Source Area, with the water production bores located approximately 600m to the south. The rehabilitation of the former sand mining area would have created an area of additional permanent native vegetation that may have helped contribute to improved water quality in the Public Drinking Water Source Area. However, the impact would have been quite minor, so in this instance the department will not object to the creation of an additional building envelope in the former sand mining area. However, an assessment will be required to determine the site's suitability for onsite wastewater disposal.	onsite wastewater disposal. However, this will be addressed prior to development on the lot.	
7	Department of Environment and Conservation 120 Albany Highway ALBANY WA 6330	DEC considers that proposed Town Planning Scheme Amendment No. 314 to create an additional building envelope on the former sand extraction area adjacent to Racecourse Road will not have a significant environmental impact for vegetation connectivity and fauna movement. DEC supports the application of a Bushfire Attack Level 19 as per AS 3959 so that impacts to surrounding native vegetation	Nil.	The submission is noted.

AMENDMENT No. 314

SCHEDULE OF SUBMISSIONS

No.	Name/Address Submitter	of	Summary of Submission	Officer Comment	Staff Recommendation
			<p>can be minimized by applying the minimum 31m Hazard Separation Zone (HSZ).</p> <p>DEC recommends where the former sand extraction pit lies outside of the 31m HSZ that the previously established rehabilitation be allowed to continue to restore native vegetation.</p>		