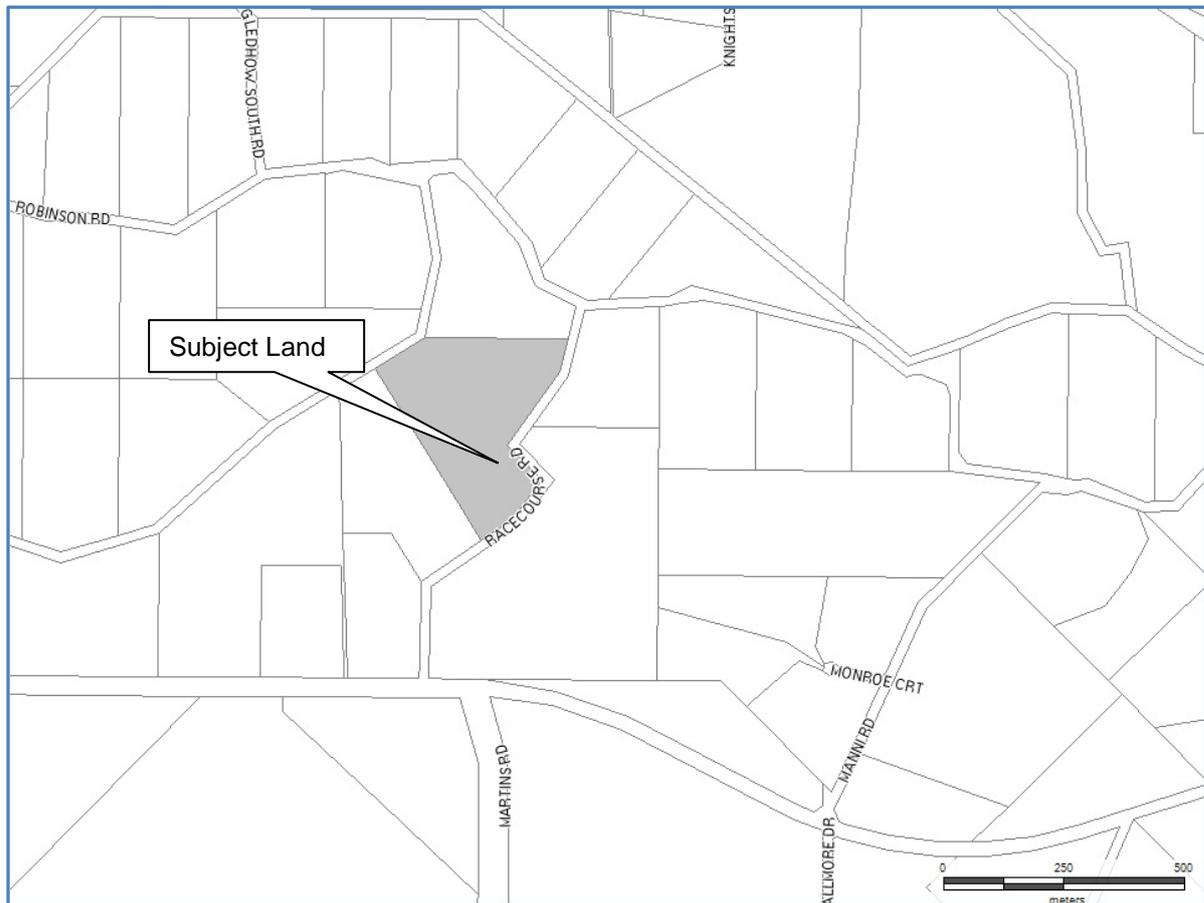


2.9: FINAL APPROVAL OF AMENDMENT – LOT 5 RACECOURSE ROAD, ROBINSON

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: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR ATTWELL

SECONDED: COUNCILLOR BOWLES

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.

CARRIED 12-0

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