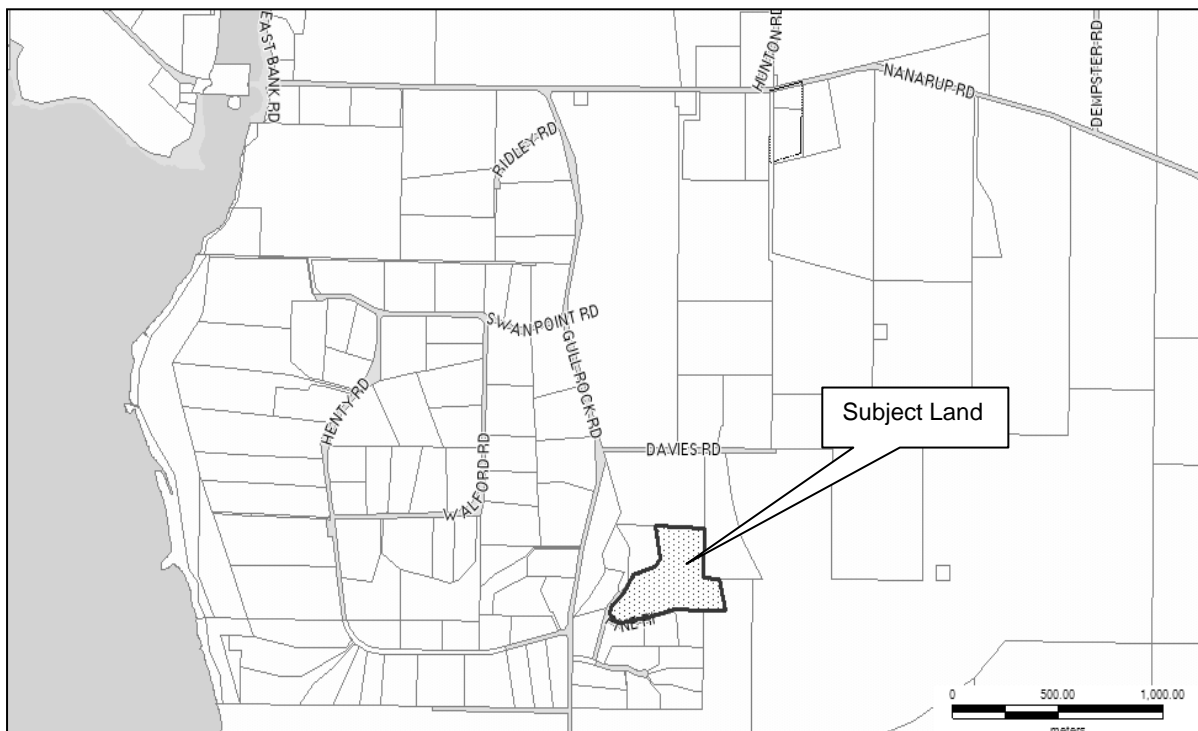


**2.1: FINAL APPROVAL OF AMENDMENT – LOT 600 PINE RISE, KALGAN**

<b>Land Description</b>	: Lot 600 Pine Rise, Kalgan
<b>Proponent</b>	: Harley Global
<b>Owner/s</b>	: P & S Liddiard
<b>Business Entity Name</b>	: N/A
<b>Attachment(s)</b>	: Schedule of Submissions : Modified Subdivision Guide Plan : Response from Dept of Agriculture and Foods WA : Additional response from DEC : Additional response from A & C Rowe (adjoining landowner)
<b>Appendices</b>	: Copy of OCM 14/12/10 – Item 1.2
<b>Councillor Workstation</b>	: Amendment Document (AMD275) : Copy of Submissions
<b>Responsible Officer(s)</b>	: E/Director Planning & Development Services (G Bride)

**Maps and Diagrams:**



**IN BRIEF**

- To determine whether to grant final approval to the proposed Scheme Amendment to rezone Lot 600 Pine Rise, Kalgan from the 'Special Use' and 'Rural' zones to the 'Special Rural' zone.

**RECOMMENDATION**

**ITEM 2.1: RESPONSIBLE OFFICER RECOMMENDATION**

**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 WITH MODIFICATIONS** Amendment No. 275 to Town Planning Scheme No. 3 by:
  - i) Rezoning Lot 600 Pine Rise, Kalgan from the ‘Special Use’ and ‘Rural’ zones to the ‘Special Rural’ zone, and amending the Scheme Maps accordingly;
  - ii) Remove ‘Special Use Zone No.14’ from Schedule III of the Scheme Text; and
  - iii) Modifying Schedule I – Special Rural Zones – to include reference to Lot 600 Pine Rise, Kalgan in ‘Special Rural’ Area No. 6.
- 2) **NOTES** the staff recommendations within the attached Schedule of Submissions and **ENDORSES** those recommendations.

**ITEM 2.1: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR MATLA**  
**SECONDED: MAYOR EVANS**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 6-3**

**Record of Vote**

Against the Motion: Councillors D Bostock, J Bostock and Leavesley

**BACKGROUND**

1. Amendment 275 proposes to amend Town Planning Scheme (TPS) No. 3 by rezoning Lot 600 Pine Rise, Kalgan from the ‘Special Use’ and ‘Rural’ zones to ‘Special Rural’ zone. The lot would be incorporated into Special Rural Area No. 6, which would allow the provisions set out in Schedule I relating to this zone to appropriately control subdivision, development and use of the lot.
2. The document includes a proposed subdivision guide plan that proposes the lot to be divided into three lots, with all lots meeting the minimum lot size requirement of 2 hectares as per the provisions of Special Rural Area No.6.
3. The lot is just over 12.7 hectares in area, and is located approximately 12 km north-east of the Albany City Centre. The lot is currently accessed via Nanarup and Gull Rock Roads.
4. The lot is mostly surrounded by Special Rural lots that are also located within Special Rural Area No.6. The lot is bordered by two agricultural rural lots, with the northern rural lot currently being used for a turf farm. An ‘A’ Class Reserve (Reserve 28690), for the purpose of “Conservation of Flora” is located to the east of the site.

5. The proposed Scheme Amendment was initiated at the Ordinary Meeting of Council on 14 December 2010.
6. The proposed Scheme Amendment was considered by Council at its meeting dated 17 May 2011 for final approval, whereby the following was resolved:

*“THAT this Item be deferred for one month to allow staff to liaise with the Department of Agriculture and Department of Environment and Conservation whether there is a minimum buffer distance for proposed Lot A that is required to be met from the building envelope to the adjacent turf farm”.*

## **DISCUSSION**

7. The lot includes a valley with an associated watercourse, which feeds a total of three dams. The land slopes upward to the north-east, gradually getting steeper as it reaches the corner of the northern and eastern boundaries.
8. The majority of the site is currently zoned ‘Special Use’ Area No.14, which allows for the following additional tourist uses;
  - Freshwater fish production and sale.
  - Holiday Chalets – short stay accommodation.
  - Restaurant.
  - Cultural use.
  - Private Recreation.
  - Shop and Office incidental to the primary uses.
  - Dwellings for manager and staff; and
  - Ancillary tourist facilities.
9. A dwelling stands along the south-eastern corner of the lot, with a chalet located on proposed Lot B and several other outbuildings also located on the property. The limited tourist related uses on the site have ceased; the proponent has stated that these uses are not viable or sustainable due to the lack of exposure to a main tourist route and the surrounding development and land uses.
10. The site currently has a dual zoning as there is a 1 hectare pocket of land located in the south-eastern corner of the site which is zoned rural, and the Scheme Amendment proposes to rectify this anomaly.
11. The subject site is currently connected to power and telecommunications services. Reticulated water and sewer are not available and an effluent disposal system will have to be provided on site, which is similar to surrounding properties.
12. In terms of vehicular access, proposed Lot A will be accessed via a battleaxe driveway from Valley Pond Heights. Access to Lot B will be via the existing crossover that

services the Valley Ponds homestead and access to Lot C will be via a new crossover at the end of the cul-de-sac of Pine Rise.

13. There are two main strips of vegetation on the site, one is the native vegetation belt which runs from south-west to north-east on the top half of the site, with the other being the introduced pine tree belt that follows the southern boundary line. There is also native vegetation loosely scattered across the site. Given the vegetation that currently exists on site and to ensure adequate fire safety measures are in place, it would be a requirement that any new habitable buildings constructed on proposed Lot A are built to the requirements of AS 3959-2009 '*Construction of Buildings in Bushfire Prone Areas*'. At the time of initiation this was noted and a recommendation made that the amending document be modified with the inclusion of a new Scheme Provision (provision 10.8 within Special Rural Area No. 6) to address this issue.
14. Directly to the north of the site is a 'Rural' zoned property, which is currently used as a turf farm. Although the ALPS designates the site for rural residential purposes in the future, there may be a land use conflict between proposed Lot A and the turf farm in terms of noise, odours, dust etc, from the farming practises (fertilisers and machinery) in the interim period. At the time of initiation, a recommendation was made to modify the amending document by incorporating a new Scheme Provision for Special Rural Area No. 6, requiring the placement of a Section 70A Notification on the title of the subject land at the time of subdivision, to make potential purchasers of Lot A aware that they may be affected by the agricultural activity on Lot 21 Davies Road, Kalgan.
15. In accordance with Council's resolution of 17 May 2011 additional advice was sought from the Department of Agriculture and Food WA and the Department of Environment and Conservation in relation to the separation distances between the existing turf farm and its associated impact on the building envelope of Lot A, (a copy of their formal comments are attached to this report), and their submissions are dealt with in more detail in the attached Schedule of Submissions.
16. The proposal was referred to various government agencies and utility providers in accordance with established practice. Responses were received from:
  - Environmental Protection Agency;
  - Water Corporation;
  - Fire and Emergency Services Authority of Western Australia;
  - Department of Regional Development and Lands;
  - Western Power;
  - Department of Health;
  - Department of Environment and Conservation;
  - Department of Water; and
  - Department of Agriculture and Food.
17. At the closing of the public consultation period, some concerns had been raised over land capability, bush fire protection measures, the spread of invasive weeds and the

possible effects that the adjacent turf farm may have on the site. These submissions are dealt with in more detail in the attached Schedule of Submissions.

18. Councillors should note that the proposed modifications set out in the attached Schedule of Submissions have already been discussed with the proponent, who is agreeable to the changes and has prepared a draft modified subdivision guide plan, which is also attached for information.
19. Overall, the proposal is considered to be consistent with State Planning Policy and the strategic planning direction set by the ALPS. It is recommended that the Amendment be adopted for final approval, subject to modifications.

### **GOVERNMENT CONSULTATION**

20. The Scheme Amendment was referred to the following government agencies: Environmental Protection Agency; Water Corporation; Fire and Emergency Services Authority of Western Australia; Department of Regional Development and Lands; Western Power; Department of Health; Department of Agriculture and Food Western Australia; Department of Environment and Conservation; and Department of Water. A response was received from all government agencies.

### **PUBLIC CONSULTATION/ENGAGEMENT**

21. The Amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 10 February 2011 to 24 March 2011 by placement of sign on-site, direct referral to affected and adjoining/nearby landowners, relevant State Government agencies and advertisement in the local newspaper.
22. A total of two public 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**

23. All scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*. Council's decision on the final approval of the amendment requires endorsement by the WA Planning Commission and approval of the Minister for Planning.

### **STRATEGIC IMPLICATIONS**

24. Council's decision on the Scheme Amendment should be consistent with the objectives of the Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.

25. 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.*

26. 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 also not connected to reticulated water”.*

27. Overall, the proposal is considered to be consistent with the ALPS on the basis that:

- The proposal will not create additional rural town sites;
- The subject land is not productive agricultural land, does not have known regionally significant natural resources, and although the property is adjacent to a vegetated reserve the proponent has undertaken an analysis of the fire risk relevant to the proposal (which is acceptable as long as the future building is constructed to AS3959);
- The proposal seeks to add one additional dwelling over the subject land which will be on the higher portion of the lot where sufficient clearance from the water table has been observed;
- The proposal is designated in the ALPS as 'Rural Residential'.

### **POLICY IMPLICATIONS**

28. 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.

29. **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.

The proposal is consistent with the Lower Great Southern Strategy and the Albany Local Planning Strategy and therefore complies with the principles of SPP1.

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 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.*

31. The Amendment proposal is consistent with the key policy measures identified in SPP 3.

**RISK IDENTIFICATION & MANAGMENT**

32. 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>Potential land-use conflict between the Turf farm and the building envelope for Lot A.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Proposed a Section 70A Notification on the title of the subject land at the time of subdivision, to make potential purchasers of Lot A aware that they may be affected by the agricultural activity on Lot 21 Davies Road, Kalgan.</i>

**FINANCIAL**

33. The proponent has paid the appropriate fee as per the Planning Fees Schedule adopted by Council.

**LEGAL IMPLICATIONS**

34. There are no legal implications relating to this item.



### **ALTERNATE OPTIONS**

35. Council has the following options in relation to this item, which are:

- *To seek final approval to the scheme amendment without modification;*
- *To seek final approval to the scheme amendment with modifications; or*
- *To not seek final approval to the scheme amendment.*

36. Council's decision on the scheme amendment is in effect a recommendation to the WA Planning Commission and Minister for Planning. The Minister for Planning is empowered under the *Planning and Development Act 2005* to make the final decision on the scheme amendment.

### **SUMMARY CONCLUSION**

37. The proposed re-zoning will allow subdivision of the subject land to create three 'Special Rural' lots being a minimum of 2.2ha in size, which is consistent with the strategic planning direction set by the ALPS. Staff would therefore recommend that the proposed Scheme Amendment be adopted for final approval, subject to modifications.

<b>Consulted References</b>	WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 & SPP 3
<b>File Number (Name of Ward)</b>	AMD275 (Kalgan Ward)
<b>Previous References</b>	OCM 14/12/10 – Item 1.2 OCM 17/12/11 – Item 2.4