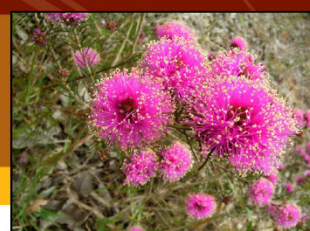
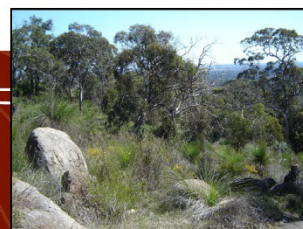


Development & Asset Services Committee Meeting

Agenda for Monday 7 August 2017



**city of
kalamunda**

NOTICE OF MEETING DEVELOPMENT & ASSET SERVICES COMMITTEE

Dear Councillors

Notice is hereby given that the next meeting of the Development & Asset Services Committee will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on **Monday 7 August 2017 at 6:30pm.**


Rhonda Hardy
Chief Executive Officer
2 August 2017



Core Values

- Service:** We deliver excellent service by actively engaging and listening to each other.
- Respect:** We trust and respect each other by valuing our differences, communicating openly and showing integrity in all we do.
- Diversity:** We challenge ourselves by keeping our minds open and looking for all possibilities and opportunities.
- Ethics:** We provide honest, open, equitable and responsive leadership by demonstrating high standards of ethical behaviour.

Aspirational Values

- Creativity:** We create and innovate to improve all we do.
- Courage:** We make brave decisions and take calculated risks to lead us to a bold and bright future.
- Prosperity:** We will ensure our District has a robust economy through a mixture of industrial, commercial, service and home based enterprises
- Harmony:** We will retain our natural assets in balance with our built environment

Our simple guiding principle will be to ensure everything we do will make Kalamunda socially, environmentally and economically sustainable.



www.kalamunda.wa.gov.au

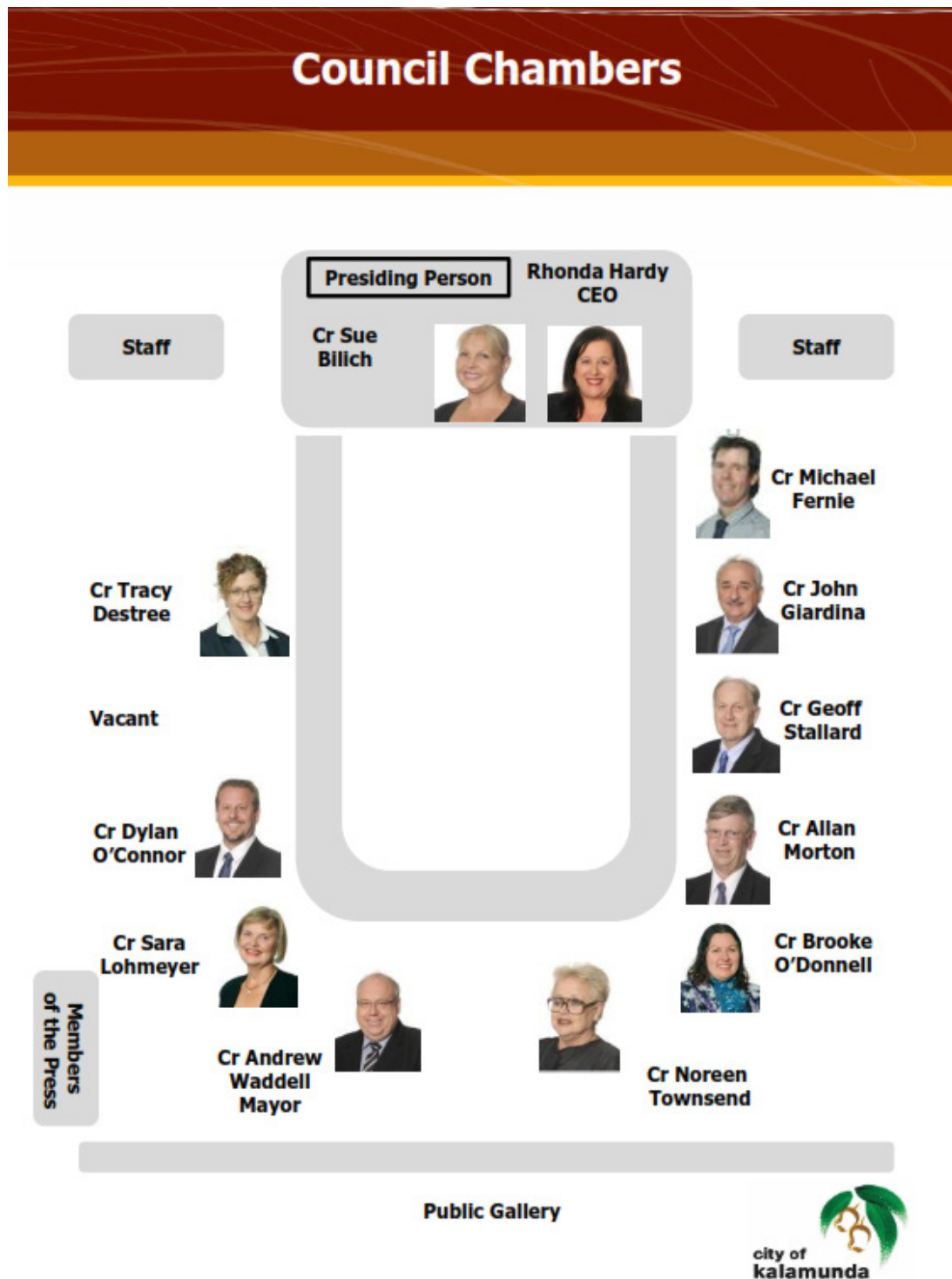
city of
kalamunda

INFORMATION FOR THE PUBLIC ATTENDING COMMITTEE OR COUNCIL MEETINGS

Welcome to this evening's meeting. The following information is provided on the meeting and matters which may affect members of the public.

If you have any queries related to procedural matters, please contact a member of staff.

Council Chambers – Seating Layout



Standing Committee Meetings – Procedures

1. Standing Committees are open to the public, except for Confidential Items listed on the Agenda.
2. City of Kalamunda Standing Committees have a membership of all 12 Councillors.
3. Unless otherwise advised a Standing Committee makes recommendations only to the next scheduled Ordinary Council Meeting.
4. Members of the public who are unfamiliar with meeting proceedings are invited to seek advice prior to the meeting from a City Staff Member.
5. Members of the public are able to ask questions at a Standing Committee Meeting during Public Question Time. The questions should be related to the purposes of the Standing Committee.
6. Members of the public wishing to make a comment on any Agenda item may request to do so by advising staff prior to commencement of the Standing Committee Meeting.
7. Comment from members of the public on any item of the Agenda is usually limited to three minutes and should address the Recommendations at the conclusion of the report.
8. To facilitate the smooth running of the meeting, silence is to be observed in the public gallery at all times except for Public Question Time.
9. All other arrangements are in general accordance with Council's Standing Orders, the Policies and decision of person chairing the Committee Meeting.

Emergency Procedures

Please view the position of the Exits, Fire Extinguishers and Outdoor Assembly Area as displayed on the wall of Council Chambers.

In case of an emergency follow the instructions given by City Personnel.

We ask that you do not move your vehicle as this could potentially block access for emergency services vehicles.

Please remain at the assembly point until advised it is safe to leave.

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AGENDA

1.0 OFFICIAL OPENING

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

Cr Geoff Stallard – Leave of Absence (10 July – 22 August 2017)

3.0 PUBLIC QUESTION TIME

A period of not less than 15 minutes is provided to allow questions from the gallery on matters relating to the functions of this Committee. For the purposes of Minuting, these questions and answers will be summarised.

4.0 PETITIONS/DEPUTATIONS

5.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Voting Requirements: Simple Majority

- 5.1 That the Minutes of the Development & Asset Services Committee Meeting held on 3 July 2017, as published and circulated, are confirmed as a true and accurate record of the proceedings.

Moved:

Seconded:

Vote:

Statement by Presiding Member

"On the basis of the above Motion, I now sign the minutes as a true and accurate record of the meeting of 3 July 2017".

6.0 ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

7.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

- 7.1 **54. Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale - CONFIDENTIAL ATTACHMENT 9 (Confidential Submissions Map)**
Reason for Confidentiality: Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person;"

8.0 DISCLOSURE OF INTERESTS

8.1 Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Section 5.65 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Section 5.70 of the *Local Government Act 1995*.)

8.2 Disclosure of Interest Affecting Impartiality

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

9.0 REPORTS TO COUNCIL

Please Note: declaration of financial/conflict of interests to be recorded prior to dealing with each item.

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

54. Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale

Previous Items	OCM 112/2016
Responsible Officer	Director Development Services
Service Area	Strategic Planning
File Reference	PG-LPS-003/087
Applicant	Burgess Design Group
Owner	Overgold Corporation Pty Ltd - Lot 25 (7) Gilba Place & Heather and Jeffery Anderson – Lot 26 (34) Brewer Road, Maida Vale.
Attachment 1	Proposed Local Structure Plan Map
Attachment 2	Existing Cell 6 Structure Plan Map
Attachment 3	Applicant's Structure Plan Amendment Request Report
Attachment 4	Environmental Assessment Report
Attachment 5	Bushfire Management Plan
Attachment 6	Transport Impact Assessment
Attachment 7	Engineering Services Report
Attachment 8	Submission Table
Attachment 9	Confidential Submitters Details

Reason for Confidentiality:
Local Government Act 1995
S5.23 (2) (b) – "the personal affairs of any person;"

EXECUTIVE SUMMARY

1. The purpose of the Structure Plan Amendment is to incorporate 1.93ha of land at Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale into the approved Maida Vale Cell 6 Structure Plan (Structure Plan), as shown in Attachment 1.
2. In accordance with the objectives of the Urban Development zone, the preparation of a Structure Plan is required to facilitate future development and subdivision of the area.
3. The Amendment to the Structure Plan nominates a density of R30 to the 1.933ha parcel of land which has an expected yield of approximately 38 lots ranging in size from 283m² to 490m².
4. The Amendment to the Structure Plan was advertised and eight (8) objections were received.
5. This report requests Council to recommend that the Western Australian Planning Commission (WAPC) approve the Structure Plan Amendment subject to modifications.

BACKGROUND

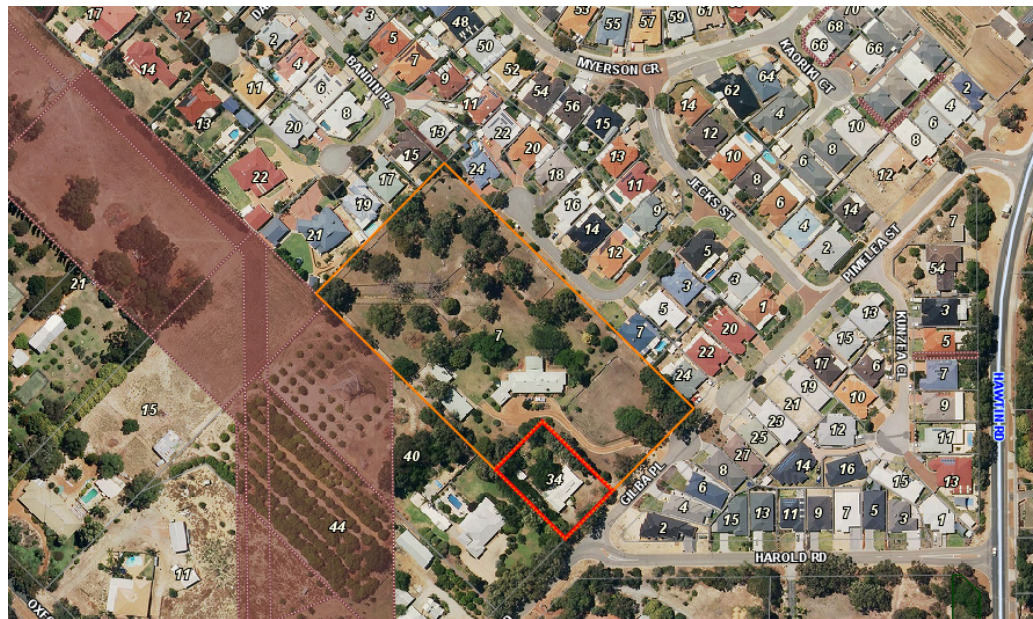
6. The Maida Vale Cell 6 Structure Plan was originally approved by the WAPC on 1 November 1994. Since the adoption of the Structure Plan, residential subdivision and development has occurred in the area.
7. The subject site was rezoned from Special Rural to Urban Development in April 2017 through Amendment No. 87 to the City of Kalamunda's (the City) Local Planning Scheme No.3 (LPS3).
8. In accordance with the objectives of the Urban Development zone, the preparation of a Structure Plan is required to facilitate the future development and subdivision of the area.

9. **Land Details:**

Land Area:	1.93ha
Local Planning Scheme Zone:	Urban Development
Metropolitan Regional Scheme Zone:	Urban

Locality Plan

10.



11. The subject site contains an existing single dwelling on each allotment and other incidental ancillary structures. The site is surrounded by Residential allotments coded R5 and R20 to the east and Special Rural allotments to the south-west.

DETAILS

12. The Structure Plan is bound by Maida Vale Road and Old Maida Vale Road to the north, Hawtin Road to the south-east and Roe Highway to the west.
13. The Structure Plan was originally prepared to facilitate residential subdivision and development within the area.

14. Since adoption of the Structure Plan, the majority of residential subdivision and development has been completed, with some small parcels remaining undeveloped.
15. The proposed Structure Plan Amendment seeks to incorporate 1.93ha of land at Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale into the approved Structure Plan, as shown in Attachment 1.
16. The Structure Plan Amendment proposes medium density residential development, identifying a code of R30. The applicant stated that the density is expected to yield approximately 38 lots ranging in size ranging from 283m² to 490m².
17. The Structure Plan Amendment proposes one 14.2m width road reserve to connect Jubata Court and Gilba Place. A Traffic Impact Assessment (TIA) has been prepared and is enclosed within Attachment 6.
18. In support of the proposal, the applicant has undertaken a number of other supporting technical studies, including an Environmental Assessment Report (Attachment 4), Bushfire Management Plan (Attachment 5), TIA (Attachment 6) and an Engineering Services Report (Attachment 7).

STATUTORY AND LEGAL CONSIDERATIONS

Local Planning Scheme No. 3

19. The subject site is currently zoned Urban Development under the City's LPS3.
20. The objectives of the Urban Development zone are as follows:
 - To provide orderly and proper planning through the preparation and adoption of a Structure Plan setting the overall design principles for the area.
 - To permit the development of land for residential purposes and for commercial and other uses normally associated with residential development.
21. In accordance with the objectives of the Urban Development zone, the preparation of a Structure Plan is required to facilitate future development and subdivision. Accordingly, the proposed Structure Plan Amendment is consistent with the intent of the Urban Development zone.

Planning and Development (Local Planning Scheme) Regulations 2015

22. Pursuant to the Planning and Development (Local Planning Scheme) Regulations 2015, Schedule 2 - Deemed Provisions (the Regulations), Clause 29 (1) states that "A structure plan may be amended by the Commission at the request of the local government or a person who owns the land in the area covered by the plan."
23. Pursuant to the Regulations, Clause 29 (2) states that a Structure Plan Amendment is to follow the same process for making a Structure Plan. Accordingly, under the Regulations, the City is required to take the following actions:

- i) Determine the level of information required to be provided with the Structure Plan;
 - ii) Assess the Structure Plan against appropriate planning principles;
 - iii) Advertise the Structure Plan;
 - iv) Consider and respond to submissions received during advertising; and
 - v) Prepare a report and recommendation on the proposed Structure Plan Amendment, and forward the City's recommendation to the WAPC for a decision.
- 24. Under the Regulations, the WAPC after considering the Structure Plan and report may:
 - a) Approve the Structure Plan; or
 - b) Require the City or the applicant to –
 - i) Modify the Structure Plan in the manner specified by the WAPC; and
 - ii) Resubmit the modified Structure Plan to the WAPC for approval; or
 - c) Refuse to approve the Structure Plan.

POLICY CONSIDERATIONS

Directions 2031 and Beyond

- 25. Directions 2031 and Beyond is the State Government's key strategic planning document which outlines the spatial framework for the future growth of Perth and Peel for the next twenty years.
- 26. The applicant advises that the proposed Structure Plan Amendment is considered to be compliant with the key objectives and themes of Directions 2031 for the following reasons:
 - The subject land is appropriately zoned under the MRS;
 - The land represents a logical infill of urban development;
 - The proposed 'Residential R30' zoning is consistent with surrounding residential development; and
 - The land immediately south is subject to a proposed MRS Amendment to rezone the area to 'Urban' to facilitate future urban development.

Draft Perth and Peel @ 3.5million – North-East Sub-Regional Planning Framework

- 27. In May 2015, the WAPC released the Draft Perth and Peel @ 3.5 million suite of documents, including the Sub-Regional Frameworks for comment. These documents aim to identify how the vision set out in Directions 2031 for a City of 3.5 million people by 2050 can be realised.
- 28. Perth and Peel @ 3.5 million encourages a consolidated urban form that limits the intensification of new greenfield areas to where they provide a logical extension to the urban form, and places a greater emphasis on urban infill and increased residential density of existing urban areas.
- 29. The Structure Plan Amendment is considered to comply with the key objectives of Perth and Peel @ 3.5 million as the subject site is identified as an existing urban area and the proposed Structure Plan Amendment will facilitate development consistent with the existing pattern of development in the Maida Vale Cell 6 Structure Plan area.

Liveable Neighbourhoods

- 30. Liveable Neighbourhoods is a WAPC operational policy that guides the structure planning and subdivision for greenfield and large brownfield (urban infill) sites throughout Western Australia.
- 31. The policy aims to increase support for efficiency, walking, cycling and public transport and achieving density targets amongst other matters.
- 32. The Structure Plan Amendment is considered to be consistent with the principals, objectives and requirements of each of the liveable Neighbourhoods design elements.
- 33. Liveable Neighbourhoods sets a target of 22 dwellings per residential site hectare. This Structure Plan Amendment proposes 24.22 dwellings per net hectare and is therefore considered to meet the density target outlined in Liveable Neighbourhoods.

State Planning Policy 3.1 – Residential Design Codes

- 34. The Residential Design Codes (R-Codes) apply to any Residential zoned land that has a coding number superimposed on the Scheme Map. The objective of the R-Codes is to ensure appropriate residential design and density in line with the Scheme.
- 35. The R-Codes are applied to the Structure Plan Amendment through the proposed residential density of R30. In this regard, any subsequent subdivision of the subject site will be required to achieve a minimum and average lot size of 260m² and 300m².

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (Western Australian Planning Commission)

- 36. The intent of State Planning Policy 3.7 (SPP 3.7) aims to ensure that all planning proposals take into account bushfire protection requirements through implementing effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.
- 37. A portion of the subject site is located within a Bushfire Prone Area. As such, the requirements of SPP 3.7 apply in addition to the provisions or requirements of the Special Controls Area relating to Bushfire Prone Areas under LPS3.
- 38. In accordance with the requirements of SPP3.7, a Bushfire Management Plan and BAL Contour Map has been prepared by the applicant and can be found in Attachment 2.
- 39. The BAL Contour Map, which represents the potential radiant heat impacts and associated BAL ratings after subdivision works, indicates a that the majority of the site is designated as BAL-LOW with portions of the site subject to a BAL-12.5.

40. The Bushfire Management Plan proposes an Asset Protection Zone (APZ) to ensure the radiant heat impact does not increase in the future.

WAPC Development Control Policy 2.3 Public Open Space in Residential Areas

41. Development Control Policy 2.3 (DC 2.3) seeks to preserve amenity and contribute to the quality of life in urban areas by recommending any subdivision creating more than five lots is to provide public open space.
42. The WAPC's normal requirement in residential areas is that, where practicable, 10 percent of the gross subdividable area be given up free of cost by the subdivider and vested in the Crown as a Reserve for Recreation.
43. Part 4.3 of DC 2.3 stipulates that Sections 20C(1) to 20C(7) of the Planning and Development Act 2005 contain provisions under which a cash payment can be made by the subdivider in certain circumstances in lieu of providing land for public open space. These circumstances include subdivisions where the land is such that a 10 percent contribution would be too small to be of practical use and there is sufficient public open space already provided in the immediate locality.
44. Given the relatively small nature of this development (site area of 1.93ha) and the close proximity (within 400m of the subject site) of 5.3ha of existing public open space, it is likely that cash in lieu is likely to be required at subdivision stage.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

45. The Structure Plan Amendment was referred to the City's Health, Assets and Environmental Departments for comment. All comments and recommendations received can be dealt with at the subdivision or development phase of the planning process. A summary of the comments received are detailed below.
46. The Environmental Department highlighted that the following investigations would be required with any subsequent proposal for subdivision:
- An Urban Water Management Plan be provided at the time of subdivision to ensure drainage is contained within the development boundaries and not discharged into the existing Poison Gully Creek reserves.
 - A description of the vegetation will be required to be provided to support the subdivision application and include a reconnaissance survey of the site to record native vegetation is recommended.
47. The Health Department noted that any subsequent development shall be connected to reticulated sewer with all existing septic sewer systems including all tanks, pipes and associated drainage systems (soakwells or leach drains) are to be decommissioned, removed, filled with clean sand and compacted accordingly.

External Referrals

48. The proposed Structure Plan Amendment was advertised for 29 days in accordance with Schedule 2, Part 4, Clause 18 and the Regulations and Local Planning Policy P-DEV45 – Public Notification of Planning Proposals through the following means letters to property owners within 100 metres of the subject site, letters to public authorities and relevant utility service providers, website notification and copies of the Structure Plan Amendment being made available at the City's Administration Offices.
49. During advertising, the City received eight (8) submissions, all of which were objections, and two (2) submissions from public authorities and utility service providers. A summary of all submissions received and responses to submissions is provided in Attachment 8.
50. The concerns raised through objections include traffic impacts, environmental impacts, dust pollution during development, the negative impact upon the amenity of surrounding landowners, impacts to existing views, devaluation of property values, inconsistent lot size in the context of the surrounding area and acoustic impacts during the construction phase.

FINANCIAL CONSIDERATIONS

51. In accordance with Regulations 48 and 49 of the Planning and Development Regulations 2009, any costs associated with advertising and assessment of the Structure Plan Amendment is to be borne by the applicant.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

52. *Kalamunda Advancing 2027: Strategic Community Plan*

OBJECTIVE 3.1 To plan for sustainable population growth

STRATEGY 3.1.1 Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

SUSTAINABILITY

Social Implications

53. The Structure Plan Amendment would facilitate the development of a greater diversity of lot sizes and housing typologies which in turn will facilitate greater housing choice, affordability, and a potentially broader demographic.

Economic Implications

54. The proposed Structure Plan Amendment would facilitate the subsequent subdivision and development of the subject site, thereby generating jobs for the building and construction industry.

Environmental Implications

55. An Environmental Assessment Report (EAR) has been prepared by Strategen in support of the propose Structure Plan Amendment and can be found enclosed within Attachment 4.

RISK MANAGEMENT CONSIDERATIONS

56.	Risk: The proposal may result in undue amenity impacts on surrounding residential properties.		
	Likelihood:	Consequence	Rating
	Possible	Moderate	Medium
	Action/ Strategy		
	The proposed Structure Plan Amendment is in accordance with the City's Local Planning Strategy and various State Government Strategic documents. Nonetheless, the City is committed to protecting surrounding residents from any potential impacts resulting from the proposed Structure Plan Amendment. Any issues relating to undue impacts upon surrounding landowners (i.e. air pollution, noise pollution and traffic impacts) will be dealt with at the subdivision and development application stage if the Structure Plan Amendment is approved by the WAPC.		

OFFICER COMMENT

57. The purpose of the Structure Plan Amendment is to incorporate 1.93ha of land at Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale into the approved Structure Plan as shown in Attachment 1. The subject site was rezoned from Special Rural to Urban Development in April 2017 through Amendment No. 87. In accordance with the objectives of the Urban Development zone, the preparation of a Structure Plan is required to facilitate future development and subdivision and therefore, the proposed Structure Plan Amendment is considered to be administrative in nature.
58. The Amendment to the Structure Plan nominates a density of R30 to the 1.933ha parcel of land which has an expected yield of approximately 38 lots ranging in size from 283m² to 490m² and results in 24.22 dwellings per net hectare. This proposed density is consistent with the City's and State strategic planning documentation.
59. The TIA provided by the applicant concludes that the traffic generated by the proposed Structure Plan Amendment, once developed, will not unduly impact upon the flow, speed or safety of the surrounding road network and intersections. For further information in this regard please refer to Attachment 6.
60. An Engineering Services Report has been provided by the applicant and concludes that the subject site can be readily serviced with power, telecommunications and gas, with essential infrastructure already available in the area. Additionally, the Engineering Services Report stipulates that any required extensions and upgrades will be at the cost of the developer. For further information in this regard please refer to Attachment 7.

61. The EAR provided by the applicant concludes that the site is considered not to be significantly constrained from a development perspective and makes the recommendation that investigations and management may be required at the subdivision stage to address acid sulphate soils; water management system design and vegetation and potential for retaining existing Black-Cockatoo habitat on the site. Please refer to Attachment 4 for further information in this regard.

62. In regards to the concerns raised during advertising the following comments are made:

Proposed road alignment to be realigned to allow the properties to develop independently.

Following the submission period the applicant has agreed to modify the proposed road alignment, by shifting the road to the north to ensure that it is equally distributed across the two allotments (7.1m of the road reserve in Lot 26 and 7.1m in Lot 25).

63. **Increased demand on the limited public open space in Maida Vale**

The requirement for public open space is controlled by Development Control Policy 2.3 (DC 2.3). The WAPC's normal requirement in residential areas is that, where practicable, 10 percent of the gross subdividable area be given up free of cost by the subdivider and vested in the Crown as a Reserve for Recreation. Part 4.3 of DC 2.3 stipulates that Sections 20C(1) to 20C(7) of the Planning and Development Act 2005 contain provisions under which a cash payment can be made by the subdivider in certain circumstances in lieu of providing land for open space. Accordingly, any subsequent subdivision may be required to vest in the Crown, free of cost, public open space or alternatively provide the City a cash in lieu payment. Please refer to paragraph 40 through 43 of this report for further information.

64. **Traffic Impacts.**

The TIA provided by the applicant concludes that the traffic generated by the proposed Structure Plan Amendment, once developed, will not unduly impact upon the flow, speed or safety of the surrounding road network and intersections. Additionally, no major concerns were raised through the internal referral process.

65. **R30 Density being inconsistent with the surrounding area.**

The surrounding Residential development is predominately coded R20 with pockets of R5 and R30 and was developed at a time when there was a demand for large lot sizes. Current market trends show an increase in demand for affordable housing which has resulted in reduced lot sizes.

66. **Should remain rural.**

The subject site is zoned 'Urban' under the MRS and 'Urban Development' under the City's LPS3.

67. **Environmental Issues (sand and dust) during development works**

Appropriate environmental and dust management will be required during all subdivision and development works on the site. All development on the site is required to comply with the Department of Water and Environmental Regulation's dust and smoke control guidelines; and the levels set out in the Environmental Protection (Noise) Regulations 1997.

68. **Negative impact upon the amenity of surrounding landowners.**
The proposed Structure Plan Amendment is in accordance with the City's Local Planning Strategy and various State Government Strategic documents. Nonetheless, the City is committed to protecting surrounding residents from any potential impacts resulting from the proposed Structure Plan Amendment. Any issues relating to undue impacts upon surrounding landowners (i.e. air pollution, noise pollution and traffic impacts) will be dealt with at the subdivision and development application stage if the Structure Plan Amendment is approved by the WAPC.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&A 54/2017)

That Council:

1. Pursuant to Clause 20(1) and (2) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, in respect to the proposed Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale, forwards this report, attachments and recommendations, to the Western Australian Planning Commission for approval subject to the following modification:
 - A. The proposed road alignment is to be modified so that it is equally distributed across Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale (7.1m of the road reserve on Lot 26 and 7.1m on Lot 25).

Moved:

Seconded:

Vote:

Attachment 1

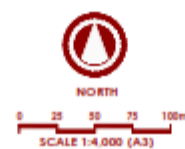
Proposed Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale
Proposed Local Structure Plan Map



All areas and dimensions are subject to survey, engineering and detailed design and may change without notice. © Copyright of Burgess Design Group.



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Plan No: BLO MAI 7-01-03 Client: D.S.
Date: 22.12.14 Planner: Z.M.

PROPOSED STRUCTURE PLAN AMENDMENT
LOT 25 GILBA PL & LOT 26 BREWER RD
MAIDA VALE
SHIRE OF KALAMUNDA

Attachment 2

Proposed Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale Existing Cell 6 Structure Plan Map

The Western Australian Planning Commission resolved on 6 February 2015 to endorse the Modified Structure Plan, as a guide for future development and subdivision within the locality.

Signed for and on behalf of the Western Australian Planning Commission

an officer of the Commission duly authorised by the Commission pursuant to section 24 of the Planning and Development Act 2005 for that purpose in the presence of:

M. Wicks Witness 10.2.2015 Date



Attachment 3

Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale

Applicant's Structure Plan Amendment Request Report

[Click HERE to go directly to the document](#)

Attachment 4

Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale

Environmental Assessment Report

[Click HERE to go directly to the document](#)

Attachment 5

Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale

Bushfire Management Plan

[Click HERE to go directly to the document](#)

Attachment 6

Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale

Transport Impact Assessment

[Click HERE to go directly to the document](#)

Attachment 7

Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale

Engineering Services Report

[Click HERE to go directly to the document](#)

Attachment 8

Proposed Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale **Submission Table**

Issue	Submitter No.	Shire of Kalamunda comment/response
No objection	1	Noted.
Proposal accords with Directions 2031 and the prescribed density of R30 is suitable for the subject site.	1	Noted.
Amendments required to the proposed road network: <ul style="list-style-type: none">• Should be moved to the north to allow the properties to develop independently.• Disagree with the modification of road network.	1, 4, 7, 9	<p>Noted.</p> <p>Following the submission period the applicant has agreed to modify the proposed road alignment, by shifting the road to the north to ensure that it is equally distributed across the two allotments (7.1m of the road reserve in Lot 26 and 7.1m in Lot 25). Accordingly, the Structure Plan Amendment is to be conditioned accordingly.</p> <p>The proposed road network is designed in accordance with the requirements stipulated by the Bushfire Management Plan (Attachment 5) which requires two access routes to provide safe access and egress to two different destinations in a bushfire event.</p>
Jubata Court does not have the capacity for increased vehicular movements	3, 8	As part of the submission of the Structure Plan Amendment a Transport Impact Assessment prepared by KCTT was submitted that models the impact of traffic from the proposed development. The TIA specifies the total expected traffic generated from the Structure Plan Amendment Area on Jubata Court (in and out direction) is 134 vehicular movements per day. The TIA concluded that impact was moderate and all roads have sufficient capacity to accommodate traffic generated by the proposed development. Please refer to Attachment 6 for further information in this regard.

Safety concerns due to the changes road network	4, 7, 9	A Transport Impact Assessment enclosed within the Structure Plan Amendment request confirmed there are sufficient sight distances for safe traffic movements. Please refer to Attachment 6 for further information in this regard.
Pimelea and Gilba Road should be connected	3	Pimelea and Gilba Road do not fall within the proposed amendment area, and are not necessary for access.
Street width	4	<p>The proposed internal road network has been designed in accordance with the requirements stipulated by Liveable Neighbourhoods. In summary the following internal road network is proposed:</p> <ul style="list-style-type: none">• A proposed road reservation width of 14.2 metres which is to be distributed across two (2) lanes;• A proposed road pavement width of 6.0 metres; and• A pedestrian path is to be provided on one side of the road reservation. <p>The proposed internal road network has been assessed within the enclosed Transport Impact Assessment and considered to be of sufficient width to accommodate vehicle movements, public utility services, and footpath. Please refer to Attachment 6 for further information in this regard.</p>
Footpaths required	4, 10	The proposed internal road network incorporates a pedestrian path on one side of the road reservation. Please refer to Attachment 6 for further information in this regard.
Environmental impacts	2, 6, 8	An Environmental Assessment Report confirmed that the flora and fauna across the site is not considered likely to present any constraints to development. The report recommended a reconnaissance survey of the site to record native vegetation to support a subdivision application. Please refer to attachment 4 for further information in this regard.
Tree retention to contribute to the character of Kalamunda	1	The Environmental Assessment Report recommended a reconnaissance survey of the site to record native vegetation to support a subdivision application. Please refer to attachment 4 for further information in this regard.

Lot size is inconsistent with the surrounding area	2, 7	<p>The surrounding Residential development is predominately coded R20 with pockets of R5 and R30 and was developed at a time when there was a demand for large lot sizes. However, current market trends show an increase in demand for affordable housing in the area which has resulted in reduced lot sizes.</p> <p>The Structure Plan Amendment nominates a density of R30 to the 1.933ha parcel of land which has an expected yield of approximately 38 lots ranging in size from 283m² to 490m² and results in 24.22 dwellings per net hectare. This proposed density is consistent with the following strategic documents:</p> <ul style="list-style-type: none"> • This Structure Plan Amendment will result in 24.22 dwellings per net hectare and therefore provides for greater than the minimum recommended under Liveable Neighbourhood requirements (22 dwellings per residential site hectare); • The proposal addresses Directions 2031 and Beyond through providing increased residential development within close proximity to Perth Airport and adjacent employment areas. Additionally, this Structure Plan Amendment will result in 24.22 dwellings per net hectare and therefore provides for greater than the minimum recommended under Directions 2031 and Beyond requirements (15 dwellings per gross urban zoned hectare of land); and • This Structure Plan Amendment is considered to comply with the key objectives of Perth and Peel @ 3.5 million through encouraging a consolidated urban form that limits the intensification of new greenfield areas and facilitating a development consistent with the existing pattern of development in the Maida Vale Cell 6 Structure Plan area.
No lot size should be specified	1	<p>Lot sizes are not required to be provided at this stage.</p> <p>However, as the Structure Plan Amendment proposed a density coding of R30 a yield of approximately 38 lots ranging in size from 283m² to 490m² can be expected.</p>
Increased traffic generation due to Forrestfield North Station	3, 7	<p>The Traffic Impact Assessment (TIA) provided by the applicant concludes that the traffic generated by the proposed Structure Plan Amendment, once developed, will not unduly impact upon the flow, speed or safety of the surrounding road network and intersections. For further information in this regard please refer to Attachment 6.</p>

Existing water pressure issues in the surrounding area	3	An Engineering Services Report has been provided by the applicant and concludes that the subject site can be readily serviced with the essential infrastructure (including water) without having an impact on the surrounding network. Additionally, the Report stipulates that any required extensions and upgrades will be at the cost of the developer. For further information in this regard please refer to Attachment 7.
Acoustic impacts during subdivision works and the construction of new dwellings	3, 8	This matter is not considered a planning consideration. Noise generated during subdivision works and construction of new dwellings is required to comply with the levels set out in the Environmental Protection (Noise) Regulations 1997.
Devaluation of property values	3, 6	This matter is not considered a planning consideration
Loss of views	6, 9	This matter is not considered a planning consideration
Site should remain Special Rural	6, 7	The land subject of the Structure Plan Amendment is zoned 'Urban' under the Metropolitan Region Scheme (MRS), and 'Urban Development' under the Shire of Kalamunda Local Planning Scheme No.3 (LPS3). Pursuant to clause 6.2.2.1 on LPS3, the local government requires a Structure Plan for a Development Area, or for any particular part or parts of a Development Area, before recommending subdivision or approving development of land within the Development Area.
Negative impact upon the amenity of surrounding landowners	3, 4, 6, 7, 9	The proposed Structure Plan Amendment is in accordance with the City's Local Planning Strategy and various State Government Strategic documents. Nonetheless, the City is committed to protecting surrounding residents from any potential impacts resulting from the proposed Structure Plan Amendment. Any issues relating to undue impacts upon surrounding landowners (i.e. air pollution, noise pollution and traffic impacts) will be dealt with at the development application stage if the Structure Plan Amendment is approved by the Minister for Planning.
Dust pollution	7, 8	This matter is not considered a planning consideration. Subdivisions and building sites are required to comply with the Department of Water and Environmental Regulation's dust and smoke control guidelines.

Put more demand on the limited supply of local open space in the surrounding area	7	The area will be well catered for in terms of POS as the area develops further.
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Confidential Attachment 9

Amendment to Structure Plan – Maida Vale Cell 6 Structure Plan – Lot 25 (7) Gilba Place and Lot 26 (34) Brewer Road, Maida Vale

Confidential Submitters Details

Reason for Confidentiality: Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person;"

This attachment has been circulated to all Councillors under separate cover

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

55. Parks Asset Management Plan 2017

Previous Items	OCM 130/2012 – Adoption of the revised Asset Management Policy OCM 157/2016 – Review of Asset Management Policy ENG15 OCM 79/2017 – Pathways Asset Management Plan 2017
Responsible Officer	Director Asset Services
Service Area	Asset Planning and Management
File Reference	HU-PAA-013
Applicant	N/A
Owner	N/A
Attachment 1	Parks Asset Management Plan

EXECUTIVE SUMMARY

1. To consider endorsement of the City of Kalamunda Parks Asset Management Plan 2017 (Parks AMP) and set the objective of maintaining the current funding levels for renewals and maintenance.
2. This Parks AMP is an update of the set of plans prepared in 2013 and identifies 271 parks sites with infrastructure assets valued at \$23.91 million.
3. The asset management plans collate and inform many aspects of City operations. In particular, the plans provide input to the Long Term Financial Plan, and meet statutory obligations for the Integrated Planning and Reporting Framework and Guidelines.
4. This report recommends endorsement of the City of Kalamunda Parks Asset Management Plan 2017 and retention of the current funding level of \$736,500 per year for renewals. This will keep parks assets at similar average condition.

BACKGROUND

5. The City produced its first asset management plan for parks in 2013. Subsequently in 2016 the Asset Management Council Policy was revised, and a number of internal processes improved to result in the new Pathways Asset Management Plan (adopted May 2017) and the new Parks AMP.

DETAILS

6. The Parks AMP covers the following subjects:
 - Current Status of Assets
 - Levels of Service
 - Life Cycle Management
 - Risk Management
 - Future Demand
 - Financial Summary
 - Improvements, Monitoring and Review

7. The current status of assets identifies the 271 parks sites and the categories of assets within them. As each asset category in the Parks asset class has different life, operational and renewal attributes, the categories have been analysed separately. The asset categories are listed below with the average condition in brackets:
 - Fences (2.4)
 - Irrigation (2.9)
 - Lighting (2.4)
 - Open Space Furniture (2.3)
 - Park Infrastructure (2.2)
 - Sports Surfaces (1.4)
 - Playground Equipment (2.3)
8. The only significant issue relating to current Parks asset renewals and condition is for the irrigation systems, where a number of bores and associated pipe-works are in need of renewal. This is in addition to recent renewals.
9. "Levels of service" is a phrase used in asset management to reflect the service the assets provide to the community. For example, one of the services an area of turf provides is a place for organised sport. The usual method of determining levels of service is to consult with the community. As this is a basic level of asset management plan, the community consultation on levels of service has not been completed for parks assets. Instead the Community Satisfaction Survey of 2016 has been used to guide the objectives of the plan. This identifies that 77% of the respondents have rated a positive performance for parks (excellent, good or okay). It is therefore important not to let the standard decrease. A detailed community consultation on levels of service is planned for 2019/2020 to coincide with the next review of the Parks AMP.
10. The section on future demand addresses the growth in population, developments, and the impact on parks assets. Through 2017/2018 a new Public Open Space Strategy will be prepared that will inform the Parks AMP. The Parks AMP has therefore identified the need to assess the impact of future demand following completion of this strategy. Information will be submitted into the three year review of the Parks AMP.
11. Financial summary information is presented later in this report. This report recommends the average funding of \$736,500 per year for parks asset renewals to be continued. This will keep the conditions at existing average condition, as outlined earlier.
12. The Parks AMP and the associated practices will be improved, with the following objectives:
 - Develop a "parks hierarchy" to identify the service and facilities provided by each Park Site.
 - Establish current levels of service and costs and seek confirmation through community consultation in 2019/20 when the Parks AMP is subject to detailed review.
 - Support the strategic actions that will inform future parks upgrades, management and maintenance.

STATUTORY AND LEGAL CONSIDERATIONS

13. All local governments are currently required to produce a plan for the future under S5.56 (1) of the *Local Government Act 1995*. Asset Management Plans are informing strategies for the Strategic Community Plan, Corporate Business Plan, Long Term Financial Plan, and Integrated Planning and Reporting Framework.

POLICY CONSIDERATIONS

14. The Parks AMP is prepared in support of the Asset Management Council Policy and the Asset Management Strategy 2017.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

15. The draft Parks AMP was reviewed and endorsed by the Asset Management Steering Committee.

External Referrals

16. Asset Management Plans are informed by a "levels of service" process which is the result of a community consultation process. The consultation undertaken to provide direction to the Parks AMP was through the 2016 Community Satisfaction Survey. It is proposed that a more parks specific community consultation be undertaken in 2019/2020, to coincide with the three yearly review of the Parks AMP and in accordance with the timeframes outlined in the Asset Management Strategy.

FINANCIAL CONSIDERATIONS

17. The City currently forecasts a total average annual amount of \$736,500 for operating and capital expenditure on parks assets renewals.
18. Scenario modelling of different target parks asset conditions has identified that the City has the options of either increasing the average condition or maintaining it at the current level. Scenarios were also assessed for different renewal standards, depending on the category of asset. The recommended scenario is to maintain the current level of parks renewal funding, which will result in the assets being renewed when they reach a 'Very Poor' condition.
19. Notable renewal funding needs include:
- \$945,000 for very poor condition bores and pipework (in addition to recent projects), and
 - Lighting upgrades of \$4.3 million as a result of a sports lighting audit.

20. Key Financial Ratios

Page 19 and 20 of the Plan as attached presents the key financial ratios.

The Asset Consumption Ratio has been determined as 0.47, while the desired is 0.50 or greater. A score of 0.50 means that the assets are half depreciated (consumed), and this is a reasonable objective. Irrigation systems upgrade is the only notable area where a greater proportion of renewal is needed. Once this renewal work is completed the ratio will increase.

The Asset Sustainability Ratio is 0.81 and is desired to be 0.90 or greater. This ratio has an inherent bias as it only measures the next ten years of renewals. The City's age matrix shows many assets have a much longer expected useful life than ten years. As the Parks AMP is updated every three years, this measure will be updated with new condition information.

The Asset Renewal Funding ratio is 1.00 and is desired to be between 0.75 and 0.95. The City's projected ratio of 1.00 exceeds the advance standard set in the guidelines by the Department of Local Government and Communities.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

21. *Kalamunda Advancing: Strategic Community Plan to 2027*

OBJECTIVE 1.2: To provide safe and healthy environments for community to enjoy.

Strategy 1.2.1 Facilitate a safe community environment.

Strategy 1.2.3 Provide high quality and accessible recreational and social spaces and facilities.

OBJECTIVE 3.1: To plan for sustainable population growth.

Strategy 3.1.1 Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

OBJECTIVE 3.2: To connect community to quality amenities.

Strategy 3.2.1 Optimal management of all assets.

SUSTAINABILITY

Social Implications

22. Maintaining the standard of parks will continue to support a range of healthy activities and community interaction.

Economic Implications

23. There are grant funding opportunities for the renewal of parks assets, generally provided for larger scale upgrade projects. This will control the level of funding needed for renewals in the future.

Environmental Implications

24. Maintaining the standard of parks assets will continue to support healthy activities for the community. Although natural areas and trees are not recorded as part of the Parks assets, the activity of maintaining and renewal parks assets provides for interaction and appreciation of the natural environment.

RISK MANAGEMENT CONSIDERATIONS

25.	Risk: An ineffective Parks AMP.		
	Likelihood:	Consequence	Rating
	Unlikely	Significant	Medium
	Action/ Strategy Ensure asset management activities continue in line with national practices. Continue to improve practices, seek funding for renewals and engaging with the community on levels of service.		

OFFICER COMMENT

26. The Parks AMP is in a format that meets current practice across Australia and New Zealand. The scenario modelling that identified the average condition rating and funding requirements, is considered an 'Intermediate' level practice.
27. As the 2016 Customer Satisfaction Survey indicates a Positive Performance of 77%, it is recommended that the average condition of the parks assets be maintained at current levels. No additional funding is required to maintain these condition levels.
28. Through the scenario modelling process, the Parks AMP provides ten year funding options, and assists in the development of appropriate parks assets renewal programs.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&A 55/2017)

That Council:

1. Endorses the Parks Asset Management Plan 2017 and sets the objective of maintaining the average condition and funding for parks asset renewals at current levels.
2. Notes that a specific community engagement process on parks "level of service" is planned for 2019/2020 in accordance with the timeframe specified in the Asset Management Strategy.

Moved:

Seconded:

Vote:

Attachment 1

Parks Asset Management Plan

[Click HERE to go directly to the document](#)

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

56. Woodlupine Brook Living Stream Concept Plan – Public Consultation

Previous Items	OCM 19/2012, OCM 127/2016, and OCM 15/2017
Responsible Officer	Director Asset Services
Service Area	Asset Delivery
File Reference	PG-STU-029
Applicant	N/A
Owner	N/A
Attachment 1	Woodlupine Brook "Living Stream Concept Plan"
Attachment 2	Community Consultation Survey Summary

EXECUTIVE SUMMARY

1. To consider the outcomes of public consultation undertaken for the proposed Woodlupine Brook Living Stream Concept Plan.
2. The community engagement process was successful, with resounding positive feedback on the Woodlupine Brook Living Stream Concept Plan and noting that the community is eager for the earliest commencement of construction.
3. The design will be updated to accommodate the community request for a continuous, unobstructed cycleway.
4. It is recommended that the Woodlupine Brook Living Stream Concept Plan be adopted subject to a minor amendment.

BACKGROUND

5. As at its meeting held on 27 February 2017, Council considered a report which included the Wattle Grove Landscape Masterplan and associated Woodlupine Brook "Living Stream" Concept Plan (OCM 15/2017 refers), and resolved as follows:
 - 1) *Adopts the Draft Cell 9 Wattle Grove Landscape Masterplan (Attachment 1) dated January 2012 previously endorsed by Council for public consultation (OCM 19/2012 refers) as "final", along with the Landscape Masterplan Element Review (Attachment 2) for future landscape capital works funding consideration in Wattle Grove.*
 - 2) *Endorses the Concept Plan for Woodlupine Living Stream prepared by Syrinx Environmental dated 10 January 2017 (Drawing No. 16046-SK-003 Rev 1/Attachment 3) for public consultation for a period of 6-weeks from proposed advertisement.*
 - 3) *Requests a report on the outcome of the Woodlupine Living Stream Concept Plan public consultation.*
6. In following up of Council Resolutions 2 and 3, the Concept Plan (Attachment 1) was issued for public consultation in the week commencing 20 March 2017, and concluded 29 May 2017.

7. Community consultation was presented on the basis of a staged approach programmed for implementation over the next three financial years, with staging noted as follows:
 - Stage 1: Section already completed.
 - Stage 2: Uncompleted section downstream of the recently completed, Wimbridge Road Culvert.
 - Stage 3: Uncompleted section upstream of the recently completed Wimbridge Road Culvert.
8. It is noted that community consultation was undertaken when the City was referred to as the Shire; this report uses the current applicable nomenclature.

DETAILS

9. The City advertised the community consultation process through newspaper advertisements, social media promotion. Opportunity for comment was also incorporated directly within the City's website.
10. Members of the public were invited to comment on the Concept Plan at the following locations:
 - Forrestfield Forum, 3 May 2017;
 - Kalamunda Central Shopping Centre, 5 May 2017; and
 - High Wycombe Shopping Centre, 11 May 2017.
11. Additionally, a 'Drop-in Session' was held at the Lenihan Nature Playground in Wattle Grove 17 May 2017.
12. The community engagement process was successful, with resounding positive feedback received regarding the Concept Plan.
13. The Concept Plan will be updated to accommodate the community request for a continuous, unobstructed cycleway.

STATUTORY AND LEGAL CONSIDERATIONS

14. Local Planning Scheme No. 3 established a Development Contribution Plan for the Cell 9 Wattle Grove area. The Development Contribution Plan collects funds for acquisition of land, widening and improvement of roads, upgrading drainage, and creating water-ways and public open space.
15. The Woodlupine Brook Living Stream project has been included in the Cell 9 Development Contribution Plan. Funds for the project have been collected from all developing landowners since the establishment of the plan. It is a requirement of the contribution plan that this project be progressed.

POLICY CONSIDERATIONS

16. Ensure that all landscaping is compliant with the City's Street Tree and Streetscape Policy.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

17. Referrals were forwarded to; Strategic Planning, Parks and Environmental; Infrastructure Operations; Recreation Facilities and Services; Economic, Land and Property Services; Financial Services and Procurement; with comment received being of a minor nature and able to be accommodated during detailed design.

External Referrals

18. The community consultation process resulted in 14 responses, including 8 Wattle Grove residents, 3 Forrestfield residents, 1 response from Kalamunda, 1 from Maddington and 1 from High Wycombe. A detailed summary of the survey results inclusive of the City's response to each submission is provided in Attachment 2.
19. The Department of Water (DoW), and the Water Corporation (WaterCorp) have had several collaborative meetings with the City in regard to the Concept Plan. DoW and WaterCorp will continue to support the project acting in an approval capacity with technical direction where needed. Maintaining consistent liaison with DoW and WaterCorp will facilitate timely approval of the detailed design.
20. DoW, WaterCorp and the South East Regional Centre for Urban Landcare (SERCUL – an independent natural resource management body) provided letters of support for the Concept Plan.
21. The City has been in communication with members of the Wattle Grove Residents Association to advise of upcoming projects.
22. The City advertised the community consultation process through newspaper advertisements, social media promotion, and its website.

FINANCIAL CONSIDERATIONS

23. The proposed Woodlupine Brook Living Stream project is funded through the Cell 9 Trust. Furthermore, the City has also been successful in securing a grant through the State Natural Resource Management (NRM) Program for the sum of \$54,392.80 (excluding GST) to facilitate community education, planting activities as part of the proposed Woodlupine Brook (Stage 2) works by local community volunteers and Friends Groups. Letters of support provided by DoW, WaterCorp and SERCUL were included in support of the application. The City intends to continue its search for additional external funding for landscape works and key community infrastructure.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

24. *Kalamunda Advancing: Strategic Community Plan to 2027*

OBJECTIVE 1.2 To provide safe and healthy environments for community to enjoy.

Strategy 1.2.2 Advocate and promote healthy lifestyles choices by encouraging the community to become more physically active.

Strategy 1.2.3 Provide high quality and accessible recreational and social spaces and facilities.

OBJECTIVE 2.1: To protect and enhance the environmental values of the City.

Strategy 2.1.1 Enhance out bushland, natural areas, waterways and reserves.

Strategy 2.1.3 Community engagement and education in environmental management.

SUSTAINABILITY

Social Implications

25. Various project activities will provide opportunities for members of the community to be involved, in particular, community participation in relation to future planting days linked to the conversion of the balance of the Woodlupine Brook Drain located within Wattle Grove into a "Living Stream".

26. On completion of each stage of works the resultant public open space inclusive of the pathway network will provide Wattle Grove residents with increased passive related recreational opportunities.

Economic Implications

27. An increase in OPEX funding will be required from 2018/2019 as part of ongoing maintenance requirements associated with the upkeep of the Woodlupine Public Open Space (POS). Actual requirements will be determined on completion of the detailed design phase.

Environmental Implications

28. The landscape treatment to the Woodlupine Brook Living Stream will improve water quality of stormwater entering the drain through bio-filtration Water Sensitive Urban Design solutions, as well as improvement and extension of landscape corridors and networks that support biodiversity in nature flora and fauna within the Wattle Grove area.

RISK MANAGEMENT CONSIDERATIONS

29.

Risk: Council does not endorse the Concept Plan for detailed design and subsequent tender advertisement for construction.		
Likelihood:	Consequence	Rating
Possible	Significant	High
Action/ Strategy		
The City will revise the Concept Plan to the satisfaction of the Council, for immediate resubmission to meet required timeframes for plant procurement and construction.		

Risk: The City does not meet the requirements of NRM Grant funding.		
Likelihood:	Consequence	Rating
Possible	Moderate	Medium
Action/ Strategy		
The City has allocated a dedicated resource to satisfy the NRM Grant requirements. The officer will work with SERCUL and volunteer groups to deliver planting along the banks of the upgraded Woodlupine Brook Living Stream.		

OFFICER COMMENT

30. The public submissions received were supportive of the conversion of the balance of the Woodlupine Brook Drain into a "Living Stream", with a request to ensure the pathway network to accommodate a "circular continuous path" to enable young children to ride their bikes around the brook with ease being the only major change to the Concept Design presented for public consultation.
- This will require reworking of the pathways abutting both sides of Wimbridge Road at the culvert crossing point, and review of the pathway location adjacent to Hardey East Road.
31. Public involvement in planting activities on a voluntary basis is supported, this encouraged through the grant arising from the State NRM Program.
32. Recreational activity within the Woodlupine POS arising from the "Living Stream" project will provide walking, running and cycling opportunities along with passive activities such as picnics in the various small open spaces being promoted. It is noted that ground contouring to accommodate "Living Stream" principals will result in an undulating ground contour with banks to the brook generally graded at a slope of 1 to 6.

33. It is recommended that the Concept Plan endorsed for public consultation by Council at its meeting held on 27 February 2017 be adopted subject to reworking the pathway alignments abutting both sides of Wimbridge Road at the culvert crossing and adjacent to Hardey East Road.
34. Subject to Council adopting the Concept Plan detailed design for Stages 2 and 3 will then be advanced, followed by tender advertisement for Stage 2 in the first instance as Stage 3 is still contingent upon finalising proposed land acquisition from abutting properties.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&A 56/2017)

That Council:

1. Notes the public submissions received and City of Kalamunda actions in response to the advertised public consultation period from 20 March 2017 to 29 May 2017.
2. Adopts the Woodlupine Living Stream Concept Plan prepared by Syrinx Environmental dated 10 January 2017 (Drawing No. 16046-SK-003 Rev 1) subject to reworking the pathway alignments abutting both sides of Wimbridge Road at the culvert crossing and adjacent to Hardey East Road.
3. Requests the Chief Executive Officer to advise submitters of its decision.

Moved:

Seconded:

Vote:

Attachment 1
Woodlupine Brook Living Stream Concept Plan – Public Consultation
Woodlupine Brook “Living Stream Concept Plan”



WOODLUPINE BROOK UPGRADES - LANDSCAPE CONCEPT PLAN

CLIENT :	SHIRE OF KALAMUNDA	DRAWING :	CONCEPT LANDSCAPE PLAN	DATE :	10/01/2017
PROJECT :	WOODLUPINE BROOK UPGRADES	DRAWING NUMBER :	16046-SK1-003	SCALE :	1:1250 @ A1
PROJECT NUMBER :	16046	DRAWING REVISION :	REV 01	DRAWN BY :	KO

Attachment 2

Woodlupine Brook Living Stream Concept Plan – Public Consultation

Community Consultation Survey Summary

Reference	Address	Like Concept Plan	Comment	City Response
ILT-201501	Aralia Way, Forrestfield		The plan looks good and I personally value walking spaces to run and enjoy with my daughter. As a resident of Forrestfield I would greatly appreciate spaces like this. Please consider options for Forrestfield as I do feel we get overlooked against new developments.	The City will investigate opportunities for Forrestfield landscape developments, noting that planning, funding and design would represent long-term duration to completion.
ILT-201501	Sheriff Circuit, Wattle Grove		I like the idea of continuous bike walk path so kids can ride (learn to ride their bikes) without the dangerous poles that are put at the end of the paths.	The City will accommodate a circular continuous path within the Woodlupine Brook detailed design to enable young children to ride their bikes around the Brook with ease.
ILT-201501	Kooya Way, Wattle Grove	Yes	I think it's a great idea and would like to take this opportunity to appreciate the Council's efforts. The best thing is we can have a natural ecosystem and can support wild life in its true form. Also, the walk over [pedestrian bridge] over the Woodpine [Brook] will make it easier for kids to get to the school. All the best!!	Noted.
ILT-201501	Kelvin Road, Maddington	Yes	Love the idea, keep going.	Noted.
ILT-201501	Cantua Way, Forrestfield	Yes	Our Bush Trail walking group are always looking for new places to visit. This will be ideal as it will be an easy walk for our over 70s.	Noted.

Reference	Address	Like Concept Plan	Comment	City Response
ILT-201501	Delta Street, Wattle Grove		The Brook Stream projects needs to be continued into the lake area bounded by The Promenade, St John Rd and Sheffield Rd. At the moment, the area is messy and needs to be beautiful with removal of shrubs, insertion of grass and a fountain in the lake so the area can be used and enjoyed by the locals like the parks and lakes on freeduff drive.	The area bound by The Promenade, St John Road and Sheffield Road (Stage 1) has already been developed. Unfortunately, there is no additional budget to re-develop this area, noting that it has been completed in accordance with the original proposal for this area.
ILT-201501	Lenihan Cnr, Wattle Grove	Yes	Concept plan looks good... start construction ASAP!	This project is progressing on a staged basis, with the second and third stages subject to successful land acquisition.
ILT-201501	Alata Way, Wattle Grove	Yes		
ILT-201501 18366		Yes	It would be great if the lake on Kalari Drive could be connected with the living stream with running water. It could reduce mosquito risk and also prevent the lake dry out during Summer.	The water body on Kalari Drive is connected to the Woodlupine Brook via the culvert located at the intersection of Lenihan Corner and Hale Road. The three water bodies are connected via underground pipes which manage overflows.

Reference	Address	Like Concept Plan	Comment	City Response
ILT-201501	Sessilis Crescent, Wattle Grove		<p>After reviewing the concept plan, I think that the stream is too narrow and should be much wider to give it the effect of being a small river. This will look great and increase the value of the land around it. Having too much unused grass and shrubs around does not really add much value to the land.</p> <p>Having more water near the hills would be ideal as the nearest large water source is Shelley River. Having really skilled gardeners designing and working on the flora would be great to make the suburb look more artistic, upmarket and desirable. Lots of water will make it beautiful to walk along.</p>	<p>The living stream design is constrained by land owned by the City, as well as designed flood levels. The current design is the widest the City is able to accommodate within these constraints.</p> <p>The project is being designed by highly-skilled landscape architects, in line with best-practice Water Sensitive Urban Design principals, with review by the Department of Water and the Water Corporation.</p>
ILT-201501 18657	Kalamunda		<p>Concept plan appears to be a good combination of rainwater capture and filtering, natural vegetation and public recreation, with passive transport in the form of pathways. Minimising grass areas would reduce fertiliser nutrient load, water use and ongoing maintenance costs to the Shire.</p> <p>Separation between grassed areas and natural areas could be improved/buffered by placing the walk/cycleways between grass and natural vegetation. Care should be taken in the route of the stream to avoid erosion issues. Steep banks should be avoided to facilitate future weed control. Add native trees.</p>	<p>In most instances, the City will separate grassed areas from natural vegetation use mowing strip or footpath.</p> <p>The City is also making embankment shallower where feasible, and planting vegetation cover to assist with erosion control and complement the other erosion control measures along the length of the stream.</p> <p>This project is predominantly a native flora restoration project, with the only exception being the existing orchard trees located on the POS immediately adjacent to the Wattle Grove Shopping Centre as per the original Council-endorsed Landscape Master Plan.</p>

Reference	Address	Like Concept Plan	Comment	City Response
ILT-201501 18492	Kalmia Way Forrestfield		As a long term resident of Forrestfield I think it is a brilliant plan and should proceed post haste.	This project is progressing on a staged basis, with two of the three stages subject to successful land acquisition of an undetermined timeframe.
ILT-201501 18494	Walker Cres High Wycombe		This is a great idea.	Noted.
ILT-201501	Wattle Grove		<p>On behalf of the members of the Wattle Grove Residents' Association Inc., I wish to comment on the proposal for the Woodlupine Brook living stream enhancement through Wattle Grove.</p> <p>Our members have, for many years, been seeking improvement of the natural creek scape (with its weeds and snakes) to meet the subdivision representations made when they purchased their properties, many over a decade ago.</p> <p>Since then however, it has become obvious that there is an extreme shortage of recreational open spaces for active pursuits, including ball games, for youth in the Wattle Grove residential estates. The creek scape is 'Open Space' within the Shire's definition from a development proposal perspective, but the space is not usable as 'open space' by humans.</p>	<p>It is noted that the maintenance of the Woodlupine Brook banks is the responsibility of the Water Corporation. The City has notified the Water Corporation of the current state of weed infestation within the banks on several occasions.</p> <p>The ecosystem present within a natural water body shall always breed wildlife, such as snakes.</p> <p>The City's advice remains constant with regard to open space in the Woodlupine Brook Concept Design; that is, the nature of the design is in accordance with Water Corporation and Department of Water guidelines, The banks of the 'living stream' design are of minimal gradient to minimise erosion and facilitate future weed control.</p>

Reference	Address	Like Concept Plan	Comment
ILT-201501 Continued	Wattle Grove		<p>At our residents' meetings over the last few years these concerns have been raised on separate occasions with the Chief Executive Officer, Ms Hardy, Planning Officers, Mr A Fowler-Tutt and Ms N Lytton, and most recently with the Shire President, Mr Andrew Waddell and local Members of Parliament. Members made their requests for more recreational space very clear to all of these officials, along with Councillor O'Donnell, who regularly attends our bimonthly meetings and also Councillor Townsend, a longer service councillor for our ward.</p> <p>While the current enhancement proposal is very necessary, the needs of residents for a reasonable proportion of this 'Open Space' to the developed for active human recreation has been overlooked. There are no additional open spaces. In some instances the plan shows that some currently open space between The Promenade and the Brook will be planted with vegetation. This will reduce the available open space for human and pet recreational pursuits, rather than enlarge it.</p> <p>We request that the Shire reassess the current and future needs for the residents of Wattle Grove to have open grassed areas for active outdoor pursuits, rather than committing the entire length of the Brook to native habitat.</p> <p>As a suggestion, our members wish the Shire to consider running the Brook through underground pipework where there is currently open space. The land above the pipes can then be reticulated into grassed areas. This will also allow pedestrians and cyclists to move more easily around Wattle Grove without the Brook dividing the suburb.</p> <p>The concept plan provides a balanced combination of rainwater capture and filtering, natural vegetation and public recreation, with passive transport in the form of pathways. Water Corporation do not permit active recreation adjacent the waterway, nor the Department of Water endorse piping waterways, as was suggested in your response.</p>

Reference	Address	Like Concept Plan	Comment
ILT-201501 Continued	Wattle Grove		<p>It may also resolve the need for a footbridge to allow access from The Promenade to the Wattle Grove Shopping Centre.</p> <p>The attached plan has three sites for underground pipes marked, being mindful that no further trees in Wattle Grove are to be sacrificed. Grassing over the piped Brook in at these sites would go some way to address the current active space shortage in our suburb. Wattle Grove residents deserve similar access to large open grassed parks as Kalamunda residents in 'older' suburbs like Forrestfield, High Wycombe, Lesmurdie and Kalamunda.</p> <p>We submit this statement as part of the public comment phase of the Shire's project for the enhancement of Woodlupine Brook and would welcome Shire representatives attending any of our meetings to ensure that the recreational and park areas of the Wattle Grove residential areas are more balanced between nature and human endeavour for the future, and be nearer to parity with available open recreational spaces in other suburbs.</p>

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

57. City of Kalamunda Parking and Parking Facilities Local Law 2017

Previous Items	OCM 50/09; OCM 113/08
Responsible Officer	Director Development Services
Service Area	Community Safety Services
File Reference	LE-LOL-012
Applicant	N/A
Owner	N/A
Attachment 1	Proposed <i>City of Kalamunda Parking and Parking Facilities Local Law 2017</i>

EXECUTIVE SUMMARY

1. The purpose of this report is to:
 - a) request Council consider repealing the current *Parking and Parking Facilities Local Law 2008* and replace it with the proposed *City of Kalamunda Parking and Parking Facilities Local Law 2017* (Attachment 1); and
 - b) seek Council's approval to give State-wide notice of the proposed *City of Kalamunda Parking and Parking Facilities Local Law 2017*, seeking public comment pursuant to the requirements of the *Local Government Act 1995* (WA).
2. The current *Parking and Parking Facilities Local Law 2008* was gazetted on 14 January 2009.
3. The process for creating a local law is outlined in section 3.12 of the *Local Government Act 1995* (the Act) and requires that a local law be reviewed every eight (8) years.
4. The proposed *City of Kalamunda Parking and Parking Facilities Local Law 2017* provides for a more modern local law dealing with parking in the City, improves safety and adjusts prescribed infringement fees to be more in line with adjoining local governments.

BACKGROUND

5. The gazettal of the current *Parking and Parking Facilities Local Law 2008* occurred on Wednesday, 14 January 2009.
6. A review of the *Parking and Parking Facilities Local Law 2008* commenced in May 2015.
7. The review revealed that the current *Parking and Parking Facilities Local Law 2008* is inconsistent with the business needs for the City. The modified penalties for non-compliance were also inconsistent with penalties of other WA local governments.

8. The process for creating a local law is outlined in section 3.12 of the Act and requires that a local law be reviewed every eight (8) years.

DETAILS

9. The proposed *City of Kalamunda Parking and Parking Facilities Local Law 2017* has been prepared based on current industry standards, with modifications to meet the City's current business needs.
10. McLeods Barristers and Solicitors provided input into the drafting of the *City of Kalamunda Parking and Parking Facilities Local Law 2017* to ensure consistency, compliance with legislative requirements and acceptance by the WA Parliament's Joint Standing Committee on Delegated Legislation. Some of the change proposed by McLeods include:
 - Clause 1.2: Reference to parking stations amended and removed schedule 4 (parking stations)
 - Clause 1.10: Amended by deleting the words 'by resolution'
 - Clause 2.1: amended to be in line with the WALGA model local law
 - Clauses 2.1 & 2.2: Changed terminology from parking stalls to parking bays.
 - Clauses 2.1, 2.7 & 2.8: Provision for ticketed parking & parking stations
 - Clause 2.9: Provision for behaviour in parking stations
 - Clause 3.5 (3) (I) Parking prohibited in cul-de-sacs
 - Clause 3.6: Amended to include a vehicle allowed to remain parked
 - Clause 3.8: Amended related to prohibiting movement of vehicle to avoid a time limitation
 - Clause 6.9: Commercial vehicles with gross vehicle mass of less than 4.5 Tonne permitted to legally park on verges
 - Removed all ACROD requirements and associated penalties as adequately covered by the Disability Act
 - Provision for trading from a parked or stopped vehicle
 - Clause 4.2: Additional provisions for setting aside parking
 - Clauses 7.7, 7.8 & 8.9: Additional provisions for authorised persons
 - Schedule 2 Infringement: increased penalties to reflect current industry standards.
11. When comparing the proposed *City of Kalamunda Parking and Parking Facilities Local Law 2017* to similar local laws of the City's neighbouring local governments, the current fines are significantly below that of industry standards. On that basis it is recommended that fines are approximately doubled.
12. Specific details of proposed amendments are contained within the Officer Comment section of this report below.
13. Once Council resolves to make a new local law, State-wide and local public notice must be given of the proposed local law and 42 days allowed for the public to make submissions.

14. At the end of the submission period, Council may proceed with adopting the local law, or may choose to not proceed. Minor amendments may be made before the local law is adopted, however, if proposed amendments result in the local law being significantly different from that advertised, the process must be re-started.

STATUTORY AND LEGAL CONSIDERATIONS

15. The Act enables Western Australian local governments to make local laws considered necessary for the good government of their districts.

Laws can only be made when authorised by the Act or other written laws but cannot be inconsistent with any State or federal law.

The types of laws made by local governments cover areas such as car parking, activities on thoroughfares, public places and council and committee meetings.

Section 3.5(1) of the Act provides –

A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.

Section 3.12 of the Act provides for the statutory procedure that the City must follow in the creation of a new local law.

The *Local Government (Functions and General) Regulations 1996* (WA) provide in Regulation 3, that –

for the purpose of section 3.12 of the LG Act, the person presiding at a Council meeting is to give notice of the purpose and effect of a local law by ensuring that

- a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and*
- b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.*

POLICY CONSIDERATIONS

16. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

17. The City's General Counsel has also considered the proposed *City of Kalamunda Parking and Parking Facilities Local Law 2017*.

External Referrals

18. McLeod's Barristers & Solicitors provided comment in respect of the draft *City of Kalamunda Parking and Parking Facilities Local Law 2017* as set out below.

If Council resolves to make the new local law, the City must give State-wide public notice, stating that the City proposes to make the new *City of Kalamunda Parking Local Law 2017* and its purpose and effect must be summarised in the notice.

As soon as the notice is given, the City must also give a copy of the proposed local law to the Minister, Local Government and Communities and to any other person who requests it.

FINANCIAL CONSIDERATIONS

19. Financial implications arising from the adoption of the new *City of Kalamunda Parking and Parking Facilities Local Law 2017* will be the cost of advertising as required by the legislation. The current budget will cover the cost of advertising.
20. The new *City of Kalamunda Parking and Parking Facilities Local Law 2017* will increase prescribed infringements for offences.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

21. *Kalamunda Advancing: Strategic Community Plan to 2027*

OBJECTIVE 6.2 - To ensure local laws are upheld.

Strategy 6.2.1 - Develop, implement and monitor all local laws across the City to ensure they are relevant and realistic.

SUSTAINABILITY

Social Implications

22. Improved safety for residents living in cul-de-sacs, by regulating parking within these narrow carriageways.
23. Improved visual amenity by regulating the owners of vehicles who park on the verge for extended periods.

Economic Implications

24. The proposed *City of Kalamunda Parking and Parking Facilities Local Law 2017* will improve customer access to small businesses by making it easier for the City Rangers to ensure street parking is more accessible.

Environmental Implications

25. Nil.

RISK MANAGEMENT CONSIDERATIONS

26.	Risk: The proposed <i>City of Kalamunda Parking and Parking Facilities Local Law 2017</i> will not be approved.		
	Likelihood:	Consequence	Rating
	Unlikely	Major	High
	Action/ Strategy		
	Ensure Council is aware that the legislation requires a review of local laws every eight years.		
27.	Risk: Community criticism is received regarding the <i>City of Kalamunda Parking and Parking Facilities Local Law 2017</i> .		
	Likelihood:	Consequence	Rating
	Unlikely	Significant	Medium
	Action/ Strategy		
	Ensure the proposed <i>City of Kalamunda Parking and Parking Facilities Local Law 2017</i> undergoes appropriate community consultation and due regard is given to any submissions received.		
28.	Risk: The proposed <i>City of Kalamunda Parking and Parking Facilities Local Law 2017</i> does not meet the stated objectives.		
	Likelihood:	Consequence	Rating
	Unlikely	Significant	Medium
	Action/ Strategy		
	Ensure that the proposed <i>City of Kalamunda Parking and Parking Facilities Local Law 2017</i> is reviewed independently, advertised widely and regard is given to any submissions received.		

OFFICER COMMENT

29. While the proposed penalties are almost double the amount previously prescribed, in most instances they are still 50 - 80% below most other Western Australian local governments.
30. Notably the proposed penalty increases are less than or equal to the penalties prescribed by two adjoining local governments, both of which have amended their local laws within the last 8 years.
31. The City's other neighbours have much older local laws with penalties indicative of the City of Kalamunda's *Parking and Parking Facilities Local Law 2008* (current local law).

32. A new section has been added to the local law that allows for the provision of ticketed parking and parking stations. While there is no proposal to implement paid parking in the City in the short term, with the development of Forrestfield North, residential densification and increased tourism, paid parking may be considered in the future. The inclusion of clauses in the local law now to allow for paid parking simply allows for paid parking in the future.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&A 57/2017)

That Council:

1. Gives State-wide and local public notification that Council proposes to make a new local law, the *City of Kalamunda Parking Local Law 2017* as per (Attachment 1).
2. Notes that:-
 - a) the purpose of the local law is to regulate the parking of vehicles within the City's parking region and provide for the management and operation of parking facilities;
 - b) the effect of the proposed local law is to ensure that a person parking a vehicle within the City's parking region will be required to comply with the provisions of the new local law; and
 - c) The new local law is intended to result in:
 - (i) a more modern local law dealing with parking in the City;
 - (ii) improved safety; and
 - (iii) adjustments to prescribed infringement to be more in line with adjoining local governments.

Moved:

Seconded:

Vote:

Attachment 1

City of Kalamunda Parking and Parking Facilities Local Law 2017

Proposed *City of Kalamunda Parking and Parking Facilities Local Law 2017*

[Click HERE to go directly to the document](#)

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

58. Proposed Amendment No. 96 to Local Planning Scheme No. 3 – Use Class Permissibility in the District Centre and Commercial Zones – Public Advertising

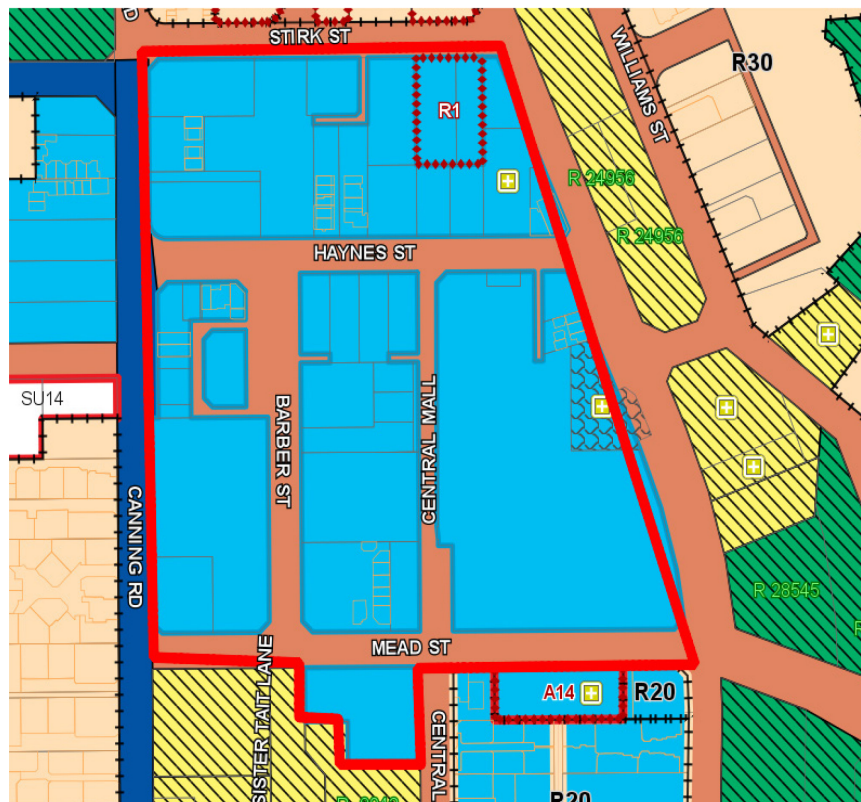
Previous Items	Nil.
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	PG-LPS-003/096
Applicant	N/A
Owner	N/A
Attachment 1	Proposed Amendment Document
Attachment 2	Proposed Changes to Table 1 of the Scheme

EXECUTIVE SUMMARY

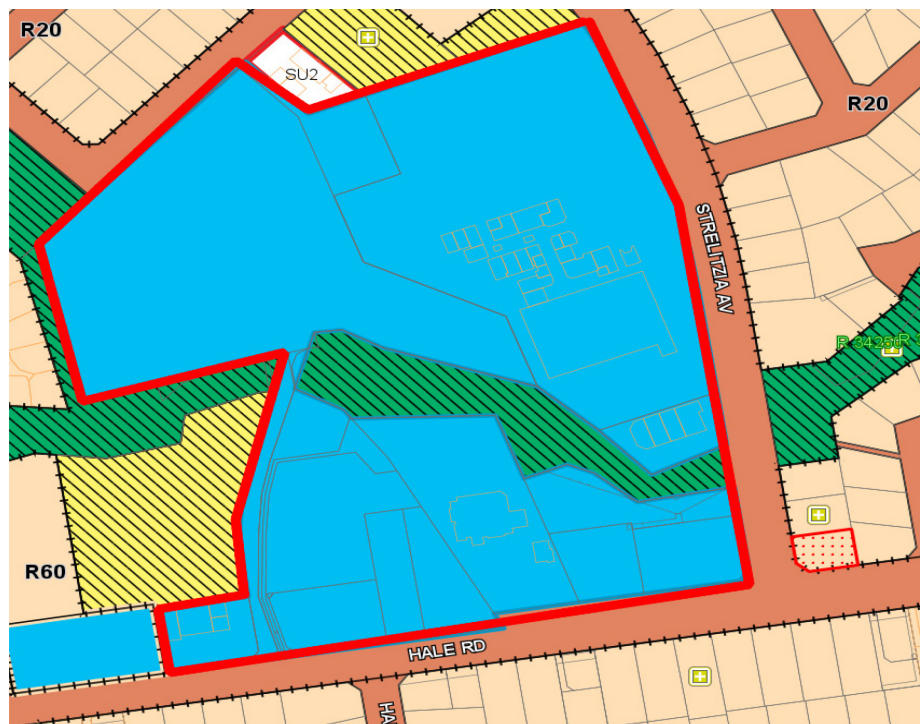
1. The purpose of this report is to consider the adoption for public advertising Amendment No. 96 to Local Planning Scheme No. 3 (Scheme) to modify use permissibility in Table 1 (Zoning Table) of the Scheme in relation to the District Centre and Commercial zones.
2. The City commenced an investigation into the use permissibility in the District Centre and Commercial zones following recommendations coming out of the 2017 Strategic Service Delivery Review. During this investigation it was considered that there is merit in modifying some use class permissibility to bring the City's Scheme in line with contemporary planning objectives and community expectations, and to assist where appropriate in expediting the planning process.
3. The intent behind a majority of changes is to restrict undesirable land uses from operating within the District Centre and Commercial zones. However, it is proposed that a new 'Small Bar' use class be introduced and be classified as 'P' (Permitted) within the District Centre and Commercial zones. On this basis it is recommended that Amendment 96 be adopted for the purpose of public advertising.

BACKGROUND

4. Kalamunda District Centre



5. Forrestfield District Centre



6. As indicated above, the City has two (2) District Centres (Forrestfield and Kalamunda) and scattered areas of Commercial zoned land located within the Scheme area. These centres are important activity nodes for the community, providing for a range of shopping, business, professional, civic and cultural, and entertainment based services.
7. One of the recommendations of Council's Strategic Service Delivery Review in 2017 was to investigate exemptions in Kalamunda and Forrestfield District Centres with a view of facilitating desirable land uses. This was intended to apply to the Shop, Office, Small Bar, Restaurant and Consulting Room land uses. During this investigation, it was noted that all of these uses are already 'P' (Permitted) land uses, however it was considered that there is merit in reviewing the remainder of uses in these zones to ensure that the City's Scheme is in line with contemporary planning objectives and community expectations and to assist where appropriate in expediting the planning process.
8. In August 2015, the *Planning and Development (Local Planning Schemes) Regulations 2015* introduced deemed provisions that exempted development from requiring planning approval that is classified as 'P' (permitted) and:
 - i) the development has no works component; or
 - ii) development approval is not required for the works component of the development.

This means that where a site changes use, and the new use is classified as 'P' (Permitted), and no works are proposed, it will not require planning approval unless there are external modifications to the building. In a District Centre and Commercial zoned environment, it is important to facilitate the types of uses that are desirable, however this should be balanced with an appropriate level of development control.

9. This amendment proposes to reclassify the permissibility of some uses to ensure that a development application is required prior to the commencement of the use, and that appropriate development standards and processes are applied through the development application process.

DETAILS

10. Attachment 2 contains a full table that outlines the nature of proposed changes to Table 1 (Zoning Table) of the Scheme including rationale behind each of the proposed changes. In summary however, the following table highlights the changes to use permissibility proposed:

	District Centre		Commercial		Residential	
	Existing	Proposed	Existing	Proposed	Existing	Proposed
Aged Residential Care	D	A	D	A		
Amusement Parlour	P	D	P	D		

Ancillary Dwelling	D	X	D	X		
Art Gallery	P	D	P	D		
Betting Agency	P	D	P	D		
Bulky Goods Showroom	P	D	P	D		
Caretakers Dwelling	P	D	P	D		
Car Park	P	D	P	D		
Child Care Premises	P	D	P	D		
Cinema/Theatre	P	D	P	D		
Civic Use	D	P	D	P		
Club Premises	P	D	P	D		
Community Purpose	P	D	P	D		
Family Day Care	P	D	P	D		
Fast Food Outlet	P	D	P	D		
Garden Centre	P	D	P	D		
Health/Fitness Centre	P	D	P	D		
Home Business	P	D	P	D		
Home Occupation	P	D	P	D	P	D
Home Office	Nil.	P	Nil.	P		
Home Store	P	D	P	D		
Hospital	D	A	D	A		
Hotel	D	A	D	A		
Industry – Service	D	X	D	X		
Motor Vehicle, Boat or Caravan Sales	P	X	P	D		
Motor Vehicle Repairs	P	X	P	X		
Place of Worship	D	A	D	A		
Reception Centre	P	A	P	A		
Service Station	P	A	P	A		
Single Bedroom Dwelling	D	X	D	X		
Single House	D	X	D	X		
Small Bar	Nil.	P	Nil.	P		
Tavern	D	A	D	A		
Trade Display	D	X	D	X		
Veterinary Centre	P	D	P	D		
Warehouse/Storage	D	X	D	X		

11. Table 1 has been rearranged to reflect the proposed modifications to the Scheme text consistent with the table proposed through Amendment 83 (initiated by Council on 24 April 2017) to the Scheme, which will bring the Scheme into alignment with the model and deemed provisions under the *Planning and Development (Local Planning Schemes) Regulations 2015*. Differences between the current Scheme Table 1 as shown in the table in Point 8 of the report above and the proposed table include:
- Addition of the following use classes:
 - Bulky Goods Showroom
 - Home Office
 - Replace 'Restaurant' with 'Restaurant/Café';
 - Replace 'Rural Pursuit' with 'Rural Pursuit/Hobby Farm';
 - Reordering of some of the uses into alphabetical order;
 - Delete the Showroom use class;
 - Delete the Stable use class; and
 - Combine the Warehouse and Storage use classes – 'Warehouse/Storage'.
12. In addition to the above, this amendment also seeks to
1. Correct an error in Table 1 relating to the Home Occupation use in a Residential Zone, by changing it from a 'P' (permitted) use to a 'D' (Discretionary) use. This is consistent with the approach taken by other local governments and will ensure that an appropriate level of development control is applied to home occupation proposals. The City will also investigate the preparation of a local planning policy for home occupations to provide a transparent and consistent decision making framework for these types of proposals.
 2. Introduce the 'Small Bar' use class into Table 1 and the definition of a Small Bar into the Land Use Definitions Schedule of the Scheme, as follows:

"Means premises the subject of a small bar licence granted under the Liquor Control Act 1988".

STATUTORY AND LEGAL CONSIDERATIONS

Planning and Development (Local Planning Schemes) Regulations 2015

13. In relation to the processing of Scheme amendments, the Regulations distinguish 'complex', 'standard' and 'basic' types of amendments with procedural requirements for each to streamline and simplify the amendment process, particularly in relation to advertising and processing timeframes.
14. Under the Regulations, the proposed Scheme Amendment is considered a 'standard amendment', for the following reasons:
- The amendment is consistent with the objectives identified in the Scheme for the District Centre zone;
 - The amendment is consistent with the City's Local Planning Strategy;
 - The amendment is consistent with the Metropolitan Region Scheme;
 - The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment;

- The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
 - The amendment is not considered a complex or basic amendment.
15. Should Council resolve to adopt the amendment, it will be determined in accordance with the *Planning and Development Act 2005*. The proposal will ultimately be determined by the Minister for Planning.

City of Kalamunda Local Planning Scheme No. 3

16. The role of Part 4.3 (Zoning Table) of the Scheme is to outline the permissibility of uses in a particular zone and should closely align with the overall objectives of each zone. This is achieved by designating each listed use class in one of the following categories:
- P (Permitted) – Means that the use is permitted by the Scheme.
 - D (Discretionary) – Means that the use is not permitted unless the Council has granted planning approval.
 - A (Advertise) – Means that the use is not permitted unless the Council has granted planning approval after giving notice in accordance with Clause 9.4 (Advertise) (now Clause 64, Part 8, Schedule 2 of the Regulations).
17. The key objective of this amendment is to review and where appropriate change use permissibility within the District Centre and Commercial zones, which would require modifications to the Zoning Table under the Scheme.
18. The District Centre zone includes the following objectives under Part 4.2.3 (Commercial Zones) of the Scheme:
- To promote, facilitate and strengthen the District Centres as the major foci of activity, particularly for shopping, business, professional, civic, cultural, entertainment facilities and related employment opportunities.
 - Provide for medical and other health related services.
 - Allow for the establishment of uses which would co-exist with the District Centre's activities whilst recognising a limited level of residential activities in the District Centre.
 - Achieve safety and efficiency in traffic and pedestrian circulation.
 - Ensure that the scale, size, design and location of buildings are compatible with the existing development in the District Centre.
19. The Commercial zone includes the following objectives under Part 4.2.3 (Commercial Zones) of the Scheme:
- To service the needs of a localised area in providing for local shopping facilities, business, professional, civic, cultural, medical and other health relates services.
 - To ensure that development is designed to be compatible with nearby uses and zones particularly residential zones.

POLICY CONSIDERATIONS

Kalamunda Town Centre Planning and Urban Design Guidelines

20. The Kalamunda Town Centre Planning and Urban Design Guidelines provide guidance on the design of new buildings and spaces within the Kalamunda town centre, to achieve an enhanced urban environment, improve the experience for pedestrians and to reinforce and build upon Kalamunda's established character.
21. Importantly, the purpose and intent of the proposed amendment is to designate appropriate land use for the District Centre and Commercial zones, and does not modify the design and development criteria prescribed in the Kalamunda Town Centre Design Guidelines.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

22. Preliminary advice has been sought from Strategic Planning in respect to the proposed amendment given the implications for the future proposed Activity Centre Plans. They raised no objections to the proposed amendment. As part of the advertising process, the proposed amendment will be circulated to all internal departments.

External Referrals

23. Should Council decide to endorse the proposed amendment for advertising, the amendment will be referred to the Environmental Protection Authority for environmental review. Following this environmental review, the application will be advertised for 42 days under the Regulations and the City's P-DEV 45 – Public Notification of Planning Proposals, as follows:
 - Notice in the local newspaper circulating the Scheme area;
 - Display a copy of the amendment at the City's Administration Offices;
 - Give notice to public authorities; and
 - Notice on the City's website and Facebook page.

FINANCIAL CONSIDERATIONS

24. Costs associated with the progressing this amendment will be met by the Approval Services Budget.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

25. Kalamunda Advancing: Strategic Community Plan to 2027

OBJECTIVE – 3.1 To plan for sustainable population growth.

Strategies – 3.1.1 Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

OBJECTIVE – 3.3 To develop and enhance the City's economy.

Strategies – 3.3.1 Facilitate and support the success and growth of industry and businesses.

3.3.2 Attract new investment opportunities and businesses with a focus on innovation.

OBJECTIVE – 3.4 To be recognised as a preferred tourism destination.

Strategies – 3.4.1 Facilitate, support and promote, activities and places to visit.

3.4.2 Advocate and facilitate diversification options for the rural properties to flourish.

SUSTAINABILITY

Social Implications

26. The City's urban centre and commercial areas are considered to be central to perceived community character and identification, as well as functioning as important gathering places for social, community and cultural purposes. It is therefore important to coordinate appropriate land uses and development standards in a way that is consistent with community expectations and strategic planning priorities.

Economic Implications

27. The City's urban centre and commercial areas provide for a range of shopping, business, professional and entertainment based services. It is essential that an appropriate balance is reached between facilitating economic and business conditions, land use coordination and controlling development standards under the Scheme.

Environmental Implications

28. Nil.

RISK MANAGEMENT CONSIDERATIONS

29.

Risk: Not undertaking this amendment could result in undesirable land uses in the District Centre and Commercial zones.		
Likelihood:	Consequence	Rating
Likely	Moderate	High
Action/ Strategy		
Ensure that it is understood that the proposed amendment brings Table 1 of the Scheme into alignment with contemporary planning approaches and is considered to strike an appropriate balance between facilitating development/appropriate uses and controlling development in the District Centre and Commercial zones.		

Risk: Community dissatisfaction with the proposed Scheme amendment provisions.		
Likelihood:	Consequence	Rating
Possible	Moderate	Medium
Action/ Strategy		
The proposed Scheme amendment will be subject to extensive community advertising. Any community concerns will be fully considered and reported on when the amendment is brought back to Council for adoption.		

OFFICER COMMENT

30. A review of the Zoning table against the objectives of the District Centre and Commercial zones under the Scheme has resulted in several recommended changes to Table 1 (Attachment 2). An investigation was undertaken of Local Planning Schemes of other Local Governments to determine the consistency of the use permissibility in town centre and district centre zones.
31. The intent behind a majority of changes is to restrict undesirable land uses from operating within the District Centre and Commercial zones. However, it is proposed that a new 'Small Bar' use class be introduced and be classified as 'P' (Permitted) within the District Centre and Commercial zones.
32. The abovementioned introduction of deemed provisions through the Regulations did raise an issue in respect to the provision of parking. A change of use from one permitted use to another (eg. Office to Restaurant) without any external works would potentially result in greater parking demand, however not require a development application. The effect of this amendment would be Council accepting existing and future parking shortfalls for those activities classified as permitted uses under the District Centre zone. That said, the Parking Study undertaken for the City in 2011, showed that the Kalamunda Town centre is well serviced by parking, with supply outstripping demand on most occasions. Moreover, Council has previously supported parking shortfalls in the Kalamunda for developments on 21 Haynes Street (Restaurant) and 12 Mead Street (Health and Fitness Centre).

33. As an example, the following table highlights the differing car parking standards for common permitted uses found in the District Centre Zone:

Use	Car Parking Standards
Consulting Rooms	4 bays per practitioner and 1 bay per employee
Fast Food Outlet	10 bays per 100m ² of net lettable area. Minimum of 6 bays (excluding drive through)
Medical Centre	6 bays per practitioner and 1 per staff
Office	4 bays per 100m ² of net lettable area
Restaurant	1 bay for every 4 persons to be accommodated
Shop	5 bays per 100m ² of net lettable area

While this amendment does not incorporate any changes to the parking requirements under the Scheme, it is considered that a review of the parking standards should be undertaken as part of a future Activity Centre Plan and Scheme review to determine appropriate levels of parking and allocation of funds received through cash in lieu of parking.

34. Mention has already been made in Point 8 of the report regarding the deemed provisions of the Regulations exempting permitted uses from requiring planning approval where the development has no works component, or development approval is not required for the works component of the development. The definition of “works” under the Regulations can be open interpretation as to what works are exempt, for example, replacing existing doors and windows. For the purpose of clarity therefore the City will prepare a local planning policy that will provide the necessary guidance around the nature of works to be excluded.
35. In summary, the proposed amendment will modify Table 1 to bring it into line with contemporary planning objectives and community expectations. It is recommended that Council resolve to advertise this amendment.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&A 58/2017)

That Council:

1. Pursuant to Section 75 of the *Planning and Development Act 2005* adopts for the purpose of public advertising Amendment 96 to Local Planning Scheme No. 3 in accordance with Attachment 1.
2. Considers Amendment 96 to Local Planning Scheme No. 3 as a standard amendment under Regulation 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, for the following reasons:
 - a) The amendment is consistent with the objectives identified in the Scheme for the District Centre and Commercial zone;
 - b) The amendment is consistent with the City's Local Planning Strategy;
 - c) The amendment is consistent with the Metropolitan Region Scheme;
 - d) The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment;
 - e) The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
 - f) The amendment is not considered a complex or basic amendment.
3. Pursuant to Section 81 of the Planning and Development Act 2005, refers the proposed Amendment 96 to Local Planning Scheme No. 3 to the Environmental Protection Authority.
4. Subject to Sections 81 and 82 of the *Planning and Development Act 2005* advertises Amendment 96 to Local Planning Scheme No. 3 in accordance with Regulation 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and P-DEV 45 – Public Notification of Planning Proposals.

Moved:

Seconded:

Vote:

Attachment 1

Proposed Amendment to Local Planning Scheme No. 3 – Use Class Permissibility in the District Centre and Commercial Zones

Proposed Amendment Document

FORM 2A

Planning and Development Act 2005
**RESOLUTION TO PREPARE AMENDMENT
TO LOCAL PLANNING SCHEME**

*Local Planning Scheme No. 3
Amendment No. 96*

Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

- 1) Amending Table 1 – Zoning Table, by deleting the existing use permissibility classifications and substituting it with the following in the District Centre, Commercial and Residential Zones:**

Use Classes	District Centre	Commercial	Mixed Use	Residential	Residential Bushland	Light Industry	General Industry	Service Station	Private Clubs & Inst.	Special Rural	Rural Composite	Rural Agriculture	Rural Landscape Interest	Rural Conservation	Industrial Development
Aged/Dependant Dwellings	D	D													
Aged Residential Care	A	A													
Agriculture – extensive	X	X													
Agriculture – intensive	X	X													
Amusement Parlour	D	D													
Ancillary Dwelling	X	X													
Animal Establishment	X	X													
Animal Husbandry – intensive	X	X													
Art Gallery	D	D													
Bed and Breakfast	D	D													
Betting Agency	D	D													

Bulky Goods Showroom	D	D															
Caravan Park	X	X															
Caretakers Dwelling	D	D															
Car Park	D	D															
Chalet – Short Term Accommodation	X	X															
Child Care Premises	D	D															
Cinema/Theatre	D	D															
Civic Use	P	P															
Club Premises	D	D															
Commercial Vehicle Parking	X	X															
Community Purpose	D	D															
Consulting Rooms	P	P															
Convenience Store	D	D															
Corrective Institution	X	X															
Educational Establishment	D	D															
Family Day Care	D	D															
Fast Food Outlet	D	D															
Fuel Depot	X	X															
Funeral Parlour	D	D															
Garden Centre	D	D															
Grouped Dwelling	D	D															
Health/Fitness Centre	D	D															
Home Business	D	D															
Home Occupation	D	D		D													
Home Office	P	P															
Home Store	D	D															
Hospital	A	A															
Hotel	A	A															
Industry	X	X															
Industry – Cottage	D	D															
Industry – Extractive	X	X															
Industry - General	X	X															
Industry - Light	X	X															
Industry – Mining	X	X															
Industry – Rural	X	X															
Industry – Service	X	X															
Lodging House	A	A															
Logistics Centre	X	X															
Lunch Bar	P	P															
Market	A	A															

Medical Centre	P	P													
Motel	A	A													
Motor Vehicle, Boat or Caravan Sales	X	D													
Motor Vehicle Repairs	X	X													
Motor Vehicle Wash	D	D													
Motor Vehicle Wrecking	X	X													
Museum	A	A													
Multiple Dwelling	D	D													
Night Club	A	A													
Office	P	P													
Park Home Park	X	X													
Place of Worship	A	A													
Public Utility	P	P													
Reception Centre	A	A													
Recreation – Private	D	D													
Research and Technology Premises	X	X													
Resource Recovery Centre	X	X													
Restaurant/Café	P	P													
Restricted Premises	X	X													
Rural Pursuit/Hobby Farm	X	X													
Salvage Yard	X	X													
Service Station	A	A													
Shop	P	P													
Single Bedroom Dwelling	X	X													
Single House	X	X													
Small Bar	P	P	A	X	X	X	X	X	X	X	X	X	X	X	X
Tavern	A	A													
Telecommunicatio ns Infrastructure	D	D													
Trade Display	X	X													
Transport Depot	X	X													
Veterinary Centre	D	D													
Warehouse/Stora ge	X	X													
Winery	X	X													

2) Inserting a new definition for Small Bar under the 'Land use terms used in the Scheme', in accordance with the Model Provision definition under the *Planning and Development (Local Planning Schemes) Regulations 2015*, as follows

"Small bar means premises the subject of a small bar licence granted under the Liquor Control Act 1988".

The amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

- a) The amendment is consistent with the objectives identified in the Scheme for the District Centre zone;**
- b) The amendment is consistent with the City's Local Planning Strategy;**
- c) The amendment is consistent with the Metropolitan Region Scheme;**
- d) The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment;**
- e) The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and**
- f) The amendment is not considered a complex or basic amendment.**

Dated this _____ day of _____ 20____

(Chief Executive Officer)

Attachment 2

Proposed Amendment to Local Planning Scheme No. 3 – Use Class Permissibility in the District Centre and Commercial Zones

Proposed Changes to Table 1 of the Scheme

	District Centre		Commercial		Residential		Justification
	Existing	Proposed	Existing	Proposed	Existing	Proposed	
Aged/Dependant Dwellings	D		D				
Aged Residential Care	D	A	D	A			It is considered that an aged residential care development should be subject to public advertising prior to a determination being made.
Agriculture – extensive	X		X				
Agriculture – intensive	X		X				
Amusement Parlour	P	D	P	D			Entertainment based uses could potential result in undue impacts on the amenity of residential occupants within and adjacent to District Centre and Commercial zoned land.
Ancillary Dwelling	D	X	D	X			Ancillary dwellings are associated with single house development, which typically and suitably occurs in a residential environment rather than a commercial centre. Accordingly, it is not complementary with the objectives of the District Centre zone.
Animal Establishment	X		X				
Animal Husbandry – intensive	X		X				

Art Gallery	P	D	P	D			Entertainment based uses could potential result in undue impacts on the amenity of residential occupants within and adjacent to District Centre and Commercial zoned land.
Bed and Breakfast	D		D				
Betting Agency	P	D	P	D			Entertainment based uses could potential result in undue impacts on the amenity of residential occupants within and adjacent to District Centre and Commercial zoned land.
Bulky Goods Showroom	P	D	P	D			Bulky Goods Showroom land uses are generally suited to car based commercial and light industrial areas. Each application should be assessed on a case-by-case basis.
Caravan Park	X		X				
Caretakers Dwelling	P	D	P	D			A caretakers dwelling should be subject to planning approval and assessment in a district centre context to determine the appropriateness of the use having regard to the nature of the commercial operation occurring on the site.
Car Park	P	D	P	D			A car park land use that is not incidental of a predominant commercial use should be subject to planning control, so that the design and location of the use is full considered.
Chalets – short term accommodation	X		X				
Child Care Premises	P	D	P	D			While Child Care Premises are encouraged in a District Centre environment, applications should be required to determine the appropriateness of the location.
Cinema/Theatre	P	D	P	D			Entertainment based uses could potential result in undue impacts on the amenity of residential occupants within and adjacent to District Centre and Commercial zoned land.

Civic Use	D	P	D	P			This use class would be deemed 'public works' in a majority of cases and exempt from the requirement from obtaining planning approval on zoned land.
Club Premises	P	D	P	D			Private club based uses could potential result in undue impacts on the amenity of residential occupants within and adjacent to District Centre and Commercial zoned land.
Commercial Vehicle Parking	X		X				
Community Purpose	P	D	P	D			Community based uses could potential result in undue impacts on the amenity of residential occupants within and adjacent to District Centre and Commercial zoned land.
Consulting Rooms	P		P				
Convenience Store	D		D				
Corrective Institution	X		X				
Educational Establishment	D		D				
Family Day Care	P	D	P	D			Family Day Care uses are generally associated with an occupant of a dwelling caring for a maximum of seven (7) children. Given that this use would likely be associated with grouped or multiple dwellings, which are generally in more confined living environments, it is considered that discretion should be applied when determining the appropriateness of the use.
Fast Food Outlet	P	D	P	D			Fast Food Outlets should be subject to development approval, particularly where drive through services are proposed. Given the broad nature of this use class, the dynamics of a fast food outlet can vary significantly from use to use.
Fuel Depot	X		X				

Funeral Parlour	D		D				
Garden Centre	P	D	P	D			Given the broad nature of a Garden Centre use class, uses can vary significantly and should be subject to a discretionary decision.
Grouped Dwelling	D	D	D	D			This should be kept as a discretionary use, however consideration should be given to allowing grouped dwellings to occur only in a mixed use context.
Health/Fitness Centre	P	D	P	D			Given the broad nature of a Health/Fitness Centre use class, uses can vary significantly and in the interest of protecting amenity for residential occupants within and adjacent to District Centre and Commercial zoned land, it should be subject to a discretionary decision.
Home Business	P	D	P	D			Home Business uses are operated by an occupant of a dwelling. Given that this use would likely be associated with grouped or multiple dwellings, which are generally in more confined living environments, it is considered that discretion should be applied when determining the appropriateness of the use.
Home Occupation	P	D	P	D	P	D	<p>Home Occupation uses are operated by an occupant of a dwelling. Given that this use would likely be associated with grouped or multiple dwellings, which are generally in more confined living environments, it is considered that discretion should be applied when determining the appropriateness of the use.</p> <p>This amendment also seeks to correct an error in Table 1 relating to the Home Occupation use in a Residential Zone, by changing it from a 'P' (permitted) use to a 'D' (Discretionary) use. This is consistent with the approach taken by other local governments and will ensure that an appropriate level of development control is applied to home occupation proposals. The City will also investigate the</p>

							preparation of a local planning policy for home occupations to provide a transparent and consistent decision making framework for these types of proposals.
Home Office	Nil.	P	Nil.	P			By definition, a Home Office does not entail any externalities, and should not be subject to the requirement to obtain development approval.
Home Store	P	D	P	D			Future occupants of grouped/multiple dwellings may wish to incorporate a home store, this should be assessed on case by case basis.
Hospital	D	A	D	A			Given the significance of a Hospital use/development, it should be subject to public advertising prior to a determination being made.
Hotel	D	A	D	A			It is considered that a hotel development should be subject to public advertising prior to a determination being made.
Industry	X		X				
Industry – Cottage	D		D				
Industry – Extractive	X		X				
Industry – General	X		X				
Industry - Light	X		X				
Industry – Mining	X		X				
Industry – Rural	X		X				
Industry – Service	D	X	D	X			Service Industry is a use that is appropriately located in an industrial area.
Lodging House	A		A				

Logistics Centre	X		X				
Lunch Bar	P		P				
Market	A		A				
Medical Centre	P		P				
Motel	A		A				
Motor Vehicle, Boat or Caravan Sales	P	X	P	D			Motor Vehicle, Boat or Caravan Sales is a use that may be appropriate in a Commercial zone, however not within the District Centre environment. These uses are more appropriately located in an industrial area.
Motor Vehicle Repairs	P	X	P	X			Motor Vehicle Repairs is a use that is appropriately located in an industrial area.
Motor Vehicle Wash	D		D				
Motor Vehicle Wrecking	X		X				
Multiple Dwelling	D		D				
Museum	A		A				
Night Club	A		A				
Office	P		P				
Park Home Park	X		X				
Place of Worship	D	A	D	A			Places of Worship could potential result in undue impacts on the amenity of residential occupants within and adjacent to District Centre and Commercial zoned land. Given the level of public interest involved in the consideration of Place of Worship uses, it is considered that advertising should be undertaken prior to determination.

Public Utility	P		P				
Reception Centre	P	A	P	A			Reception Centre uses can involve large numbers of occupants for short periods and can potentially result in undue impacts on the amenity of residential occupants within and adjacent to District Centre and Commercial zoned land. Given the level of public interest involved in the consideration of Reception Centre uses, it is considered that advertising should be undertaken prior to determination.
Recreation – Private	D		D				
Research and Technology Premises	X		X				
Resource Recovery Centre	X		X				
Restaurant/Café	P		P				
Restricted Premises	X		X				
Rural Pursuit/Hobby Farm	X		X				
Salvage Yard	X		X				
Service Station	P	A	P	A			The design and operation of a Service Station is not usually conducive in a District Centre and is more suited to a ribbon patterned commercial area (along busy roads), however depending on the location and design of the proposal, there should be the potential to consider an application within these zones. It is considered appropriate to advertise a proposal prior to a determination being made.
Shop	P		P				
Single Bedroom Dwelling	D	X	D	X			A single bedroom dwelling is not appropriate as it would not result in the highest and best use of land in a District Centre and Commercial environment.

Single House	D	X	D	X			A single house is not appropriate as it would not result in the highest and best use of land in a District Centre and Commercial environment.
Small Bar	Nil.	P	Nil.	P			It is considered that Small Bar should be introduced as a land use in the Scheme and encouraged within the District Centre and Commercial zones.
Tavern	D	A	D	A			Given the nature of a Tavern land use can include amenity impacts and is usually a use that attracts significant public interest, it should be subject to public advertising.
Telecommunications Infrastructure	D		D				
Trade Display	D	X	D	X			Trade Display is a use that is appropriately located in an industrial area.
Transport Depot	X		X				
Veterinary Centre	P	D	P	D			A Veterinary Centre should be a discretionary use in a District Centre and Commercial zone given the likely amenity impacts resulting from animals under care which stay overnight.
Warehouse/Storage	D	X	D	X			Warehouse is a use that is appropriately located in an industrial area.
Winery	X		X				

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

59. Consent to advertise revised Local Planning Policy P-Dev 20 Outbuildings and Sea Containers

Previous Items	OCM 148/2015
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	OR-CMA 16
Attachment 1	Existing Planning Policy P-Dev 20 Outbuildings and Sea Containers
Attachment 2	Revised Local Planning Policy P-Dev 20 Outbuildings and Sea Containers

EXECUTIVE SUMMARY

1. The intent of this report is to consider the revised Local Planning Policy P-Dev 20 Outbuildings and Sea Containers (Policy), for the purposes of public advertising.
2. The Policy has been reviewed and revised with the purpose of providing guidance for the community where there is a proposal to construct an outbuilding or incorporate a sea container on property.
3. The proposed amendments to the policy include the following:
 - Specifying setback requirements
 - Review of outbuilding size as it relates to zoning
 - Introduction of provisions relating to tree removal and replacement planting
 - Reference to State Planning Policy 3.7 Planning in Bushfire Prone Areas
 - Provisions for the upgrading of sea containers regardless of where they are placed on site
 - Changes to the maximum allowable floor area for outbuildings relating to some residential and urban zones.

Further details of the proposed changes to this policy are documented in the Details section of this report.

4. It is recommended that the policy be endorsed for the purpose of advertising.

BACKGROUND

5. The City periodically reviews, revokes, and introduces new policies for the purpose of ensuring consistency and transparency in decision-making and to ensure Council has a clear, defensible position in respect of appeals against its decisions.
6. In November 2015, Council resolved to approve the current Policy, providing a policy framework regarding variations to height, size and the overall aggregate area designated on a site for Outbuildings. The Policy has also introduced controls regarding the placement and upgrade of Sea Containers.

DETAILS

7. The Policy has been reviewed in part to address community expectations regarding the size of outbuildings on larger urban lots and rural lots more generally in order to accommodate domestic storage needs.
8. The following provides a brief summary of the purpose of the Policy. Further details can be found in the policy itself.
9. The revised Policy proposes the following key changes:
 - Update statutory requirements in accordance with the Planning Regulations (*Local Planning Schemes*) 2015 and State Planning Policy SPP 3.1 Residential Design Codes. (R Codes),
 - Introduction of an additional Column to Table 1 outlining setback requirements for each zone (where residential zoned, consistent with the R Codes),
 - Separation of zoning to accommodate differing requirements associated with minimum lot sizes as they relate to outbuildings.
 - R2.5 Residential Bushland zone, increasing the individual outbuilding maximum floor area from 90m² to 120m².
 - Special Rural zone, increasing the individual outbuilding maximum floor area from 100m² to 150m².
 - Rural Landscape Interest, Rural Agriculture zones, increasing the individual outbuilding maximum floor area from 150m² to 180m².
 - Introduction of policy references to Planning in Bushfire Prone Areas SPP 3.7 to reflect current State Planning Policy requirements.
 - Introduction of provisions for where tree removal is necessary, such that the applicant will be required to plant established trees in replacement.
 - Specification that street setbacks will not be varied unless an established pattern of setback non-compliance can be demonstrated.
 - Provisions requiring the upgrade of sea containers regardless of where they are placed on site.
 - Updating of Policy term definitions,

STATUTORY AND LEGAL CONSIDERATIONS

10. Local Planning Policies are created under Schedule 2, Clause 3 (1) of the *Planning and Development (Local Planning Scheme) Regulations* 2015 (the Regulations). Unlike City policies, planning policies require formal adoption by Council.
11. A Local Planning Policy does not bind the City in its application of discretion. If a planning policy is inconsistent with the regulations, the regulations prevail.
12. As the policy can relate to residential properties, the policy needs to accord with Clause 7.3.2 of the *Residential Design Codes (R Codes) (State Planning Policy 3.1)* whereby the local government may, with the approval of the Western Australia Planning Commission (WAPC), amend any other deemed to comply provision within the R Codes, by means of a local planning policy, local

structure plan or local development plan where it can be demonstrated to the satisfaction of the WAPC that the proposed amendment:

- is warranted due to specific needs related to that locality or region;
- is consistent with the objectives and design principles of the R Codes; and
- can be properly implemented and audited by the decision maker as part of the ongoing building approval process.

13. In this instance the proposed Policy amendments will be referred to the WAPC for their approval.
14. If the City resolves to adopt the Policy, the City must, unless the WAPC otherwise agrees, advertise the Policy in accordance with Schedule 2, Clause 4 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, which provides that a period for making submissions must not be less than 21 days. As stated in 'Community Engagement Requirements' below, the Policy will be advertised for 28 days.

POLICY CONSIDERATIONS

15. The revised Policy follows the adopted Council templates with some small modifications for structure, legibility and clarity.

Internal Referrals

16. The revised Policy was circulated to the City's Assets Health, Building and Environmental Departments for comments and consideration.
17. No objections to the revised Policy were received, and interdepartmental comments and suggestions were incorporated and integrated into the revised Policy.

COMMUNITY ENGAGEMENT REQUIREMENTS

18. The revised Policy will be advertised for public comment on the City's various electronic media platforms, including Facebook, the City's web site and in the local newspaper for a period of 28 days in accordance with the requirements of the Local Planning Policy P Dev- 45 - Public Notification of Planning Proposals.
19. The City will give notice of the Policy and seek approval of the WAPC during the advertising period.

FINANCIAL CONSIDERATIONS

20. Costs associated with advertising of the Policy will be met through the Approval Services Budget.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

21. *Kalamunda Advancing: Strategic Community Plan to 2027*

OBJECTIVE 3.1: To plan for sustainable population growth

Strategy 3.3.1 Plan for diverse and sustainable housing community facilities and industrial development to meet changing social and economic needs.

SUSTAINABILITY

Social Implications

22. If the Policy is adopted, City staff will have greater certainty when assessing both outbuildings and sea containers and any associated variations requested.
23. Additionally, the community will have access to more clarity and transparency in how Administration and Council makes decisions, leading to improved outcomes and reduced timeframes.
24. Proposed changes to the maximum allowable floor areas will allow residents to accommodate their domestic storage needs.

Economic Implications

25. Nil.

Environmental Implications

26.
 - The proposed modifications to the Policy include a requirement for applicants to replace any loss of vegetation arising from a proposal with established trees, thus contributing positively to the natural environment.

RISK MANAGEMENT CONSIDERATIONS

27.	Risk: The proposed revisions to the Policy may not be supported.		
	Likelihood:	Consequence	Rating
	Unlikely	Moderate	Low
	Action/ Strategy		
	Ensure that the Policy contains detailed requirements to ensure high quality development relating to Outbuildings and Sea Containers.		

Risk: Potential amenity impacts arising from the proposed revisions to the Policy.		
Likelihood:	Consequence	Rating
Possible	Moderate	Medium
Action/ Strategy		
Ensure that outbuildings are sensitively located, constructed to a high design quality, and appropriately scaled so as to protect the amenity of the locality.		

OFFICER COMMENT

28. The proposed revisions provide further clarity regarding the requirements for Outbuildings and Sea Containers within the City.
29. The Policy has been updated to incorporate current statutory planning requirements to accord with changes in State Planning legislative framework, in particular in relation to planning in Bushfire Prone Areas and compliance with the requirements of the Regulations. The changes also aim to address some of the policy anomalies, including the clearer stipulation of Acceptable Design Outcomes.
30. In regard to the proposed increases in the maximum allowable floor area for outbuildings, a review of the City's approvals between 1/07/2016 and 1/07/2017 revealed 46 outbuilding applications were determined by the City. Of those, 1 was a refusal and 45 were approved. Of this, 37 were assessed under the provisions of the existing policy, with the remainder being assessed in accordance with the R Codes. The applications assessed are broken down as follows:
- Special Rural – 9 (240sqm) (112 aggregate) (120sqm) (72sqm) (100sqm) (120sqm) (90sqm) (153sqm) (184sqm)
 - Residential Bushland R2.5– 2 (144sqm) (150sqm)
 - Rural Agriculture – 3 (260sqm) (240sqm) (80 aggregate)
 - Rural Landscape Interest – 2 (147sqm) (54sqm)
 - Rural Conservation – 1 (81sqm)
 - Residential (R10) – 5 (24sqm) (28sqm) (36sqm) (26sqm) (54sqm)
 - Residential (R5) – 15 (58sqm) (120sqm) (24sqm) (54sqm) (108sqm) (123sqm) (91sqm) (54sqm) (32sqm) (80sqm) (84sqm) (72sqm) (63sqm) (96sqm) (54sqm)

The above applications are broken down in the below table.

Zoning	Number of Applications Determined	Individual Maximum Outbuilding floor area under current policy	Number of applications seeking variation to this size to the maximum outbuilding floor area	% of applications seeking variation to the maximum outbuilding floor area	Proposed Change

Residential R10	5	90sqm	None	None	No Change
Residential R5	15	90sqm	5	33%	No Change
Residential Bushland (R2.5)	2	90sqm	2	100%	120sqm
Special Rural	9	100sqm	5	67%	150sqm
Rural Agriculture	3	150sqm	2	67%	180sqm
Rural Landscape Interest	2	150sqm	None	None	180sqm
Rural Conservation	1	150sqm	None	None	No Change

31. The recommended changes to the floor area proposed are reflective of the aforementioned investigations which indicate a desire of the community for larger outbuildings to meet their domestic storage needs.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&A 59/2017)

That Council:

1. Pursuant to Clause 3 (1) of Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015* and 2.4.1. of the Local Planning Scheme No. 3, endorses Revised Planning Policy P-Dev 20 – Outbuildings and Sea Containers for advertising for a period of 28 days.
2. Forward Revised Planning Policy P-Dev 20 – Outbuildings and Sea Containers to the Western Australian Planning Commission for its approval.

Moved:

Seconded:

Vote:

Attachment 1

Consent to advertise revised Local Planning Policy P-Dev 20 Outbuildings and Sea Containers
Existing Planning Policy P-Dev 20 Outbuildings and Sea Containers

[Click HERE to go directly to the document](#)

Attachment 2

Consent to advertise revised Local Planning Policy P-Dev 20 Outbuildings and Sea Containers
Revised Local Planning Policy P-Dev 20 Outbuildings and Sea Containers

[Click HERE to go directly to the document](#)

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

60. Consent to advertise Draft Local Planning Policy P-DEV 57 – Street Fencing, Walls and Gates Policy

Previous Items	N/A
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	OR-CMA-16
Applicant	N/A
Owner	N/A
Attachment 1	Proposed Draft Local Planning Policy P-DEV 57 Street Fencing, Walls and Gates Policy

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the adoption of Local Planning Policy P-DEV 57 Street Fencing, Walls and Gates (Policy) for the purpose of public advertising.
2. The Policy has been prepared for the purposes of providing guidance for the community in regards to height, materials, location and aesthetic treatments for street fencing, walls and gates.
3. It is recommended the Policy be adopted for the purpose of public advertising.

BACKGROUND

4. Street fencing, walls and gates contribute significantly to the character of an area. This Policy aims to clarify the circumstances when a fence or wall variation can be considered for greater consistency in development applications resulting in higher quality built form throughout the City.
5. The City periodically reviews, revokes, and adds new policies for the purpose of ensuring consistency and transparency in decision-making and to ensure Council has a clear, defensible position. The City is presently reviewing all of its existing policies as well as developing new policies where appropriate.
6. On 27 June 2016, the City adopted *Fencing Local Law 2016*, which was published in the Government Gazette on 2 September 2016. The City's *Fencing Local Law 2016* sets provisions for 'sufficient' dividing fences (as defined in the local law), for fencing throughout the City in residential, rural, commercial and industrial zones.
7. The City also has a Fencing Information Sheet that provides further information to the community about fencing standards, however, the City does not presently have a Local Planning Policy that provides for direction in terms of fencing within the front setback area of properties, or fencing along the boundary between private and public land.

8. The Policy has been prepared in accordance with Part 7.3.2 of State Planning Policy 3.1 – Residential Design Codes (R-Codes) and amends the deemed-to-comply provisions of clauses 5.2.4 and 6.2.2 - 'Street Walls and Fences', to include caps on height limits, design solutions, and criteria in addition to the Design Principles to determine where a variation may be applied. This policy also provides supplementary information regarding performance objectives for fencing above retaining, and performance objectives for clause 5.3.8 'Retaining Walls'.

DETAILS

9. This policy provides additional guidance and clarification where the R-Codes are silent on matters such as where additional heights may be justified, fencing above retaining, rural, industrial and commercial fencing, treatments for retaining walls above 500mm, provides a table of recommended materials, clarifies assessment criteria for unauthorised fences, walls and gates for development applications, and provides remediation options for non-compliant street fences. Importantly, where proposals are compliant with the provisions of the Policy, development approval is not required.
10. The intent of the policy is to provide development controls and advice to applicants who are applying for a variation for street fencing, walls or gates. The policy includes the following:
- **Part 5 Residential zoned land**, includes Table 1 which outlines 'acceptable criteria' detailing heights and minimum visual permeability for street fencing, boundary fencing between two private properties, hedging, fencing between private and public properties, barrier fencing, and fencing to maintain sightlines.
 - **Part 6 Table 1 Heights of Sufficient Fences and Screening** outlines the types of fences/walls and gates with the acceptable development criteria for each type.
 - **Part 6 Table 2 Acceptable Materials** outlines minimum standards for materials for street fencing and retaining within the front setback.
 - **Part 7 Retaining Walls and Fill** outlines criteria for where retaining walls are proposed to be over 500mm in height. Includes Fig 1 and Fig 2 to visually demonstrate the performance outcomes.
 - **Part 8 R2 to R10 and Rural zoned land** includes requirements to comply with schedule 3 of the Fencing Local Law (Appendix 6).
 - **Part 9 Commercial, District Centre, Activity Centre, Service Station, Private Club and Institutions, and Mixed Use zoned land** and specifies assessment in accordance with schedule 2 of the Fencing Local Law (Appendix 5).
 - **Part 10 Industrial and Industrial Development zoned land** outlines heights, gates, materials, preferred colours, and references schedule 2 of the Fencing Local Law (Appendix 5).
 - **Part 11 Unauthorised fence, wall and gate applications** outlines the assessment process and modification/remediation options.
 - **Part 12 Maintenance and Appearance** outlines the minimum maintenance standards for existing fencing, walls and gates.
 - **Part 13 Matters to be considered** should be referenced when assessing applications which apply for variations to the policy criteria.

- **Part 14 Variations to the policy** outlines the circumstances where variations to the policy will be considered justified.
- **Appendix 1 – List of Primary or District Distributor Roads within the City** shows list of primary or district distributor roads where a height variation for a front fence may be justified.
- **Appendix 2 - Indicative Diagram of Fencing** is a visual diagram of fencing to show where different types of fences are located in the context of a typical suburban block.
- **Appendix 3 – Examples of Front Fencing** is a photographic visual guide to show how the policy applies in situ and the impact on the streetscape.

11. The Policy will replace the existing Fencing Information Sheet.

STATUTORY AND LEGAL CONSIDERATIONS

12. Local Planning Policies are created under Clause 3 (1) of the *Planning and Development (Local Planning Scheme) Regulations 2015* (Regulations).). Unlike City policies, planning policies require formal adoption by Council.
13. Local Planning Policies are to be given due regard in accordance with Schedule 2, Part 2, Clause 3 (5) of the *Planning and Development (Local Planning Scheme) Regulations 2015*. A Local Planning Policy does not bind the City in its application of discretion and should be read in conjunction with the adopted Local Planning Scheme.
14. If the City resolves to adopt the Policy, the City must, unless the WAPC otherwise agrees, advertise the Policy in accordance with Schedule 2, Clause 4 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, which provides that a period for making submissions must not be less than 21 days. As stated in 'Community Engagement Requirements' below, the Policy will be advertised for 28 days.
15. Clause 7.3.1 of the R-Codes provides that local planning policies, local development plans, local structure plans and activity centre plans may contain provisions that:
- a) amend or replace certain deemed-to comply provisions set out in Part 5 and/or Part 6 of the R-Code, including those for street walls and fences;

POLICY CONSIDERATIONS

16. The proposed Policy will follow the adopted Council templates with some small modifications for structure, legibility and clarity.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

17. The proposed Policy was circulated to the City's Assets, Health, Building, and Environmental departments for comments and consideration. No objections to the proposed policies were received from the internal departments, and minor changes requested were integrated into the draft policy.
18. The City's General Counsel has also considered the proposed Policy.

External Referrals

19. The proposed Policy will be advertised for public comment in accordance with Local Planning Policy P-DEV 45- Public Notifications for a period of 28 days.
20. In accordance with P-DEV 45, the City is also required to:
 - a) publish a notice of the proposed Policy in a local newspaper circulating in the Scheme area for two consecutive weeks; and
 - b) advertise the proposed Policy on the City's website and Facebook page.

FINANCIAL CONSIDERATIONS

21. Costs of advertising will be met through the Approval Services budget.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

22. *Kalamunda Advancing: Strategic Community Plan to 2027*

OBJECTIVE 3.1: To plan for sustainable population growth.

Strategy 3.1.1 Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

OBJECTIVE 3.4: To be recognised as a preferred tourism destination.

Strategy 3.4.1 Facilitate, support and promote, activities and places to visit.

SUSTAINABILITY

Social Implications

23. The proposed Policy will provide:
- a) consistency to the City's consideration of applications for front fences, walls and gates in residential, rural, commercial and industrial zoned land (and any variations);
 - b) clarity and transparency to the community;
 - c) improved design outcomes; and
 - d) reduced application response timeframes.

Economic Implications

24. Nil.

Environmental Implications

25. Nil.

RISK MANAGEMENT CONSIDERATIONS

- 26.
- | | | |
|--|--------------------|---------------|
| Risk:
The proposed Policy is not adopted and planning applications are received for fences inconsistent with the character and streetscape appeal of the area. | | |
| Likelihood: | Consequence | Rating |
| Likely | Moderate | High |
| Action/ Strategy | | |
| Adopt Policy to guide decision making when assessing an application for street fencing to ensure development contributes to the streetscape, and vehicle, cyclist and resident safety is maintained. | | |
-
- | | | |
|---|--------------------|---------------|
| Risk: The Policy may not achieve its stated objectives | | |
| Likelihood: | Consequence | Rating |
| Unlikely | Moderate | Low |
| Action/ Strategy | | |
| Ensure the community and developers are fully conversant with the proposed policy and how the provisions will contribute positively to the streetscape of the locality. | | |

OFFICER COMMENT

27. Applications for variations in Residential zoned lots are subject to the Design Principles of the R-Codes while rural, commercial and industrial applications default to the *Fencing Local Law 2016*.
28. There is however some uncertainty about appropriate materials and design objectives for fences above retaining walls, and circumstances where an increased fence height was deemed justified and to what extent.
29. The proposed Policy aims to clarify materials, design criteria, heights and objectives for street fences, walls and gates on all zoned land throughout the City to supplement the provisions of the R-Codes and *Fencing Local Law 2016*.
30. The Policy requirements are supported with diagrams and real world examples to replace the information sheet] and clarify technical aspects. This will aid residents in understanding the design objectives of the Policy, definitions and location of different fences, and how the technical provisions work in situ to enhance the streetscape.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&A 60/2017)

That Council:

1. Pursuant to clause 3(1) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and 2.4.1. of the Local Planning Scheme No. 3, endorses Draft Local Planning Policy – P-DEV 57 Street Fencing, Walls and Gates for the purpose of advertising for a period of 28 days.

Moved:

Seconded:

Vote:

Attachment 1

Consent to advertise Draft Local Planning Policy P-DEV 57 – Street Fencing, Walls and Gates Policy

Proposed Draft Local Planning Policy P-DEV 57 Street Fencing, Walls and Gates Policy

[Click HERE to go directly to the document](#)

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

61. Application for Amended Development Approval – Nursery and Temporary Food Van – Lot 17 (105) Tanner Road, Carmel

Previous Items	OCM 60/2017
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	DA16/0081 & TN-01/105
Applicant	Melville Nurseries
Owner	Melville Nurseries
Attachment 1	Applicant's formal request for reconsideration
Attachment 2	Approval to Commence Development dated 4 May 2017
Attachment 3	Submission Table
Attachment 4	Confidential Submitters Map
<u>Reason for confidentiality:</u> <i>Local Government Act 1995</i> <i>S5.23 (2) (b) – "the personal affairs of any person;"</i>	

EXECUTIVE SUMMARY

- Pursuant to section 31 (1) of the *State Administrative Tribunal (SAT) Act 2004*, the SAT has invited the City to reconsider conditions i) and j) of the approval to commence development issued by Council at its Ordinary Meeting on 24 April 2017, as follows:

	Existing	Proposed
i)	The hours of operation for the nursery be limited to 10am to 4pm, Thursday to Sunday and Public Holidays.	Option 1: Delete condition i). Option 2: The hours of operation for the nursery be limited to 10am to 4pm, Tuesday to Sunday and Public Holidays.
j)	The temporary food (coffee) van to operate at the site in accordance with the ordinary operating hours of the nursery as outlined in condition i).	As existing, however the hours of operation would be increased as a result of modification to condition i).

- During advertising, the City received five (5) submissions, comprising three (3) objections and two (2) non-objections.
- After considering the reasons presented by the applicant for requesting the additional operating hours and the submissions received during advertising, it is considered that the requested operating hours are reasonable for a nursery land use and the resulting amenity impact will not be significant. Accordingly, it is recommended that the planning approval be amended by modifying condition i) as proposed above.

BACKGROUND

4. Land Details:

Land Area:	6.02 hectares (60,186m ²)
Local Planning Scheme Zone:	Rural Conservation
Metropolitan Regional Scheme Zone:	Rural / Water Catchment Reserve

5. Council at its Ordinary Meeting held on 24 April 2017 resolved to approve the use of the site for a nursery and temporary food van subject to conditions, including a condition requiring the operating hours to be restricted to 10am to 4pm, Thursday to Sunday and public holidays. It is noted that the condition limiting the hours of operation was imposed as a result of the hours proposed by the applicant.

6. The applicant lodged an application with the State Administrative Tribunal on 25 May 2017 in relation to the following planning conditions:

"e) Within 60 days of the approval to commence development, the crossover shall be upgraded to a six (6) metre wide seal including pipe culvert to allow two (2) way vehicle access.

...

g) Within 60 days of the approval to commence development, 12 parking bays and the vehicle accessway shall be constructed and drained to the satisfaction of the Shire of Kalamunda.

...

i) The hours of operation for the nursery be limited to 10am to 4pm, Thursday to Sunday and Public Holidays.

...

j) The temporary food (coffee) van to operate at the site in accordance with the ordinary operating hours of the nursery as outlined in condition i)."

7. Since the lodgement of the SAT application for review/appeal, it was revealed that applicant was principally seeking clarification in regard to the requirements of conditions e) and g) are this has now been resolved to the satisfaction of both parties. However the applicant is seeking reconsideration in regard to conditions i) and j), with a view of increasing the allowable hours of operation.

8. On 8 June 2017, the SAT invited the City to reconsider its decision pursuant to section 31(1) of the *SAT Act 2004*, in relation to conditions i) and j), by 25 August 2017. The City received further information outlining the applicant's justification for the reconsideration request on 16 June 2017 (Refer to Attachment 1).

Locality Plan

9.



DETAILS

10. The SAT has invited the City to reconsider conditions i) and j) of the approval to commence development issued by Council at its Ordinary Meeting on 24 April 2017, as follows:

	Existing	Proposed
i)	The hours of operation for the nursery be limited to 10am to 4pm, Thursday to Sunday and Public Holidays.	Option 1: Delete condition i). Option 2: The hours of operation for the nursery be limited to 10am to 4pm, Tuesday to Sunday and Public Holidays.
j)	The temporary food (coffee) van to operate at the site in accordance with the ordinary operating hours of the nursery as outlined in condition i).	As existing, however the hours of operation would be increased as a result of modification to condition i).

11. On 16 June 2017, the City received a letter from the applicant providing, amongst other things not relevant to this report, options for conditions i) and j).

-
12. In regard to condition i):
- a) Option 1 – Delete condition i), which is the applicant's preferred option; or
 - b) Option 2 – Modify condition i) to be "*The hours of operation for the nursery be limited to 10am to 4pm, Tuesday to Sunday and Public Holidays.*"
13. In the applicant's opinion, the hours of operation are currently not flexible enough to provide for varying weather, seasonal, personal and business operating conditions.
14. In regard to condition j), hours of operation would be increased as a result of modification to condition i).

STATUTORY AND LEGAL CONSIDERATIONS

Planning and Development (Local Planning Schemes) Regulations 2015

15. Under Schedule 2, Part 9, Clause 77 (1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, an owner may request that a development approval be amended to delete or modify any condition to which the approval is subject.
16. In considering an application referred to above, the City may determine the application by:
- a) approving the application without conditions; or
 - b) approving the application with conditions; or
 - c) refusing the application.

Local Planning Scheme No. 3

17. Under the Zoning Table (Table 1) of Local Planning Scheme No. 3 (TPS No. 3) the 'nursery' land use is not listed, meaning that advertising is required to be undertaken and Council should exercise its discretion in making a decision on the appropriateness of the land use.

State Administrative Tribunal Act 2004

18. Pursuant to section 31 (2) of the *SAT Act 2004*, when making its decision, Council may do one of the following:
- a) affirm the decision; or
 - b) vary the decision; or
 - c) set aside the decision and substitute its new decision.
19. If the City varies, or sets aside and substitutes its previous decision with a new decision (**City's Varied or New Decision**), unless the applicant then withdraws its application to the Tribunal for review altogether, the Tribunal will then review the City's Varied or New Decision.

POLICY CONSIDERATIONS

20. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

21. During advertising, the City received five (5) submissions, comprising three (3) objections and two (2) non-objections. Refer to submission table in (Attachment 3). The concerns raised to the proposal can be summarised as follows:
- The applicant is already operating outside of the allowable hours of operation.
 - Concerns regarding the decision making process with the original application
 - Potential future commercial rezoning of the area
 - The use is inconsistent with the Rural Conservation zoning

Internal Referrals

22. The application was referred to Assets, Environmental Health, Building and Environmental Services for comment during consideration of the original application. The nature of this reconsideration is not considered to warrant further referrals internally.

External Referrals

23. The original application was referred to the Department of Water and Environmental Consultants, Urbaqua, for comment to review the applicant's water management plan and consider the possible impacts on the underground water systems.
24. It is important to note that the proposed amendment does not propose any changes to the water management at the site and therefore is not considered to require further advice being sought from the Department of Water.

FINANCIAL CONSIDERATIONS

25. In the event that Council decides to not vary or substitute a new decision regarding the reconsideration, the review/appeal currently with the SAT may require the City to engage lawyers to assist in defending the City's position. Costs incurred would be expected to be in the vicinity of \$20,000 to \$25,000.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

26. Kalamunda Advancing: Strategic Community Plan to 2023
- OBJECTIVE – 3.1 To plan for sustainable population growth.
Strategies – 3.1.1 Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

OBJECTIVE – 3.3 To develop and enhance the City's economy.

Strategies – 3.3.1 Facilitate and support the success and growth of industry and businesses.

3.3.2 Attract new investment opportunities and businesses with a focus on innovation.

OBJECTIVE – 3.4 To be recognised as a preferred tourism destination.

Strategies – 3.4.1 Facilitate, support and promote, activities and places to visit.

3.4.2 Advocate and facilitate diversification options for the rural properties to flourish.

SUSTAINABILITY

Social Implications

27. Mottram Road and Tanner Road are cul-de-sac roads which predominantly service rural land uses. As such, these roads characteristically carry low volumes of traffic. Consideration should be given to the impact that the proposed change in operating hours may have on the rural and landscape amenity of the area by virtue of additional traffic.

Economic Implications

28. The proposal would provide economic opportunities for the owners of the land and additional employment opportunities, including for the temporary food (coffee) van proposed to be located at the site during operating hours/days.

Environmental Implications

29. During consideration of the original application, Council was asked to consider the potential impact that the use may have on ground water in the area. In particular, the following key issues were raised:
- The methods of water use by the applicant
 - The sustainability of the levels of water use proposed by the applicant and impacts on other nearby ground water users
 - The use of fertiliser and chemicals for the nursery and its impact on the ground water quality in the area
 - The potential need for ongoing water level and quality monitoring to protect surrounding property owners
30. The proposed change to operating hours is not considered to modify the approved methods or levels of water use, or the application of fertilisers and chemicals at the site.

RISK MANAGEMENT CONSIDERATIONS

31.

Risk: The increase in operating hours will unduly impact on the amenity of the area.		
Likelihood:	Consequence	Rating
Possible	Moderate	Medium
Action/ Strategy		
Identify the likely increases of traffic, and consider and respond to any concerns raised during advertising.		

OFFICER COMMENT

32. The applicant has presented two (2) options for reconsideration in regard to condition i) relating to operating hours; the applicant's preferred option is that the condition be deleted, the second option is that the condition be modified to allow two (2) extra week days of trading (Tuesday and Wednesday), as follows:

*"The hours of operation for the nursery be limited to 10am to 4pm, **Tuesday** to Sunday and Public Holidays."*

33. In relation to option 1 presented by the applicant, it is not considered appropriate to remove the condition that prescribes allowable operating hours for the nursery as this could potentially result in future adverse amenity impacts should the intensity of the operation increase significantly or change hands and given the nature of concerns raised from surrounding property owners regarding the impact of the use on the amenity of the rural area generally.
34. The hours of operation proposed by the applicant however, being 10am to 4pm, Tuesday to Sunday and public holidays, are not considered unreasonable and would allow for the nursery to operate throughout the week on two (2) additional week days. It is not expected that the nursery would attract large volumes of customers on the two (2) extra midweek days being sought (Tuesday and Wednesday).
35. Condition j), which relates to the operating hours of the food (coffee) van, would not be materially affected, however the intent of the condition would change as a result of modifying condition i) as recommended above.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&A 61/2017)

That Council:

1. Pursuant to section 31 (2) of the *State Administrative Tribunal Act 2004*, varies its decision made on 24 April 2017 by deleting condition i) and replacing it with the following:
 - i) The hours of operation for the nursery be limited to 10am to 4pm, Tuesday to Sunday and Public Holidays."

Moved:

Seconded:

Vote:

Attachment 1

Application for Amended Development Approval – Nursery and Temporary Food Van – Lot 17 (105) Tanner Road, Carmel

Applicant's formal request for reconsideration

[Click HERE to go directly to the document](#)

Attachment 2

Application for Amended Development Approval — State Administrative Tribunal Request for Reconsideration - Nursery and Temporary Food Van – Lot 17 (105) Tanner Road, Carmel
Approval to Commence Development dated 4 May 2017

- 2 -

Shire of Kalamunda

2 Railway Road, KALAMUNDA WA 6076

Postal Address

PO Box 42, KALAMUNDA WA 6926

Tel: (08) 9257 9999

Fax: (08) 9293 2715

Email: kala.shire@kalamunda.wa.gov.au



NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

PLANNING AND DEVELOPMENT ACT 2005

ADDRESS:	105 Tanner Road, Carmel	LOT NO.	17
TITLE VOL NO.	1436	FOLIO	790
APPLICATION DATE	31 January 2016	RECEIVED ON	9 February 2016
DESCRIPTION OF PROPOSAL:	Nursery and Temporary Food Van		

The application for approval to undertake development in accordance with the plans attached thereto is:

☒ X Granted subject to the following conditions:

☐ Refused for the following reason(s):

CONDITIONS OF APPROVAL

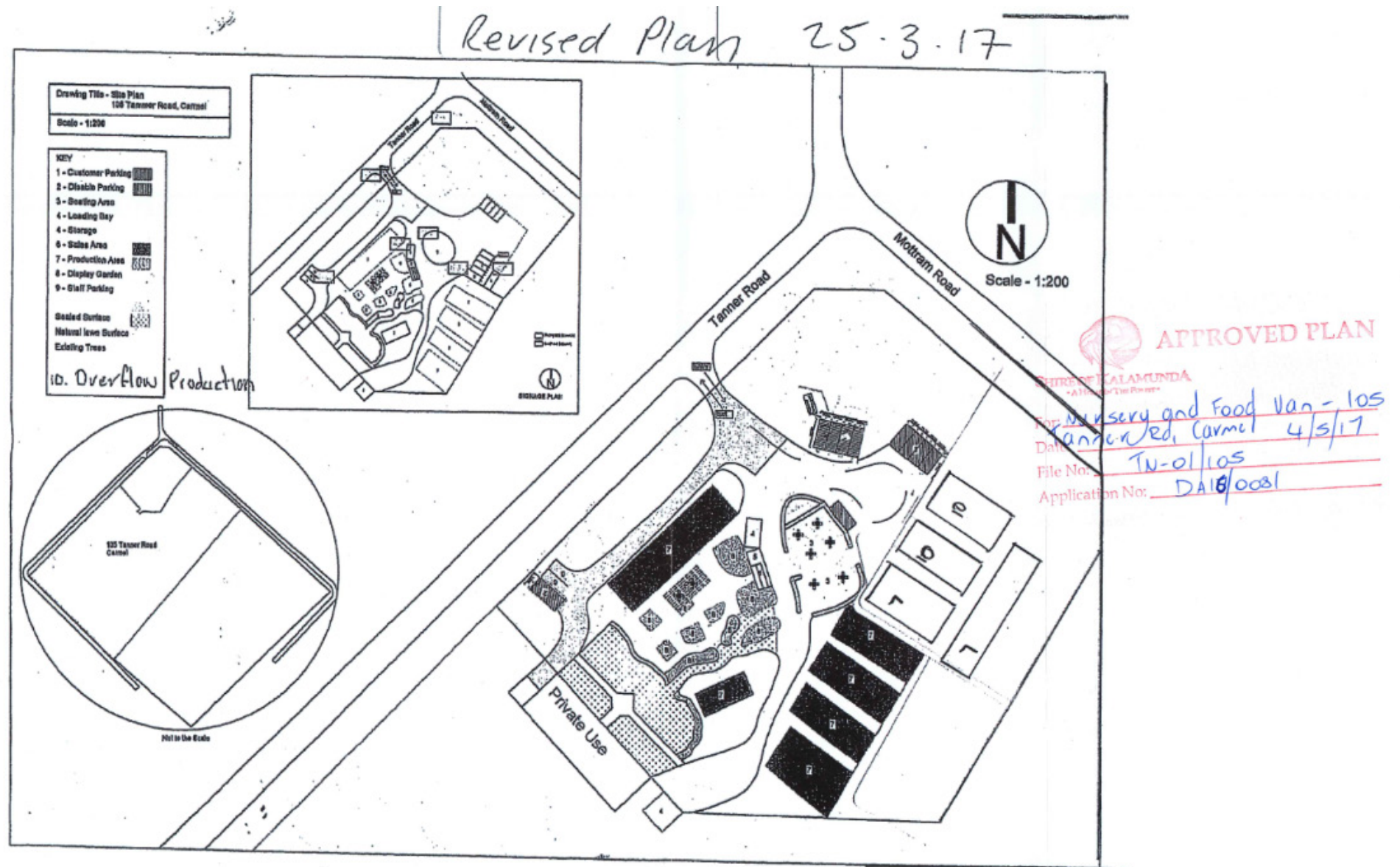
- The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan to the satisfaction of the Shire of Kalamunda.
- Within 60 days of the approval to commence development, a fertiliser and chemical storage plan is to be submitted to, and approved by, the Shire of Kalamunda.
- The use of fertilisers and other chemicals shall not be used within 30 metres of any bore on the site.
- Stormwater runoff from cultivated areas of the site treated with fertilisers and other chemicals shall be contained and directed so that the stormwater does not flow within 30 metres from any bore head, to the satisfaction of the Shire of Kalamunda.

- 3 -

- e) Within 60 days of the approval to commence development, the crossover shall be upgraded to a six (6) metre wide seal including pipe culvert to allow two (2) way vehicle access.
- f) Within 60 days of the approval to commence development, a separate application including plans and a description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by the Shire of Kalamunda. For the purposes of this condition, all signage shall be located wholly within the subject lot.
- g) Within 60 days of the approval to commence development, 12 parking bays and the vehicle access way shall be constructed and drained to the satisfaction of the Shire of Kalamunda.
- h) Vehicle access ways shall be suitably constructed, sealed, line marked and drained to the satisfaction of the Shire of Kalamunda.
- i) The hours of operation for the Nursery be limited to 10am to 4pm, Thursday to Sunday and Public Holidays.
- j) The temporary food (coffee) van to operate at the site in accordance with the ordinary operating hours of the Nursery as outlined in condition i).

In addition to the conditions, the applicant is to have regard to the following advice notes:

- a) The Fertiliser and Chemical Storage Plan is to detail appropriate storage locations of fertilisers and chemicals associated with the nursery, well removed from any groundwater bore on the subject site. The applicant/owner shall thereafter comply with the storage arrangements and locations stipulated on the approved fertiliser and chemical storage plan to the satisfaction of the Shire of Kalamunda.
 - b) All development must comply with the provisions of Council's Local Planning Scheme No 3, Health Regulations, Building Code of Australia, and all other relevant Acts, Regulations and Local Laws.
-



Attachment 3

Application for Amended Development Approval — State Administrative Tribunal Request for Reconsideration - Nursery and Temporary Food Van
– Lot 17 (105) Tanner Road, Carmel

Submission Table

Nature of Submission	Submitter Number	Officer Comment
Non-objection	4, 5	Noted.
Objection <ul style="list-style-type: none"> The applicant is already operating from Wednesday. 	1	It is noted that the applicant sought to have the pre-existing activities at the site authorised through the planning approval process.
Objection <ul style="list-style-type: none"> Concern regarding the decision making process regarding the initial application. 	1, 2	Noted.
Objection <ul style="list-style-type: none"> Increases in volumes of traffic and associated safety impacts. 	2, 3	It is not expected that the volumes of traffic will unduly impact on the amenity or safety of Tanner and Mottram Roads.
Objection <ul style="list-style-type: none"> Concern regarding potential future commercial rezoning. 	2	There are currently no proposals to rezone land on Tanner and Mottram Road. Any future rezoning of the land would require careful consideration through the Scheme amendment process, with particular regard to rural amenity.
Objection <ul style="list-style-type: none"> The use is inconsistent with the zoning of the area. 	2, 3	The nursery land use is not listed under Table 1 of the Scheme, meaning that Council should exercise its discretion in determining the application, having regard to the objectives of the Rural Conservation zoning, the matters to be considered and any submissions received during advertising of the application.

<p>Objection</p> <ul style="list-style-type: none"> What other conditions has the applicant appealed at SAT? 	<p>2</p>	<p>The applicant lodged an application with the State Administrative Tribunal on 25 May 2017 in relation to the following planning conditions:</p> <p><i>"e) Within 60 days of the approval to commence development, the crossover shall be upgraded to a six (6) metre wide seal including pipe culvert to allow two (2) way vehicle access.</i></p> <p>...</p> <p><i>g) Within 60 days of the approval to commence development, 12 parking bays and the vehicle accessway shall be constructed and drained to the satisfaction of the Shire of Kalamunda.</i></p> <p>...</p> <p><i>i) The hours of operation for the nursery be limited to 10am to 4pm, Thursday to Sunday and Public Holidays.</i></p> <p>...</p> <p><i>j) The temporary food (coffee) van to operate at the site in accordance with the ordinary operating hours of the nursery as outlined in condition i)."</i></p> <p>Since the lodgement of the SAT application for review/appeal, it was revealed that applicant is principally seeking clarification in regard to the requirements of conditions e) and g) and are now considered to have been resolved to the satisfaction of both parties. However the applicant is seeking reconsideration in regard to conditions i) and j), with a view of increasing the allowable hours of operation.</p>
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Confidential Attachment 4

Application for Amended Development Approval — State Administrative Tribunal Request for Reconsideration - Nursery and Temporary Food Van – Lot 17 (105) Tanner Road, Carmel

Confidential Submitters Map

Reason for Confidentiality: Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person;"

This attachment has been circulated to all Councillors under separate cover

- 10.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 11.0 QUESTIONS BY MEMBERS WITHOUT NOTICE**
- 12.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**
- 13.0 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY
 DECISION**
- 14.0 TABLED DOCUMENTS**
- 15.0 MEETING CLOSED TO THE PUBLIC**
- 16.0 CLOSURE**