

Public Briefing Forum

Minutes for 12 June 2018

UNCONFIRMED



**city of
kalamunda**

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1. Official Opening

The Presiding Member opened the meeting at 6.45pm and welcomed Councillors, Staff and Members of the Community.

2. Attendance, Apologies and Leave of Absence

Councillors

South East Ward

John Giardina - (Mayor)

Michael Fernie - (Presiding Member)

Geoff Stallard

South West Ward

Lesley Boyd

Allan Morton

Brooke O'Donnell

North West Ward

Sara Lohmeyer

Dylan O'Connor

North Ward

Cameron Blair

Tracy Destree

Margaret Thomas

Members of Staff

Chief Executive Officer

Rhonda Hardy

Executive Team

Gary Ticehurst - Director Corporate & Community Services

Dennis Blair - Director Asset Services

Peter Varelis - Director Development Services

Simon Di Rosso - General Counsel & Executive Advisor

Management Team

Andrew Fowler-Tutt - Manager Approval Services

Raymond Dong - Manager Strategic Planning

Doug Bartlett - Manager Asset Planning & Management (*left at 8.54pm*)

Administration Support

Kristy Lisle - Executive Research Officer Governance & Legal

Donna McPherson - Executive Research Officer to Chief Executive Officer

Ashlin Gardner - Communications Advisor

Members of the Public 18

Members of the Press Nil.

Apologies

North West Ward

David Almond

Leave of Absence Previously Approved

Nil.

3. Declarations of Interest

3.1. Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matter to be discussed at the meeting. (Section 5.56 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*.)

3.1.1 Nil.

3.2. 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.

3.2.1 Nil.

4. Announcements by the Member Presiding Without Discussion

4.1 Nil.

5. Public Question Time

Public question time will be allocated a maximum of 10 minutes and will be limited to two (2) minutes per member of the public, with a limit of two (2) verbal questions per member of the public.

Statements are not to precede the asking of a question during public question time. Statements should be made during public submissions.

For the purposes of Minuting, these questions and answers will be summarised.

5.1 Peter Fantiz - 82 Merrivale Road, Pickering Brook - 10.3.1 Proposed Road Closure and Road Dedication - Lot 830 (no. 221) Merrivale Road, Pickering Brook.

- Q1. Why is a caveat now required as a result of simply relocating the unconstructed road reserve?
- Q2. Would the City agree to construct a suitable road access along the current existing road reserve a distance of approximately 700m. If the decision is in the negative, why is a caveat necessary for a much shorter relocated road reserve?
- A1. The Director Corporate Services advised the caveat enables the City to protect itself from future liability in the event the current owner sells.
- A2. The Director Asset Services advised it wouldn't be recommended to Council to construct the road.

- Q3. If the City is able to refuse expenditure on this current existing road reserve, why would not the same liability apply to a relocation of a shorter piece of the reserve?
- A3. The Director Asset Services advised there is an existing road reserve that is quite long, and this report deals with creating a new road reserve that is far more accessible for the property.
- Q4. (Presiding Member) If the applicant was to request a caveat on a new road reserve, what would be the City's position?
- A4. The Director Asset Services responded that the City has no obligation to construct it and wouldn't recommend to Council to construct it.
- Q5. As far as I'm concerned, they were not creating a new road reserve; rather amending one.
- A5. The Presiding Member asked Mr Fantiz to email any further questions through to the City for preparation for the Ordinary Council Meeting.

Mr John Brown wished to ask questions relating to Valencia Nursing Home. The Presiding Member advised Mr Brown that although Valencia Nursing Home is not an agenda item, he will allow Mr Brown to ask his questions.

Cr Tracy Destree left the room at 6.55pm as she is a member of JDAP. Cr Sara Lohmeyer who is also a member, stayed in the room.

5.2 John Brown - 5 Brydon Road, Carmel

- Q1. The Council incurs extreme costs with developments. Why has the Council not put forward their own views to the JDAP Committee?
- A1. The Presiding Member explained that it hasn't come to Council due to shortness of time - it was only released last Thursday.
- Q2. Submissions closed to JDAP on 30 April 2018, why did Council not put in their submission to JDAP?
- A2. The Presiding Member advised until the application is lodged, there is still information that is forthcoming and the City's Planning Department are still gathering the information. At the point of submission it would be inappropriate for Council to address and pass any decision. Bearing in mind the Council is not the decision maker in this process.
- Q3. As Council members you have an obligation to your residents to act on their behalf and protect them. Whereas Council Officers are reportable to JDAP and have to do it as by statute, so this is two totally different things.

- A3. The Presiding Member advised a report must be presented to Council to address it and there hasn't been time. Duty of Care applies to everyone, including the applicants. Council's role is to remain independent and remain unbiased. Without the report Council couldn't make any decisions. The Director Development Services advised there is Council representation on the Panel of two members, Cr Destree and Cr Lohmeyer. The City administration report to JDAP, and there is still community consultation undertaken.
- Q4. (Cr Giardina) If I was to bring a motion in the near future that requires the Planning Department to bring any JDAP before us, so that we can make a recommendation, is there an issue or do we need to get advice?
- A4. The Director Development Services advised this would need to be discussed with DAP with reporting requirements and timing to ensure sufficient time for a report to be presented with a resolution and recommendation to be passed, and enough time for a report to be prepared for the DAP to be published on their agenda. The Director will take this on notice and provide a response.

5.3 Derek Martin - 20 Valencia Road, Carmel

- Q1. What processes were used by Planning Officers to determine the scale of development for Valencia Nursing Home whether it was appropriate to the rural and agricultural zoning of surrounding properties given they have discretion on the questions of scale?
- A1. The Director Development Services advised the proposal was assessed against the setback and other development requirements as set out in the City's Local Planning Scheme. There is a minor variation in terms of plot ratio which has been assessed in the context of the application and discretion has been applied in regard to the recommendation provided to the JDAP. The Panel will have consideration for that variation.
- Q2. Why were no visits made by City officers to neighbouring properties during the consultation process given the scale of this major development?
- A2. The Director Development Services advised site visits were conducted by City officers to assess the context and there was a community consultation process which included an open information session where the plans were presented and an open submission period where landowners could put forward written submissions.
- Q3. (John Brown) Did any officers visit Mr Martin's property which is 1.5 metres below the Valencia property to view how high a 15 metre wall was going to be?

A3. Director Development Services advised that there was a site visit to Mr Martin's property however he was not home on the day. The officers walked up to the boundary of Mr Martin's property from the proposed Valencia site and assessed the property.

Q4. (John Brown) Did the Officer walk on Mr Martin's property?

A4. The Presiding Member advised no, they walked up to Mr Martin's property from the applicant's side.

Cr Destree returned at 7.05pm.

6. Public Statement Time

A period of maximum 10 minutes is provided to allow public statements from the gallery on matters relating to a matter contained on the agenda or the functions of Council. Public Statement Time will be limited to two (2) minutes per member of the public.

Public Statement Time is declared closed following the 10 minute allocated time period, or earlier if there are no further statements.

For the purposes of Minuting, these statements will be summarised.

6.1 Paul Sokoglo - Managing Director of Planning Solutions - Item 10.1.4 Proposed Amendment No 98 to Local Planning Scheme 3 - Lot 36 (655) Welshpool road East and Lot 810 (31) Brook Road Wattle Grove - Industrial Development to Light Industry

We are pleased to see the Officer Recommendation and we would ask Amendment 98 be progressed in support of the proposal to seek public consultation and the comments from the community.

7. Public Submissions Received in Writing

7.1 Nil.

8. Petitions Received

8.1 Nil

9. Confidential Items Announced But Not Discussed

9.1 Item 10.1.1 Proposed Outbuilding (Shed) - Lot 16 (28) Davies Crescent, Gooseberry Hill – Submitter Table
Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."

9.2 Item 10.1.2 Approval for Parking of Two Commercial Vehicles- Lot 27 (236) Holmes Road, Forrestfield – Submitter Table
Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."

- 9.3 Item 10.2.1 Consideration of Tenders for the Provision of Transporting Waste Streams from Walliston Transfer Station (RFT 1801) – Tender Evaluation
Local Government Act 1995 (WA) Section 5.23 (2) (c) - "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting."
- 9.4 Item 10.2.2 Consideration of Tenders- Provision of General Building Maintenance and Minor Works (RFT1804) – Tender Evaluation
Local Government Act 1995 (WA) Section 5.23 (2) (c) - "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting."
- 9.5 Item 10.3.1 Proposed Road Closure and Road Dedication – Lot 830 (No. 221) Merrivale Road, Pickering Brook – Letter from Owner
Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."

10. Reports to Council

10.1. Development Services Reports

10.1.1. Draft Industrial Development Strategy - Adoption for Public Advertising

The Manager Strategic Planning provided a presentation on this item. Clarification was sought on the consultation time frame and increased traffic and answered by the Director Development Services.

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

Previous Items	Nil
Directorate	Development Services
Business Unit	Strategic Planning
File Reference	PG-STU-040
Applicant	City of Kalamunda
Owner	N/A

Attachments 1. Draft Industrial Development Strategy V 3 [**10.1.1.1**]

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to adopt, for the purposes of public advertising, the City of Kalamunda (the City) draft Industrial Development Strategy (the Strategy).
2. The Strategy has been prepared by the City and expands upon the planning implications discussed in the existing Local Planning Strategy 2010. The Strategy also has regard for planning framework and strategic directions in relation to industrial land supply and development. The Strategy is to form a part of the future Local Planning Strategy that will be developed in 2019 and will ultimately provide guidance and rationale for changes to any zoning, land use classification and development standards and will inform the preparation of a new Local Planning Scheme No 4.
3. It is recommended that Council adopt the Strategy for the purposes of public advertising.

BACKGROUND

4. The Strategy will form a component of the City's new Local Planning Strategy, which is currently anticipated to be progressed throughout 2019.
5. At present, there are no existing strategies of its kind endorsed by the City. It is considered important to have a Strategy of this kind to guide future strategic and statutory planning decision making for industrial land use and development.
6. Planning strategies of this nature are recommended to be reviewed every five years.

DETAILS

7. The Strategy has been prepared in accordance with the Western Australian Planning Commission (WAPC) Local Planning Manual 2010 (the Manual). The Manual forms a guide to the preparation of local planning strategies and schemes in Western Australia. The Strategy incorporates the relevant industrial development considerations from the Manual.
8. The Strategy has the following overarching goal:
The City of Kalamunda will enhance and expand upon our industrial precincts to accommodate growth and diversity in industrial land uses and develop modern, efficient and attractive industrial estates that provide for the local and regional business community.
9. The City currently has a total of approximately 351ha of industrial land, spread across five suburbs; Forrestfield, High Wycombe, Wattle Grove, Kewdale and Walliston. Forrestfield contains the most amount of industrial land with approximately 212ha, equating to 61% of the City's total industrial land supply. Based on current projections, the City is expected to have an additional 36ha of land rezoned for industrial in the future, which takes the total amount of industrial land to 387ha. The Strategy identifies and seeks to address seven industrial areas in the City:
 1. Forrestfield Marshalling Yards;
 2. Forrestfield Industrial Area;
 3. Forrestfield/High Wycombe Industrial Area Stage 1;
 4. Maddington-Kenwick Strategic Employment Area;
 5. Wattle Grove South investigation area;
 6. Walliston Industrial Area; and
 7. Hatch Court / Stirling Crescent, High Wycombe.
10. This Strategy expands upon the planning implications discussed in the existing Local Planning Strategy 2010 (LPS 2010), which noted:
 - a) Ongoing demand for industrial land due to freight rail facility in High Wycombe.
 - b) The City's location is of strategic importance to transport-oriented industry as it is well located relative to major road, rail and airport systems to and from the Eastern States and intra-state.
 - c) Kewdale-Hazelmere Integrated Masterplan (KHIM) and Economic and Employment Lands Strategy (EELS) recommended that existing Rural and Special Rural land to the west of Roe Highway should be rezoned for industrial uses.
 - d) Expanded industrial areas should help respond to the demand for truck parking activity throughout the City.
 - e) Land located south of Welshpool Road East abutting the City of Gosnells to be rezoned to allow for industrial development as a result of the Maddington Kenwick Strategic Employment Area.

Since the adoption of the LPS 2010 there have been some key developments in regard to the above planning implications, as summarised below:

- a) Forrestfield/High Wycombe Industrial Area Stage 1 planning framework developed for freight and logistics based light industrial uses. Development is progressing in this precinct as is the delivery of key infrastructure projects.
- b) Wattle Grove South is being investigated for industrial development feasibility.
- c) Maddington Kenwick Strategic Employment Area (MKSEA) has been rezoned to industrial. Infrastructure upgrades and subdivision/development is currently in the process of occurring.
- d) The State Government's announcement in 2014 confirming the Forrestfield-Airport Link project, resulted in a major shift in the strategic context envisaged by the KHIM and EELS plans for the provision of industrial land in High Wycombe. This resulted in the need to redefine the potential land uses surrounding the future station, focusing on mixed use development incorporating retail, commercial and higher density residential.

11. This Strategy seeks to build upon the strategic directions of the LPS 2010 and deliver a new set of objectives in the context of the latest State planning framework and incorporating updated statistical data. The Strategy will form a key component of the development of a new Local Planning Strategy to be progressed in 2019.

12. The objectives of the Strategy are principally to:

- a) Develop an understanding of the key functions, attributes and needs of the City's industrial areas.
- b) Acknowledge the regional and local influences that determine the opportunities and constraints for the City's industrial areas.
- c) Outline strategies and actions that guide future strategic and statutory planning decision making in regard to industrial land use and development considerations in the City's industrial areas, with particular focus on:
 - i. Attracting high quality industrial operators in strategic locations;
 - ii. Establishing robust industrial areas that can withstand changing market conditions;
 - iii. Improve local employment opportunities in industrial areas; and
 - iv. Facilitate public realm improvements in industrial areas generally and improve the interface between industrial and sensitive land uses.

13. The Strategy takes into consideration current and future population projections, housing and other demographic factors. The key trends and projections influencing the Strategy are:

- a) The City's forecasted population is expected to increase from 60,739 in 2018 to 76,179 people by 2036.
- b) The suburbs of Forrestfield, High Wycombe and Wattle Grove are anticipated to have the greatest population increases over this period.
- c) The population increase from these suburbs will be able to increase the local industrial workforce and provide a challenge to cater for increased demand for population driven industrial uses.

- d) These population increases will likely see greater pressure on the industrial interface in close proximity to residential areas.
14. The Strategy takes into consideration current and future economic and employment projections. The key trends and projections influencing the Strategy are:
- a) The City has a higher percentage of medium income earners than Greater Perth, and lower percentages of low and high income earners than Greater Perth.
 - b) The City's residents' five most common employment sectors are health care and social assistance, construction, retail trade, education and training, and transport, postal and warehousing.
 - c) The City has higher percentages of people than Greater Perth employed in the following industries:
 - i. agriculture, forestry and fishing;
 - ii. mining;
 - iii. manufacturing;
 - iv. electricity, gas, water and waste services;
 - v. construction;
 - vi. wholesale trade; and
 - vii. transport, postal and warehousingThese industries all have association with industrial areas, demonstrating the significant workforce the City has employed in industrial areas.
 - d) The City's residents' three most common occupations of employment are technicians and trade workers, professionals and clerical and administrative workers. Technicians, trade workers and administrative workers in particular are associated with employment in industrial areas.
 - e) Kalamunda has a relatively low rate of employment self-sufficiency (53%). Only the Agriculture Forestry and Fishing, Transport Postal and Warehousing, Education and Training and Accommodation and Food Services sectors have employment self-sufficiency rates at over 70%.
15. The Strategy takes into consideration key factors that influence industrial areas such as transport linkages, proximity to key industrial and freight locations and infrastructure availability.
16. The Wattle Grove South area is approximately 310ha and has been identified for Urban Expansion by the Western Australian Planning Commission's (WAPC) North-East Sub-Regional Planning Framework. While industrial expansion/investigation has not been specifically identified within the Wattle Grove South area, there is an opportunity to identify a portion of this site for industrial land given its proximity to key freight routes, Tonkin Highway and Welshpool Road East. It is unlikely that the entire area will be future industrial, however the final outcome for this area will be depended upon further investigations.
17. Approximately 314ha of the 387ha of industrial land within the City has already been developed. There is approximately 73ha remaining that is yet to be developed. This includes the land expected to be rezoned to industrial in the future, which is within the second stage of MKSEA.

18. The Strategy makes the following key observations:
- a) There is limited opportunity for further development of industrial areas within the City's boundaries. Future industrial development within the City will occur in the already identified locations of Forrestfield/High Wycombe Industrial Area, MKSEA Wattle Grove and Hatch Court, High Wycombe.
 - b) Wattle Grove South has been identified for urban development by the North-East Sub-Regional Planning Framework, however it is potentially the last remaining area that could be identified for industrial development for the City. The area should be investigated for the potential development of industrial within the area, given its location with close proximity to key industrial links, Tonkin Highway and Welshpool Road East.
 - c) Supporting the local workforce by increasing the local population in close proximity to industrial areas should be maintained.
 - d) Attracting high quality businesses should be supported through effective planning measures such as reasonable developer contribution schemes, promoting quality design through building and site design guidelines and quality public realm improvements, and ensuring transport links are provided to a high standard in line with the particular access needs of industrial areas.
 - e) There is a need for more up-to-date research on industrial demand for the region, with previous research undertaken as part of EELS, Industrial Land Needs Study (ILNS) and KHIM potentially outdated and in need of review.
19. The Strategy sets out strategic directions and actions to improve the quality of industrial areas, interaction with sensitive land uses, their accessibility and distribution. The following are some of the key strategies and actions:
- a) Develop a Local Planning Policy for all industrial areas to guide design and address modern industrial development standards.
 - b) Maintain a high level of landscaping and road maintenance.
 - c) Investigate public realm improvements where appropriate.
 - d) Keep development contributions relevant and consistent with the principles underlying development contributions in Western Australia. Protect the Forrestfield Marshalling Yards from encroaching urban development and mitigating any noise and vibration issues.
 - e) Investigate new sites for potential industrial development.
 - f) Ensure there are logical transition zones and processes between residential and industrial uses.
 - g) Identify industrial regional demand.
 - h) Increase population of local workforce.

STATUTORY AND LEGAL CONSIDERATIONS

20. **Metropolitan Region Scheme**
- The Metropolitan Region Scheme (MRS) is a broad land use planning tool that defines the future use of land in broad zones and reservations. The City's Local Planning Scheme must be consistent with the MRS. Not all industrial land is specifically identified for industrial purposes under the MRS. For example, two of the City's industrial areas are located within the Urban zone; Forrestfield/High Wycombe Industrial Area (Stage 1) and the Hatch Court / Stirling Crescent light industrial area. Both areas would permit light industrial uses which are generally compatible with urban land uses and are therefore able to be considered in the Urban zone.

21. In the event that industrial development is ultimately deemed appropriate in the Wattle Grove South area, an Urban zoning under the MRS could enable a light industrial outcome over an urban zone.
22. **Local Planning Scheme No. 3**
The Strategy is applicable to the areas within the City that are zoned under the Local Planning Scheme No.3 (LPS3) as General Industry, Light Industry and Industrial Development.
23. This Strategy will form a part of the future Local Planning Strategy which will be developed in 2019. This will ultimately provide guidance and rationale for changes to any zoning, land use classification and development standards under the LPS 3 and will inform the preparation of a new Local Planning Scheme No 4.

POLICY CONSIDERATIONS

24. *State Planning Policy 4.1: Industrial Buffers and Draft State Planning Policy 4.1 Industrial Interface*
SPP 4.1 is a guiding document applicable to new industrial areas and industrial uses. Its purpose is to protect industry from encroachment of sensitive land uses and, conversely, to protect sensitive land uses from potentially hazardous industrial activity.
25. *Development Control Policy 4.1: Industrial Subdivision*
DC 4.1 provides guidance for the consideration of industrial subdivision and strategic plans throughout Western Australia. These include matters such as design, shape of industrial lots, road layout, servicing and open space requirements. Lot sizes are not controlled in a strict manner; rather, it is suggested that lot sizes be determined later in the process to allow for a flexible design outcome that suits the function and purpose of each particular industrial area.
26. *Development Control Policy 4.2: Planning for Hazards and Safety*
DC 4.2 Provides for location of industrial developments relative to more sensitive land uses. DC 4.2 also includes some guidance on buffer zones and separation distances similar to SPP 4.1.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

27. The draft Strategy was referred to internal departments and comments provided have been incorporated into latest version of the draft Strategy.

External Referrals

28. The Strategy was peer reviewed by planning consultants Taylor Burrell Barnett (TBB). TBB provided a review report, maps and tracked changes to the initial draft Strategy.

29. In the context of the Strategy forming a component of the City's Local Planning Strategy it is recommended that the Strategy is advertised in a similar manner to a Local Planning Strategy.
30. If Council decide to adopt the proposed Strategy, it will be advertised for public comment for not less than 28 days. A Communications and Engagement Strategy will be developed to assist with guiding the public advertising process. Consultation will target the City's industrial operators and developers and those properties impacted by the recommendations of the Strategy.
31. It is considered that the advertising of this Strategy will assist in clarifying the key functions, characteristics and needs of each of the City's industrial areas. It will be important to engage directly with landowners in each of the industrial precincts to capture this information.

FINANCIAL CONSIDERATIONS

32. Costs associated with the preparation and public advertising of the document are met through the Development Services annual budget.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

33. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

Objective 3.3 - To develop and enhance the City's economy.

Strategy 3.3.1 - Facilitate and support the success and growth of industry and businesses.

SUSTAINABILITY

Social Implications

34. Expansion of industrial areas and further industrial development within existing industrial areas will provide further employment opportunities for the local community.
35. The Strategy aims to have logical transition zones between residential and industrial uses to prevent land use conflict and reduction in local amenity.

Economic Implications

36. Expansion of industrial areas and further industrial development within existing industrial areas will increase the economic output of the City.
37. Expansion of industrial areas and further industrial development within existing industrial areas will provide further employment opportunities for the local community.
38. The Strategy aims to increase the local workforce for industrial areas.

- 39. The Strategy aims to attract businesses that make the most of the City’s local skillset and attract industrial businesses of a variety of size.
- 40. Industrial businesses provide a significant contribution to the City’s rates.

Environmental Implications

- 41. The Strategy aims to have logical transition zones between residential and industrial uses to prevent land use conflict and reduction in local amenity.
- 42. The Strategy aims to investigate public realm improvements in industrial areas and to improve the industrial-residential interface.
- 43. Impacts of any future industrial developments on natural vegetation will be required to be considered and may need to be referred to the relevant State Agencies. Environmental management, protection of vegetation and/or offsets may be required as part of the conditions of development approval.

RISK MANAGEMENT CONSIDERATIONS

44.	Risk: The community disagrees with strategic directions and actions for Industrial development		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/Strategy		
	Undertake community engagement and appropriately respond to submissions received as part of the finalisation of the Strategy.		

OFFICER COMMENT

- 45. The Strategy has been prepared in accordance with the Western Australian Planning Commission (WAPC) Local Planning Manual 2010 (the Manual).
- 46. It is noted that the draft Strategy will benefit from input from landowners within the City’s industrial areas together with the community generally to inform and refine opportunities and constraints for each industrial area based on individual characteristics.
- 47. In order to undertake the actions recommended in the Strategy, project specific briefs will need to be undertaken to rationalise the recommended actions.
- 48. It is recommended that Council adopt the Strategy for the purposes of public advertising.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Adopt the draft Industrial Development Strategy for the purposes of public advertising for not less than 28 days.

10.1.2. Draft Planning Policy P-DEV 57 - Street Fencing, Walls and Gates

*The Manager Approval Services provided a presentation on this item.
No comments or questions from Councillors or the public.*

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

Previous Items	OCM 166/2017
Directorate	Development Services
Business Unit	Approval Services
File Reference	OR-CMA-A6
Applicant	N/A
Owner	N/A
Attachments	<ul style="list-style-type: none">• Draft Local Planning Policy - P-DEV57 - Street Fencing Walls and Gates [10.1.2.1]• Submitters Table [10.1.2.2]

EXECUTIVE SUMMARY

1. The purpose of this report is to consider final adoption of draft Local Planning Policy P-DEV 57 – Street Fencing, Walls and Gates (the Policy).
2. The Policy has been prepared for the purposes of providing guidance to the community in regard to height, materials, location and aesthetic treatments for street fencing, walls and gates within the City of Kalamunda (the City). During the advertising period a total of two submissions were received, comprising non-objections.
3. It is recommended that Council adopt the Policy.

BACKGROUND

4. The City periodically reviews, revokes and adds new policies for the purpose of ensuring consistency and transparency in decision-making. The development of Local Planning Policies also ensures Council has a clear and defensible position on specific types of applications and contributes to continual process improvements.
5. Street fencing, walls and gates contribute significantly to the character of an area. The 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.
6. 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.

7. On 27 June 2016, the City adopted the *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.
8. At the Ordinary Council Meeting of 26 September 2017, the recommendation to adopt the Policy for the purpose of public advertising lapsed, with the Council approving an alternative motion which required the following changes to the Policy being undertaken prior to advertising:
 1. *References to 'Asbestos' being changed to 'Asbestos Containing Material';*
 2. *Explanations as to how repair and maintenance of fences will be dealt with; and*
 3. *Include the current fencing local law in the public advertising material.*

DETAILS

9. 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. Key aspects of the Policy are summarised as follows:
 - a) **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.
 - b) **Part 5 - Table 1 - Heights of Sufficient Fences and Screening in Residential zoned areas**, outlines the types of fences/walls and gates with the acceptable development criteria for each type with the exception of Residential R2 – R5 zoned areas.
 - c) **Part 5 - Table 2 Acceptable Materials in Residential zoned areas**, outlines minimum standards for materials for street fencing and retaining within the front setback with the exception of Residential R2 – R5 zoned areas.
 - d) **Part 6 - 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.
 - e) **Part 7 - R2 to R10 and Rural zoned land**, includes a cross reference for street fencing to comply with Schedule 3 of the Fencing Local Law.
 - f) **Part 8 - Commercial, District Centre, Activity Centre, Service Station, Private Club and Institutions, and Mixed Use zoned land**, specifies assessment in accordance with Schedule 2 of the Fencing Local Law.
 - g) **Part 9 - Industrial and Industrial Development zoned land**, outlines heights, gates, materials, preferred colours and references Schedule 2 of the Fencing Local Law.
 - h) **Part 10 - Unauthorised fence, wall and gate applications**, outlines the assessment process and modification/remediation options.
 - i) **Part 11 - Maintenance and Appearance** outlines the minimum maintenance standards for existing fencing, walls and gates.

- j) **Part 12 - Matters to be considered** should be referenced when assessing applications which apply for variations to the Policy criteria.
 - k) **Part 13 - Variations to the policy** outlines the circumstances where variations to the policy will be considered justified.
 - l) **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.
 - m) **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.
 - n) **Appendix 3 – Examples of Street Fencing** is a photographic visual guide to show how the policy applies in situ and the impact on the streetscape in residential, rural, commercial and industrial zoned land in the City.
10. Where proposals are compliant with the provisions of the Policy, development approval is not required.
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* (the Regulations).
13. Under clause 3 (5) of the Regulations, in making a determination under the Scheme, the local government must have regard to each relevant local planning policy to the extent the policy is consistent with the Scheme.

POLICY CONSIDERATIONS

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

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

15. No internal comments were received as part of the internal referral process.

External Referrals

16. Under Clause 4 (1) and (2) of the Regulations, the City is required to publish the Policy in a local newspaper and in any other way deemed necessary for a minimum period of 21 days.
17. In accordance with the provisions of Local Planning Policy P-DEV 45 – Public Notification of Planning Proposals, the proposed Policy was advertised for a period of 28 days, which included an advertisement notice being placed in the local newspaper for two consecutive weeks and a notification being placed on the City's social media platform and website.

18. During the advertising period a total of two submissions were received, comprising of non-objections to the provisions of the Policy. Refer Attachment 2 for a summary of submissions and officer responses.
19. One of the non-objections did request clarification as to how the new Policy would impact upon residents who have existing fencing that do not meet the criteria of the Policy. A response to this question is included as part of the Officer Comment section of this report.

FINANCIAL CONSIDERATIONS

20. All costs associated with the advertising of the adopted Policy will be met through the Approval Services budget.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

21. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

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.

Priority 3: Kalamunda Develops

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

22. If the Policy is adopted, the City will have greater certainty when assessing applications for fence and gate applications.
23. The community will be provided with more clarity and transparent process on how the City makes decisions, leading to improved outcomes and reduced timeframes.

Economic Implications

24. Nil.

Environmental Implications

25. Nil.

RISK MANAGEMENT CONSIDERATIONS

26.

Risk: Applications are received contrary to the provisions and principles of the Policy.		
Likelihood	Consequence	Rating
Possible	Moderate	Medium
Action/Strategy		
Ensure through community education prior to lodgment that applicants are aware of the intent and details of the Policy.		
27.

Risk: A lack of consistency in the development application and decision making process.		
Likelihood	Consequence	Rating
Unlikely	Moderate	Low
Action/Strategy		
Demonstrate how the provisions of the Policy will achieve a consistent approach to appropriate fencing design and built form, and by extension improved streetscape outcomes.		

OFFICER COMMENT

28. Applications for variations on Residential zoned lots are subject to the Design Principles of the Residential Design Codes while rural, commercial and industrial applications default to the *Fencing Local Law 2016*. There is a need to provide guidance to address some uncertainty as to what are considered appropriate materials and design objectives for fences above retaining walls. Furthermore, in situations where applications are received for front fencing with increased heights, guidance needs to be provided for what is considered appropriate and can be justified on planning grounds.
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 Residential Design Codes and *Fencing Local Law 2016*. All proposals for fencing other than street fencing as indicated in Appendix 2, will be subject to the provisions of the City's Fencing Local Law.
30. The Policy requirements are supported with diagrams and 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 will work to enhance the streetscape.
31. In regard to the question raised during the advertising period concerning existing fencing that does not meet the Policy criteria, the following is noted:
- Impacts of the Policy on Existing Fences:**
The Policy cannot be applied retrospectively, therefore, any fences that are currently erected within the City are not subject to the Policy and the City will not be able to initiate compliance matters in relation to these fences against

the provision of the Policy. However, should the owner of such a fence lodge for an extension or alteration to the fence it will be considered to be part of a new application and therefore will be subject to the requirements of the Policy.

32. Clause 7.3.1 of the Residential Design Codes (R Codes) allow Local Planning Policies to contain provisions that amend or replace the deemed to comply provisions of the R Codes. Noting the provisions of the proposed Policy, the City will be required to refer the Policy to the Western Australian Planning Commission for their endorsement.
33. In response to Councils previous determination at the September 2017 OCM, the Policy has been modified so that additional information is provided regarding the maintenance and repair of existing fencing (refer Clause 11), as well as alteration of the provisions relating to Asbestos materials (refer Table 2).
34. It is recommended that Council grant final approval to the Policy.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Pursuant to Clause 4 (3)(b)(i) of the *Planning and Development (Local Planning Scheme) Regulations 2015*, proceeds with the adoption of Local Planning Policy P-DEV 57 – Street Fencing, Walls and Gates.
2. Refer the adopted Local Planning Policy P-DEV 57 – Street Fencing, Walls and Gates to the Western Australian Planning Commission for endorsement.

10.1.3. Development Application: Parking of Two Commercial Vehicles-Lot 27 (236) Holmes Road, Forrestfield

Cr Thomas left the room at 7:37 pm and returned at 7:39pm.

Mr John Berzins of 307 Hawtin Road Forrestfield spoke against the recommendation. Ms Amy Burns of 236 Holmes Road, Forrestfield and Mr Rob Tillman of 35 Traylen Road, Kalamunda spoke in favour of the recommendation. Mr Peter Bolden of 55A Snowball Road, Kalamunda made a comment.

Councillors sought clarification from the applicant and staff.

The Manager Approval Services provided a presentation on this item and questions were answered.

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

Previous Items	Public Agenda Briefing Forum 13/02/2018
Directorate	Development Services
Business Unit	Approval Services
File Reference	HL-10/0236
Applicant	Haydn Robert Tieleman
Owner	Haydn Robert Tieleman & Amy Lyn Burns
Attachments	1. Site Plan [10.1.3.1] 2. Commercial Vehicle and Site Photos [10.1.3.2] 3. Submitters Table [10.1.3.3]
Confidential Attachment 1	Submitters Map

EXECUTIVE SUMMARY

- The purpose of this report is for Council to consider an amended planning application for the parking of two commercial vehicles (trucks with trailers) at Lot 27 (236) Holmes Road (the Site), refer Attachment 1.
- A total of five submissions were received for the amended proposal, comprising three objections and two non-objections with comments. The concerns raised in the objections were in relation to amenity impacts, noise and use of the site for commercial purposes.
- It is recommended that Council approve the application subject to appropriate conditions.

BACKGROUND

4. Land Details:

Land Area:	1.01 ha
Local Planning Scheme Zone:	Special Rural
Metropolitan Regional Scheme Zone:	Rural

5. The original application was withdrawn by the applicant at the February 2018 Ordinary Council Meeting (OCM) to include an amended site plan, the articulated type of commercial vehicles, screening and a new crossover to address the concerns of nearby landowners.
6. The subject property contains a single dwelling and an existing outbuilding. The property is located in an area characterised by semi-rural lifestyle properties.

7. **Locality Plan:**



DETAILS

8. The applicant is seeking an approval for the parking of two commercial vehicles on the site. The applicant also proposes to install a new vehicle crossover to the site to accommodate parking of the commercial vehicles.
9. Details of the proposed commercial vehicles are outlined below.
Commercial Vehicle Details:

	Truck 1	Attached Trailer 1	Truck 2	Attached Trailer 2
Make / Year	DAF/2008	2017	ISUZU/2008	2010
Type	Flatbed	Trailer	Flatbed	Trailer
Length	7 Metres	10.5 Metres	9 Metres	7.2 Metres
Height	3.5 Metres		4.2 Metres	
Tare Weight	10 tonne	6.75 tonne	8 tonne	4.5 tonne
Aggregate weight	18 tonne	29 tonne	14 tonne	21 tonne

Combined Length	17.5 metres	16.2 metres
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10. The applicant has identified vehicle parking areas between the outbuilding and dwelling, to the western and eastern side of the outbuilding and to the front of the outbuilding as shown in Attachment 1. The applicant is also proposing a new crossover and driveway for the trucks and screening at the rear boundary to minimise the effect of parking to nearby residents. The vehicles are proposed to be parked on the property only one week in a month or during the Christmas period. For the balance of the time the vehicles will be parked or utilised off-site.

STATUTORY AND LEGAL CONSIDERATIONS

Local Planning Scheme No. 3

11. In accordance with the Zoning Table of Local Planning Scheme No.3 (the Scheme) the proposed land use of 'Commercial Vehicle Parking' is identified as a "D" use under the Special Rural zone which means that the use is not permitted unless Council has exercised its discretion by granting development approval. A maximum of two commercial vehicles may be permitted on any Rural zoned land.
12. In accordance with Schedule 1 of the Scheme, Commercial Vehicle and Commercial Vehicle Parking is defined as:
- " **commercial vehicle** means a vehicle as defined in the Road Traffic Act 1974, whether licensed or not which has a gross vehicle mass greater than 1.5 tonnes and which is used, designed or intended for use in the course of any business or trade, and is limited to the following vehicles-*
- a) Any prime mover, truck, bus or earth moving equipment and any wheeled attachment to any of them or any wheeled article designed to be attached to any of them; and*
 - b) A loaded combination, such as bob cat, forklift or any other vehicle, loaded on a truck, trailer or other attachment is to be regarded as one commercial vehicle."*
- " **commercial vehicle parking**" means the parking of a commercial vehicle(s) for any period which is longer than necessary to load and unload or to complete a service being rendered to the property.*
13. Clause 5.19 of the Scheme establishes a number of provisions relating to Commercial Vehicle Parking, these include:
- '5.19.6 Approval for parking a commercial vehicle may only be granted where an occupier of the lot on which the commercial vehicle is to be parked is also:*
- a) the owner of;*
 - b) the driver of; or*
 - c) the proprietor of a business which owns or operates the commercial vehicle in respect of which the approval is sought.*

- 5.19.7 An approval for the parking of a commercial vehicle is –
- a) personal to the applicant for approval; and
 - b) specific to the commercial vehicle which is the subject of the application for approval.

5.19.8 Council may revoke any approval granted for parking of a commercial vehicle(s) if there is failure to comply with any condition of approval.'

Planning and Development (Local Planning Schemes) Regulations 2015

14. In considering an application for planning approval, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) requires Council to have due regard to a number of matters, including:
- a) The compatibility of the development within its settings;
 - b) Amenity in the locality;
 - c) The amount of traffic to be generated by the Development, particularly in relation to the capacity of the road system and effect of traffic flow and safety; and
 - d) Any relevant submissions received on the application.

POLICY CONSIDERATIONS

Local Planning Policy- P- DEV 22 - Parking of Commercial Vehicles on Private Property

15. The objective of Local Planning Policy P-DEV 22 – Parking of Commercial Vehicles on Private Property (the Policy) is to provide opportunities for the parking of commercial vehicles in a manner that does not detrimentally impact on the amenity of the surrounding area.
16. The parking of the proposed two Commercial Vehicles is assessed against the Policy as follows:

Policy requirements	Proposal	Compliant with policy
Maximum length 17.5m and 4.3m in height for articulated type commercial vehicles.	The total combined length of the vehicles will be 16.2m and 17.5m respectively. The total height of the commercial vehicles is 4.2m and 3.5m respectively.	Yes
The vehicles shall only be started and manoeuvred on the lot in accordance with times and a manner approved by Council.	The applicant has no specific movement times at this point. If approved, this will be	Yes

Standard start and manoeuvring times are 7.00am to 7.00pm Monday to Saturday and 9.00am to 6.00pm Sundays, unless otherwise approved by Council.	included as a condition.	
Vehicle is to be parked behind the front alignment of the dwelling and preferably behind the rear alignment of the dwelling. Where the vehicle is parked alongside the dwelling, then gates or fencing to a height of 1.8m should be erected to satisfactorily screen the vehicle.	The vehicles are proposed to be parked behind the dwelling, and is screened from the public realm with vegetation in the front and side of the site. The applicant is proposing additional screening at the rear end of the property.	Yes
The vehicle must be parked on the lot so that it does not interfere with access and egress of other vehicles. Where possible, vehicles should be parked such that they do not need to be reversed out.	The vehicles are parked on the rear end of the site and as such will not interfere with other vehicles on the site. The vehicles are able to leave the site in forward gear.	Yes
Spray painting, panel beating and major servicing of the vehicle will not be permitted on the lot.	If approved, this will be included as a condition.	Yes
Washing of the vehicle on the lot is limited to the use of water and mild detergent and excludes the use of solvents, degreasers and steam cleaning.	If approved, this will be included as a condition.	Yes
Idling and cooling down shall be restricted to 5 minutes per day.	The idling of vehicles is proposed as maximum of 5 minutes in the morning.	Yes
The cleaning and maintenance of the vehicle is restricted to the hours of 8.00am to 7.00pm Monday to Saturday and 9.00am and 6pm Sunday, unless otherwise approved by Council.	If approved cleaning and maintenance times can be included as a condition.	Yes

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

17. The City has investigated the proposal from an Assets Services perspective and assessed the proposal for the design of the new crossover, traffic safety and sight lines, and raised no objections or concerns. The proposal for the second crossover will be designed, drained and constructed to the City's requirements.

External Referrals

18. In accordance with Scheme requirements, the amended proposal was advertised to nearby and affected land owners for a 14 day submission period. At the end of the submission period five submissions had been received, consisting of three objections and two non-objections with comments on the proposal.
19. The main issues raised in the submissions were:
- a) Preservation of the amenity of the Special Rural Zone.
 - b) The parking of commercial vehicles will devalue the neighboring properties.
 - c) The subject property will be used for commercial purposes.
 - d) The subject property is zoned Special Rural and should not be allowed for parking of commercial vehicles of the length specified in the proposal.
 - e) The proposal to park the trucks at the proposed location will have a negative impact on the amenity of the area. The vegetation screening is not enough, there should be a solid fence for screening.
 - f) The proposal of the new crossover is over possible sewer line.
 - g) Approving parking of commercial vehicles on this property will set a precedence for other land owners on the area and negatively impact the rural amenity.
20. The above concerns raised by the local community are addressed in the officer comment section of this report.

FINANCIAL CONSIDERATIONS

21. If Council refuses the application or imposes conditions that are unacceptable to the applicant, there is a right of review (appeal) to the State Administrative Tribunal (SAT). In the event that Council refuses the application, costs to engage an expert witness to assist the City's General Counsel to defend the City's position at a SAT hearing is expected to be in the vicinity of \$20,000

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

22. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

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

23. The location of the vehicles on site may impact the amenity of the neighbouring property. This is proposed to be mitigated through locational requirements and the provision of vegetative screening.

Economic Implications

24. The parking of the commercial vehicles on the property will assist the applicant with the operation of their business.

Environmental Implications

25. The Policy provisions do allow for the washing of the commercial vehicles on site with the use of a mild detergent, but not the use of any solvents, degreasing substances or any other processes which may cause pollution or degradation of the environment.

RISK MANAGEMENT CONSIDERATIONS

26.	Risk: The applicant may not comply with conditions of the planning approval.		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/Strategy		
	Initiate appropriate compliance action to ensure the applicant complies with the conditions of planning approval.		

OFFICER COMMENT

27. The proposal is compliant with the City's Policy on the parking of commercial vehicles on private property.

28. In respect to the main concerns raised through public advertising, the following comments are provided:

29. **Amenity impacts resulting from the parking of the truck**

It is noted that the proposed location of the truck parking area is approximately 16.5m from the western (side) boundary of the adjacent neighbour, however, due to the topography of the site the truck is not visible from the neighbouring property. A truck parking area is also proposed to the front of the outbuilding approximately 15m from the rear lot boundary, refer Attachment 2. Existing vegetation and proposed screen planting of additional vegetation will assist in reducing the visual impact of the parking area to properties to the south west of the site. The applicant proposes that the vehicles will be parked on the property only one week in a month or during the Christmas period. For the balance of the time the vehicles will be parked or utilised off-site.

30. **The parking of two commercial vehicles is not compatible with the Special Rural Character of the area**

Under the provisions of the Scheme and Policy, a maximum of two commercial vehicles can, with development approval, be parked in Rural zoned areas. In this regard the proposal is compliant with Scheme and Policy requirements for the parking of the two commercial vehicles. Under the City's Scheme definition, an articulated type of vehicle, i.e. a vehicle with a trailer, and loaded combination such as a bobcat, forklift or any other vehicle loaded on a truck or trailer is regarded as one commercial vehicle.

31. **New crossover design and necessary clearances from services**

The City assessed the proposal from an Asset Services perspective and no objections in respect to the location of the proposed vehicle crossover was raised. If approved, the crossover's specifications will be approved, and works undertaken in accordance with the approved engineering drawings and specifications for the construction of crossover and access way.

32. In the context of the application complying with the City's Policy requirements and the mitigating measures proposed to ameliorate the concerns raised (i.e. vegetative screening), it is recommended that Council approve the modified application subject to appropriate conditions.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Approve two commercial vehicles at Lot 27 (236) Holmes Road, Forrestfield subject to the following conditions:
 - a) The vehicles must, at all times, be parked in the location shown on the site plan.
 - b) Maintenance of a minor nature such as wheel changing and cleaning of the commercial vehicle is only permitted between 8.00am and 6.00pm Monday to

- Saturday. No panel beating, external spray painting, external welding or the removal of major body or engine parts is permitted.
- c) The idling time for the start-up and cool down of the vehicle being a maximum of five minutes per day.
 - d) A landscape plan for the proposed vegetation screening is to be submitted to the City of Kalamunda within 30 days of the date of the approval.
 - e) All landscape screening is to be planted in accordance with the approved landscape plan within 60 days of the date of the plan be approved by the City of Kalamunda.
 - f) Engineering drawings and specifications are to be submitted and approved, and works undertaken in accordance with the approved engineering drawings and specifications for the construction of the crossover and access way and demonstrating that stormwater is contained on-site or appropriately treated and connected to the existing drainage system.
 - g) Washing of the commercial vehicle on the subject lot is to be limited to the use of water and mild detergent, but not involve the use of any solvents, degreasing substances, steam cleaning and any other processes which may cause pollution or degradation of the environment.
 - h) Movement and start-up times of the vehicle being restricted to 7.00am and 7.00pm Monday to Saturday and 9.00am to 6.00pm Sunday.

10.1.4. Proposed Amendment No. 98 to Local Planning Scheme No. 3 - Lot 36 (655) Welshpool Road East and Lot 810 (31) Brook Road, Wattle Grove - Industrial Development to Light Industry

The Manager Approval Services provided a presentation on this item. Questions were asked by Councillors and answered by the Director. Mr Paul Kotsoglo made further comments on this item.

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

Previous Items	OCM 142/2012
Directorate	Development Services
Business Unit	Approval Services
File Reference	PG-LPS-003/098
Applicant	Planning Solutions c/- Evangelos Litis Nominees Pty Ltd
Owner	E & D Litis Pty Ltd
Attachments	1. Applicant Scheme Amendment Request [10.1.4.1] 2. Scheme Amendment [10.1.4.2]

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider the adoption of Local Planning Scheme Amendment No.98 to Local Planning Scheme No.3 (the Scheme) for the purposes of public advertising.
2. Amendment No. 98 proposes to:
 1. Rezone Lot 36 (655) Welshpool Road East and Lot 810 (31) Brook Road, Wattle Grove (subject site) under the Scheme from 'Industrial Development' to 'Light Industry';
 2. Amend the boundary of Special Control Area 4 (Poultry Buffer) to exclude the subject site; and
 3. Introduce a Special Control Area 7 (SCA) to the Scheme to introduce the Brook Road Light Industrial Precinct with associated development/subdivision provisions.
3. It is recommended that Council adopt Scheme Amendment 98 for the purposes of public advertising.

BACKGROUND

4. Land Details:

Land Area:	4.2586 hectares
Local Planning Scheme Zone:	Industrial Development
Metropolitan Regional Scheme Zone:	Urban

5. **Locality Plan:**



6. The subject site previously formed part of a larger Lot 32, which included the land immediately south of the site, now referred to as Lot 811 (37) Brook Road.
7. The subject site is currently vacant comprising an area of approximately 4.2 hectares and is generally bound by Welshpool Road East to the north, Brook Road to the east, Bush Forever (site 387) to the south and a heavy vehicle transport depot / logistics centre to the west. More specifically, the following land uses directly adjoin the subject site:
 - a) 639 Welshpool Road East at the opposite corner of Brook Road and Welshpool Road East previously contained the Wattle Grove Primary School and is now a construction site containing a number of transportable structures.
 - b) 665 Welshpool Road East, abutting the site to the south-east contains a heavy vehicle transport depot / logistics centre.
 - c) 30 Brook Road opposite the site to the west contains the Abruzzo & Molise Sporting Club WA.
 - d) 44 & 56 Brook Road further west contain the Foxwood Farm Equestrian Centre.
8. Further afield, the subject site is surrounded by a mix of zones and land uses, being predominately low to medium residential development to the north (Wattle Grove Cell 9), Tonkin Highway to the east and the Maddington Kenwick Strategic Employment Area (MKSEA) to the south and west.
9. Wattle Grove Urban Cell 9 is located to the north of Welshpool Road East and comprises a range of low to medium density residential development, public open space, community and commercial/mixed use development.
10. The surrounding land to the west and further south forms part of the MKSEA area, a future industrial area which is predominately within the City of Gosnells, and partly in the City of Kalamunda at the southern end of Wattle Grove.

11. In May 2013, the then Minister for Planning approved a concurrent Metropolitan Region Scheme (MRS) and Local Planning Scheme No.3 Amendment (1235/57) to rezone the subject site as follows:
 - a) Under the MRS from 'Parks and Recreation' to 'Urban'; and
 - b) Under the LPS3 from 'Parks and Recreation' to 'Industrial Development'.
12. In April 2018, the applicant lodged an amendment request (refer Attachment 1) with the intent of diversifying the land use permissibility on the subject site.
13. In April 2012, the Western Australian Planning Commission (WAPC) entered into a Deed of Agreement with the owner of former Lot 32 and Lot 36 to ensure that the portion of Lot 32 which contains the Conservation Category Wetland (CCW) (including a 25m buffer) would be ceded to the Crown free of cost for conservation purposes. An additional 25m buffer (to form a 50m buffer) was purchased by the WAPC for conservation purposes.
14. The transfer of a portion of Bush Forever Site 387 (Greater Brixton Street Wetlands) formally under private ownership to the Crown ensures the environmentally sensitive area remains in public ownership for conservation purposes.
15. In 2012 the WAPC initiated an amendment to the MRS (1235/57) to facilitate the redevelopment of the balance of unencumbered land (the subject site) as follows:
 - a) Rezoning the subject site from 'Parks and Recreation' to 'Urban' to facilitate to the development of the land for commercial and/or light industrial purposes; and
 - b) Remove the Bush Forever Area notification over the subject site.
16. The MRS Amendment excluded the CCW area and a 50m buffer from the wetland. This area remains in the Parks and Recreation reservation under the MRS and Bush Forever site 387 (Greater Brixton Street Wetlands).
17. Council considered MRS Amendment 1235/57 at its Ordinary Meeting held on 19 November 2012 (OCM 142/2012), where it resolved to request that pursuant to section 126(3) of the *Planning and Development Act 2005* that the WAPC concurrently rezones the LPS3 zoning of the subject site, from 'Parks and Recreation' to 'Industrial Development'.
18. MRS Amendment 1235/57 was approved by the Minister and gazetted on 17 May 2013. The MRS Amendment rezoned the subject site as follows:
 - a) Under the MRS from 'Parks and Recreation' to 'Urban';
 - b) Under the LPS3 from 'Parks and Recreation' to 'Industrial Development'; and
 - c) The removal of the Bush Forever Area notification over the subject site.

DETAILS

19. The applicant is seeking Council approval to advertise Amendment 98 which proposes the following:
- a) Rezone Lot 36 (655) Welshpool Road East and Lot 810 (31) Brook Road, Wattle Grove (subject site) under the Scheme from 'Industrial Development' to 'Light Industry';
 - b) Amend the boundary of Special Control Area 4 (Poultry Buffer) to exclude the subject site; and
 - c) Introduce a Special Control Area 7 (SCA) to the Scheme to introduce the Brook Road Light Industrial Precinct with associated development/subdivision provisions.
20. The intent of rezoning the subject site from 'Industrial Development' to 'Light Industry' is to diversify the permissibility of land uses which will allow the landowner to develop for light industrial and mixed commercial purposes and remove the requirement for a Structure Plan (which is no longer a statutory document) to be prepared for the subject site.
21. In relation to SCA4 (Poultry Buffer), the subject site is proposed to be zoned 'Light Industry' whereby sensitive land uses are not permitted and therefore it is considered that the Poultry Buffer is no longer required to include the subject site.
22. To ensure the development of the site occurs in accordance with the Light Industry zoning and does not conflict with the principles of orderly and proper planning, the Scheme Amendment proposes to introduce a new SCA which will guide subdivision and development through the preparation of technical reports and associated design guidelines.
23. The SCA for the subject site is proposed to be included as a new clause 6.9 under the Scheme, referred to as the 'Brook Road Light Industrial Precinct'. It is proposed that new clause 6.9.1 be included in the SCA to ensure that environmental matters and design considerations within the precinct are addressed as a component of future subdivision or development applications. Clause 6.9.1 is proposed to state the following:
- 6.9.1 Subdivision and/or development proposals within the Special Control Area shall be supported by:*
- a) A BAL assessment or Contour Map, prepared in accordance with the Guidelines for Planning in Bushfire Prone Areas (as amended), demonstrating how any bushfire hazards identified can be appropriately managed within the context of the proposal to the satisfaction of the City of Kalamunda.*
 - b) A Local Water Management Strategy, prepare in accordance with Better Urban Water Management on the advice of the Shire of Kalamunda, to the satisfaction of the Department of Water.*
 - c) A Local Development Plan approved by the City of Kalamunda under Part 6 of the Deemed Provisions for development of land directly fronting Welshpool Road East.*

d) Design guidelines adopted as a Local Planning Policy by the local government under part 2 of the deemed provisions for development of land on Lots directly fronting Welshpool Road East.

24. Proposed Clause 6.9.1, Part a) and b) are included to ensure environmental matters are assessed (bushfire assessment and a local water management strategy) and will ensure that the City and the WAPC have the necessary information required for the assessment of applications.
25. Proposed Clause 6.9.1, Part c) and d) are included to ensure that the City's intended design outcomes are clearly articulated and landowners are required to meet minimum design standards. This will also assist with ensuring development is compatible with existing residential development in Wattle Grove Cell 9.
26. In recognition of the residential area to the north and that the adjoining MKSEA precinct will undergo a staged development, it is considered appropriate to limit the permissibility of the potentially higher impact land uses within the subject site.
27. It is proposed to alter the permissibility of the land uses of 'Motor Vehicle Wrecking', 'Salvage Yard' and 'Storage' to a 'X' (not permitted) within the SCA through the inclusion of new clause 6.9.2 to the Scheme as follows:
- 6.9.2 Notwithstanding Table 1, the permissibility of the following use classes within the 'Light Industry' zone within the Special Control Area is to be in accordance with the designation listed below for the purpose of clause 4.3:*
- *Motor Vehicle Wrecking – 'X' Use*
 - *Salvage Yard – 'X' Use*
 - *Storage – 'X' Use*
28. This is consistent with recently approved Scheme Amendments that have facilitated subdivision and development within the MKSEA that is adjacent to Hale Road and Wattle Grove Cell 9.
29. Concept plans included as part of Appendix 3 of the supporting Amendment documentation indicates that the land is proposed to include a petrol station and two fast food outlets adjacent to Welshpool Road East and series of small lot light industrial factory units to near. Detailed consideration can be given to these proposals at subsequent stages of the planning process and through the consideration of future development applications.

STATUTORY AND LEGAL CONSIDERATIONS

30. **City of Kalamunda Local Planning Scheme No. 3**
Under the provisions of the Scheme, the subject site is currently zoned Industrial Development and located within two Special Control Areas: Bushfire Prone Areas (BPA) and SCA4 (Poultry Buffer). The provisions of the BPA and SCA4 apply to the subject site in addition to the provisions applying under the zone.

31. The objectives of the current zoning of 'Industrial Development' are outlined in Part 4.2.4 (Objectives of the Zones: Industrial Zones) of LPS3 as follows:
- To provide for orderly and proper planning through the preparation and adoption of a Structure Plan establishing the overall design principals of the area.
 - To permit the development of the land for Industrial purposes and for commercial and other uses normally associated with industrial development.
32. The objectives of the proposed zoning of 'Light Industry' are outlined in Part 4.2.4 (Objectives of the Zones: Industrial Zones) of LPS3 as follows:
- To provide for predominately light industry located in proximity to residential areas.
 - To ensure that industries are environmentally compatible with surrounding zones and activities.
 - To ensure that the movement of goods and services in and out of the zone cause minimal impact on residential land in the vicinity.
33. **Planning and Development (Local Planning Schemes) Regulations 2015**
Regulation 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) requires a resolution of a local government to adopt or refuse to adopt a Local Planning Scheme Amendment as well as a justification for the type of amendment (basic, standard or complex).
34. Pursuant to Regulation 34 of the Regulations the proposed Amendment is considered to be a standard amendment as it:
- a) The Amendment is consistent with the objectives identified in the Scheme for the Light Industry zone.
 - b) The Amendment is consistent with the City of Kalamunda Local Planning Strategy.
 - c) The Amendment is consistent with the MRS zoning that applies to the site, and the applicable strategic planning framework.
 - d) The Amendment is considered to have a minimal impact upon the land within the City of Kalamunda, particularly through the provision of a proposed Local Planning Policy and Local Development Plan to guide subsequent assessment of development applications.
 - e) The Amendment will not result in any significant environmental, social, economic or governance impacts within the surrounding local area.
35. The Amendment seeks to introduce a SCA over the subject site, pursuant to Schedule 1, Part 5 (Special Control Areas) of the Regulations.
36. Pursuant to Schedule 1, Part 5, Clause 36 of the Regulations if the Amendment is approved by Council the SCA is to be marked on the Scheme Map and the purpose, objectives and additional provisions are to be included in proposed new clause 6.9.1 of the Scheme.

POLICY CONSIDERATIONS

37. **Directions 2031 and Beyond**
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.
38. The Amendment will facilitate the development of the subject site for mixed commercial and light industrial purposes, adding to the employment opportunities and improving employment self-sufficiency within the Wattle Grove locality.
39. **North-East Sub-regional Planning Framework**
In March 2018, the WAPC finalised the draft Perth and Peel @ 3.5 million suite of documents, including the North-East Sub-regional Planning Framework relevant to the subject site. The frameworks aim to identify how the vision set out in Directions 2031 for a City of 3.5 million people by 2050 can be realised.
40. The document provides guidance on where development should occur to ensure sustainable urban growth, protecting the environment and heritage, and making the most effective use of existing infrastructure. The framework identifies the subject area as 'Industrial Expansion'.
41. The proposed Amendment will enable employment-generating industrial and commercial land uses which will assist in achieving the objectives of the framework and provide employment opportunities for existing and future residents in the surrounding residential areas.
42. **City of Kalamunda Local Planning Strategy**
The City's Local Planning Strategy (LPS) was adopted by Council on 3 October 2011 and endorsed by the WAPC in February 2013. The purpose of the LPS is to enable Council to determine the vision and strategic planning direction for the City of Kalamunda for the next 20 years, to coincide with Directions 2031.
43. A key action of the LPS is to encourage the expansion of new urban and industrial areas in a sustainable manner, providing increased housing and lifestyle opportunities; local employment opportunities and protection of biodiversity and the natural environment. This includes the development of industrial land associated with MKSEA and the site.
44. **State Planning Policy 3.7 (Planning in Bushfire Prone Area)**
State Planning Policy 3.7 (SPP 3.7) applies to all sites located in bushfire prone areas and aims to ensure that all planning proposals take into account bushfire protection requirements through implementing effecting, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.
45. The entire subject site is located in a Bushfire Prone Area and as such, the requirements of SPP 3.7 apply in addition to the provisions or requirements of the City of Kalamunda's Special Control Area relating to Bushfire Prone Areas.

46. In accordance with Part 6.3 of SPP 3.7 a Bushfire Management Plan (BMP) for the subject site has been prepared to act as a technical supporting document to inform planning assessment of the scheme amendment, and to provide guidance on how to plan for and manage the bushfire risk to the subject site through implementation of a range of bushfire management measures in accordance with the Guidelines. The BMP which can be found at Appendix 7 of Attachment 1 concludes that the proposal is consistent with the aims and objectives of SPP3.7 and associated guidelines.
47. **State Planning Policy 4.1 (State Industrial Buffer)**
The purpose of State Planning Policy 4.1 – State Industrial Buffer (SPP 4.1) is to provide a consistent State-wide approach for the protection and long-term security of industrial zones, transport terminals (including ports) and other utilities and special uses.
48. Any subsequent development application of subdivision on the subject site would be required to ensure any potential impacts are able to be adequately mitigated through appropriate site design and layout in accordance with the requirements of SPP4.1

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

49. Preliminary assessment was undertaken from a Health, Engineering and Environmental Service perspective in respect to the proposed amendment, no issues were advised.

External Referrals

50. If Council should resolve to adopt this Amendment for the purposes of advertising, it will be submitted to the Environmental Protection Authority for their comment and then advertised for public comment for a minimum period of 42 days as per the requirements of Regulation 47 of the Regulations and the City's Local Planning Policy PDEV45 - Public Notification of Planning Proposals.
51. The advertising processes will include but not be limited to:
- a) Issuing letters to landowners affected by the Amendment and those within a 300 meter radius of the subject site;
 - b) A notice on the City's media platform;
 - c) A notice in the local newspaper;
 - d) Display of the Amendment at the City's Administrative Centre;
 - e) Letters to relevant public and service authorities; and
 - f) Signage on site.

FINANCIAL CONSIDERATIONS

52. All costs associated with advertising and assessment of the Scheme Amendment is to be borne by the applicant.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

53. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

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.

Priority 3: Kalamunda Develops

Objective 3.3 - To develop and enhance the City's economy.

Strategy 3.3.1 - Facilitate and support the success and growth of industry and businesses.

SUSTAINABILITY

Social Implications

54. Amenity impacts to the existing residential community are proposed to be mitigated through modified land use permissibility and area specific design guidelines that will address the manner in which development interfaces with Welshpool Road East and appropriate site design and layout in accordance with the requirements of SPP 4.1.

Economic Implications

55. The proposed Amendment will facilitate the development of industrial and commercial land uses which will in turn provide employment opportunities for local residents, creates diversity and competition in local businesses, and takes advantage of the connection to Roe, Tonkin and Leach Highways.

Environmental Implications

56. Environmental studies have been undertaken over the subject site, indicating that it is not considered to possess any specific environmental features worthy of retention. Please refer Attachment 1 for further information in this regard.

57. Former Lot 32 was reserved Parks and Recreation under the MRS and was located within Bush Forever Site 387 (Greater Brixton Street Wetlands) and formed part of a Conservation Category Wetland (CCW) due to the presence of remnant vegetation.

58. The south-west portion of the subject site is encumbered by Special Control Area 4 (Poultry Buffer) of LPS3. The SCA4 identifies land within a 300 metre radius of a former poultry farm operating on Lot 64 Brook Road and is intended to be read in the context of State Planning Policy 4.3 (Poultry Farms) which seeks restrict or limit sensitive land uses within the buffer area.

RISK MANAGEMENT CONSIDERATIONS

59.	Risk: Surrounding residents are affected by loss of amenity		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/Strategy		
Land use permissibility, separation distances and design guidelines will all help to mitigate any impact on the existing amenity of sensitive land uses. However, the Environmental Protection Authority's Guidance for the Assessment of Environment Factors: Separation Distances between Industrial and Sensitive Land Uses protects sensitive land uses from hazardous or noxious land uses at the time of planning approval. Council will have the ability to assess and determine individual applications against these policy requirements.			
60.	Risk: The Amendment is not adopted by Council for the purposes of public advertising		
	Likelihood	Consequence	Rating
	Unlikely	Significant	Medium
	Action/Strategy		
The intent of this amendment is to diversify the permissibility of land uses which will allow the landowner to develop for light industrial and mixed commercial purposes. If the amendment does not proceed the subject site will remain restricted from a land use perspective and will not enable the landowners to develop as intended thereby potentially leaving the site undeveloped.			

OFFICER COMMENT

61. The purpose of the Amendment is to rezone the subject site from 'Industrial Development' to 'Light Industry' with the intent of diversifying the permissibility of land uses on the subject site.
62. The introduction of a SCA over the subject site will enable matters which would have previously required resolution through a Structure Plan, required under the current Industrial Development zone, to be appropriately addressed with the future subdivision and/or development of the subject site.
63. Dissimilar to Structure Plans, Special Control Areas have a statutory weight, with decision makers required to satisfy the provisions of the SCA in addition to the provisions of the zone when making a determination.
64. The provisions of a SCA have the ability to set the purpose and objectives, any specific development requirements, the process for referring development applications to relevant agencies and matters to be taken into account in determining development applications.
65. The SCA is therefore proposed to ensure any subsequent development of the subject site is in accordance with the Light Industry zoning and does not conflict with the principals of orderly and proper planning. In this case, the specific provisions include the requirement for further environmental studies

(bushfire assessment and a local water management strategy), design guidelines and land use permissibility changes.

66. It is noted that the environmental studies and design guidelines could be prepared and approved by the City prior to rezoning; however, the technical studies will likely result in lot-specific mitigation and management measures, rather than changes to zoning. As such these can be addressed at the conclusion of the Scheme Amendment process and as part of future applications for subdivision and development.
67. The Light Industry zone is considered to be appropriate in its proposed location to assimilate with the surrounding industrial precinct known as MKSEA.
68. From a planning perspective, the proposed amendments are consistent with the applicable strategic and statutory planning framework and will facilitate the development of the subject site for a high quality mixed commercial and light industrial land uses through appropriate provisions included as part of the SCA. Advertising the Amendment will provide the community an opportunity to outline their concerns and for these concerns to be addressed through the planning process when the Amendment is brought back to Council for final approval.
69. Having regard to the above, it is recommended that Council adopts Scheme Amendment 98 for the purpose of public advertising.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Pursuant to Section 75 of the *Planning and Development Act 2005* adopts for the purpose of public advertising Amendment 98 to Local Planning Scheme No. 3 in accordance with Attachment 2.
2. Considers Amendment 98 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 Light Industry zone.
 - b) The Amendment is consistent with the City of Kalamunda Local Planning Strategy.
 - c) The Amendment is consistent with the MRS zoning that applies to the site, and the applicable strategic planning framework.
 - d) The Amendment is considered to have a minimal impact upon the land within the City of Kalamunda, particularly through the provision of a proposed Local Planning Policy and Local Development Plan to guide subsequent assessment of development applications.
 - e) The Amendment will not result in any significant environmental, social, economic or governance impacts within the surrounding local area.

3. Pursuant to Section 81 of the *Planning and Development Act 2005*, refers the proposed Amendment 98 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 98 to Local Planning Scheme No.3 in accordance with Regulation 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Local Planning Policy P-DEV 45 – Public Notification of Planning Proposals.

10.1.5. Proposed Amendment No. 81 to Local Planning Scheme No. 3 - Amending the Permissibility of Consulting Rooms in the Residential Zone

The Manager Approval Services provided a presentation on this item. There were no questions from Councillors or the public.

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

Previous Items	OCM41/2015
Directorate	Development Services
Business Unit	Approval Services
File Reference	PG-LPS-003/081
Applicant	City of Kalamunda
Owner	N/A
Attachments	1. Excerpt of Table 1 Zoning Table of LPS3 Existing v Proposed [10.1.5.1] 2. Amendment Document [10.1.5.3] 3. Submitters Table [10.1.5.3]

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider whether to adopt for final approval Local Planning Scheme Amendment No. 81 (the Amendment) to Local Planning Scheme No. 3 (the Scheme).
2. The Amendment seeks to modify Table 1 (Zoning Table) of the Scheme by amending the permissibility of 'Consulting Rooms' within the Residential zone, from an 'X' (not permitted) use to an 'A' (advertise) use. The Amendment was advertised for public comment with a total of three submissions received, one of which was an objection and the balance non-objections.
3. It is recommended that Council support Amendment No. 81 without modification and forward its decision to the Western Australian Planning Commission (WAPC) for its consideration.

BACKGROUND

4. The City often receives enquiries regarding the possibility of 'Consulting Rooms' within the Residential zone. 'Consulting Rooms' are currently identified in Table 1 (Zoning Table) of the Scheme as an 'X' (not permitted) use. This means that even if the use may be considered appropriate from a planning perspective, there is no ability to formally consider the use under the Scheme in the Residential zone.
5. Where an applicant wishes to proceed in having the use considered, a scheme amendment is required and this can take approximately 12 to 15 months to process and ultimately requires Ministerial approval before a planning application can be lodged with the City for consideration.

6. Given 'Consulting Rooms' is a relatively low intensity use which does not incorporate more than two consultants, it is considered that it is not always inconsistent within a Residential zone. In this respect, it is considered that Consulting Rooms can be appropriately considered within a development application process, rather than requiring a Scheme amendment in all cases.
7. Under the current Scheme, Council has previously considered the initiation of three Scheme amendments proposing Consulting Rooms as an additional use in the Residential zone, these are detailed as follows:
 - a) Amendment 39 – 484 Kalamunda Road, High Wycombe. Council initiated the amendment on 15 November 2010, however the amendment did not proceed to advertising or final adoption.
 - b) Amendment 70 – 18 Collins Road, Kalamunda which was approved by the Minister for Planning on 1 March 2016.
 - c) Amendment 77 – 182 Canning Road, Kalamunda which was approved by the Minister for Planning on 16 November 2016.
8. Following the gazettal of the abovementioned amendments, the two former sites have obtained development approval and are currently still under operation. The City has no record of any complaints associated with the operation of these uses on the surrounding residential areas.

DETAILS

9. The land use of 'Consulting Rooms' is defined under Schedule 1 (Dictionary of Defined Words and Expressions), Part 2 (Land Use Definitions) as follows:
"means premises used by no more than two health consultants for the investigation or treatment of human injuries or ailments and for general care."
10. Table 1 (Zoning Table) of the Scheme stipulates that the land use of 'Consulting Rooms' is an 'X' (not permitted) use in the Residential zone. Refer Attachment 1.
11. This amendment seeks to modify Table 1 (Zoning Table) of the Scheme by amending the permissibility of 'Consulting Rooms' within the Residential zone, from an 'X' (not permitted) use to an 'A' (advertise) use, meaning that the use would not be permitted unless the City has granted planning approval after advertising the proposal pursuant to the Scheme, refer Attachment 2.
12. To ensure any subsequent change of use applications for a 'Consulting Room' resulting from this Scheme Amendment are appropriately assessed in accordance with the Residential zoning and do not conflict with the principles of orderly and proper planning, the Amendment proposes a Local Planning Policy (Consulting Rooms in the Residential zone) be prepared and adopted by Council under Clause 2.4 of the Scheme.

STATUTORY AND LEGAL CONSIDERATIONS

13. **City of Kalamunda Local Planning Scheme No. 3**
The objectives of the Residential zone are outlined in Part 4.2.1 (Residential Zones) of the Scheme as follows:
- *To provide primarily for single residential development whilst allowing for a range of residential densities in order to encourage a wide choice of housing types within the Shire.*
 - *To give consideration to grouped dwelling developments if the site is near amenities and can be integrated into the single residential environment.*
 - *To facilitate a range of accommodation styles and densities to cater for all community groups inclusive of the elderly, young people in transition and the handicapped. Such accommodation is supported where it is appropriately situated in proximity to other services and facilities.*
 - *To encourage the retention of remnant vegetation.*
14. Part 4.3 (Zoning Table) indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various zones. The permissibility of land uses is determined through cross referencing the list of land use classes on the left hand column of the table against the list of zones in the first row of the table to establish the land uses classification in the zone.
15. The role of Part 4.3 (Zoning Table) of the Scheme is to outline the permissibility of land uses in a particular zone and should closely align with the overall objectives of each zone. This is achieved through designating each land use class into one of the following categories.
- a) 'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme;
 - b) 'D' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval;
 - c) 'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 (Advertising of Applications).
 - d) 'X' means a use that is not permitted by the Scheme.
16. **Planning and Development (Local Planning Schemes) Regulations 2015**
Pursuant to Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) this Amendment is considered to be a standard amendment as it:
- a) Is consistent with the objectives identified in the Scheme for the Residential zone.
 - b) Is consistent with the City of Kalamunda Local Planning Strategy.
 - c) Is consistent with the MRS zoning that applies to the site, and the applicable strategic planning framework.
 - d) Is considered to have a minimal impact upon the land within the City of Kalamunda, particularly through the provision of a proposed Local Planning Policy to guide subsequent assessment of development applications.
 - e) Will not result in any significant environmental, social, economic or governance impacts within the surrounding local area.

17. In September 2015 (OCM 114/2015), pursuant to Regulation 35 of the Regulations the City of Kalamunda resolved to adopt this Amendment as a standard amendment for the purposes of public advertising.
18. Pursuant to Regulation 47 of the Regulations and Section 81 and 82 of the PD Act, the Amendment was advertised for a period of 45 days. For further details regarding the advertising please refer to the Submitters List as at Attachment 3.
19. Pursuant to Regulation 50 of the Regulations, the City is required to pass a resolution regarding the Amendment within 60 days of the end of the submission period. The resolution must be made to either:
 - a) support the amendment without modification; or
 - b) support the amendment with proposed modifications to address issues raised in the submissions; or
 - c) not support the amendment.

POLICY CONSIDERATIONS

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

20. The proposed Amendment was referred internally with all internal departments. No comments were received.

External Referrals

21. Prior to public advertising, the City referred the Amendment to the Environmental Protection Authority for their comment in accordance with Section 81 of the *Planning and Development Act 2005*.
22. In March 2017 the EPA provided written advice that the proposed amendment should not be assessed under Part IV Division 3 of the Environmental Protection Act 1986 (EP Act).
23. Following receipt of the EPA comments, the proposed Amendment was advertised for a period of 45 days via the following methods:
 - a) A notice in the local newspaper;
 - b) Displayed at the City's Administration building;
 - c) A written notice to relevant public and service authorities; and
 - d) A publication on the City's online media platform.
24. During the advertising period a total of three (3) submissions were received, one (1) of which was an objection and the remaining non-objections. Please refer to Attachment 3 for a summary of and response to all objections.

25. The principal reasons for support raised by submitters during the advertising period included the following:
- a) Land use of 'Consulting Rooms' is considered appropriate for the residential zone where assessed on a case-by-case basis considering location, traffic impacts etc.
 - b) Will have a positive influence upon the local economy through increasing employment opportunities.
 - c) Will provide essential services within the local area.
 - d) Will reduce the need for travel.
26. The main concerns raised by the objector during the advertising period included the following:
- a) Land use of 'Consulting Rooms' is not considered appropriate for the residential zone.
 - b) Traffic and car parking concerns.

FINANCIAL CONSIDERATIONS

27. Any costs associated with the preparation of the amendment document and undertaking public advertising have been met through the Approval Services Budget.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

28. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 1: Kalamunda Cares and Interacts

Objective 1.1 - To be a community that advocates, facilities and provides quality lifestyles choices.

Strategy 1.1.1 - Facilitates the inclusion of the ageing population and people with disability to have access to information, facilities and services.

Priority 1: Kalamunda Cares and Interacts

Objective 1.3 - To support the active participation of local communities.

Strategy 1.3.1 - Support local communities to connect, grow and shape the future of Kalamunda.

Priority 3: Kalamunda Develops

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.

Priority 3: Kalamunda Develops

Objective 3.3 - To develop and enhance the City's economy.

Strategy 3.3.1 - Facilitate and support the success and growth of industry and businesses.

SUSTAINABILITY

Social Implications

29. Through providing the ability to consider 'Consulting Rooms' in the Residential zone, the amendment could facilitate additional health related and medical consulting services in appropriate locations throughout the City. This may ultimately expand on consulting services available to the community, particularly given these services will be in high demand with an aging population.

Economic Implications

30. If Consulting Rooms are approved in appropriate locations, this may facilitate employment opportunities and services to the locality.

Environmental Implications

31. Detailed considerations of proposals for Consulting rooms would be considered at the development application stage should the amendment be approved. In regard to noise, activities conducted in residential areas would be required to comply with the *Environmental Protection (Noise) Regulations 1997*.

RISK MANAGEMENT CONSIDERATIONS

- 32.
- | | | |
|---|--------------------|---------------|
| Risk: The Amendment is not supported by Council for adoption. | | |
| Likelihood | Consequence | Rating |
| Unlikely | Moderate | Medium |
| Action/Strategy | | |
| Demonstrate that by revising the permissibility of Consulting Rooms within the Residential zone this will incentivise practitioners to establish their business practices within the City. This will stimulate investment and employment opportunities within the City. Should Council resolve to support the proposed Amendment, a Local Planning Policy will be prepared with specific planning controls with the intent of protecting the surrounding residential amenity. | | |

OFFICER COMMENT

33. Although 'Consulting Rooms' is a non-residential land use, often the intensity and design of this land use is compatible with a residential area. Accordingly, it is considered appropriate to enable the City the ability to consider the use and development of Consulting Rooms based on the merits of a planning application.
34. Amending the Scheme to classify Consulting Rooms as an 'A' use will remove lengthy statutory processes involved with Scheme amendments and enable consideration of the use under a development application only. The amendment has been proposed and progressed in the interests of reducing regulatory requirements where appropriate and ensuring the City continuously seeks to improve and streamline processes where possible.

35. The City has undertaken a review of Local Planning Schemes of other Local Governments around the metropolitan area which indicates that Consulting Rooms are predominantly considered an 'A' (advertising) or a 'D' (discretionary) use in the Residential zone. While it is appropriate for Council to consider the permissibility of uses in the City based on local characteristics, it is also important that there is a consistent approach to statutory planning under Schemes from a State and local government perspective more broadly.
36. Classifying 'Consulting Rooms' as an 'A' use within the Residential zone allows decision makers to consider any potential amenity impacts upon surrounding landowners and exercise discretion through considering proposals on a merit and case by case basis.
37. The delay in advertising Amendment 81 from when it was adopted by Council for the purpose of advertising was due to Approval Services prioritising its City initiated Scheme amendments and policies, notably Amendment 82 – Dual Density, which were brought forward ahead of Amendment 81.
38. With regard to the objection received to the proposed amendment, it is acknowledged that potential amenity impacts arising from consulting rooms operating in residential areas is a legitimate planning consideration. Should therefore the Minister for Planning Lands and Heritage ultimately approve this amendment, a local planning policy will be prepared to complement the amendment. The Policy which is currently being prepared will guide the assessment of planning applications for consulting rooms in residential areas, with the expressed intent to ensure the activity does not compromise the prevailing residential amenity of the area. To this end, the Policy will include specific requirements regarding the location, car parking, site requirements (setbacks and open space), building design, landscaping and hours of operation. Importantly all applications will be advertised to surrounding residents, thereby provided affected residents with the opportunity to comment on the proposal.
39. Over the past two years, two Scheme Amendments allowing for the consideration of Consulting Rooms in Residential areas have been approved in the City with both sites obtaining subsequent development approval. The City has no record of any complaints having been received concerning the operation of these uses on the surrounding residential areas.
40. Having regard to the above, it is recommended Council adopt Amendment 81 for final approval.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Pursuant to Part 5 Regulation 50(3)(a) of the *Planning Development (Local Planning Schemes) Regulations 2015* Supports Amendment No. 81 to Local Planning Scheme No. 3 without modifications.

2. Pursuant to Part 5 Regulation 53 of the *Planning and Development (Local Planning Schemes) Regulations 2015* forwards to the Western Australian Planning Commission:
 - a) The Schedule of submission made on the Amendment; and
 - b) All required amendment documents.

10.1.6. Proposed Amendment 95 to Local Planning Scheme No.3 - Additional Use, Reception Centre, Lot 601 (782) Welshpool Road East, Wattle Grove

*The Manager Approval Services provided a presentation on this item.
There were no questions from Councillors or the public.*

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

Previous Items	OCM 219/2017
Directorate	Development Services
Business Unit	Approval Services
File Reference	PG-LPS-003/095
Applicant	Altus Planning and Appeals
Owner	Rothway Homestays, K E Bennett
Attachments	<ol style="list-style-type: none">1. Applicants Submission Report [10.1.6.1]2. Transport Impact Statement [10.1.6.2]3. Sight Line Assessment Report [10.1.6.3]4. Bushfire Management Plan [10.1.6.4]5. Department of Planning Response [10.1.6.5]6. Department of Planning - Response - Follow Up [10.1.6.6]7. Main Roads WA - Response [10.1.6.7]8. Department of Fire Emergency Services - Response [10.1.6.8]9. Scheme Amendment 95 Report - Form 2A [10.1.6.9]10. Submission Referral Table [10.1.6.10]11. EPA Determination [10.1.6.11]12. Median Photo 1 looking North East [10.1.6.12]13. Median Photo 2 looking North East [10.1.6.13]14. Median Photo 3 looking South West [10.1.6.14]15. Median Photo 4 looking South West [10.1.6.15]

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider adopting for final approval Local Planning Scheme Amendment 95 for the purposes of amending the City of Kalamunda (the City) Local Planning Scheme No.3 (the Scheme) to include the additional use "Reception Centre" on Lot 601 (782) Welshpool Road East, Wattle Grove (The subject site).
2. The application is accompanied by a Transport Impact Statement (TIS) in accordance with the Western Australian Planning Commission (WAPC) Transport Impact Assessment (TIA) Guidelines 2016 as well as a Bushfire Management Plan (BMP). Initial comments from the Department of Planning Lands and Heritage (DPLH) and the Department of Transport (DOT) raised concerns for traffic safety entering the site via median in Welshpool Road East from the east, it was suggested that a deceleration pocket lane be built in the median. Subsequently the applicant prepared a sight lines assessment which concluded that alternative measures be applied which negate the need for the deceleration pocket lane.

This was referred back to DPLH and DOT who have raised no objections to the alternative traffic management measures. No comments were received from the community relating to Amendment 95.

3. It is recommended that Amendment 95 be adopted by Council for final approval.

BACKGROUND

4. **Land Details:**

Land Area:	2.0057ha
Local Planning Scheme Zone:	Rural Composite
Metropolitan Regional Scheme Zone:	Rural

5. On the 20 August 2015, the City granted the land owner(s) with planning approval to operate a Bed and Breakfast at the subject site for a maximum of six guests, in addition to any persons currently residing at the residence.

6. The existing dwelling is identified in the City’s Municipal Heritage Inventory 2015, as Place No 183 – formerly Taylors Home. The residence and surrounding property were built for Fred Taylor and his family around 1927 who made a significant contribution to the local community. The building is listed as having a Management Category Level 4, which is the lowest conservation level category with minimal historic significance.

7. On the 28 November 2017, Council adopted Amendment 95 for the purpose of public advertising. Amendment 95 proposed to include an Additional Use (Reception Centre) on the subject site.

8. **Locality Plan:**



DETAILS

9. The applicant is seeking final approval for Amendment 95 to allow for an additional use of 'Reception Centre' on the subject site.
10. In support of the request, the applicant has provided the following information:
- A comprehensive planning report justifying the proposal, refer Attachment 1
 - A TIS Report, refer Attachment 2
 - A Traffic Sightlines Report, refer Attachment 3
 - A Bushfire Management Plan Report, refer Attachment 4
11. Scheme Amendment 95 will facilitate the use of a reception centre on the site as follows:
- It is proposed that the 'Reception Centre' would have the ability to operate seven days per week, on an as needs basis and that it would be seasonal, i.e. during the warmer, dryer months of the year, with approximately 15 events per year. At all other times it is proposed to continue to operate in accordance with its present approval for a Bed and Breakfast.
 - It is proposed that the 'Reception Centre' would cater for small to medium sized garden weddings, attracting approximately 50 guests with a maximum capacity of 100 guests. All events will have a cut off time of 11.00pm, except on Sundays when the cut off time will be 9.00pm.
12. In support of the proposal, the applicant has provided the following:
- "The subject land would be an ideal location for and could accommodate a Reception Centre given the size and the layout of the land well as its direct (and full) access to Welshpool Road East. Furthermore, the nature, scale and frequency of the events are such that it will not have any adverse impacts on the surrounding area and in fact, the amendment would provide an incentive for the landowner to maintain his well-manicured and established garden setting, as well as the heritage listed dwelling, all of which is considered to have a positive impact on the amenity of the locality."*

STATUTORY AND LEGAL CONSIDERATIONS

Planning and Development (Local Planning Schemes) Regulations 2015

13. In relation to the processing of Scheme amendments, Planning and Development (Local Planning Schemes) Regulations 2015 (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.

In this instance the application has been determined as a 'standard amendment'.

14. Section 50 (3) of the Regulations states that:
 'Before the end of the consideration period for a standard amendment to a local planning scheme, or a later date approved by the Commission, the local government must pass a resolution –
- a) To support the amendment without modification; or
 - b) To support the amendment with proposed modifications to address issues raised in the submission; or
 - c) Not to support the amendment.'

Metropolitan Region Scheme

15. The site is zoned Rural under the Metropolitan Region Scheme.

Local Planning Scheme No. 3

16. The subject lot is currently zoned Rural Composite under the Scheme, which includes the following objectives under Part 4.2.2 (Rural Zones):
- a) To provide for small semi-rural lots that can accommodate a limited range of rural and low scale commercial land uses in a manner that will not adversely affect the landscape and environmental qualities of the land and are appropriate to the area.*
17. The proposed additional uses are defined under the Scheme and Regulations as follows:

Use	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Definition	Local Planning Scheme No. 3 Definition
Reception Centre	Means premises used for hosted functions on formal or ceremonial occasions.	Means premises used for functions on formal or ceremonial occasions but not for un-hosted use for general entertainment purposes.

18. This Scheme amendment proposes to enable the City to consider the use 'Reception Centre' as an 'A' use in the Rural Composite zone as an additional use for this specific property. This would mean that the use is not permitted unless the City has granted planning approval after advertising the proposal pursuant to the Scheme.

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

19. The intent of State Planning Policy 3.7 (SPP 3.7) is to implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.

20. The requirements under SPP 3.7 apply in addition to the provisions or requirements of the Special Control Area relating to bushfire prone areas under the Scheme.
21. The requirements under SPP 3.7 apply in addition to the provisions or requirements of the Special Control Area relating to bushfire prone areas under the Scheme.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

22. The Sightline Assessment (Attachment 3) was assessed by the City from an Asset Services perspective. The sightline assessment report was considered and no objections were identified from a traffic perspective.

The City made comment to the condition of the existing trees within the medium strip which given their size would provide foraging for the black cockatoo species. Concern was raised regarding the possible loss of the trees as a result of the original request for a deceleration lane.

Subsequent to this, the applicant submitted a Sightline Assessment which concluded that no trees would be required to be removed from the median strip and the City's Environmental assets would not be compromised.

The City raised concerns relating to the location and potential upgrade of effluent disposal systems as well as the requirement to manage noise from the proposed use. It was indicated that both of these issues can be dealt with by way of appropriate conditions to be applied to any subsequent development application to commence development following approval of the Scheme Amendment. The applicant will have the opportunity to provide further detailed information including a Noise Management Plan and effluent capacity analysis based on the current system and new demands as a result in the intensification of land use proposed.

External Referrals

23. The amendment was advertised in accordance with the requirements of the Regulations for a standard amendment and the City's Local Planning Policy P-DEV 45 – Public Notification of Planning Proposals as follows:
 - a) Letters to surrounding landowners/occupiers
 - b) Letters to relevant public authorities and servicing authorities
 - c) Consultation for a period of 42 days in a local newspaper for two consecutive weeks, a sign placed on the site and notices placed on the City's website and social media pages.
24. No submissions to the amendment were received from the community.
25. The following comments were received from public authorities and government agencies:

Department of Lands Planning and Heritage (DPLH)

Please see Attachment 5

'The Department recommends that the City consider the installation of a right turning pocket within the median for reasons for safety and efficiency in order to separate turning vehicles from those travelling along Welshpool Road East and avoid rear end collisions for right turning vehicles.'

Upon receipt of the Sightlines Report, the City referred this additional information back to the DPLH, who advised as follows:

Please see Attachment 6

'The above report, prepared by ML Traffic Engineers dated April 2018 includes a traffic assessment in response to safety concerns, particularly right turning movements. A safety audit including: Sight distances, crash data, existing road layout and turning facilities have been assessed, and the Department is satisfied with the findings and supports the recommendations within Section 6 of the report.'

The DPLH has stated that it has no objection to the proposal on regional transport planning grounds subject to the recommendations of the Sightlines Report by ML Traffic Engineers.

Department of Transport (DoT)

'The DoT has no objection to this proposal, as it is unlikely to cause significant impact on Welshpool Rd East.'

'However, due to the extent of vegetation in the central median, a visibility assessment is recommended for access and egress movements from the venue.'

Further to this and the DPLH comments the question of sightlines and safety was put back to the applicant to prepare further information. They submitted a sightlines report from their traffic engineers which was then referred back to DoT to revisit their comments and provide revised advice to the City.

The City received further comments from the DoT which followed referral of the Sightlines Assessment Report from ML Traffic Engineers being forwarded to them for additional comment.

'Generally, it would be Main Roads WA's role to provide assistance with respect to warrants for intersection upgrade requirements.'

*'However, I will provide the following comments:
Personally, I would suggest that the modelling criteria used are pretty optimistic (100pax guests generating only 25 vehicle trips during the generator's peak hour is lower than I would expect).
However, there may be arguments for its occasional use not representing sufficient need for channelization; at the discretion of the Shire.'*

Based on my professional experience, I think that the sightline assessment is adequate for the purpose.'

Main Roads Western Australia (MRWA)

Please see Attachment 7

'Main Roads has now had the opportunity to review the documentation and attached plans. Welshpool Road East is a designated blue road "Other Regional Road" within the Metropolitan Region Scheme (MRS), under the control of the Department of Planning, Lands and Heritage. Main Roads do not provide comment on these roads (within the exception of a few). At this Scheme Amendment is not adjacent to any roads under Main Roads control, Main Roads has no comment or objection to the proposal.'

Department of Fire and Emergency Services (DFES)

Please see Attachment 8

In accordance with SPP 3.7 the Bushfire Management Plan (BMP) was referred to the Department of Fire and Emergency Services (DFES) as the proposed land use is classified as a vulnerable land use. DFES advise that the Bushfire Management Plan (BMP) has adequately identified issues arising from the bushfire risk assessment and considered how compliance with the bushfire protection criteria can be achieved for the scheme amendment. It is anticipated that any proposed bushfire management requirements are to be addressed as a condition of the additional use approval and would apply to any subsequent application to commence development. DFES advise that further assessment will be required at subsequent stages (development approval) to ensure that no new structures are located in the BAL-40 of BAL-FZ risk areas, refer Attachment 4.

Department of Health

Water Supply and Wastewater Disposal:

'The amendment is to condition that any developments are required to connect to Scheme water and reticulated sewerage (if available) as required by the Government Sewerage Policy – Perth Metropolitan Region.

Should reticulated sewerage not be available then approval is required for any on-site waste water treatment process with such proposals being in accordance with DoH publications which may be reference and downloaded from the Departments website.'

Food Act Requirements:

'The reception centre is to comply with the provisions of the Food Act 2008 and related code, regulations and guidelines. Details can be downloaded from the Department's website.'

Health (Miscellaneous Provisions) Act Requirements.

'All public access areas (reception centre etc.) to comply with the provisions of the Health (Miscellaneous Provisions) Act 1911 in particular Part IV- Public Buildings, related regulations and guidelines. Sufficient sanitary facilities are to be provided for the maximum number of patrons.'

FINANCIAL CONSIDERATIONS

26. All costs associated with the preparation and advertising of the amendment have been born by the landowner/applicant.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

27. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

Objective 3.3 - To develop and enhance the City's economy.

Strategy 3.3.1 - Facilitate and support the success and growth of industry and businesses.

Priority 3: Kalamunda Develops

Objective 3.4 - To be recognised as a preferred tourism destination.

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

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

SUSTAINABILITY

Social Implications

28. By providing the ability to consider an Additional Use for 'Reception Centre' in the Rural Composite zone, the amendment may facilitate an additional gathering place for weddings and functions within the City, accessible to a wider community.

Economic Implications

29. The proposed Scheme amendment would allow the applicant to expand an existing tourism based use for which the City can consider in the Rural Composite zone. If an additional use for Reception Centre is approved in, this will facilitate additional employment opportunities and services to the locality.

Environmental Implications

30. Detailed considerations of proposals for the Reception Centre would be considered at the development application stage if the amendment is approved. In regard to noise, activities conducted in residential areas would be required to comply with the *Environmental Protection (Noise) Regulations 1997*.

RISK MANAGEMENT CONSIDERATIONS

- 31.
- | | | |
|--|--------------------|---------------|
| Risk: The proposed land use may have an amenity impact on adjoining properties including traffic related impacts. | | |
| Likelihood | Consequence | Rating |
| Possible | Significant | Medium |
| Action/Strategy | | |
| Ensure that Council is aware if the proposed Scheme amendment is adopted by Council and granted final approval by the Minister for Planning Lands and Heritage, the proposed use of Reception Centre will still require development approval from the City. If approved, the applicant will be required to adhere to a traffic management plan and the requirements of the sightlines report recommendations being implemented prior to the use becoming operational on the this site. | | |

OFFICER COMMENT

32. Although 'Reception Centre' is a prohibited land use in the Rural Composite zone, it is considered the intensity and design of this land use is compatible with the zone. Accordingly, it is considered appropriate to enable the City the ability to consider the use and development of a Reception Centre based on the merits of a planning application.
33. Amending the Scheme to allow Reception Centre as an additional use will enable consideration of the use under a development application only.
34. It is assessed that the proposed use fits within the objectives for the Rural Composite Zoning in that it is a low scale commercial land use that is proposed to be delivered in a manner that will not adversely affect the landscape and environmental qualities of the land and are appropriate to the area.
35. If the amendment is approved, it will still be the City's prerogative to impose conditions on the future development application to impose conditions for the 'Reception Centre' where the development/use may result in an impact on the amenity of the surrounding area. This may include specific requirements regarding the location, car parking, and site requirements (setbacks and open space), building design, landscaping and hours of operation.
36. It is considered that the proposed additional use is consistent with the tourism theme of land uses currently being undertaken on this site. The permission to allow approximately 15 weddings per year, with a maximum of 100 patrons is not considered to be a significant deviation from the existing Bed and Breakfast use approved on site.

37. The applicant has provided a Traffic Impact Statement as part of their application as well as an additional Sight Line Assessment by their consultant to demonstrate that in this instance no deceleration lane is necessary. In this regard, Welshpool Road East is classified as an 'Other Regional Road' (ORR) pursuant to the Metropolitan Region Scheme (MRS). In accordance with the Main Roads Western Australia (MRWA) road information mapping system, Welshpool Road East is classified and a 'Distributor A' east of the Tonkin Highway intersection. As stated by the applicant, the proposed land use for receptions, with likely 15 events per year with a cap of 100 people per event, it is considered that Welshpool Road East can sufficiently accommodate this proposal, and that no road or access modifications will be required. Moreover, the following is noted:
- a) There are no significant trees along the verge adjacent to the subject site.
 - b) There are however mature trees located in the central median strip of Welshpool Road East in the location in which DPLH originally recommended to install a deceleration pocket lane.
 - c) Following receipt of the Sight Line Assessment it was determined by DPLH and confirmed through agreement with DOT that there are no anticipated requirements at this time for additional access and that measures (recommendations) forming Part 6 of the report are to be included in the recommendation and implemented at development application stage subject to compliance with local laws for signage.
 - d) Given the infrequency of the proposed events associated with the 'Reception Centre' proposed additional use it is assessed that the intensity of the proposed addition use is acceptable in this location. Formal advice has been sought from the DPLH and DOT on this matter with support given for the measures contained in the Sightline Assessment report will form part of the measures to manage site safety for vehicles entering and exiting the site.
38. Having regard to the above, it is recommended that Council adopt Local Planning Scheme Amendment 95 for final approval.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Pursuant to Part 5 Regulation 50(3) (b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* supports Amendment 95 to Local Planning Scheme No.3 without modification.
2. Pursuant to Part 5 Regulation 53 of the *Planning and Development (Local Planning Schemes) Regulations 2015* forwards to the Western Australian Planning Commission the Summary of Submission and Responses and all required Amendment documentation.

10.1.7. Proposed Amendment No. 96 to Local Planning Scheme No. 3 - Modifying the Use Class Permissibility in the District Centre, Commercial and Residential Zones

The Manager Approval Services provided a presentation on this item and questions were answered.

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

Previous Items	OCM161/2017
Directorate	Development Services
Business Unit	Approval Services
File Reference	PG-LPS-003/096
Applicant	City of Kalamunda
Owner	

Attachments	1. Justification for Proposed Changes to Permissibility [10.1.7.1]
	2. Submitter's Table [10.1.7.3]
	3. Amendment Document [10.1.7.4]

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider adopting for final approval Local Planning Scheme Amendment 96 to Local Planning Scheme No.3 (the Scheme) to revise the permissibility of land uses within the City through modifying Table 1 (Zoning Table) of the Scheme in relation to the District Centre, Commercial and Residential zones.
2. The City commenced an investigation into the use permissibility in the District Centre and Commercial zones following recommendations from the 2017 Strategic Service Delivery Review. During this investigation it was considered that there was merit in modifying some use class permissibility to bring the City's Scheme in line with contemporary planning objectives and community expectations. The Amendment was advertised for public comment with a total of four submissions received, one of which was an objection and the balance non-objections.
3. It is recommended that Council adopts Amendment 96 without modification.

BACKGROUND

4. 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.
5. In August 2015, the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) introduced deemed provisions that exempted development from requiring planning approval that is classified as 'P' (permitted) and:
 - a) The development has no works component; or

- b) Development approval is not required for the works component of the development.
6. This means that where a site changes use and the new use is classified as 'P' (Permitted), 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.
7. One of the recommendations of Council's Strategic Service Delivery Review in 2017 was to investigate exemptions in the 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.

DETAILS

8. This amendment proposes to modify the permissibility of some uses to ensure that a development application is required prior to the commencement of the use, to ensure that appropriate development standards and processes are applied through the development application process.
9. Attachments 1 and 2 contains a list of the 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		

10. Table 1 has been rearranged in accordance 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 and the proposed table include:
- a) Addition of the following use classes:
 - i) Bulky Goods Showroom
 - ii) Home Office
 - b) Replace 'Restaurant' with 'Restaurant/Café';
 - c) Replace 'Rural Pursuit' with 'Rural Pursuit/Hobby Farm'
 - d) Reordering of some of the uses into alphabetical order.
 - e) Delete the Showroom use class.
 - f) Delete the Stable use class.
 - g) Combine the Warehouse and Storage use classes – 'Warehouse/Storage'.
11. In addition to the above, this amendment also seeks to
- a) 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.
 - b) 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"
12. 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 heritage and Lands.

STATUTORY AND LEGAL CONSIDERATIONS

13. ***Planning and Development (Local Planning Schemes) Regulations 2015***
Pursuant to Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) this Amendment is considered to be a standard amendment as it:
- b) Is consistent with the objectives identified in the Scheme for the applicable zones;
 - c) Is consistent with the City of Kalamunda Local Planning Strategy;
 - d) Is consistent with the MRS zoning that applies to the site, and the applicable strategic planning framework;
 - e) Is considered to have a minimal impact upon the land within the City of Kalamunda; and

- f) Will not result in any significant environmental, social, economic or governance impacts within the surrounding local area.
14. In September 2017 (OCM 161/2017), pursuant to Regulation 35 of the Regulations the City of Kalamunda resolved to adopt this Amendment as a standard amendment for the purposes of public advertising.
15. Pursuant to Regulation 50 of the Regulations, the City is required to pass a resolution regarding the Amendment within 60 days of the end of the submission period. The resolution must be made to either:
- a) support the amendment without modification; or
 - b) support the amendment with proposed modifications to address issues raised in the submissions; or
 - c) not support the amendment.
16. ***City of Kalamunda Local Planning Scheme No. 3***
Part 4.3 (Zoning Table) indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various zones. The permissibility of land uses is determined through cross referencing the list of land use classes on the left hand column of the table against the list of zones in the first row of the table to establish the land uses classification in the zone.
17. The role of Part 4.3 (zoning Table) of the Scheme is to outline the permissibility of land uses in a particular zone and should closely align with the overall objectives of each zone. This is achieved through designating each land use class into one of the following categories.
- a) 'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme;
 - b) 'D' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval;
 - c) 'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 (Advertising of Applications).
 - d) 'X' means a use that is not permitted by the Scheme.
18. 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.
19. 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.
20. 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

21. **Kalamunda Town Centre Planning and Urban Design Guidelines**
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.
22. 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

23. The proposed Amendment was referred internally with all internal departments declaring a non-objection to the Amendment.

External Referrals

24. Following adoption and prior to public advertising, the City referred the Amendment to the EPA for their comment in accordance with Section 81 of the PD Act.
25. Following receipt of the EPA comments, the proposed Amendment was advertised in accordance with the Regulations and the City's Local Planning Policy PDEV45 (Public Notification of Planning Proposals) for a period of 45 days via the following methods:
- a) A notice in the local newspaper;
 - b) Displayed at the City's Administration building;
 - c) A written notice to relevant public and service authorities; and
 - d) A publication on the City's online media platform.
26. During the advertising period a total of four submissions were received, one of which was an objection and the balance non-objections. Please refer to Attachment 3 for a summary of and response to all objections.

27. The principal reasons for support raised by submitters during the advertising period included the following:
- a) Appreciate the precautionary approach.
 - b) The inclusion of a 'small bar' land use and its associated permissibility proposed through the Amendment is supported.
28. The principal concerns raised by submitters during the advertising period included the following:
- a) The Amendment counteracts the intent of planning reform imposed with the inclusion of Clause 61(2)(b) of the Regulations.
 - b) It is not considered orderly or proper planning for the permissibility of uses to be made more restrictive and onerous.
 - c) It is respectfully requested that the City reconsider the proposed changes to the existing permitted uses within the District Centre Zone and allow for these uses to remain permitted, being exempt from the need to require approval where they are consistent with the City's planning framework and require no works component as allowed for under the regulations.

FINANCIAL CONSIDERATIONS

29. Any costs associated with the preparation of the amendment document and undertaking public advertising have been met through the Approval Services Budget.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

30. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

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.

Priority 3: Kalamunda Develops

Objective 3.3 - To develop and enhance the City's economy.

Strategy 3.3.1 - Facilitate and support the success and growth of industry and businesses.

SUSTAINABILITY

Social Implications

31. The City's urban centre and commercial areas are considered to be central to perceived community character and identification, also functioning as an important gathering place 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

- 32. 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

- 33. Nil.

RISK MANAGEMENT CONSIDERATIONS

34.	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 Council is aware 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.		

OFFICER COMMENT

- 35. 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 as at Attachment 2.
- 36. 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.
- 37. During the submission period one (1) objection was made with the submitter stating that the Amendment is contrary to the intent of Clause 61(2)(b) of the Regulations. While it is noted that the intent of this clause of the Regulations is to facilitate permissible uses in appropriately zoned areas, i.e. District Centre and Commercial zoned land, from the City’s perspective however, it is important to that this approach be balanced with an appropriate level of development control.
- 38. The introduction of the deemed provisions in August 2015, removed the City’s discretion through development control whereby a proposal complied with Clause 61(2)(b) of the Regulations. This created several concerns for the City, namely the ability to control the provision of parking for a change of use application. For example 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.

This means that the City would be unable to require the provision of necessary additional parking or cash in lieu of parking, and would be unable to refuse an application that does not provide appropriate car parking.

39. 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.

40. In summary, the proposed amendment will modify Table 1 (Zoning Table) to bring it into line with contemporary planning objectives and community expectations. It is recommended that Council resolve to support this amendment, and by doing so, progress the statutory process to advance the changes proposed.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Pursuant to Part 5 Regulation 50(3)(b) of the *Planning Development (Local Planning Schemes) Regulations 2015* supports Amendment No.96 to Local Planning Scheme No.3 without modification.
2. Pursuant to Part 5 Regulation 53 of the *Planning Development (Local Planning Schemes) Regulations 2015* forwards to the Western Australian Planning Commission:
 - a) The Schedule of submission made on the Amendment (Attachment 3); and
 - b) All required amendment documents.

10.2. Asset Services Reports

10.2.1. City of Kalamunda Bicycle Plan 2017

*Manager Asset Planning and Management provided a presentation on this item.
Questions by Councillors were answered by Manager Asset Planning and Management.*

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

Previous Items	OCM 251/2017
Directorate	Asset Services
Business Unit	Asset Planning & Management
File Reference	EG-CMP-033
Applicant	N/A
Owner	N/A

Attachments	1. Bicycle Plan 2017 Summary Report - Final 2018-04-13 [10.2.1.1]
	2. Bicycle Plan 2017 Technical Report - Final 2018-04-13 [10.2.1.2]
	3. Community Engagement Summary Report - Bicycle Report [10.2.1.3]

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the outcomes of the community engagement process for the draft City of Kalamunda Bicycle Plan 2017 (the Bicycle Plan).
2. The Bicycle Plan was presented to Council in December 2017, and was subsequently advertised for public comment. A total of 78 submissions were received. Many of the submissions addressed specific projects, and these responses will be considered as the respective projects commence. Feedback on the training routes and affected areas has prompted the need to provide more information and priority to the training routes for safety and shared use.
3. It is recommended that Council adopts the City of Kalamunda Bicycle Plan 2017 Technical Report and the City of Kalamunda Bicycle Plan 2017 Summary Report for implementation and endorses a funding level of \$500,000 per year of Municipal funds for consideration in the Long Term Financial Plan and respective Capital Budgets.

BACKGROUND

4. At its meeting on 19 December 2017 (OCM 251/2017) Council considered a report on the Bicycle Plan and resolved as follows:
 1. *Receives Draft City of Kalamunda Bicycle Plan 2017 Technical Report and Draft City of Kalamunda Bicycle Plan 2017 Summary Report.*

2. *Advertises the attached Draft City of Kalamunda Bicycle Plan 2017 Technical Report and Draft City of Kalamunda Bicycle Plan 2017 Summary Report for a period of 60 days, with results then presented to Council, prior to final adoption of the Bicycle Plan.*

DETAILS

5. The community engagement process included promotion of the comment period via media releases and advertisements, hard copies of the plans in public facilities, promotion through social media, and online submissions on the Engage Kalamunda portal. Several additional engagement opportunities occurred including pop ups held at Forrestfield Forum, Hartfield Park and a conversation café at 42 On Haynes.
6. The Bicycle Plan was advertised from 12 February to 13 April 2018. Seventy-eight (78) submissions were received and are presented in Attachment 10.3.1.3.
7. Comments were sought for main sections of the plan, covering:
 - a) Section 5.1 Principal Routes;
 - b) Section 5.2 Strategic Routes;
 - c) Section 5.3 Local Routes;
 - d) Section 5.4 Safe Active Streets;
 - e) Section 5.5 Other Shared Paths;
 - f) Section 5.6 Training Routes;
 - g) Section 6 Action Plan; and
 - h) A final comment section.
8. In respect of comments on any specific project or area, it is important to note that the Bicycle Plan presents the intention to make an improvement across the City. Any project or area presented in the Bicycle Plan will be subject to more detailed consultation and design in future years. For example, the City intends to commence community consultation on the options for the improvement of the Zig Zag Scenic Drive in 2018/2019. Any changes will only be implemented following the project specific consultation and design.
9. The following list represents the types of subjects which received numerous submissions and the number of respondents in brackets:
 - a) Against 30 km/hr speed limits [5];
 - b) Suggestions on designs [12];
 - c) Concerns with cycling and driver behaviour [12];
 - d) Concerns with cycling safety for Mundaring Weir Road [10], Canning Road [8], Kalamunda Road [8], Welshpool Road East [7];
 - e) Zig Zag Scenic Drive support for either keeping as is (open to traffic) [14], or closing it [23];
 - f) Need for better promotion and education [6]; and
 - g) Positive support overall for the plan [10].
10. As the City progresses through the related actions, comments raised by the community on specific projects will be a key consideration.

11. During the advertising period, there was a high level of concern raised for the safety of cyclists and the function of the roads in the training routes area. This has prompted an update to the Bicycle Plan, with the inclusion of the following projects:
- a) Canning Road – Road safety assessment (Pomeroy Road to City Boundary) to identify the level of risk and assist the City to obtain funding.
 - b) Mundaring Weir Road – same scope as above.
 - c) Canning Road – Two projects of \$475,000 for minor widening works at specific locations, with assumed government funding.
 - d) Mundaring Weir Road – Two projects of \$465,000 similar to Canning Road.
 - e) Passing Laws – Investigate the range of issues and seek solutions to the changing driver and cyclist behaviours. Any physical works would need to be scoped and estimated.

STATUTORY AND LEGAL CONSIDERATIONS

12. Some works will be delivered to comply with and support Structure Plans, Liveable Neighbourhoods and the *Planning and Development Act 2005*.
13. The *Road Traffic Code 2000* applies to any works proposed in the road reserve.

POLICY CONSIDERATIONS

14. There are no Council policies that directly relate to this subject.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

15. The project of preparing and delivering the Bicycle Plan 2017 has been monitored by the Bike Plan Steering Group, consisting of internal staff and a representative from the Department of Transport.

External Referrals

16. The Bicycle Plan was presented for public comment as outlined in the "Details" section above.
17. Prior to the public comment period, community consultation was undertaken to inform the Bicycle Plan, including public surveys and community workshops. Over 200 survey responses were received with 64% being residents of the hills area, and 20% residing outside the City area.
18. The Bicycle Plan was also presented at the Institute of Public Works Engineering Australasia's state conference on 22 March 2018 and feedback sought from the attendees.
19. The Department of Transport is involved in the Bike Plan Steering Group and provided comments on the original draft plan.

FINANCIAL CONSIDERATIONS

20. The Bicycle Plan was prepared using part funding from the Department of Transport's Western Australian Bike Network Program.
21. The Bicycle Plan has identified 107 infrastructure projects with an estimated cost of \$49.4 million to implement. A key action to deliver the Bicycle Plan will be to source external funding through grants, with at least \$24.8 million of projects potentially being funded in whole or in part through federal and state funding. The potential municipal funding is \$24.5 million over more than 20 years. In order to manage the impact to municipal funds, the Bicycle Plan includes two funding scenarios in the Schedules of Works: Municipal funding at \$500,000 per year, and Municipal funding at \$1 million per year.
22. A decision will be required to determine the level of funding the City is prepared to commit, with consideration of the following two options:
 - a) The Schedule of Works with funding at \$500,000 per year in municipal funding will enable the City deliver 24 projects in five years, subject also to some external funding. Note this list includes several projects that are delivered through the Department of Transport or Main Roads WA.
 - b) The Schedule of Works with funding at \$1 million per year in municipal funding will enable the City to deliver 33 projects in five years, subject also to external funding.
23. The draft Long Term Financial Plan 2018-2028 has been updated to reflect the proposed works for the Bicycle Plan, using the \$500,000 funding level for consideration by Council.
24. Other financial implications include:
 - a) Funding may be available through the Department of Transport grant programs, including Principal Shared Paths, the WA Bicycle Network, and Safe Active Streets.
 - b) Funding may also be available through the State and National Black Spot Programs.
 - c) The education and awareness programs will require a small operating budget and staff resource time.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

25. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 1: Kalamunda Cares and Interacts

Objective 1.2 - To provide a safe and healthy environment for community to enjoy.

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

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

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to quality amenities.

Strategy 3.2.2 - Provide and advocate for improved transport solutions and better connectivity through integrated transport planning.

Priority 3: Kalamunda Develops

Objective 3.4 - To be recognised as a preferred tourism destination.

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

Priority 4: Kalamunda Leads

Objective 4.2 - To proactively engage and partner for the benefit of community.

Strategy 4.2.1 - Actively engage with the community in innovative ways.

SUSTAINABILITY

Social Implications

26. Expanding the cycling infrastructure and upgrading existing facilities in the City will support the activity of cycling, which has the following social benefits:
- a) Cycling for daily commuting to school, work, shops and so on incorporates exercise into the day,
 - b) Improve aerobic fitness and reduce stress levels,
 - c) Ability for social interaction with others while riding,
 - d) Passive surveillance of the street, increasing neighbourhood security,
 - e) Reduce emissions and congestion on the road, thus enabling more social activities,
 - f) Reduce various costs to individuals, this enabling more economic benefits.
27. The investigations and designs for improved cycling infrastructure will also enable improvements in safety for cyclists and other road users.

Economic Implications

28. Implications include the effect of the project funding, cycle related tourism activities, alternative transport mode considerations and development opportunities.

Environmental Implications

29. The key environmental implications include reduction in fossil fuel use, congestion, noise, and emissions.

RISK MANAGEMENT CONSIDERATIONS

30.

Risk: That the Bicycle Plan does not meet the needs of the community, resulting in resource and funding commitments that do not provide expected benefits.		
Likelihood	Consequence	Rating
Unlikely	Significant	Medium
Action/Strategy		
A significant amount of community consultation has been undertaken to ensure the plan reflects the needs of the community. Further consultation will be undertaken for individual projects to establish detailed needs.		

Risk: That the Bicycle Plan may raise community expectations for improvements that may not be affordable or deliverable in the near future.		
Likelihood	Consequence	Rating
Possible	Moderate	Medium
Action/Strategy		
The progress of implementing actions from the Bicycle Plan will be communicated regularly to the community via individual projects, and the annual report.		

Risk: That the community consultation to identify cycling options for the Zig Zag Scenic Drive may result in this route not being available for cycling access as proposed in the Bicycle Plan.		
Likelihood	Consequence	Rating
Possible	Moderate	Medium
Action/Strategy		
The Secondary Route for cycling that includes the Zig Zag Scenic Drive will need to be revised and a new route chosen, as part of the proposed review of the Bicycle Plan in approximately five years.		

OFFICER COMMENT

31. Cycling is proving to be very popular within the City of Kalamunda, with improvements and education required to ensure safety of all road users.
32. The option to close the Zig Zag Scenic Drive was commented on by 37 people during the public advertisement of the Bicycle Plan. This "Option A" was selected in the Plan in order to give a project value for the long term forecast. It is important to emphasise that the adoption of the Bicycle Plan does not limit the City (or community) options with the future of the Zig Zag Scenic Drive. The option is not locked in and a separate community consultation process will be undertaken to consider the options for cycling access through the Zig Zag Scenic Drive.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Adopts the City of Kalamunda Bicycle Plan 2017 Technical Report and City of Kalamunda Bicycle Plan 2017 Summary Report for implementation.
2. Endorses a funding level of up to \$500,000 per year in municipal funds for consideration in the Long Term Financial Plan and respective capital budgets.
3. Endorses a community consultation project to consider options for pedestrian, cycling and vehicle access through the Zig Zag Scenic Drive.

10.2.2. Asset Levels of Service 2017/2018 Communications and Engagement Results

Manager Asset Planning and Management provided a presentation on this item. There were no questions from Councillors or the public.

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

Previous Items	OCM 252/2017
Directorate	Asset Services
Business Unit	Asset Planning & Management
File Reference	OR-CIM-018
Applicant	N/A
Owner	N/A
Attachments	1. Asset Levels of Service Survey [10.2.2.1] 2. Consultation and Engagement Results [10.2.2.2]

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the results of community consultation on asset Levels of Service (LOS) for inclusion in future asset management plans.
2. The community was engaged on its view of the City's roads, drainage and footpaths through a process of online and hard copy questionnaires, two community workshops and several pop up information stalls in local shopping centres. A total of 50 submissions were received, identifying a range of different views from the community.
3. Significant responses included negative reaction to any road defects, the need to improve repairs and extent of paths, the need for improved lighting, need for further consultation on trees and verge landscaping, and a concern with drainage function and mosquitoes.
4. It is recommended that Council accepts the results of the 2017/2018 Asset Levels of Service Communication and Engagement Plan, noting that the feedback will be used to inform the upcoming Roads Asset Management Plan, Drainage Asset Management Plan and Pathways Expansion Plan.

BACKGROUND

5. The City of Kalamunda's (the City) Asset Management Strategy 2017-2021 has informed the Corporate Business Plan 2017-2021 which includes the action to "Undertake community engagement processes to establish appropriate levels of service for all asset management plans". For 2017/2018, the community engagement was undertaken for roads, drainage and pathways.
6. The Council endorsed the Asset Levels of Service 2017/2018 Communications and Engagement Plan at its meeting on 19 December 2017 (OCM 252/2017).

DETAILS

7. The LOS consultation process opened on 8 February and closed 23 March 2018. Key elements of the Community Engagement campaign promotion include a video encouraging residents to have their say, social media, public relations, face to face discussions at community locations, hard copy surveys at City locations (refer Attachment 10.3.2.1 for a copy of the survey), use of the Community Engagement Portal with electronic submission and two workshops. The key question asked was "Do you think the assets are in an acceptable condition, and do they provide the right functions and capacity?".
8. Fifty (50) responses were received in total. Of the responses 82% were residents, 54% were female and 60% were based in the hills area. A report on the results is provided as Attachment 10.3.2.2.
9. Two workshops were held, with a total of ten attendees. The City had expected low numbers as the subject matter is covering the whole City rather than specific local issues. Feedback during the workshop forms part of the submissions received.
10. The questionnaire was grouped into questions about roads, pathways, drainage and budget expenditure. The key responses that will be utilised in the asset management plans are on the questions relating to the condition of roads and paths, and the drainage function. Other questions were asked to isolate issues. For example a specific question was asked "I experience traffic delays in the City of Kalamunda", this enabled the City to isolate traffic issues from the condition of roads.
11. A broad question was asked about road condition with five example pictures presented within the questionnaire. The strongest response was for a picture showing a road with a number of potholes. All but one respondent found this picture to be *not* acceptable. The results of this section indicate that the community is very aware of visual road defects such as potholes and patches, and consider their presence unacceptable.
12. Five negative comments were received on the condition of Canning Road within the town centre and seven other comments on the need for improved road maintenance.
13. A question on the condition of bridges resulted that most respondents were unsure, while 46% accepted their condition.
14. The pictures of different types of road surface gave results indicating that the community is accepting of all seal types. Unsealed roads are accepted by half of the respondents, depending on their location.
15. Separate questions were asked about street trees, lighting, and verges. The responses indicated concern with the number and quality of street trees and verge landscaping. It was generally indicated that there is a need for more and improved street lighting.

16. Separate questions were asked about traffic, speeding, sight lines, and traffic treatments. A significant number of responses indicated problems with sight lines, street lighting, speed limits and speed of traffic. The responses on speed limits requested slowing or increasing speed limits. In regards to traffic delays, a high number (24%) of respondents indicate they are not able to get to their destination in the time they expect to. More investigation will be needed to identify the locations that have issues with sight lines, speed limit concerns and street lighting.
17. To assess community views on the condition of paths, a question was asked on path condition with five example pictures of paths presented in different conditions. The results indicated that paths showing any kind of damage are *not* acceptable. This suggests more effort is required to repair or replace even smaller cracked or uneven sections. The City's Pathways Asset Management Plan supports this view, identifying additional funding of \$80,000 per year for pathway repairs.
18. Other aspects of paths addressed falling hazards, widths, lighting, and crossings. The responses indicated a desire for more paths, more attention to the removal of tripping and falling hazards, higher priority for widening paths, more lighting of paths, and a need for more and improved pedestrian crossings.
19. Comments regarding paths reinforced the need for improved path maintenance (six requests received) and vegetation trimming beside paths (five comments). A significant number of comments were received (22) regarding the need for more, improved paths and crossings.
20. Drainage appears to be an issue for some of the respondents, with 26% responding that drainage infrastructure and flows are not acceptable. Only one specific example was provided in the comments. Responses for water quality suggest that the community is not aware of water quality issues (if there are any). Mosquitoes appear to be a problem for some respondents (44%) and not for others (50%).
21. The last question in the questionnaire asked people to allocate a budget across the five asset classes of roads, footpaths, parks and reserves, drainage, and buildings. The average value as a percentage of maintenance, renewal and upgrade budget from the respondents is shown below, with the City's actual percentage for 2017/2018 in brackets:
 - a) Roads 28.9% (32.4%)
 - b) Footpaths 20.4% (4.0%)
 - c) Drainage 14.9% (11.9%)
 - d) Parks and Reserves 20.9% (38.9%)
 - e) Buildings 16.0% (12.8)
22. In conclusion, the consultation was successful in providing indications of community acceptance for roads, drains and pathways. Areas for improvement have been identified, being:

- a) Operational changes, such as improving response and quality of repairs for roads and paths;
- b) Future plans such as for improving lighting, traffic congestion, street trees and path networks; and
- c) Specific consultation such as for traffic treatments and road sight line problems.

STATUTORY AND LEGAL CONSIDERATIONS

- 23. 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.
- 24. LOS inform the Asset Management Plans, and the terminology and objectives are compliant with international standards.

POLICY CONSIDERATIONS

- 25. The LOS consultation and engagement was undertaken in accordance with the Asset Management Council Policy C-AS-01, and the City's Community Engagement Strategy.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

- 26. The Engagement Plan was reviewed and endorsed by the Asset Management Steering Committee.

External Referrals

- 27. The community consultation is the subject of this report.

FINANCIAL CONSIDERATIONS

- 28. Future Budgets will take into account the types of treatments and levels of service expectation for community when looking at infrastructure renewal.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

- 29. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 1: Kalamunda Cares and Interacts

Objective 1.1 - To be a community that advocates, facilitates and provides quality lifestyles choices.

Strategy 1.1.2 - Empower, support and engage and with young people, families and our culturally diverse community.

Priority 3: Kalamunda Develops**Objective 3.2** - To connect community to quality amenities.**Strategy 3.2.1** - Optimal management of all assets.**Priority 4: Kalamunda Leads****Objective 4.2** - To proactively engage and partner for the benefit of community.**Strategy 4.2.1** - Actively engage with the community in innovative ways.**SUSTAINABILITY****Social Implications**

30. The community has been engaged in what they would like to see in regards LOS and by the City listening and implementing changes there will be a social benefit with community expectation being addressed in relation to future works planned and a stronger sense of community ownership created.

Economic Implications

31. The community was asked to indicate its preference for funding the maintenance and renewals of asset classes as explained previously. This has not provided a significant change to the forward planning of the City's expenditure.

Environmental Implications

32. No direct environmental implications have arisen from the consultation.

RISK MANAGEMENT CONSIDERATIONS

- 33.
- | | | |
|---|--------------------|---------------|
| Risk:
That the consultation results do not adequately reflect the needs of the community, either because the feedback is too broad or that important responses were not received. | | |
| Likelihood | Consequence | Rating |
| Possible | Moderate | Medium |
| Action/Strategy
Improve the method of consultation, and undertake further consultation in future years to improve the quality of the results. | | |
-
- | | | |
|--|--------------------|---------------|
| Risk:
That the consultation results are too varied and are not able to be used to inform the asset management plans. | | |
| Likelihood | Consequence | Rating |
| Possible | Insignificant | Low |
| Action/Strategy
Results will be used where they provide a clear direction. Where a clear direction is not provided, the current method of using internal judgement to set levels of service will continue. | | |

OFFICER COMMENT

34. Asset management is the collection of activities involved in managing infrastructure assets in a sustainable way for current and future generations. One of the activities is the creation of Asset Management Plans, which document how the assets will be managed. The Asset Management Plans cover the following subjects:
- a) Status of Assets
 - b) Levels of Service
 - c) Life Cycle Management
 - d) Risk Management
 - e) Future Demand
 - f) Financial Summary
 - g) Improvements, Monitoring and Review
35. "Levels of Service" (LOS) is a phrase used in asset management to reflect the service the assets provide to the community. For example a road provides a safer way to get from one place to another in a vehicle.
36. The City is working towards a "Core" level of asset management maturity by 2021. The Institute of Public Works Engineers Australasia's publication International Infrastructure Management Manual explains a Core maturity for LOS as meaning:
- a) LOS and performance measures in place covering a range of attributes;
 - b) Annual reporting against performance targets;
 - c) Customer group needs analysed; and
 - d) LOS and cost relationship understood.
37. This is the first City-wide consultation for asset management LOS, which will progress the City on its journey to sustainable asset management.
38. The asset management plans focus on existing assets and how they will be managed in the future, including predicted future growth. Typically the asset management plans are informed by 'expansion' plans. These expansion plans identify what is needed and when, such as the Bicycle Plan. The City is currently working on a Pathways Expansion Plan to determine how paths will be prioritised and extended through the City. The Pathways Expansion Plan will be informed by the results of this community consultation.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Accepts the Asset Levels of Service 2017/2018 Communications and Engagement Results.
2. Notes that the results will be utilised in the Drainage Asset Management Plan, Roads Asset Management Plan and Pathways Expansion Plan to be presented in 2018 for Council endorsement.

10.2.3. Kalamunda Community Centre - Community Reference Group - Recommendations

*Director Asset Services provided a presentation on this item.
There were no questions from Councillors or the public.*

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

Previous Items	SCM 08/2017; SCM 872017; OCM 28/2016, OCM 209/2016; OCM 129/2017; OCM 189/2017
Directorate	Asset Services
Business Unit	Asset Services
File Reference	SP-03/020
Applicant	N/A
Owner	N/A
Attachments	1. KCCCRG Minutes 06.12.17 Final [10.2.3.1] 2. KCCCRG Minutes 09.05.18 Draft [10.2.3.2] 3. KCCCRG Terms of Reference Revised [10.2.3.3]

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the recommendations of the Kalamunda Community Centre – Community Reference Group (KCCCRG).
2. The KCCCRG had formal meetings on 6 December 2017 and 9 May 2018 and a number of recommendations were made regarding amendments to the Terms of Reference to incorporate Deputy Community Representatives, appointment of nominees for the Deputy Community Representatives and the location of the new Kalamunda Community Centre.
3. It is recommended that recommendations from the KCCCRG be accepted by Council.

BACKGROUND

4. The Council has approved the establishment pursuant to the provisions of section 5.8 of the *Local Government Act 1995* (the Act) of the KCCCRG, including its Terms of Reference.
5. At its meeting on 24 July 2017, Council approved the formation of the KCCCRG, the associated Terms of Reference, advertising for community representatives and the process for seeking nominations from the Kalamunda Community Learning Centre, Friends of Jorgensen Park and a representative from adjoining neighbours to Jorgensen Park.
6. The formation of the KCCCRG was endorsed on the basis that it would provide valuable community and stakeholder input into the final location and design of the proposed Kalamunda Community Centre.
7. At its meeting on 16 October 2017, Council appointed the community representatives to the KCCCRG.

8. Meetings of the KCCCRG were subsequently held on 6 December 2017 and 9 May 2018 with the minutes attached (Attachments 10.3.3.1 and 10.3.3.2 respectively).

DETAILS

9. At the meeting on 6 December the KCCCRG reviewed the approved Terms of Reference and requested Council to consider amendments with the following motions endorsed unanimously:

Motion 1: Kalamunda Community Centre - Community Reference Group recommends to Council that the Terms of Reference be amended to include Deputy Community Representatives from each of the following stakeholders:

- a) Kalamunda Community Learning Centre
- b) Friends of Jorgensen Park
- c) Adjoining Neighbours to Jorgensen Park

Motion 2: Kalamunda Community Centre - Community Reference Group recommends to Council that it appoints the following nominees as Deputy Community Representatives to the Kalamunda Community Centre - Community Reference Group:

- a) Kalamunda Community Learning Centre Deputy – David Storer
- b) Friends of Jorgensen Park – Joy McGilvray
- c) Adjoining Neighbours to Jorgensen Park – Jim Sharpe

10. At this meeting, detailed presentations were provided on the current status of the project, with particular discussion on the siting of the new Kalamunda Community Centre. The following motion was unanimously endorsed for consideration by Council.

Motion 3: Kalamunda Community Centre - Community Reference Group recommends to Council that the location for the new Kalamunda Community Centre be on the site of the existing Kalamunda Community Learning Centre (KCLC) building.

11. At its meeting on 9 May 2018, the KCCCRG received an update on the Funding of the Project and it was agreed that pending the outcome of the State budget announcement, the Reference Group would seek a meeting with the Member for Kalamunda, Matthew Hughes regarding the outstanding election pledge funding committed by the State Government. This meeting will not proceed at this time as verbal advice has been received from Matthew Hughes that the \$3m funding will be considered by the Expenditure Review Committee on 11 June 2018.

STATUTORY AND LEGAL CONSIDERATIONS

12. Sections 5.8, 5.9, 5.10 and 5.11A of the *Local Government Act 1995*.

POLICY CONSIDERATIONS

13. City Policy – Appointment of Community Members to Advisory Committees and Reference Groups (OCM 192/2017 - 30 October 2017).

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

14. Nil.

External Referrals

15. Nil

FINANCIAL CONSIDERATIONS

16. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

17. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 1: Kalamunda Cares and Interacts

Objective 1.3 - To support the active participation of local communities.

Strategy 1.3.1 - Support local communities to connect, grow and shape the future of Kalamunda.

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to quality amenities.

Strategy 3.2.1 - Optimal management of all assets.

Priority 4: Kalamunda Leads

Objective 4.2 - To proactively engage and partner for the benefit of community.

Strategy 4.2.1 - Actively engage with the community in innovative ways.

SUSTAINABILITY

Social Implications

18. It is not expected that there will be any negative social impacts from the proposed recommendations from the KCCCRG.

Economic Implications

19. Nil.

Environmental Implications

- 20. Careful consideration of the siting of the building is required to minimise impact on significant trees, Carnaby cockatoo habitat and water catchment/stormwater drainage impacts.

RISK MANAGEMENT CONSIDERATIONS

21.	Risk: Without ongoing engagement with the KCCCRG the project may not be supported by the community.		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action/Strategy		
	Ensure meetings of the KCCCRG are held on a regular basis and the agendas provide opportunity for the members to input to the planning and design of the building.		
	Encourage members to communicate with and seek feedback from the community.		

OFFICER COMMENT

- 22. The proposed amendment to the Terms of Reference to include Deputy Community Representatives for the Kalamunda Community Learning Centre, Friends of Jorgensen Park and adjoining neighbours to Jorgensen Park, will ensure that these three key stakeholders will be fully represented at meetings of the KCCCRG.
- 23. A number of briefings have been given to Council about the proposed location of the Kalamunda Community Centre in Jorgensen Park and while the site of the existing Kalamunda Community Learning Centre building was indicated as the preferred site, there has been no formal adoption of the location by Council. This recommendation from the KCCCRG is supported as it will give Council the opportunity to finalise the site of the proposed Kalamunda Community Centre.

Voting Requirements: Absolute Majority

RECOMMENDATION

That Council:

- 1. Amends the Terms of Reference for the Kalamunda Community Centre – Community Reference Group with Membership to include Deputy Community Representatives from each of the following stakeholders:
 - a) Kalamunda Community Learning Centre
 - b) Friends of Jorgensen Park
 - c) Adjoining Neighbours to Jorgensen Park

2. Approves the amended Terms of Reference for the Kalamunda Community Centre – Community Reference Group as shown on Attachment 10.3.3.3.
3. Pursuant to Section 5.11A of the *Local Government Act 1995* appoints the following nominees as Deputy Community Representatives to the Kalamunda Community Centre – Community Reference Group:
 - a) Kalamunda Community Learning Centre - David Storer
 - b) Friends of Jorgensen Park – Joy McGilvray
 - c) Neighbours – Jim Sharpe
4. Approves the location of the new Kalamunda Community Centre on the site of the existing Kalamunda Learning Centre, recognising that this will require demolition of the existing building and relocation of the Learning Centre activities during construction.

10.2.4. Review of Asset Protection Bond for 2018/2019

Manager Asset Planning and Management provided a presentation on this item. Questions from Councillors were answered.

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

Previous Items	OCM 217/2016
Directorate	Asset Services
Business Unit	Asset Planning & Management
File Reference	FI-NRI-002
Applicant	N/A
Owner	N/A
Attachments	Nil

EXECUTIVE SUMMARY

1. The purpose of this report is to consider a change to the way the City addresses the protection of its assets from adjoining property development.
2. An analysis of the Asset Protection Bonds has identified that of 282 bond refund requests received in 2017, only ten required repair to City assets. As the work was either undertaken by the applicant or cost recovered by the City, there was zero net cost to the City for all of these bonds.
3. The requirement to repair or pay the cost of damage to assets, caused by building and development activities, can be recovered under the *Local Government (Uniform Local Provisions) Regulations 1996*.
4. It is recommended that Council approves the deletion of Asset Protection Bond from the 2018/2019 Schedule of Fees and Charges and endorses a change to the process whereby the inspection and repairs to damage is managed under a new Asset Protection Process.

BACKGROUND

5. In 2015/2016 the Asset Protection Bond, retitled from the Infrastructure Bond, was set at \$1,550 for a single frontage property, and \$2,100 for two or more frontages.
6. At that time, the then Shire experienced estimated costs of \$65,000 in direct costs of repair to damaged infrastructure arising under the bonded assets. As a result of the financial risk the Shire appointed an Asset Protection Bonds Officer and increased the bond amounts in 2016/2017 to \$5,000 for a single frontage and \$8,500 for two or more frontages.
7. Following complaints from building applicants due to the high value of the bond, Council considered a report on this matter at its meeting on 19 December 2016 (OCM 217/2016) and resolved to reduce the bond amount to \$2,500 for a single frontage property and \$4,000 for two or more frontages. This rate remains unchanged at the time of this report.

8. Asset Protection Bonds are designed to secure a funding source such that if assets in the road reserve are damaged by an adjoining property development, the City can withhold the bond until the applicant repairs the damage, or use the bond money to repair the damage.
9. In other local government authorities this type of bond is called a Kerb Bond or Kerb Deposit, and functions in a similar way.
10. Asset Protection Bonds are applied for any building application with a value of \$20,000 or more inclusive of the installation or removal of a swimming pool and the demolition of buildings. Asset Protection Bonds are also applied to development applications where physical work is expected to impact the road reserve.
11. Bond money received by the City is held in trust until the condition under which the bond was applied has been met.
12. Bank guarantees are accepted in lieu of direct deposit, however most applicants elect to make a deposit.
13. The amount of the Asset Protection Bonds and inspection fees are recorded in the Fees and Charges. For 2018/2019 the Fees and Charges schedule has proposed the same level as 2017/2018, subject to the outcome of this report. The amounts in the draft 2018/2019 Fees and Charges are:
 - a) Asset Protection Bond of \$2,500 for single frontages;
 - b) Asset Protection Bond of \$4,000 for two or more road frontages;
 - c) Asset Protection Bond administration fee of \$118.50 (which includes an initial inspection); and
 - d) Subsequent inspection fee of \$105.50.

DETAILS

14. A number of issues have become apparent in the current financial year, prompting the need for a review of both the amount of the Asset Protection Bond and how the process is applied:
 - a) Continuing complaints on the amount of the bond and for the bond to be waived;
 - b) Effective management of the process thus ensuring applicants are protecting assets and undertaking repairs in most situations;
 - c) Minimal need for asset repairs;
 - d) Very high numbers and value of bonds being held by the City; and
 - e) Increase in the number and gross value of bonds being held.
15. The City continues to receive complaints on the amount of the bond, and the need for it to be applied. The average single frontage is nine metres wide and has been estimated to have a potential of \$3,900 in value of City assets that could be damaged, not including vegetation.

There are a number of situations where the work is not expected to impact City assets (including vegetation), such as:

- a) Pool installations where a sufficient crossover and driveway are present;
 - b) Rural and semi-rural properties where there may be no assets in the road reserve, and where vegetation can be avoided; and
 - c) Strata unit construction where there is a common frontage and a prior bond already exists, or where there is access only through a formed common access way.
16. As of 31 March 2018 the City holds 1,223 Asset Protection Bonds with a value of \$1.76 Million. Within this amount are 827 bonds over two years old with a value of \$768,000.
17. The term of two years represents a period of time when the relevant building application or development is expected to have been completed and cleared. The bonds over two years old should have been refunded, however the applicants have not applied for a refund.
18. The City receives approximately 30 applications per month which currently require a bond, and although the City is making a concerted effort to refund all bonds, the total value of bonds under two years old is increasing.
19. In April 2018, the City conducted an analysis of the bonds refunded in 2017:
- a) 282 bond refund requests were received;
 - b) 44 of the refund requests failed an inspection by the City;
 - c) Eight of the 44 failures required work;
 - d) Three of these eight required work that exceeded the value of the bond; and
 - e) Of the eight sites that required work, the builder or owner has completed the work for six sites, while the City has undertaken the repair work for the other two sites with money fully reimbursed.
20. The current process is effective in having a zero net financial cost to the City. However, the process is considered to be not effective due to the large number and value of private funds being held in bonds (1,223 bonds valued at \$1.76 million as stated previously). The proposal is to change the amount of the bond while retaining the management process such that the City continues to be protected from cost arising from damaged infrastructure, while not administering large amounts of bond money.
21. The Asset Protection Bond process is actioned by a staff member whom also monitors and delivers related services such as checking on utility service providers' reinstatement of assets, crossover applications, and other development related impacts on public infrastructure.
22. The process for the Asset Protection Bond currently consists of:
- a) An administration fee being paid at the time of building application or specified development application;

- b) The Asset Protection Bond being paid at the time of the application;
 - c) A site inspection being undertaken with photo records;
 - d) When the refund is requested there is a completion inspection;
 - e) Follow up inspections and a subsequent inspection fee is applied if required, where the applicant has failed to ensure the relevant assets have been protected or repaired; followed by
 - f) Refund of the bond or net amount remaining.
23. It is proposed to remove the requirement for the bond, but retain the remainder of the process. The new process will be referred to as the Asset Protection Process, consisting of:
- a) An Asset Protection Fee being paid at the time of building application or specified development application;
 - b) A site inspection being undertaken with photo records;
 - c) When the work is completed and notified for clearance, there is a completion inspection of the affected assets; and
 - d) Follow-up inspections and subsequent inspection fees are applied if required, where the applicant has failed to ensure the relevant assets have been protected or repaired.
24. In the event of the applicant not willing to repair the damaged assets, the City will be able to refer to evidence from inspections and can then proceed to undertake work and recover cost under the relevant legislation (*Local Government (Uniform Local Provisions) Regulations 1996, Section 17(5)(a)*).
25. Under the current arrangement (with a bond being applied), it is possible that the cost of repair will exceed the bond amount and that this additional amount cannot be recovered from the applicant. This represents an existing risk to the City. It is also possible that in removing the bond amount, the City may not be able to recover the cost of repair to damage, resulting in a slightly higher risk to the City than current practice provides.
26. There are other circumstances whereby bonds are held by the City which will not be affected by the change to the Asset Protection Bonds, such as:
- a) Outstanding works bonds for subdivisions and developments, where the developer is seeking early clearance prior to satisfying a condition for which the cost can be evaluated and bonded;
 - b) Maintenance Bonds for subdivisions and developments where the developer is providing public assets that need to be maintained for a period of time by the developer before being handed over to the City to manage; and
 - c) Other conditions of development and subdivision approvals that are from time to time able to be bonded to protect the City's financial risk.

27. In the event that there is a significant risk to an asset or assets including vegetation and trees, the City is able to require bonds for the protection of assets as provided by the *Local Government (Uniform Local Provisions) Regulations 1996*, Section 17(5)(b). Therefore the removal of the default bond amount will not prevent the City from protecting assets when required.
28. With 1,223 existing asset protection bonds in place, valued at \$1.76 million, there is likely to be immediate requests from the applicants to have existing bonds refunded if Council resolves to delete the bond from the 2018/2019 Schedule of Fees and Charges. Given that the existing Asset Protection Bonds complied with the process at the time, the applicant will be required to complete a refund request as per the existing process. The affected assets will be inspected and refund processed at that time based on the presence of damage caused by the works. If the work is still in progress, then the new Asset Protection Process will then be applied to the application at the date of the refund inspection. There may be a need for additional resource assistance in the short term to process the refund applications.
29. The Asset Protection Process will be reviewed in two years time, or sooner if circumstances require it.

STATUTORY AND LEGAL CONSIDERATIONS

30. Asset Protection Bonds are applied under the *Local Government (Uniform Local Provisions) Regulations 1996*, Section 17(5)(b).
31. The formal initiation of work by an applicant includes any of:
- a) Building application under the *Building Act 2011*, which includes swimming pools and demolitions.
 - b) Development application under the *Planning and Development Act 2005*.
 - c) Application to remove or modify an asset in the road verge, which is administered by the local government under the *Local Government (Uniform Local Provisions) Regulations 1996*, Section 17(5)(b).
 - d) Application to replace or construct a crossover, which is administered by the local government under the *Local Government (Uniform Local Provisions) Regulations 1996*, Section 12.

POLICY CONSIDERATIONS

32. There are no policies relevant to the Asset Protection Bonds.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

33. This proposal has been circulated with Asset Services, Finance Services, and Approval Services.

External Referrals

34. The proposal has not been referred externally.

FINANCIAL CONSIDERATIONS

35. Asset Protection Bonds are held in trust in accordance with the *Local Government Act 1995*, Sections 6.6 and 6.9.
36. Fees are collected as per the Schedule of Fees and Charges for:
- a) Asset Protection Bond administration fee of \$118.50 (which includes an initial inspection); and
 - b) Subsequent inspection fee of \$105.50.
37. Income is recorded and budgeted to account 417612.425 with a proposed budget in 2018/2019 of \$30,000 revenue. This will remain unchanged as a result of this proposal.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

38. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to quality amenities.

Strategy 3.2.1 - Optimal management of all assets.

Priority 3: Kalamunda Develops

Objective 3.3 - To develop and enhance the City's economy.

Strategy 3.3.1 - Facilitate and support the success and growth of industry and businesses.

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

Strategy 4.1.2 - Build an effective and efficient service based organisation.

SUSTAINABILITY

Social Implications

39. There are no direct social implications.

Economic Implications

40. The removal of the Asset Protection Bond will relieve building applicants and developers from an additional cashflow impost.

Environmental Implications

- 41. There are no direct environmental implications, however the Asset Protection Process includes the protection of vegetation and trees.

RISK MANAGEMENT CONSIDERATIONS

42.	<p>Risk: That damage or injury occurs to the public as a result of damage to public assets from a building or development application.</p>						
	<table border="1" style="width: 100%;"> <tr> <th style="width: 33%;">Likelihood</th> <th style="width: 33%;">Consequence</th> <th style="width: 33%;">Rating</th> </tr> <tr> <td>Unlikely</td> <td>Major</td> <td>High</td> </tr> </table>	Likelihood	Consequence	Rating	Unlikely	Major	High
Likelihood	Consequence	Rating					
Unlikely	Major	High					
	<p>Action/Strategy</p> <p>Apply the Asset Protection process diligently to ensure damaged assets are repaired. A process of periodic inspections will be undertaken to monitor the condition of assets while work is in progress.</p>						
	<p>Risk: That the City is unable to recover the cost of repairing damaged assets caused by a building or development application.</p>						
	<table border="1" style="width: 100%;"> <tr> <th style="width: 33%;">Likelihood</th> <th style="width: 33%;">Consequence</th> <th style="width: 33%;">Rating</th> </tr> <tr> <td>Possible</td> <td>Moderate</td> <td>Medium</td> </tr> </table>	Likelihood	Consequence	Rating	Possible	Moderate	Medium
Likelihood	Consequence	Rating					
Possible	Moderate	Medium					
	<p>Action/Strategy</p> <ul style="list-style-type: none"> a) Apply the Asset Protection process diligently to ensure assets are recorded before and after the application. b) Apply the relevant legislation to recover costs. c) Ensure applicants are well informed of their obligations to protect public assets including vegetation. 						

OFFICER COMMENT

- 43. This proposed revision to the Asset Protection Process has arisen as a result of an analysis of the data relating to the asset protection bonds. It follows the principle that the City should only be applying bonds where there is significant risk to the City or the community. Where the risk is able to be managed effectively, the need for bonds is reduced.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Approves the deletion of the Asset Protection Bond from the 2018/2019 Schedule of Fees and Charges.
2. Notes all existing Asset Protection Bonds will be refunded subject to each applicant applying for the refund and no damage being evident to relevant assets.

10.2.5. Kalamunda/Chipping/Newburn Road Black Spot Funding Project - Public Consultation

*Director Asset Services provided a presentation on this item.
Questions from Councillors were answered.*

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

Previous Items	OCM 251/2017
Directorate	Asset Services
Business Unit	Asset Services
File Reference	EG-RDM-004
Applicant	N/A
Owner	N/A
Attachments	1. Public Consultation Comments [10.2.5.1] 2. Public Consultation Survey [10.2.5.2]

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the outcomes of public consultation undertaken in relation to the proposed Kalamunda Road/Newburn Road/Chipping Drive Black Spot project.
2. The community engagement process was considered successful in terms of responses received, with the community eager for the earliest commencement of construction.
3. It is recommended that the Kalamunda Road/Newburn Road/Chipping Drive intersection upgrade Concept Plan as shown on Drawing Number 4086-001-001/A be endorsed to progress detailed design and construction.

BACKGROUND

4. At its meeting held on 19 December 2017, Council considered a report on the proposed modifications to the roundabout at Kalamunda Road/Newburn Road/Chipping Drive with regard to Black Spot funding for 2017/2018 (OCM 251/2017), and resolved as follows:
 - 1) *Notes that feedback will be sought on the proposed modifications to the roundabout at the Kalamunda Road/Newburn Road/Chipping Drive intersection in accordance with the approved National Black Spot project details from residents and businesses within a 400 metre radius of the roundabout and from motorists who use this roundabout.*
 - 2) *Notes that a report will be presented to Council on the outcomes of these processes outlined in 1.*
 - 3) *Notes that Main Roads WA has agreed to the National Black Spot Funding to be allocated over two financial years as follows:*
 - (a) *2017/2018 - Community consultation, report to Council, detailed design, documentation and approvals. 40% Grant Funds (\$72,648)*

- (b) 2018/2019 – Construction of the roundabout modification. 60% of Grant Funds (\$108,972)*
- 4) *Approves an amendment to the 2017/2018 Budget to reflect a decrease of \$108,972 in Grant Funding Income and corresponding decrease in budget allocated to Job No. 3405 Kalamunda Road/Newburn Road/Chipping Drive Roundabout Upgrade Project.*

DETAILS

5. In following up on Resolution 1 arising from Council's meeting held on 19 December 2017. The original drawing (4086-001-001/A) as submitted for Black Spot funding consideration was revised through inclusion of additional notes in preparation for public consultation (Attachment 10.3.5.1).
6. Community and motorist feedback on the proposed modifications to the roundabout in accordance with the City's approved Black Spot submission was sought through:
 - a) "Have You Say - Proposed Roundabout Modifications" signs in Kalamunda Road, Newburn Road and Chipping Drive with referral to the City's web page to enable completion of an electronic feedback form.
 - b) "Have Your Say" section on the City's website allowing for electronic feedback forms.
 - c) Information letters with hard copy feedback forms with reference to the City's website was distributed and to the residents and businesses within a 400 metre radius of the roundabout.
7. A Public Consultation Survey (Attachment 10.3.5.2) was issued as the basis for public consideration on 13 March 2018, and concluded on 27 March 2018.
8. The public consultation process resulted in 120 responses, with 65% of those who responded acknowledging support for the proposed reconstruction of the roundabout to single lane entry/exit on all approaches along with proposed improvement to pre-deflection. Obviously, 35% of those who responded disagreed with the proposal.
9. More females submitted responses than males, with the predominant age group submitting response across both genders being received from those aged 46 to 55 years old, and the least being both the 16 to 25 and 75+ age groups.
10. In reviewing the comments received in support of the proposed modifications to the roundabout approximately a third of the "Yes" responses received provided no comment. However, the remaining two thirds provided general comment in relation to personal experiences supported by suggestions. Of interest were the comments relating to perceived speed of traffic and heavy vehicles, and converting the roundabout intersection to one controlled by traffic signals. The latter being suggested as a better option by approximately 10% of those supporting the proposed modifications, with a similar level of response suggesting that the existing entry/exits to the Shopping Centre and

other commercial properties accessing Hale Road and Chipping Drive need to be reviewed to ensure appropriate controls are in place given perceived road safety concerns experienced.

11. In reviewing the comments received against the proposed modifications to the roundabout most provided some form of response, with approximately third of the "No" responses received suggesting traffic signals should be installed. Other responses also focused on the speed of traffic along with the need to address the entry/exits to the Shopping Centre and other commercial properties accessing Hale Road and Chipping Drive for the same reason as those who made comment on this matter but answered in agreement to the proposal.
12. In general, responses to the comments provided by both those in support of the proposed modifications and those against it is advised that traffic signals at this time are not supported by Main Roads WA, with speed to some extent controlled by the proposed modifications as the opportunist element will no longer be able to drive at speed (with some crossing lanes) through the existing dual lane approach/departure section of the roundabout.
13. A small number of responses expressed concern about the number of heavy vehicles (and associated speed concerns) being experienced along Kalamunda Road. It is noted that the likes of semi-trailers have as-of-right access across the State's road network, with some that fall outside of the length and axle load restrictions able to apply for permits through Main Roads WA and where issued, these are generally conditioned. In terms of control, the City collects traffic data through its Traffic Classifier Program however, this data only provides a snapshot of actual activity. The data collected provides not only the number and speed of vehicles, but also classifies the vehicles, so it is possible to determine whether vehicles that passed over the data collection point are as-of-right vehicles or not.
14. Of interest were the comments made by approximately 5% of all responses received (i.e.: both "Yes" and "No") that Kalamunda Road needs to be upgraded to accommodate the increase in traffic being experienced.

In response to this it is noted that a budget allocation of \$80,000 has been listed for consideration in the draft 2018/2019 Research and Development Budget that will shortly be considered by Council for a Traffic Study to be undertaken for Kalamunda Road between the Roe Highway and Abernethy Road. This Traffic Study will take into account observed traffic volume increases, impact of the proposed upgrade of the Roe Highway and Kalamunda Road intersection currently being progressed by Main Roads WA, and infrastructure planning work currently being undertaken by the City to address the future upgrade of the single lane section of Abernethy Road.
15. It is proposed that comments relating to entry/exits to the Shopping Centre and other commercial properties accessing Hale Road and Chipping Drive as provided by both those in support of the proposed modifications and those against be summarised and included as part of the overall scope of the proposed Traffic Study. However and as noted above, progression of this study is subject to forthcoming budget consideration by Council.

It is noted that assessment of the entries/exits would need to involve relevant stakeholders/property owners to agree suitable outcomes and support any proposed changes to entry/exits arising from the assessment.

STATUTORY AND LEGAL CONSIDERATIONS

16. Nil.

POLICY CONSIDERATIONS

17. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

18. Internal referrals with the Asset Management Team was undertaken as part of the preparation of the Black Spot Program submission.

External Referrals

19. The extent of external referrals is outlined in the "Details" section above.

FINANCIAL CONSIDERATIONS

20. The Kalamunda Road/Newburn Road/Chipping Drive Blackspot project received 100% funding through the 2017/2018 National Blackspot Program totalling \$181,620, with the first 40% claim entitlement amounting to \$72,648 already recouped by the City (i.e.: Stage 1). The balance of funding will be recouped as the project proceeds into its construction phase in 2018/2019, with the second 40% claim made on completion of 40% of the works and the final claim actioned once all costs have been accounted for.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

21. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to quality amenities.

Strategy 3.2.1 - Optimal management of all assets.

SUSTAINABILITY

Social Implications

22. Improved traffic management within the City's road network through designing out Black Spot locations will reduce the severity of crashes that may arise and associated trauma that may be experienced by road users.

Economic Implications

23. Funding approval of the Kalamunda Road/Newburn Road/Chipping Drive Blackspot project through the 2017/2018 National Black Spot program has removed the need for municipal funding to address the crash impacts at this location in the City's road network.

Environmental Implications

24. Nil.

RISK MANAGEMENT CONSIDERATIONS

25.	Risk: Loss of funding as approved in 2017/2018 National Blackspot Program and continuation of significant rear end crashes.		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/Strategy		
	The need to provide future municipal funding to undertake roundabout improvements in order to mitigate ongoing crashes.		

OFFICER COMMENT

26. MRWA agreed to split the project into two stages and fund over two financial years, namely:
- a) Stage 1 (2017/2018) - Community consultation, report back to Council and thereafter to undertake detailed design subject to the outcome of Council's subsequent decision, with project funding allocated at 40% of the approved grant (i.e.: being funds already recouped by City); and,
 - b) Stage 2 (2018/2019) – Undertake detailed design and construction subject to the outcome of Council's consideration of this report, with project funding allocated at 60% of the approved grant (i.e.: funds still to be claimed/recouped by the City).
27. The community engagement process was considered successful in terms of the number of responses received, with positive feedback provided in relation to the Kalamunda Road/Newburn Road/Chipping Drive Concept Plan as presented in survey.
28. In addressing comments received, it was noted that there were a number of issues of concern that will need to be followed up as part of the detailed design process associated with the proposed modifications to the roundabout. Furthermore, should funding for the Traffic Study as proposed in the draft 2018/2019 Research and Development Budget be supported by Council then entry/exit assessment would then be able to be addressed.

29. The City's Traffic Classifier Program will be reviewed to determine the availability of traffic classifiers to enable further collection of traffic data to be obtained – this will also assist the proposed Traffic Study for Kalamunda Road between the Roe Highway and Abernethy Road pending confirmation of the outcome of Council's consideration of the draft 2018/2019 Budget.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Notes the outcomes of the community consultation undertaken for the proposed traffic treatment of the existing Kalamunda Road/Newburn Road/Chipping Drive roundabout which indicated 65% in favour of incorporating pre-deflection nibs to slow approach speeds and the removal of the right turn dedicated lane on the Kalamunda Road approach heading east.
2. Endorses the Concept Plan as shown on Drawing No 4086-001-001/A – Kalamunda Road/ Newburn Road/Chipping Drive Intersection Upgrade for detailed design and construction in the 2018/19 financial year being Stage 2 of the approved National Black Spot project (MRWA Ref: 21113363/City Ref: Job No 3405).
3. Notes that a proposal to undertake a Traffic Study of Kalamunda Road between the Roe Highway and Abernethy Road at an estimated cost of \$80,000 is listed for Council consideration in the draft 2018/2019 Research and Development Budget.

10.2.6. Consideration of Tenders - Provision of General Building Maintenance and Minor Works (RFT1804)

This item was withdrawn from the agenda.

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

Previous Items	N/A
Directorate	Asset Services
Business Unit	Asset & Waste Operations
File Reference	AD-TEN-004
Applicant	N/A
Owner	N/A
Attachments	Nil

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the award of contracts for the Provision of General Building Maintenance and Minor Works (RFT 1804) for a period of three (3) years, with an option, at the sole discretion of the City, to extend by a further two (2) x 12 month periods.
2. On the 28 March 2018 the City of Kalamunda (the City) issued a request for Tender (RFT1804) seeking Tenderers for general building maintenance to the City's facilities and assets.
3. It is recommended that Council appoint the following contractors to the four building maintenance categories:
 - a) General Building Maintenance - Hill Top Group
 - b) Roofing - Protek
 - c) Glazing – Kalamunda Glass
 - d) Pest Control – Maxwell Robinson

BACKGROUND

4. The City has in place planned maintenance schedules for Pest Control and Gutter Cleaning. The intention of the schedules is to ensure that potential structural failures to building/ facilities, caused by pests like white ants, are avoided and gutters are kept clear of blockages to minimise overflowing into the City's buildings/facilities.
5. The City's facilities also require constant maintenance and repairs of aging infrastructure, vandalism and unexpected failure.
6. The estimated value of these annual maintenance services for the three (3) year duration of the contract is \$2.4 million.

DETAILS

7. The scope of works is based on required annual maintenance requirements to all the City's facilities.
8. The following Panel members were duly appointed to the Tender Evaluation Panel (Panel) by the Director Asset Services:
 - a) Coordinator Building Maintenance
 - b) Supervisor Asset Maintenance
 - c) Customer Relations Officer
9. In the lead up to the commencement of the Tender Evaluation Process and based on the Qualitative Criteria for RFT 1804, consideration was given to determining what would be an acceptable qualitative score that would indicate the ability of a Tenderer to satisfactorily deliver its service. In this instance, the predetermined Qualitative Pass Mark (QPM) for RFT 1804 was set at 60%.
10. Compliance Criteria were evaluated on a "Yes/No" basis, with compliance assessment completed by the Procurement and Finance Officer. One (1) of the 19 submissions was found to be non-compliant.
11. As part of the Tender assessment process, all submissions must be considered against predefined Qualitative Criteria, which are all described in the Request for Tender document.
12. The purpose of the Qualitative Criteria is to ensure that the Tenderers easily understand what is required of them in the context of the future contract that may be entered into and in providing that understanding, ensures that Tenderers have the opportunity to properly demonstrate their ability and experience, amongst other things, in answer to each of the Qualitative Criteria required.
13. The Panel undertakes qualitative evaluation of each Tender submission in accordance with the following general direction:
 - a) Panel members read each response and evaluate answers to the Qualitative Criteria on an individual basis;
 - b) Panel members score each respective section and then compare their scores with each other to determine a consensus score;
 - c) Where clarifications are sought from the tenderers, all responses are logged in a Clarification Register and duly considered by the Panel; and
 - d) The evaluation process is observed by the Procurement and Finance Officer to ensure correct processes are followed.
14. Panel members completed the Qualitative Criteria Evaluation through comparison of individual scores and determination of consensus scores for each of the Qualitative Criteria on Tuesday 30 January 2018, in accordance with the City's evaluation process in a fair and equitable manner.

15. The Qualitative Criteria and weighting used in evaluating the submissions received are noted in the table below:

Qualitative Criteria	Weighting
1. Demonstrated Experience	30%
2. Key Personnel Skills and Experience	15%
3. Tenderer's Resources	15%
4. Demonstrated Understanding	40%

Detailed requirements for each of these criteria are detailed in the Tender Evaluation Report (Confidential Attachment 1).

16. The resultant outcomes of the qualitative assessment, in ranked order, are summarised in the table below:

Building Maintenance

Company Name	Qualitative Total Rank
Hill Top Group	1
Devco Holdings	2
M Construction	3
Protek	4
Enviro Infrastructure	5
Oban Group	6
Woodcourt	7
Mathiou Services	8
Wattle Facility Group	9
HS Hyde & Son	10
Integral Facilities	11
Grimes Contracting	12

Roofing

Company Name	Qualitative Total Rank
Protek	1
M Construction	2
Woodcourt	3
Wattle Facility Group	4
HS Hyde & Son	5
Mathiou Services	6
Oban Group	7
Integral Facilities	8

Pest Control

Company Name	Qualitative Total Rank
Maxwell Robinson	1
Bug Busters	2
A1 Trojan	3
Protek	4

Glazing

Company Name	Qualitative Total Rank
Kalamunda Glass	1
Action Glass	2
Protek	3
Wattle Group Facility	4

The actual scores achieved are detailed in the attached Tender Evaluation Report (Confidential Attachment 1)

17. Tenderers were required to provide Price Schedules to undertake the services for all City's locations as specified in the request for tender documentation. The Panel assessed the prices for an anticipated schedule of works for the period of the contract and no guarantee of the final quantity of works allocated under the contract was given.
18. Tenderers who achieved the QPM were ranked on the Pricing Schedules as per the request document as summarised in the following tables:

Building Maintenance

Company Name	Qualitative Total Rank
Hill Top Group	1
Devco Holdings	2
M Construction	3
Protek	4

Roofing

Company Name	Qualitative Total Rank
Protek	1

Pest Control

Company Name	Qualitative Total Rank
Maxwell Robinson	1
Bug Busters	2
A1 Trojan	3

Glazing

Company Name	Qualitative Total Rank
Kalamunda Glass	1
Action Glass	2

The price assessment is detailed in the attached Tender Evaluation Report (Confidential Attachment 1).

STATUTORY AND LEGAL CONSIDERATIONS

19. Section 3.57 of *Local Government Act 1995*. Part 4 of the *Local Government (Functions and General) Regulations 1996*.

POLICY CONSIDERATIONS

20. Policy C-PP01 – Purchasing, has been followed and complied with.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

21. Nil.

External Referrals

22. Nil.

FINANCIAL CONSIDERATIONS

23. The funding for this service is through individual operational cost codes attributed to the relevant building maintenance activities, as per the adopted operating budget. Sufficient funds have been allocated in these accounts for 2018/2019.
24. Funding to accommodate the works for the balance of the contract will be allocated in future operating budgets.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

25. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to quality amenities.

Strategy 3.2.1 - Optimal management of all assets.

SUSTAINABILITY

Social Implications

26. Failure to attend to building maintenance can cause significant reputational risk as building can become structurally unsafe to occupy and visually become unsightly.

Economic Implications

27. Programmed maintenance can minimise cost implications to reinstate or replace failed structural components.

28. Programmed maintenance can minimise any loss of income from facilities not able to be occupied by tenants for safety reasons.

Environmental Implications

29. Nil.

RISK MANAGEMENT CONSIDERATIONS

30.

Risk: Tender not awarded.		
Likelihood	Consequence	Rating
Possible	Moderate	Medium
Action/Strategy		
Responsiveness compromised along with increased costs for unscheduled actions and administrative time required to rectify.		

Risk: The Contractor does not satisfy the specification.		
Likelihood	Consequence	Rating
Unlikely	Moderate	Low
Action/Strategy		
Industry standard measures applied, contract management and 6 monthly review in place.		

OFFICER COMMENT

31. All Tenderers were given the opportunity to provide information in accordance with the RFT.
32. It is anticipated that the Contract is to commence in July 2018, subject to consideration of Tender Award by Council.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Approves the appointment of the following Contractors to the building maintenance disciplines as listed below for the Provision of General Building Maintenance and Minor Works within the City of Kalamunda for a period of three years commencing from 1 July 2018 with an option, at the sole discretion of the City, to extend by a further two x 12 month period in accordance with the Price Schedules in Confidential Attachment 2:
 - a) Building Maintenance- Hill Top Group
 - b) Roofing- Protek
 - c) Pest Control- Maxwell Robinson
 - d) Glazing- Kalamunda Glass

10.2.7. Consideration of Tenders for the Provision of Transporting of Waste Streams from Walliston Transfer Station (RFT 1801)

*The Director Asset Services provided a presentation on this item.
Questions from Councillors were answered.*

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

Previous Items	N/A
Directorate	Asset Services
Business Unit	Asset & Waste Operations
File Reference	AD-TEN-004
Applicant	N/A
Owner	N/A
Attachments	Nil

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the award of contract services for the Provision of Transportation of Waste Stream Materials from Walliston Transfer Station and for the disposal of these materials to the contractors nominated sites on behalf of the City of Kalamunda (RFT 1801).
2. On the 7 March 2018, the City of Kalamunda (the City) issued the Request for Tender (RFT 1801) seeking Tenderers for the Provision of Transportation of Waste Streams from Walliston Transfer Station and for the disposal of these materials to the contractor's nominated sites
3. It is recommended that Council appoint West Tip Waste for the Provision of Transportation of Waste Streams from Walliston Transfer Station and for the disposal of these materials to the contractors nominated sites on behalf of the City of Kalamunda (RFT 1801), for a period of three (3) years with an option, at the sole discretion of the City, to extend by a further two (2) x 12 month period.

BACKGROUND

4. The City's Walliston Transfer Station located at 155 Lawnbrook Road Walliston, accumulates several classes of mixed waste materials from the transfer station and various City maintenance operations. As a result, these materials necessitate transportation off site to be disposed in accordance with all obligatory legislative requirements.
5. The waste material to be transported and disposed includes class 1, 2 and 3 contaminated mixed waste, Road and Footpath Sweepings and Gully Educting. Annual estimated tonnages for each respective waste stream include:
 - a) 7,000 Tonnes per year of Mixed Waste.
 - b) 2,500 Tonnes per year of Road and Footpath Sweepings.
 - c) 2,500 Tonnes per year of Gully Educting Waste.

6. The annual value for the transportation and disposal of the materials is estimated at \$700,000.00.

DETAILS

7. The scope of works includes the transportation of the following waste materials from the Walliston Transfer Station located at 155 Lawnbrook Road, Walliston.
- a) **Class I - Mixed Waste:** Includes but is not limited to; bricks, building rubble, bitumen, concrete, cement bags, strapping, plaster board, tiles, ceramics, rebar, porcelain, wood and plastics.
 - b) **Class II - Road and Footpath Sweeping Waste:** Includes but is not limited to; can be mixed, dried and wet materials including leaves, green waste, grit litter, glass, oils and plastics.
 - c) **Class III - Gully Educting Waste:** Includes but is not limited to mixed, dried and wet materials including leaves, green waste, sand, soil and sod, grit litter, glass, oils and plastic.
8. The successful Tenderers will be responsible for the loading of the trucks, and transportation during standard hours of work Monday to Wednesday (ONLY) - 6:30am to 4:00pm.
9. All waste streams are to be transported via semi-trailer or truck and dog combination from the Transfer Station on a regular pre-determined schedule.
10. The following Panel members were duly appointed to the Tender Evaluation Panel (Panel) by the Director Asset Services:
- a) Supervisor Resource Recovery (Panel Chair)
 - b) Coordinator Waste and Fleet Services
 - c) Team Leader Walliston Transfer Station
11. In the lead up to the commencement of the Tender Evaluation Process and based on the Qualitative Criteria for RFT 1801, consideration was given to determining what would be an acceptable qualitative score that would indicate the ability of a Tenderer to satisfactorily deliver its services. In this instance, the predetermined Qualitative Pass Mark (QPM) for RFT 1801 was set at 60%.
12. Compliance Criteria were evaluated on a "Yes/No" basis, with compliance assessment completed by the Procurement and Finance Officer. All submissions were assessed as compliant with the Tender Compliance Criteria.
13. As part of the Tender assessment process, all submissions must be considered against predefined Qualitative Criteria, which are all described in the Request for Tender document.

14. The purpose of the Qualitative Criteria is to ensure that Tenderers easily understand what is required of them in the context of the future contract that may be entered into and in providing that understanding, ensures that Tenderers have the opportunity to properly demonstrate their ability and experience, amongst other things, in answer to each of the Qualitative Criteria required.
15. The Panel undertakes qualitative evaluation of each Tender submission in accordance with the following general direction:
- a) Panel members read each response and evaluate answers to the Qualitative Criteria on an individual basis;
 - b) Panel members score each respective section and then compare their scores with each other to determine a consensus score;
 - c) Where clarifications are sought from tenderers, all responses are logged in a Clarifications Register and duly considered by the Panel; and
 - d) The evaluation process is observed by the Procurement and Finance Officer to ensure correct processes are followed.
16. Panel members completed the Qualitative Evaluation through comparison of individual scores and determination of consensus scores for each of the Qualitative Criteria on Tuesday 8 May 2018, in accordance with the City's evaluation process in a fair and equitable manner.
17. The Qualitative Criteria and weighting used in evaluating the submissions received are noted in the table below:

Qualitative Criteria	Weighting
1. Relevant Experience	30%
2. Key Personnel Skills and Experience	15%
3. Tenderer's Resources	15%
4. Demonstrated Understanding	40%

Detailed requirements for each of these requirements are outlined in the Tender Evaluation Report (Confidential Attachment 1).

18. The resultant outcomes of the qualitative assessment, in ranked order, are detailed in the table below:

Company Name	Qualitative Total Rank
West Tip Waste	1
Cleanaway	2
All Earth Group	3
Perth Bin Hire	4
Community Greenwaste	5
Instant Waste Management	6

The actual scores achieved are detailed in the attached Tender Evaluation Report (Confidential Attachment 1).

19. The following Tenderer's achieved the required QPM of 60%, advancing to the price assessment stage of the Tender evaluation process:
- a) West Tip Waste
 - b) Cleanaway
 - c) All Earth Group
 - d) Perth Bin Hire
 - e) Community Greenwaste
20. The Tenderer not achieving the required QPM, did not have its prices assessed.
21. Tenderers were required to provide a Price Schedule to undertake the services as specified in the request for tender completed, for all City locations and scenarios stipulated in Qualitative Criteria under (d) *Demonstrated Understanding*. The Panel assessed the price for an anticipated schedule of works for the period of the contract and no guarantee of the final quantity of works allocated under the contract was given.
22. Tenderers who achieved the QPM were assessed on the pricing for the nominated "scheduled work" as per the request document and ranked as summarised in the table below:

Tenderer	Rank
West Tip Waste	1
Perth Bin Hire	2
Cleanaway	3
All Earth Group	4
Community Greenwaste	5

The price assessment is detailed in the attached Tender Evaluation Report (Confidential Attachment 1).

STATUTORY AND LEGAL CONSIDERATIONS

23. Section 3.57 of *Local Government Act 1995*. Part 4 of the *Local Government (Functions and General) Regulations 1996*.

POLICY CONSIDERATIONS

24. Policy C-PP01 – Purchasing, has been followed and complied with.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

25. Nil.

External Referrals

26. Nil.

FINANCIAL CONSIDERATIONS

- 27. The funding for this service is through individual operational cost codes Funding for services estimated at \$700,000.

Sufficient funds have been allocated in these accounts for 2018/2019.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

- 28. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 2: Kalamunda Clean and Green

Objective 2.3 - To reduce the amount of waste produced and increase the amount of reuse and recycling of waste.

Strategy 2.3.1 - Identify and implement strategies to reduce waste.

SUSTAINABILITY

Social Implications

- 29. Removal of waste materials from the site in a timely manner provides for safer and more efficient use of the Transfer Station.

Economic Implications

- 30. Scheduled removal of waste streams from the Walliston Transfer Station ensures that costs are managed more efficiently.

Environmental Implications

- 31. The removal of the waste streams in a timely manner minimises the possibility of leaching of contaminants into the soil and stock piles encroaching onto surrounding bushland areas and natural environment.

RISK MANAGEMENT CONSIDERATIONS

- 32.

Risk: Tender not awarded will result in stockpiling of materials at the Walliston Transfer Station		
Likelihood	Consequence	Rating
Possible	Moderate	Medium
Action/Strategy		
Responsiveness compromised along with increased costs for unscheduled actions and administrative time required to rectify. Purchasing Policy non-compliance for period of the contract.		

Risk: The Contractor does not satisfy the specification.		
Likelihood	Consequence	Rating
Unlikely	Moderate	Low
Action/Strategy		
Industry standard measures applied, contract management and 6 monthly review in place.		

Risk: The storage of materials not being in accordance with Department of Water and Environment Resources (DWER) conditions.		
Likelihood	Consequence	Rating
Unlikely	Major	High
Action/Strategy		
The City to ensure that waste streams accumulated at the Walliston Transfer Station are in accordance with DWER conditions.		

OFFICER COMMENT

33. All Tenderers were given the opportunity to provide information in accordance with the Request for Tender.
34. The Panel concluded that West Tip Waste provided sufficient information as requested under the Qualitative Criteria in support of its ability to carry out the prescribed works, scoring in excess of the QPM of 60%.
35. It is anticipated that the Contract is to commence on 1 July 2018, subject to consideration of Tender Award by Council.

Voting Requirements: Absolute Majority

RECOMMENDATION

That Council:

1. Approves the appointment of West Tip Waste for the Provision of Transportation of Waste Stream Materials from Walliston Transfer Station and for the disposal of these materials to the contractor's nominated sites on behalf of the City of Kalamunda (RFT 1801), for a period of three years commencing on 1 July 2018 with an option, at the sole discretion of the City, to extend by a further two x 12 month period in accordance with the Price Schedule in Confidential Attachment 2.

10.3. Corporate Services Reports

10.3.1. Proposed Road Closure and Road Dedication – Lot 830 (No. 221) Merrivale Road, Pickering Brook

Mr Peter Fantiz asked for clarification on the reason for the caveat. The Director Corporate Services responded. Councillors asked for clarification on what would happen if the property was to sell. General Counsel will provide a confidential memo to Councillors with information due to legal advice being sought.

The Director Corporate Services provided a presentation on this item.

Further questions from Councillors and the public were answered by Director Corporate Services.

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

Previous Items	OCM 258/2017; OCM 31/2018; OCM 57/2018
Directorate	Corporate Services
Business Unit	Economic, Land & Property Services
File Reference	MR-15/221
Applicant	Peter & Gillian Fantuz
Owner	State of Western Australia
Attachments	1. Letter from owners 11.04.2017 [10.3.1.1] 2. Merrivale Road - Road Rationalisation Plan [10.3.1.2] 3. Table C [10.3.1.3] 4. Table D [10.3.1.4]

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the provision of formal access to Lot 830 (No. 221) Merrivale Road, Pickering Brook (Lot 830).
2. It is proposed that formal access be provided to Lot 830 by realigning Merrivale Road. To realign Merrivale Road, it is necessary to excise a portion of land from Reserve 47881 and dedicate it as a road, and to permanently close the redundant (unconstructed) portion of Merrivale Road road reserve.
3. It is recommended that Council support the initiation of the advertising and consultation process for the proposed road closure and road dedication.

BACKGROUND

4. At its Ordinary Council Meeting on 19 December 2017, Council resolved as follows (OCM 258/2017):

That Council:

1. *Requests the Chief Executive Officer to bring a report to Council in March 2018 that considers providing formal access to Lot 830 Merrivale Road.*

5. At the March Ordinary Council Meeting on 27 March 2018, Council resolved (OCM 31/2018):

That Council:

1. *Defer this item until the April Ordinary Council Meeting.*

6. At the April Ordinary Council Meeting on 24 April 2018, Council resolved (OCM 57/2018):

That Council:

1. *Defer this item until the June Ordinary Council Meeting to enable further investigations to be undertaken by the City's administration.*

DETAILS

7. On 11 April 2017, Peter and Gillian Fantuz (Applicants) wrote to the City seeking formal access to their property at Lot 830, as their current method of access is by way of a gravel track running across Korung National Park. The Applicants' letter is attached to this Report as Attachment 1.
8. The Department of Lands (now the Department of Planning, Lands & Heritage) had previously been contacted by the Applicants and had identified the following two options:
1. Department of Lands grant a non-exclusive section 91 licence for access purposes (Option 1).
 2. Excise a portion of land from Reserve 47881 and dedicate it as a road (Option 2).
9. Both options require the approval of the Conservation and Parks Commission and the City of Kalamunda.
10. The Applicants have advised that they are not satisfied with Option 1 due to the temporary nature of a licence. The Applicants have requested that the City support Option 2.
11. It is proposed that a portion of land be excised from Reserve 47881 and dedicated as a road, and that the redundant (unconstructed) portion of Merrivale Road road reserve be permanently closed.
12. Asset Services have drafted a Road Rationalisation Plan (Plan 4253-01-01/0) which delineates and marks the proposed road closure and road dedication areas. The Plan has been provided to the Applicants for comment and the Applicants have confirmed that the Plan is acceptable.
13. The Department of Planning, Lands & Heritage has also confirmed that the Plan is sufficient to inform the drafting of a Deposited Plan. Plan 4253-01-01/0 is attached to this Report as Attachment 2.

14. Following the deferral of the March 2018 Council Report, the City considered a third option, being to provide a battle axe freehold access to Lot 830. The Applicants have advised that they are not satisfied with this option because purchasing a battle axe leg cannot occur until native title issues have been resolved. Further, this option would require the Applicants to purchase the battle axe leg at the current unimproved market value for the land. The Applicants have again requested that the City support Option 2.
15. The Applicants have since written to the City advising of their requirements in relation to this matter and this is outlined in Confidential Attachment 1.
16. The construction of the road is not in the wider public interest as it benefits only one landowner. Further, the subdivision was created without the provision of any formal road access well before the current owners purchased Lot 830.
17. Given that the road construction costs are in the vicinity of \$250,000, it is important that the City is not left with a future liability for road construction when road access to Lot 830 should have been dedicated and constructed at the time of subdivision.
18. To protect the City's future interests, it is proposed that the Applicants be required to enter into a legal agreement with the City (supported by a caveat) acknowledging that the road is unconstructed and that the City has no obligation to construct the road. A caveat must be lodged on the certificate of title to Lot 830 to ensure that not only the Applicants, but also future owners of Lot 830, are unable to expect the City to construct the road.

STATUTORY AND LEGAL CONSIDERATIONS

19. Section 3.1(1) of the *Local Government Act 1995* (WA) states that the general function of a local government is to provide for the good government of persons in its district.
20. Section 3.18(3)(c) of the *Local Government Act* requires a local government to satisfy itself that services and facilities it provides are managed efficiently and effectively.
21. The proposed road closure and road dedication must proceed in accordance with s. 56 and s. 58 of the *Land Administration Act 1997* (WA).
22. Section 56 of the *Land Administration Act* relates to the dedication of land as road. Section 56(1)-(2) states as follows:
 - (1) *If in the district of a local government —*
 - (a) *land is reserved or acquired for use by the public, or is used by the public, as a road under the care, control and management of the local government; or*
 - (b) *in the case of land comprising a private road constructed and maintained to the satisfaction of the local government —*

- (i) *the holder of the freehold in that land applies to the local government, requesting it to do so; or*
- (ii) *those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;*

or

- (c) *land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years,*

and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.

- (2) *If a local government resolves to make a request under subsection (1), it must —*
 - (a) *in accordance with the regulations prepare and deliver the request to the Minister; and*
 - (b) *provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.*

23. Section 58 of the *Land Administration Act* relates to permanent road closures. Section 58(1)-(3) states as follows:

- (1) *When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) *When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
- (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*

24. The Department of Planning, Lands & Heritage's requirements for road closure and road dedication applications are set out in Table C and Table D, which are attached to this Report as Attachment 3 and Attachment 4.

POLICY CONSIDERATIONS

25. The City's Asset Management Policy (C-AS-01) states that "*As part of a continuous improvement process, the Shire of Kalamunda will continually monitor, audit and review its asset portfolio to ensure it is responsive to service delivery needs and meets the goals and targets set by Council.*"

26. A review of the portion of road reserve proposed to be closed indicates that it is surplus to the current and future requirements of the road network.
27. The portion of land proposed to be dedicated as road is required to provide access to Lot 830.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

28. The City's Asset Services directorate has reviewed the matter and supports the proposed road closure and road dedication. Asset Services notes the costs of formation of a road, if required, would need to be the responsibility of the land owner. The extent of any formation or construction work will need to be determined later.

External Referrals

Department of Biodiversity, Conservation and Attractions

29. The Department of Biodiversity, Conservation and Attractions (DBCA) referred the proposal to the Conservation and Parks Commission.
30. DBCA advised that the closure of the unconstructed road reserve and its addition to the adjacent Reserve 47881 together with the excision of the new road reserve from Reserve 47881, including all surveys, approvals and documentation must be carried out at no cost to the Commission.
31. A further condition of the Commission's support is that the City is requested to carry out a flora and fauna survey prior to the construction of the new road.
32. DBCA requested that it be advised once Council has approved the proposal. Once DBCA receives confirmation that Council has approved the proposal, the approval of the Hon. Minister for Environment will be sought by the Commission.

Department of Planning, Lands & Heritage

33. The Lands Division of the Department of Planning, Lands & Heritage (Lands) provided an overview of the requirements to progress the proposed realignment of Merrivale Road. The overview is set out below.
34. *City to provide a plan to inform Lands' survey instructions:*
 - a) Provide plan to identify the final extent of Merrivale Road to be surveyed.
 - b) Plan to be dimensioned and include firm estimates of areas of road to be closed and dedicated.
 - c) Lands' survey coordination team will prepare instructions to be used by the landowners and/or the City's nominated surveyor.
 - d) City to liaise with landowners regarding survey costs.

35. *Council resolution for section 56 road dedication and section 58 road closure, Land Administration Act 1997:*
- a) Council can resolve in the one resolution to undertake the s. 56 and s. 58 processes.
 - b) Section 56 road dedication requirements as per Table D.
 - c) Section 58 road closure requirements as per Table C.
36. *Deposited Plan:*
- a) Draft Deposited Plan depicting road closure and dedication actions as well as Reserve amendments (excision/addition).
 - b) Deposited Plan to also include a s. 24KA of the *Native Title Act 1993* (NTA) notification, to suppress Native Title rights and interests for the road dedication (a public work under the NTA) (Lands to formally notify Native Title claimant group).
37. *Before Lands proceeds with submission to Parliament for Major A Class Reserve Amendment:*
- a) City to provide Council Resolution – s. 56/s. 58 LAA road dedication/ closure requirements.
 - b) Draft Deposited Plan.
 - c) Minister for Environment’s and Conservation and Parks Commission’s (Branch of DBCA) consent to the proposal.
 - d) Department of Mines and Petroleum clearance (Lands to obtain).
 - e) Lands to undertake internal referral to Planning division.
38. *Major A Class Reserve Amendment to be undertaken by Lands:*
- a) Lands to provide briefing note to Lands Director General to advertise proposal.
 - b) Arrange for advertisement to be placed in newspaper.
 - c) Letters to local Member/s of Parliament.
 - d) Prepare submission to Minister including both Houses of Parliament.
 - e) Enter submissions to Parliament Register.
 - f) Check website for disallowances in both houses of Parliament (14 actual sitting days – spread over an undetermined period).
 - g) If no disallowances, final submission to Parliament Register/preparation of necessary documents to close/dedicate road and amend reserve and lodge at Landgate.
 - h) If disallowances passed by Parliament, seek to amend, renegotiate and resubmit proposal.
39. Once the above is complete, the proposal will be forwarded to Lands’ Delivery Team to finalise the lodgement of documents.
40. Lands anticipates that this process will take between 12-18 months or longer. Due to the timeframe that this proposal will take to complete, the processes/procedures may be subject to change. For example, the South West Settlement Indigenous Land Use Agreement is currently being negotiated. Should this agreement be determined, then the Native Title interests over the subject land would be extinguished and the s. 24KA NTA process will not be required and may reduce the overall timeframe.
41. Public advertising will be required by the City and the Department of Lands.

FINANCIAL CONSIDERATIONS

42. Following further consultation with the Applicant, it is now proposed that the Applicants be responsible for all costs of the proposal up to an agreed maximum of \$6,000. The costs of the proposal include, but are not limited to, the costs of advertising, surveys, flora and fauna surveys, approvals, and documentation preparation and lodgement.
43. It is reasonable that the Applicants be required to pay all costs of the proposal up to a maximum of \$6,000, given that the proposal only serves to benefit their property, being Lot 830, and the City contribute the balance in order to establish an approved road reserve.
44. The estimated costs of the proposal are as follows:
- Land Surveys: \$6,000-\$12,000.
 - Advertising by the City: \$900-\$1,300.
 - Advertising by Lands: Costs associated with the advertising by Lands are not yet known. As an estimate based on previous advertisements placed for similar proposals, this may be in the order of \$800+.
 - Service relocation and easements: Likely to be nil as Lot 830 is already serviced and no relocations are likely required. Subject to confirmation with the service authorities.

	Min.	Max.
Land Surveys	\$6,000	\$12,000
Advertising by City	\$900	\$1,000
Advertising by Lands	\$800	\$800+
Total estimated costs	\$7,700	\$13,800

In the event that Council decided to construct the road in the future, the City would be required to fund the following costs:

- Flora and Fauna Survey: \$7,000-\$10,000. Only required if road construction proceeds.
- Road construction: \$250,000 approximately, in the event that there was a requirement to construct the road.

Total estimated costs for road construction = \$260,000.

In order to protect the City from incurring a future financial liability for road construction, without further due consideration by Council, the City proposes to request a legal agreement and caveat be placed over the property to ensure that future owners could not require the City to meet the cost of a road that would only service one property. The cost of the legal agreement and caveat would be:

- Legal agreement and caveat: \$3,000+. The Applicants will be required to enter into a legal agreement with the City (supported by a caveat) acknowledging that the road is unconstructed and that the City has no obligation to construct the road.

45. Due to the timeframe that this proposal will take to complete, the relevant processes/procedures are subject to change, which may impact on the indicative costs provided.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

46. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

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.

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to quality amenities.

Strategy 3.2.1 - Optimal management of all assets.

SUSTAINABILITY

Social Implications

47. The proposal will not have social or lifestyle implications for other residents, as the road dedication only benefits the Applicants and the portion of road reserve proposed to be closed is unconstructed

Economic Implications

48. Nil.

Environmental Implications

49. DBCA requires the completion of a flora and fauna survey to determine the environmental impact of the proposal, if the road is constructed. The proposal will enable the Applicants to access their property at Lot 830 without traversing on National Park.

RISK MANAGEMENT CONSIDERATIONS

50.	Risk: The Applicants do not have the resources to fund the road closure and road dedication process (up to the agreed maximum contribution of \$6,000).		
	Likelihood	Consequence	Rating
	Possible	Insignificant	Low
	Action/Strategy		
	The City’s support for the proposed road closure and road dedication to be conditional on the Applicants paying all costs of and incidental to the proposal up to a maximum of \$6,000. The Applicant has supported this agreement.		

51.	Risk: A future landowner requests the City to construct the road at a cost of \$250,000.		
	Likelihood	Consequence	Rating
	Possible	Significant	High
	Action/Strategy		
	The City to require the Applicants to enter into a legal agreement (supported by a caveat) acknowledging that the road is unconstructed and that the City has no obligation to construct the road.		

OFFICER COMMENT

52. The Applicants purchased the property in December 2015 with the knowledge that the property contained no formal road access. The City has been working closely with the Applicants and State Government Departments in order to gain a suitable outcome.
53. It is proposed that the Applicants will be required to pay all costs of the proposal up to a maximum of \$6,000, given that the proposal only serves to benefit their property, being Lot 830.
54. Section 58(3) of the *Land Administration Act* requires that a proposed road closure be advertised in a local paper for a minimum of 35 days.
55. The *Land Administration Act* does not prescribe the manner in which a proposed road dedication must be advertised. However, the Department of Planning, Land & Heritage's Table D provides that a local government must undertake a consultation process in respect of a road dedication.
56. It is recommended that Council support the initiation of the advertising and consultation process for the proposed road closure and road dedication.
57. As the construction of the road is not in the wider public interest and will only benefit one landholder, and the subdivision was created without any formal road access, it is not considered to be in the ratepayers' interest to incur a future financial liability for road construction.
58. Given that the road construction costs are in the vicinity of \$250,000, it is recommended that the Applicants be required to enter into a legal agreement with the City (supported by a caveat) acknowledging that the road is unconstructed and that the City has no obligation to construct the road. A caveat must be lodged on the certificate of title to Lot 830 to ensure that not only the Applicants, but also future owners of Lot 830, are barred from requesting the City to construct the road.
59. The Applicants have raised the possibility of dedicating a smaller area of land to reduce road construction costs. It is noted that DBCA's preference is for the dedicated road to run along the whole southern boundary of Lot 830 for firebreak purposes.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Approves the initiation of the advertising and consultation process for the proposed closure of the portion of Merrivale Road, Pickering Brook delineated and marked as "Proposed Road Reserve Closure" on Plan 4253-01-01/0 annexed to this Report as Attachment 2, in accordance with s. 58 of the *Land Administration Act 1997* (WA), subject to paragraph 3 of this resolution.
2. Approves the initiation of the advertising and consultation process for the proposed excision and dedication as road of the portion of Reserve 47881 delineated and marked as "Proposed New Road Reserve" on Plan 4253-01-01/0 annexed to this Report as Attachment 2, in accordance with s. 56 of the *Land Administration Act* (WA), subject to paragraph 3 of this resolution.
3. Makes the approvals in paragraphs 1 and 2 of this resolution subject to the Applicant:
 - a) Paying all costs of and incidental to the proposal up to a maximum of \$6,000. The costs of the proposal include, but are not limited to, the costs of advertising, surveys, flora and fauna surveys, approvals, and documentation preparation and lodgement.
 - b) Agreeing to enter into a deed of agreement with the City that provides the City with a right to lodge a caveat against Lot 830 (No 221) Maryvale Road Pickering Brook to notify future land owners of the property that the road will not be constructed.
4. Notes that a further report will be presented to Council for consideration of the utility service provider responses and any submissions received.
5. Notes that, if the proposal proceeds, the Applicants will be required to enter into a legal agreement with the City (supported by a caveat) acknowledging that the road is unconstructed and that the City has no obligation to construct the road.

11. Closure

There being no further business, the Presiding Member declared the Meeting closed at 9.18pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed: _____
Presiding Member

Dated this _____ day of _____ 2018.