

Public Agenda Briefing Forum

Minutes for 13 February 2018

UNCONFIRMED



**city of
kalamunda**

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MINUTES

1.0 OFFICIAL OPENING

- 1.1 The Presiding Member opened the meeting at 6.38pm and welcomed Councillors, Staff and Members of the Public Gallery.

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Councillors

John Giardina	(Mayor)	South East Ward
Michael Fernie		South East Ward
Geoff Stallard		South East Ward
David Almond		North West Ward
Sara Lohmeyer		North West Ward
Dylan O'Connor		North West Ward
Cameron Blair		North Ward
Margaret Thomas		North Ward
Lesley Boyd	(Presiding Member)	South West Ward
Allan Morton		South West Ward
Brooke O'Donnell		South West Ward

Members of Staff

Rhonda Hardy	Chief Executive Officer
Natalie Martin Goode	Director Development Services
Chris Thompson	Acting Director Asset Services
Rajesh Malde	Manager Finance & Risk Services
Simon Di Rosso	General Counsel, Executive Advisor
Darren Jones	Manager Community Development
Andrew Fowler-Tutt	Manager Approval Services
Nicole O'Neill	Manager Customer & Public Relations
Kristy Lisle	Executive Research Officer, Governance & Legal

Members of the Public 56

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2.2 Apologies

Councillors

Tracy Destree	North Ward
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3.0 DECLARATIONS OF INTERESTS

3.1 Disclosure of Financial and Proximity Interests

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

3.1.1 Cr Cameron Blair declared an Indirect Financial Interest in relation to 10.3.1 Consideration of Tenders for the Construction of Hockey Club Rooms Facility – Hartfield Park, Forrestfield (RFT 1721) as his company is a tender subcontractor for the works and he is the owner of a subcontractor company.

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 Cr John Giardina declared an interest affecting impartiality in relation to 10.2.1 Heritage Status of the Avenue of Lemon Scented Gums along Welshpool Road East, as he has family that lives within the vicinity.

4.0 ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

4.1 Nil.

5.0 PUBLIC QUESTION TIME

A period of maximum 10 minutes is provided to allow questions from the gallery on matters relating to the functions of Council. For the purposes of Minuting, these questions and answers will be summarised.

5.1 Nil.

6.0 PUBLIC STATEMENT TIME

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

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

6.1 Brian Stinson – 20 Bedford Crescent, Forrestfield. (Item 10.1.3)

Mr Stinson provided background in support of the Bedford Road closure.

6.2 Mr Arthur Corrachier – 9/17 Sanderson Road, Lesmurdie. (Item 10.1.4)

Mr Corrachier spoke on behalf of the residents of the St Ive's Retirement Village in support of the recommendation for this item.

6.3 Rob Tieleman – 35 Traylen Road, Kalamunda. (Item 10.2.3)

Mr Tieleman spoke on behalf of the applicant and provided background on the applicant's request. Mr Tieleman stated the applicant is willing to work with surrounding neighbours in relation to visual aspects of the property.

6.4 John & Dorothy Berzins – 307 Hawtin Road, Forrestfield. (Item 10.2.3)

Mr Berzins spoke against the officer recommendation.

Cr O'Connor queried as to whether the trucks are visible from Mr Berzins' property.

The Presiding Member suggested Mr Berzins meet on-site with the Mayor and Councillors to discuss.

Mrs Berzins made comment on clearing of vegetation on the property.

6.5 Wayne Cherry – 234 Holmes Road, Forrestfield. (Item 10.2.3)

Mr Cherry spoke in favour of the officer recommendation as an immediate neighbour of the applicant's property. The applicant has spoken with Mr Cherry regarding when the vehicles will be on the property.

Cr O'Connor asked for clarification on the nature of maintenance on the trucks.

6.6 Amy Burns – 236 Holmes Road, Forrestfield. (Item 10.2.3)

Ms Burns is the fiancé of the applicant and stated they are willing and happy to speak to any neighbours and work with them in relation to screening and complaints. The applicants are happy to plant trees along the back of the property to help with screening.

Cr Giardina questioned if any other machinery was kept on the property. Ms Burns advised only in the shed and is only removed when it is needed.

Cr O'Connor referred to dust and noise and asked for information in relation to the movement of the trucks. Ms Adams advised that on average, the trucks would be on the property three or four times each year, and only for a few days at the time. Gravel will be placed over the sand when the applicant is next home.

6.7 Steve Heathcote – 21 Carloo Court, Beckenham. (Item 10.2.4)

Mr Heathcote is an officer of Westminster Presbyterian Church and asked for consideration to make an amendment to recommendation (b) regarding the worship service hours to allow for exceptions such as funerals, Good

Friday and Christmas Day services, with services starting at 9am instead of 10am through to 1pm and evening services commencing at 5pm and finishing at 8.30pm.

Cr Thomas asked if all other recommendations were satisfactory, to which they were.

7.0 PUBLIC SUBMISSIONS RECEIVED IN WRITING

7.1 Nil.

8.0 PETITIONS RECEIVED

8.1 Nil.

9.0 CONFIDENTIAL ITEMS ANNOUNCED BY NOT DISCUSSED

9.1 **10.1.4 Reserve 2904 – Lot 550 (No. 20) Over Avenue, Lesmurdie – Confidential Attachment 5 – Reason for Confidentiality – Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person"**

9.2 **10.2.3 Approval for Parking of Two Commercial Vehicles – Lot 27 (236) Holmes Road, Forrestfield**
Confidential Attachment 4 – Reason for Confidentiality – Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person"

9.3 **10.2.4 Change of Use, Function Centre to Place of Worship, Alterations and Additions to Existing Building, Two Function Halls, Crèche and Office Space and Signage – Lot 503 (105) Watsonia Road, Maida Vale**
Confidential Attachment 13 – Reason for Confidentiality – Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person"

9.4 **10.2.5 Change of Use, Place of Worship, Single Storey Community hall Auditorium, Car Park, Culvert Crossing and Community Purpose Uses – Lot 213 (28) Lewis Road, Wattle Grove**
Confidential Attachment 18 – Reason for Confidentiality – Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person"

9.5 **10.2.6 Proposed Family Day Care – Lot 758 (89) Sheffield Road, Wattle Grove**
Confidential Attachment 4 – Reason for Confidentiality – Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person"

9.6 **Proposed Home Business (Paint Workshop) – Lot 35 (36) Magnolia Way, Forrestfield**
Confidential Attachment 5 – Reason for Confidentiality – Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person"

9.7 **10.2.8 Proposed Outbuilding – Lot 44 (41) Bridle Drive, Maida Vale**
Confidential Attachment 6 – Reason for Confidentiality – Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person"

Confidential Attachment 7 – Reason for Confidentiality – *Local Government Act 1995 S5.23 (2) (b) – "the personal affairs of any person"*

9.8

10.3.1 Consideration of Tenders for the Consideration of Hockey Club Rooms Facility – Hartfield Park, Forrestfield (RFT 1721)

Confidential Attachment 1 – Reason for Confidentiality – *Local Government Act 1995 S5.23 (2) (c) – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."*

10.0

REPORTS TO COUNCIL

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

10.1 CORPORATE & COMMUNITY SERVICES

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

10.1.1 Quarterly Progress Report Against KPIs – October -December 2017

The Chief Executive Officer provided a presentation on this item.

Previous Items	N/A
Responsible Officer	Director Corporate Services
Service Area	Information Technology
File Reference	OR-CMA-009
Applicant	N/A
Owner	N/A
Attachment 1	Quarterly Progress Report Against KPIs – October-December 2017
Attachment 2	KPI Scorecard October-December 2017

EXECUTIVE SUMMARY

1. The purpose of the Quarterly Progress Report is to provide information on the City's progress towards achieving its strategic goals.
2. It is recommended that Council receive the report.

BACKGROUND

3. Council resolved in June 2017 to select a number of key actions to be reported on each quarter to Council –

*RESOLVED OCM 104/2017
That Council:*

1. *Adopts Kalamunda Achieving: Corporate Business Plan 2017 to 2021 shown as Attachment 1.*
2. *Refers the Corporate Business Plan to the Chief Executive Officer's Performance Review Committee for determination and recommendation of key performance actions and projects to be approved by the Council that will be reported to the Community through the Quarterly Progress Report.*

As this process has not yet been completed, all 188 actions from the Corporate Business Plan have been reported for this quarter.

4. Each action is linked to Council's Strategic Plan, *Kalamunda Advancing 2027*, adopted in June 2017. This ensures that each employee is working towards achieving the strategic direction of the Council.
5. The person responsible for an action or task is required to provide an update each month, giving an indication of how the action is progressing. Key Performance Indicators (KPIs) are also updated. This information is collated to provide an overview of how the organisation is performing.

DETAILS

6. **Priority Actions**
The Quarterly Progress Report for the period 1 October 2017 to 31 December 2017 is presented at (Attachment 1).
7. The report shows comments indicating the status of all actions and their current progress.
8. Over 90% of the actions (172 of the 188) are currently at 90% or more of their target progress for the year to date. This is slightly less than last quarter (when 181 actions were on-track).
9. **Key Performance Indicators**
Performance against the City's corporate KPIs is shown.
10. Of the nine KPIs, for the period 1 October 2017 - 31 December 2017,
 - a) Seven are at or exceeding their target.
 - b) One is within 10% of its target (Planning Applications Determined within Statutory Timeframe).
 - c) One is an annual KPI which will not be updated until 1 July 2018.

STATUTORY AND LEGAL CONSIDERATIONS

11. Nil.

POLICY CONSIDERATIONS

12. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

13. Managers and Directors have submitted the comments shown on the Quarterly Progress Report. A draft was provided for review and update prior to finalising the report.

External Referrals

14. The report is presented to keep Council informed of the organisation's progress towards achieving its strategic goals. The community is advised of the City's achievements and progress via the Annual Report.

FINANCIAL CONSIDERATIONS

15. Financial progress is reported monthly via the Monthly Financial Statements and Management Reports.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 4.1: To provide leadership through transparent governance.
Strategy 4.1.2 Build an effective and efficient service based organisation.

SUSTAINABILITY

Social Implications

17. Nil.

Economic Implications

18. Nil.

Environmental Implications

19. Nil.

RISK MANAGEMENT CONSIDERATIONS

20.	Risk: The City fails to carry out the actions set out in the Corporate Business Plan.		
	Likelihood	Consequence	Rating
	Unlikely	Significant	Medium
	Action/ Strategy		
	Regular reporting of action progress to CEO, Directors and Council to ensure that performance is monitored and managed.		
	Risk: KPIs are not met – standard of customer service declines.		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/ Strategy		
	Regular reporting of KPI achievement to CEO, Directors and Council to ensure that performance is monitored and managed.		

OFFICER COMMENT

21. Nil.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Receives the Quarterly Progress Report Against KPIs for October-December 2017.

Moved:

Seconded:

Vote:

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

10.1.2 Lot 888 (No. 20) Bedford Crescent, Forrestfield – Proposed Permanent Road Closure

The Chief Executive Officer provided a presentation on this item.

Previous Items	OCM 102/07; OCM 06/2015; OCM 11/2016
Responsible Officer	Director Corporate Services
Service Area	Economic, Land & Property Services
File Reference	HE-RLW-021; BD-02/020
Applicant	Minorco Pty Ltd
Owner	Brian Stinson

Attachment 1	Proposed Road Reserve Closure (Drawing No. 4124-01-01/F)
Attachment 2	Service Providers Responses
Attachment 3	Proposed Service Relocations
Attachment 4	Drawing No. 4124-01-02/E

EXECUTIVE SUMMARY

1. The purpose of this report is to consider a proposal to close the portion of Bedford Crescent road reserve between Webster Road and Roe Highway and a portion of Webster Road road reserve, Forrestfield.
2. This report addresses the outcomes of the community consultation on the proposed closure of the road reserves required by Section 58 of the *Land Administration Act 1997* (WA).
3. It is recommended that Council request the closure of the portion of Bedford Crescent road reserve between Webster Road and Roe Highway and a portion of Webster Road road reserve, Forrestfield, subject to the following conditions:
 - a) The portions of closed road reserve are to be allocated in accordance with Drawing No. 4124-01-01/F (Attachment 1);
 - b) The applicant must pay all costs of and incidental to any easements and service relocations required by the service authorities;
 - c) The applicant must pay all costs of and incidental to any easements and drainage infrastructure relocations required by the City;
 - d) The applicant must pay all survey costs associated with the proposal;
 - e) The applicant must pay all document preparation and lodgement fees associated with the proposal;
 - f) The applicant must pay all costs of and incidental to the removal and making good of the road pavement and kerbing as shown in blue on Drawing No. 4124-01-02/E (Attachment 4);
 - g) The applicant must pay all costs of and incidental to the installation of a boundary fence as shown on Drawing No. 4124-01-02/E (Attachment 4); and
 - h) The applicant must pay all other costs (if any) associated with the proposal.

BACKGROUND

4. At its meeting on 22 February 2016, Council considered a report to close a portion of Bedford Crescent road reserve between Webster Road and Roe Highway and a portion of Webster Road road reserve (OCM 11/2016 refers) and resolved as follows:
 1. *Approve the initiation of the process for the proposed closure of the Webster Road and Bedford Crescent road reserves, Forrestfield (as shown on Attachment 1) in accordance with Section 58 of the Land Administration Act 1997 (WA).*
 2. *Notes that a further report will be presented for consideration following completion of the required community consultation in accordance with Section 58 of the Land Administration Act 1997 (WA).*
5. The Location Plan below shows the proposed closure. (Note: the area highlighted in yellow and red to be set aside as a Nature Reserve and vested in the Conservation and Parks Commission and the area highlighted in green to be acquired by the owner of Lot 888 (No. 20) Bedford Crescent, Forrestfield).



6. This request for closure was initiated by Minorco Pty Ltd, the owner of Lot 888 on Deposited Plan 73351 (No. 20 Bedford Crescent, Forrestfield), to enable the portion of road reserve highlighted green above to be amalgamated into their property.
7. As part of this road reserve closure process, it is proposed that the closed portions of road reserve be allocated as shown on City of Kalamunda Drawing No. 4124-01-01/F and summarised below (refer Attachment 1):
 - a) Road reserve (outlined green) – amalgamation into Lot 888 on Deposited Plan 73351 (No. 20 Bedford Crescent, Forrestfield).
 - b) Road reserve (outlined red) – Nature Reserve vested in the Conservation and Parks Commission.

DETAILS

8. The initiation of the process for the proposed closure of portions of Bedford Crescent road reserve and Webster Road road reserve, in accordance with Section 58 of the *Land Administration Act 1997* (WA), involved the following processes:

-
- a) Advertising of the proposed road reserve closure in a local newspaper to seek community comment and objections. This was advertised in the Echo Newspaper on 12 March 2016.
 - b) Letters were sent on 21 March 2016 to the following public service providers and other agencies confirming their agreement to the proposed closure:
 - (i) Water Corporation
 - (ii) Western Power
 - (iii) Alinta Gas
 - (iv) Telstra
 - (v) Department of Industry and Resources
 - (vi) Dampier to Bunbury Natural Gas Pipeline (DPNGP) Land Access Minister
 - (vii) Department of Lands
9. A single submission was received, seeking advice as to which party instigated this proposal and the benefit of the proposal to the City. A response was issued advising that the owner of 20 Bedford Crescent initiated the request, noting that the portion of closed road reserve abutting this property would need to be purchased at a price based on a valuation by the Department of Lands to determine the market rate. The benefits to the City would be the reduction in costs to maintain the existing asphalt road and removal of illegally dumped waste.
10. The responses from the public service providers and other agencies are summarised on Attachment 2.
11. Telstra advised that there is a requirement to relocate services from the section of road reserve to be amalgamated into Lot 888 (No. 20) Bedford Crescent, to the opposite side of the existing road reserve in the section to be set aside as a Nature Reserve (refer Attachment 3 for sketch plan of proposed service relocations). Telstra provided a quotation of \$94,330.08 (inc. GST) to undertake these works.
12. Telstra has subsequently confirmed that it has no objection to installing the required P100 conduit wholly in the proposed Nature Reserve (refer Attachment 3) and does not require an easement as all assets are protected under the *Telecommunications Act 1997* (Cth).
13. The Department of Biodiversity, Conservation and Attractions (formerly Department of Parks and Wildlife) has endorsed the proposal to create the Nature Reserve vested in the Conservation and Parks Commission as outlined red on Attachment 1, inclusive of a standard access easement over the steel water main. This allows Water Corporation to clear vegetation as required to allow free access to the main for any required maintenance.

STATUTORY AND LEGAL CONSIDERATIONS

14. If this proposal is supported, it must proceed in accordance with Section 58 of the *Land Administration Act 1997* (WA), which relates to permanent road closures.

15. 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.*

POLICY CONSIDERATIONS

16. 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."
17. A review of the portions of road reserve proposed to be closed indicates that they are surplus to current and future requirements of the road network.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

18. Approval Services, Parks & Environmental Services, Community Safety Services and Community Development have no objection to the proposal.
19. Strategic Planning have no objection to the proposal and commented that the only benefit of the road is to Lot 888 (No. 20) Bedford Crescent.
20. Asset Maintenance did not provide any comments on the proposal.
21. Asset Management inspected the Bedford Crescent cul-de-sac on 26 September 2017 and advised that drainage infrastructure may need to be relocated. Asset Management further advised that it looks like the pit and some pipe will be within the new lot. The options would be to have the boundary realigned around the pit, to have the pit relocated or to provide an easement. A survey would be required by the applicant when doing their designs to ensure the extent of the boundary is confirmed.

External Referrals

22. Community engagement was undertaken in accordance with the requirements of Section 58 of the *Land Administration Act 1997* (WA), and responses outlined in the Details section of this report.

FINANCIAL CONSIDERATIONS

23. Minorco Pty Ltd has accepted responsibility for the costs associated with:
- a) Advertising of the proposed road closure.
 - b) Survey costs associated with the proposal.
 - c) Relocation of Telstra services.
 - d) Document preparation and lodgement fees associated with the proposal.
 - e) Agreed market value of the portion of road reserve to be amalgamated into Lot 888 (No. 20) Bedford Crescent.
 - f) Removal and making good road pavement and kerbing as shown in blue on Drawing No. 4124-01-02/E (Attachment 4).
 - g) Installation of a boundary fence as shown on Drawing No. 4124-01-02/E (Attachment 4).
24. Closure of these portions of Bedford Crescent and Webster Road will eliminate the City's future requirement to maintain the existing section of asphalt/kerbed road adjacent to Lot 888 (No. 20) Bedford Crescent and the ongoing requirement to remove illegally dumped waste.
25. There are no financial implications of vesting the remaining road reserve as Nature Reserve as this is a nil-cost transaction.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 3.1: To plan for sustainable population growth.

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

SUSTAINABILITY

Social Implications

27. The closure of the road reserve is likely to have little impact on the community as the sections of road reserve currently provide constructed road access to one lot only, being Lot 888 (No. 20) Bedford Crescent.

Economic Implications

28. Nil.

Environmental Implications

29. No environmental impacts are envisaged on the proposed portions of road reserve to be closed and amalgamated into Lot 888 (No. 20) Bedford Crescent, as this land is already fully cleared.

30. There will be environmental benefits to the portion of road reserve to be closed and converted to a Nature Reserve as this will allow suitable rehabilitation and weed control to the same standard as the adjoining reserve.

RISK MANAGEMENT CONSIDERATIONS

31.	Risk: The proposed permanent road reserve closure does not occur.		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action/ Strategy		
	Provide detailed rationale for the proposed permanent road reserve closure and the financial and environmental benefits.		
	Risk: The applicant refuses to pay all costs associated with the proposed permanent road reserve closure.		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/ Strategy		
	Make the City’s request to the Minister for Lands to permanently close the road reserve conditional on the applicant paying all costs associated with the proposal.		

OFFICER COMMENT

32. The portions of road reserve to be closed are surplus to current and future requirements of the road network.
33. The proposed closure, if supported, will also result in the relinquishing by the City of all future maintenance responsibilities for the relevant portions of road reserve, including the clearing of dumped rubbish.
34. A portion of the closed road reserve is to be converted to Nature Reserve and become part of a consolidated Nature Reserve under the care, control and management of the Department of Biodiversity, Conservation and Attractions. This will ensure a uniform standard of control over the vegetation and weed control in this area.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Requests the Minister for Lands to permanently close those portions of the Bedford Crescent road reserve between Webster Road and Roe Highway and Webster Road road reserve, Forrestfield shown delineated and marked on Drawing No. 4124-01-01/F (Attachment 1), pursuant to s. 58 of the *Land Administration Act 1997* (WA), subject to the following conditions:
 - a) The portions of closed road reserve are to be allocated in accordance with Drawing No. 4124-01-01/F (Attachment 1);

- b) The applicant must pay all costs of and incidental to any easements and service relocations required by the service authorities;
- c) The applicant must pay all costs of and incidental to any easements and drainage infrastructure relocations required by the City of Kalamunda;
- d) The applicant must pay all survey costs associated with the proposal;
- e) The applicant must pay all document preparation and lodgement fees associated with the proposal;
- f) The applicant must pay all costs of and incidental to the removal and making good of the road pavement and kerbing as shown in blue on Drawing No. 4124-01-02/E (Attachment 4);
- g) The applicant must pay all costs of and incidental to the installation of a boundary fence as shown on Drawing No. 4124-01-02/E (Attachment 4);
and
- h) The applicant must pay all other costs (if any) associated with the proposal.

Moved:

Seconded:

Vote:

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

10.1.3 Road Reserve Boundary Adjustment to Wimbridge Road North of the Woodlupine Brook

The Chief Executive Officer provided a presentation on this item.

Previous Items	OCM 214/2016
Responsible Officer	Director Corporate Services
Service Area	Economic, Land & Property Services
File Reference	PG-DEV-048
Applicant	City of Kalamunda
Owner	State of Western Australia

Attachment 1	Road Reserve Boundary Adjustment to Wimbridge Road North of the Woodlupine Brook - Road Layout Plan
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EXECUTIVE SUMMARY

1. The purpose of this Report is to request Council to support a boundary adjustment to the Wimbridge Road road reserve north of the Woodlupine Brook.
2. In order to adjust the road reserve, the portion of road reserve that is no longer required must be closed and the additional portion of land required as road reserve must be dedicated.
3. A Council resolution is required to proceed with the proposed permanent road closure and road dedication.
4. It is recommended that Council request the Minister for Lands to adjust the boundary for Wimbridge Road road reserve north of the Woodlupine Brook, by closing the unrequired portion of road reserve and dedicating the portion of land required as road reserve.

BACKGROUND

5. At its meeting on 19 December 2016, Council considered tenders for the construction of Wimbridge Road Extension and resolved as follows (OCM 214/2016):
That Council:

1. *Accepts the recommendation of the Tender Evaluation Panel to appoint CQ & JM Dowsing Pty Ltd for the Construction of the Wimbridge Road Extension (eQuote 27-2016) for its tendered lump sum price of \$839,615.62 (excluding GST and allowance for contingency).*

DETAILS

6. Wimbridge Road has now been constructed. This proposal seeks to adjust the boundary of the Wimbridge Road road reserve on the northern side of Woodlupine Brook to match the reserve on the southern side by closing the

unrequired portion of road reserve and dedicating the portion of land required as road reserve.

7. The portion of land required to be dedicated as road reserve is part of Lot 3001 on Plan 51030, being part of Reserve 48404. Reserve 48404 is owned by the State of Western Australia and managed by the City of Kalamunda for the purpose of "Public Recreation".
8. It is proposed that the portion of Wimbridge Road road reserve to be permanently closed is amalgamated with Lot 3001 on Plan 51030.

STATUTORY AND LEGAL CONSIDERATIONS

9. The proposal must proceed in accordance with section 56 and section 58 of the *Land Administration Act 1997* (WA).
 10. 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.*
11. 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.*

POLICY CONSIDERATIONS

12. The City's Asset Management Policy C-AS-01 provides "a framework for undertaking long term strategic asset management of the City's asset portfolio, incorporating corporate leadership and reflecting a sustainable approach to service delivery to meet the current and future needs of the community."
13. This proposal reflects good asset management as it seeks to straighten a road reserve which is misaligned and to ensure that the road reserve matches the road as constructed.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

14. Strategic Planning advised that the Cell 9 Wattle Grove Structure Plan shows Wimbridge Road being straight between Hale Road and The Promenade. In order for cadastral boundaries to align with the Structure Plan, the road reserve must be adjusted. While the road reserve is able to differ slightly from the Structure Plan, it is best practice to ensure consistency. In this case, if the road reserve boundary adjustment is not supported, the Structure Plan would need to be modified to match the cadastre.
15. Asset Management advised that no City assets are affected by the proposal.

External Referrals

16. Porter Engineering, the City's consultant engineering firm for the Wimbridge Road Extension project, has advised that the Wimbridge Road road reserve boundary adjustment is required because it:
- a) Addresses a misalignment of the existing Wimbridge Road road reserve boundary (north of the Woodlupine Brook) to the southern portion of the Wimbridge Road road reserve. Misalignments such as this are not usual practice, and it is generally good practice to address such misalignments where possible;
 - b) Allows for installation of services within Wimbridge Road to conform to standard designs and practices and not addressing this misalignment could be problematic for the installation of future services; and
 - c) A new light pole and cabling immediately to the north of Woodlupine Brook has been designed and positioned based on the boundary adjustment which addresses this misalignment.

-
17. If the misalignment is not addressed, Porter Engineering is of the opinion that:
 - a) This could be problematic for the installation of future services; and
 - b) A light pole would need to be located within an easement (road reserve widening) of a nominal size 1 metre wide x 2 metres deep.
 18. The proposal was referred to the service authorities.
 19. The Water Corporation requires the City to take into consideration the existing DN150 water reticulation main by complying with one of the following options:
 - a) Option 1 – The realigned road reserve boundary would need to commence from the end of the main and the future extension of the main would need to deviate to follow the new road boundary; or
 - b) Option 2 – The existing DN150 water reticulation main would be relocated to match the realigned road reserve boundary to continue the 2.1 metre alignment.

Asset Delivery has confirmed that Wimbridge Road has been constructed along the proposed new alignment and that the City obtained the Water Corporation's approval to the road design.

20. Western Power has no objection to the proposal but requested that it be kept informed on the matter.
21. ATCO Gas advised that it has no objection to the proposal, provided that ATCO Gas' general requirements are met.
22. Telstra has no objection to the proposal, subject to the City complying with the following conditions:
 - a) It is the City's responsibility to anticipate and request the nominal location of Telstra plant via the Dial Before You Dig "1100" number in advance of any construction activities in the vicinity of Telstra assets;
 - b) On receipt of plans, notwithstanding the recorded location of Telstra's plant, the City is responsible for obtaining a Telstra accredited Asset Plant Locator to perform cable location, potholing and physical exposure to confirm the actual location of the plant prior to the commencement of site civil work;
 - c) Telstra reserves all rights to recover compensation for loss or damage caused by interference to its cable network or other property; and
 - d) Telstra would appreciate due confirmation in the event that the City contemplates divesting its interest or control of this land so that Telstra may update its cadastre records.
23. The proposed road closure and road dedication was advertised in the Kalamunda Reporter on 9 May 2017 and on the City's website. Comments closed on 14 June 2017. The submission period was not less than 35 days in order to comply with section 58(3) of the *Land Administration Act*. No submissions were received.

FINANCIAL CONSIDERATIONS

24. If the road reserve boundary for Wimbridge Road north of the Woodlupine Brook is not adjusted, services will need to be relocated so that they are contained within the road reserve. The cost of relocating services impacted will be substantial.
25. If the boundary adjustment does not occur, the new light pole will not be located within the road reserve. The City will need to arrange for an easement to be granted over the portion of land on which the light pole is located and would incur significant costs in arranging for the grant of an easement, including legal costs, survey costs and document lodgement fees.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 4.5: To create a desirable and recognisable image for the Shire.
Strategy 4.5.1 Support the creation and ongoing maintenance of quality streetscapes particularly at Shire entry points and along major arterial roads.

SUSTAINABILITY

Social Implications

27. The proposal will not have any social or lifestyle impacts on residents.

Economic Implications

28. The proposal will not impact on the economic lives of residents.

Environmental Implications

29. No environmental impacts are envisaged, as Wimbridge Road has already been constructed. The proposal merely seeks to amend the road reserve boundary to match what was constructed.

RISK MANAGEMENT CONSIDERATIONS

- 30.
- | | | |
|--|--------------------|---------------|
| Risk: The proposed road closure and road dedication do not occur. | | |
| Likelihood | Consequence | Rating |
| Unlikely | Moderate | Low |
| Action/ Strategy | | |
| Demonstrate that a failure to adjust the road reserve boundary will mean that the road reserve will not match what was constructed. Demonstrate that substantial costs would be incurred by the City in relocating services to the road reserve. | | |

OFFICER COMMENT

31. The road reserve for Wimbridge Road north of the Woodlupine Brook as it currently stands is misaligned. It is best practice to address such misalignments where possible. The proposal to amend the road reserve boundary will result in aligned boundaries either side of the Woodlupine Brook. Further, it will result in the road reserve matching what has been constructed.
32. The Cell 9 Wattle Grove Structure Plan shows Wimbridge Road being straight between Hale Road and The Promenade. The proposal will result in the cadastral boundaries of the road reserve matching the road as shown in the Structure Plan.
33. In the event that the proposed road closure and dedication of road does not occur:
 - a) the road reserve will be misaligned;
 - b) services will be located outside the road reserve;
 - c) a light pole will not be located within the road reserve and the City will need to arrange for an easement to be granted over the land on which the light pole is located; and
 - d) the Cell 9 Wattle Grove Structure Plan will need to be amended to match the cadastral boundaries of the road reserve.
34. The Wimbridge Road road reserve boundary must be adjusted to ensure correct boundary alignment, and to avoid the substantial costs of relocating services that would be incurred by the City if the road reserve does not match what was constructed. It is recommended that Council support the proposed road closure and dedication of road.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Request the Minister for Lands to permanently close that portion of the Wimbridge Road, Wattle Grove road reserve shown delineated and marked as "Proposed Road Closure Area" on the plan attached hereto as Attachment 1.
2. Request the Minister for Lands to dedicate a road reserve that portion of Lot 3001 on Plan 51030, being part of Reserve 48404, shown delineated and marked as "Proposed Road Dedication Area" on the plan attached hereto as Attachment 1.

Moved:

Seconded:

Vote:

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

10.1.4 Reserve 29041 - Lot 550 (No. 20) Over Avenue, Lesmurdie

The Chief Executive Officer provided a presentation on this item.

Karen Siggins and Jarod Avila presented a deputation on this item, speaking against the officer recommendation asking for Council support to provide the community with additional aged care living.

Previous Items	
Responsible Officer	Director Corporate Services
Service Area	Economic, Land & Property Services
File Reference	OV-01/020
Applicant	Lesmurdie Baptist Church
Owner	State of Western Australia
Attachment 1	Draft letter from the CEO to the Lesmurdie Baptist Church
Attachment 2	Letter from the Lesmurdie Baptist Church dated 2 August 2017
Attachment 3	Plan – Lot 550 (No. 20) Over Avenue, Lesmurdie
Attachment 4	Plan – Land Tenure
Confidential Attachment 5	Written Submissions
<u>Reason for Confidentiality:</u>	
<i>Local Government Act 1995</i>	
<i>s. 5.23 (2) (b) – "the</i>	
<i>personal affairs of any</i>	
<i>person"</i>	

EXECUTIVE SUMMARY

1. The purpose of this Report is to request that Council support the Chief Executive Officer (CEO) writing to the Lesmurdie Baptist Church (LBC) advising that the City does not agree to surrender its management order over Reserve 29041, being Lot 550 (No. 20) Over Avenue, Lesmurdie (Reserve).
2. The LBC has requested that the City surrender its management of the Reserve to enable it to be vested in the LBC for the purposes of "aged care".
3. It is recommended that Council approve the CEO signing and sending the draft letter to the LBC attached to this Report as Attachment 1.

BACKGROUND

4. On 1 August 2017, the LBC wrote to the City expressing interest in developing the Reserve. The LBC's letter to the City is attached to this Report as Attachment 2.
5. The LBC runs a not-for-profit, over-55s retirement village at 5 Varley Street, Lesmurdie named Clarege Retirement Village (Clarege). The LBC proposes to extend Clarege into the Reserve.

6. In order to proceed with its plans to extend Clarege, the LBC requires the City to surrender its management order over the Reserve and to support the vesting of the Reserve in the LBC for the purposes of “aged care”.

DETAILS

7. The Reserve is owned by the State of Western Australia and vested in the City for “Community Purposes”.
8. A plan showing the location of the Reserve is attached to this Report as Attachment 3. The Reserve is outlined in red.
9. A plan showing the land tenure of the Reserve and surrounding parcels of land is attached as Attachment 4.

STATUTORY AND LEGAL CONSIDERATIONS

10. Section 50(1)-(2) of the *Land Administration Act 1997* (WA) (LAA) sets out the circumstances in which a management order can be revoked.
11. Section 50(1)-(2) of the LAA reads as follows:

50. Management order, revocation of

- (1) When a management body —
 - (a) agrees that its management order should be revoked; or
 - (b) does not comply with its management order or with a management plan which applies to its managed reserve or does not submit a management plan in compliance with a request made under section 49(2),the Minister may by order revoke that management order.
- (2) If, in the absence of agreement or non-compliance referred to in subsection (1), the Minister considers that it is in the public interest to revoke a management order, the Minister may by order revoke the management order.

POLICY CONSIDERATIONS

12. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

Statutory Planning Requirements

13. Approval Services advises that the Reserve is currently reserved under the Local Planning Scheme No. 3 (Scheme) for Community Purposes. Aged care and accommodation developments are traditionally located on land that is zoned Private Clubs and Institutions in line with the objectives of the Scheme, which are as follows:

- a) To make provision for privately owned or operated schools, clubs, recreation facilities and similar uses.
 - b) To make provision for privately owned or operated nursing homes, retirement villages, and a range of other residential uses which would be compatible with the type of non-residential uses referred to above.
 - c) To ensure that such uses have due regard and do not adversely impact upon the adjoining land uses.
14. Approval Services further advises that in order to consider a proposal for aged care, it is considered appropriate, and in line with previous practice, to formalise the change in land use and consider a rezoning of the subject land to Private Clubs and Institutions. A rezoning would require a formal submission being made by the applicant and would include supporting technical documents relating to, among other matters, bushfire risk, traffic and access, environmental impacts, and effluent disposal requirements. A development application would also and subsequently be required to be submitted and approved by the City for any development on the subject site.

Environmental Advice

15. Parks & Environmental Services advises that the Reserve has a high biodiversity value, and the vegetation is in good to very good condition with many significant trees providing important habitat. Apart from the environmental values of the Reserve, it provides social and amenity value and serves important functions as wildlife corridors.
16. Following a desktop assessment, Parks & Environmental Services advises the following:
- a) The bushland in question is of a significant size (1.14 ha) and forms a high value stepping stone into the peri-urban environment of Lesmurdie between Ray Owen Reserve and Korung National Park;
 - b) Development of the land in question would approximately halve the local amenity and natural values provided by this bushland, and likely increase the number of weeds in the bushland as a result;
 - c) Within 1500 m of the Reserve, there are records for nine threatened or priority animals protected under the *Biodiversity Conservation Act 2016* (WA) and the *Conservation and Land Management Act 1984* (WA):
 - Baudin's cockatoo
 - Carnaby's cockatoo
 - Chuditch, western quoll
 - Peregrine falcon
 - Quenda, southern brown bandicoot
 - Southern death adder
 - South-western brush-tailed phascogale
 - Western brush wallaby
 - d) Within 1500 m of the Reserve, there are records for two threatened or priority plants protected under the *Biodiversity Conservation Act 2016* and the *Conservation and Land Management Act 1984*:
 - Wavy-leaved Smokebush
 - Star Sun Orchid

17. Further, given the 'Bushfire-prone' declared status of the area, and the need for new developments to consider this in designing new buildings, it would be difficult to see a design where the buildings adjacent to the bushland could be constructed in an area that was not considered rated as FZ (Flame Zone) and hence be at extremely high risk in the event of a bushfire.
18. The bushland had a controlled burn in 2014.
19. A walk through survey revealed vegetation community comprising marri, jarrah and sheoak over storey with well represented shrubs, ground covers, herbaceous species and fungi under storey. There are several large trees that provide habitat and foraging opportunities for three species of threatened black cockatoo, all protected under the *Environmental Protection and Biodiversity Conservation (EPBC) Act 1999* (Cth). Removal and clearing of this vegetation would likely require referral to the Federal Minister of the Environment to assess the need for environmental offsets.
20. There are many grass trees, some estimated to be at least 200 years old.
21. There was evidence of black cockatoo foraging and feeding and both marri and jarrah trees with diameter at breast height (DBH) of larger than 50 cm. Many trees were noted to contain hollows providing habitat for birds.
22. The bush was relatively weed free apart from neighbouring properties and showed signs of a controlled burn.
23. The biodiversity value would be considered high and a vegetation condition mapping exercise would show it to be rated good to very good.
24. The bush serves many functions having aesthetic amenity, recreation and providing wildlife corridors to important areas.
25. In summary, given the good condition of the bushland, its high biodiversity value, its role as a natural corridor and the local amenity services it provides to the community, Parks & Environmental Services would not recommend this site for development of any sort. It is recommended that the City retain the management order for the Reserve.

External Referrals

26. The Lands Division of the Department of Planning, Lands & Heritage (Department) advises that if the City wishes to retain management of the Reserve, the Department will support the City.

FINANCIAL CONSIDERATIONS

27. If the City retains management of the Reserve, it will continue to be responsible for the cost of maintaining the Reserve. The community use and value of the Reserve justifies the cost incurred by the City in maintaining the Reserve.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

Strategy 4.1.1 Provide high quality and accessible recreational and social spaces and facilities.

SUSTAINABILITY

Social Implications

29. The Reserve is used by residents for walks, bike rides and general enjoyment. It provides a sense of community to residents. If LBC obtained management of the Reserve for the purposes of "aged care", residents would no longer be able to use the Reserve for these recreational and community purposes.

Economic Implications

30. The economic lives of residents will not be impacted by this decision.

Environmental Implications

31. The Reserve is a piece of bushland that is habitat to a range of flora and fauna. If LBC obtained management of the Reserve and extended Clarege onto the Reserve, this would result in a loss of bushland and wildlife. A formal environmental assessment is required to fully appreciate the environmental value of the Reserve.

RISK MANAGEMENT CONSIDERATIONS

32.	Risk: Loss of a reserve with significant community use and value.		
	Likelihood	Consequence	Rating
	Possible	Significant	High
	Action/ Strategy		
	The City to retain management of the Reserve.		
	Risk: Community outrage with the removal of trees.		
	Likelihood	Consequence	Rating
	Likely	Significant	High
	Action/ Strategy		
	Environmental Assessment. Community consultation.		

OFFICER COMMENT

33. The City has received written submissions from residents objecting to any proposed development of the Reserve on the grounds of loss of flora and fauna and loss of community use and value. The written submissions are attached to this Report as Confidential Attachment 5.

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34. In light of the community use and value of the Reserve and its environmental value, it is recommended that Council does not support the City surrendering its management order over the Reserve.
 35. It is further recommended that Council approve the Chief Executive Officer signing and sending the draft letter to the LBC attached to this Report as Attachment 1.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Refuses the request from the Lesmurdie Baptist Church requesting the City to relinquish its Management Order over Reserve Number 29041.
2. Approve the Chief Executive Officer signing and sending the draft letter to the Lesmurdie Baptist Church refusing their request for the City to relinquish the Management Order attached to this Report as Attachment 1.

Moved:

Seconded:

Vote:

10.2 DEVELOPMENT SERVICES

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

10.2.1 Heritage Status of the Avenue of Lemon Scented Gums Along Welshpool Road East

Cr John Giardina declared an interest affecting impartiality as he has family living within the vicinity and left the room at 7:38pm returning at 7:42pm.

The Director Development Services provided a presentation on this item.

Previous Items	OCM 235/2017 OCM 184/2016
Responsible Officer	Director Development Services
Service Area	Strategic Planning
File Reference	WL-10/831
Applicant	City of Kalamunda
Owner	N/A
Attachment 1	State Heritage Council Decision
Attachment 2	Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 – Part 3
Attachment 3	Table Summarising Options

EXECUTIVE SUMMARY

1. The purpose of this report is to inform Council of the options available and cost for the City of Kalamunda (the City) to establish local heritage status of the Avenue of Lemon Scented Gums (the Trees) along Welshpool Road East.
2. In November 2017 a Notice of Motion (NOM) was passed by Council requiring the investigation of the process and costs associated with establishing the heritage status of the trees on Welshpool Road East.
3. It is recommended that Council undertake investigations to:
 - a) Include the Trees on the City's Municipal Heritage Inventory (MHI).
 - b) Include the Trees within a Heritage Area and prepare an accompanying Local Planning Policy (LPP) for the Trees.

BACKGROUND

4. On 10 June 2015, the Minister for Planning approved Scheme Amendment No. 61 which included the additional use of Place of Worship under Schedule 2 of the City's LPS3. The additional use included the requirement that the applicant/owner prepare a traffic management plan for the future development of the site.
5. At 28 November 2016 Ordinary Council Meeting, Council resolved to approve a proposed Place of Worship at Lot 36 (831) Welshpool Road East, Wattle Grove.

6. The application was advertised for 28 days to adjoining property owners for comment. During the advertising period nine submissions were received with one non-objection, one comment on the proposal, four objections, and three letters of advice from government agencies.
7. As part of carrying out the approved development, the installation of a turning lane is needed as a requirement of the traffic management plan. The turning lane is required to be installed on Welshpool Road East which will result in the felling of up to 13 of the Trees.
8. There was significant community opposition to the proposed felling of the Trees and as such the City is currently working closely with the applicant and Main Roads WA to reduce the impact to the number of trees requiring removal.
9. As of the date of writing this report the design of the turning lane is still in the process of being reviewed with an aim to reduce the number of trees requiring removal.
10. On the 28 November 2017, Council resolved to pass a NOM which required the following:

That Council:
 1. *Request the Chief Executive Officer to undertake an investigation on how the City can establish heritage status of the trees along Welshpool East so they are kept as an entry statement for the City.*
 2. *Request the Chief Executive Officer to bring back a process and costings for undertaking this investigation so it can be listed for budget consideration.*
11. Subsequent to the City's NOM, the State Heritage Council resolved at its meeting on 8 December 2017 that the Trees do not have sufficient cultural heritage significance at the State level to be included in the State Register of Heritage Places, refer Attachment 1.
12. Although the State Heritage Council did not list the Trees on the State Register of Heritage Places, the City has options available for providing the Trees local heritage status and protection under the City's LPS3.

DETAILS

13. In response to Part 1 of the Council's NOM, the City has undertaken an analysis of the City's LSP3 and the local statutory planning framework more broadly to ascertain how the City may establish heritage status of the Trees along Welshpool Road East.
14. There are a number of options or combinations of options available for Council to establish heritage status of the Trees. The options explored go further than the requirements of the NOM to also establish statutory development controls to protect the Trees from future felling or development impacts. These options include:

- a) Add the Trees to the adopted Municipal Heritage Inventory.
- b) Create a Heritage List and add the Trees.
- c) Create a Heritage Area and prepare a Local Planning Policy for the Trees.
- d) Create a Special Control Area (SCA) for the area surrounding the Trees.

15. **Add the Trees to the adopted Municipal Heritage Inventory**
In June 2015, the MHI was presented to Council for adoption. The MHI was adopted with modifications, two places were added and six places were removed from the MHI. The modified MHI was forwarded to the State Heritage Office. The City has since decided not to pursue the development of a formal Heritage List. The Trees were not included as part of the preparation of the MHI.
16. Listing the Trees within the MHI will go part way in acknowledging the local heritage status of the Trees. However, the MHI has no provision to enforce development control and is considered a reference document only.
17. The MHI is considered a precursor to investigating a higher order of local heritage status of the Trees and ultimately providing protection from development through the City's LPS3.
18. **Create a Heritage List and add the Trees**
Heritage protection is administered through Part 7 of the City's LPS3. Since the introduction of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) Part 7 has since been superseded by Schedule 2 - Part 3 of the Regulations. The City recently adopted Amendment 83 for final approval which will introduce Schedule 2 – Part 3 of the Regulations into the City's LPS3. For the purposes of this appraisal, Part 3 of the Regulations will apply. The provisions of Part 7 of LPS3 and Schedule 2 - Part 3 of the Regulations are relatively similar.
19. Part 3 of the Regulations provides provision for local government to establish local heritage protection through statutory planning controls.
20. Heritage Lists are generally informed by the MHI, not every listing within the MHI will necessarily be listed on the Heritage List.
21. The City's existing provisions relating to heritage provision under Part 7 of LPS3 make reference to the MHI as a precursor to establishing a Heritage List. However, Part 3 - Clause 8 of the Regulations makes no reference to the MHI.
22. Part 3 - Clause 8 of the Regulations states the following in regard to establishing a Heritage List:

"8. Heritage list
(1) The local government must establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.

(2) The heritage list —
 - (a) must set out a description of each place and the reason for its entry in the heritage list; and*

- (b) must be available, with the Scheme documents, for public inspection during business hours at the offices of the local government; and*
- (c) may be published on the website of the local government.*

(3) The local government must not enter a place in, or remove a place from, the heritage list or modify the entry of a place in the heritage list unless the local government —

- (a) notifies in writing each owner and occupier of the place and provides each of them with a description of the place and the reasons for the proposed entry; and*
- (b) invites each owner and occupier to make submissions on the proposal within 21 days of the day on which the notice is served or within a longer period specified in the notice; and*
- (c) carries out any other consultation the local government considers appropriate; and*
- (d) following any consultation and consideration of the submissions made on the proposal, resolves that the place be entered in the heritage list with or without modification, or that the place be removed from the heritage list.*

(4) If the local government enters a place in the heritage list or modifies an entry of a place in the heritage list the local government must give notice of the entry or modification to —

- (a) the Heritage Council of Western Australia; and*
- (b) each owner and occupier of the place.”*

23. Based on the provisions of Part 3 – Clause 8 of the Regulations, items listed within the Heritage List are provided development control or protection under Clause 10.2 of the City’s LPS3 and Schedule 2 – Part 9 – Clause 67 of the Regulations. These sections detail matters to be considered by local government when assessing development applications. Heritage considerations are detailed under a number of the matters consideration.

24. **Create a Heritage Area and prepare a Local Planning Policy for the Trees**

Part 3 – Clause 8 of the Regulations provides provision for establishing a Heritage List. It does not provide any specific provision for development control (i.e. protecting the Trees from development that may cause clearing). Development control is provided through the designation of a Heritage Area and preparation of an accompanying Local Planning Policy.

25. Part 3 - Clause 9 of the Regulations states the following in regard to establishing a Heritage Area:

"9. Designation of a heritage area

(1) If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area to which this Scheme applies, the local government may, by resolution, designate that area as a heritage area.

(2) If the local government designates an area as a heritage area the local government must adopt for the area a local planning policy that sets out the following —

- (a) a map showing the boundaries of the heritage area;*
- (b) a statement about the heritage significance of the area;*
- (c) a record of places of heritage significance in the heritage area.*

(3) The local government must not designate an area as a heritage area unless the local government —

- (a) notifies in writing each owner of land affected by the proposed designation and provides the owner with a copy of the proposed local planning policy for the heritage area; and*
- (b) advertises the proposed designation by —*
 - (i) publishing a notice of the proposed designation in a newspaper circulating in the Scheme area; and*
 - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and*
 - (iii) publishing a copy of the notice of the proposed designation on the website of the local government; and*
- (c) carry out any other consultation the local government considers appropriate.*

(4) Notice of a proposed designation under subclause (3)(b) must specify —

- (a) the area that is the subject of the proposed designation; and*
- (b) where the proposed local planning policy for the proposed heritage area may be inspected; and*
- (c) to whom, in what form and in what period submissions may be made.*

(5) The period for making submissions in relation to the designation of an area as a heritage area must not be less than a period of 21 days commencing on the day on which the notice of the proposed designation is published under subclause (3)(b)(i).

(6) After the expiry of the period within which submissions may be made, the local government must —

- (a) review the proposed designation in the light of any submissions made; and*
- (b) resolve —*
 - (i) to adopt the designation without modification; or*
 - (ii) to adopt the designation with modification; or*
 - (iii) not to proceed with the designation.*

(7) If the local government designates an area as a heritage area the local government must give notice of the designation to —

- (a) the Heritage Council of Western Australia; and*
- (b) each owner of land affected by the designation.*

(8) The local government may modify or revoke a designation of a heritage area.

(9) Subclauses (3) to (7) apply, with any necessary changes, to the amendment to a designation of a heritage area or the revocation of a designation of a heritage area.”

26. Based on the provisions of Part 3 – Clause 9, items listed within a Heritage Area are provided development control under the Regulations through this designation and the adoption of a corresponding LPP. The corresponding LPP may include specific measures to provide for protection and impacts from adjoining and surrounding development.
27. Liaison with the Department of Heritage indicates that the designation of the Trees on the Heritage List is not required in order to establish a Heritage Area and corresponding LPP. The Trees could be designated directly as a Heritage Area with a corresponding LPP to provide for development control.
28. **Create a Special Control Area for the area surrounding the Trees**
Schedule 1 - Part 5 of the Regulations provides provision for the establishment of a SCA. SCAs identify areas which are significant for a particular reason and where special provision in the LPS may need to apply. SCA are established through the preparation and progression of an amendment to LPS3.
29. SCAs are shown on the LPS3 Map as additional to the zones and reserves. If a SCA is shown on the LPS3 Map, special provisions related to the particular issue would apply in addition to the provisions of the zones and reserves. These provisions would set out the purpose and objectives of the SCA, any specific development requirements, the process for referring applications to relevant agencies and matters to be taken into account in determining development proposals.

STATUTORY AND LEGAL CONSIDERATIONS

30. Planning and Development (Local Planning Schemes) Regulations 2015
Heritage protection is administered through Part 7 of the City's LPS3. Since the introduction of the Regulations Part 7 has since been superseded by Schedule 2 - Part 3 of the Regulations. The City recently adopted Amendment 83 for final approval which will introduce Schedule 2 – Part 3 of the Regulations into the City's LPS3. For the purposes of this appraisal, Part 3 of the Regulations will apply.

POLICY CONSIDERATIONS

31. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

32. Subject to the decision of Council, internal referrals will occur as part of the preparation of the Heritage Area and corresponding LPP.

External Referrals

33. Part 3 – Clause 8 and 9 of the Regulations details the process for creating a Heritage List and Heritage Area. Each of these processes includes community consultation and engagement. These include:
- a) Notifying in writing each owner of land affected by the proposed designation and provides the owner with a copy of the proposed local planning policy for the heritage area; and
 - b) Advertises the proposed designation by —
 - (i) Publishing a notice of the proposed designation in a newspaper circulating in the Scheme area; and
 - (ii) Erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
 - (iii) Publishing a copy of the notice of the proposed designation on the website of the local government; and
 - (iv) Carry out any other consultation the local government considers appropriate.

FINANCIAL CONSIDERATIONS

34. The preparation of the required documentation to facilitate the creation of a Heritage List and Heritage Area (including LPP) can be facilitated by the City's staff internally.
35. It is recommended that an independent Heritage Assessment is undertaken by a suitably qualified heritage consultant to support the City's process in establishing heritage status and protection of the Trees. Based on indicative quotations received the cost of preparing a supporting Heritage Assessment is estimated at approx. \$2,000.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 2.1: To protect and enhance the environmental values of the City.
Strategy 2.1.2: Support the conservation and enhancement of our biodiversity.

SUSTAINABILITY

Social Implications

37. The Trees create a natural entry statement to the Perth Hills. It is envisaged the majority of the community will be supportive of any motion regarding the protection of the Trees.

Economic Implications

38. The Trees add to the appeal of the Perth Hills, by protecting them they will continue to provide an important entry statement to the Perth Hills tourist area.

Environmental Implications

39. Some of the Trees are mature (approximately up to 60 years old) and create a significant tree canopy, providing habitat for a variety of fauna species.

RISK MANAGEMENT CONSIDERATIONS

40.	Risk: Community Oppose the Heritage Listing		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/ Strategy		
	Undertake community consultation and engagement prior to introducing any heritage status or development controls.		
	Risk: Department of Planning do not approve the SCA		
	Likelihood	Consequence	Rating
	Almost Certain	Moderate	High
	Action/ Strategy		
	It is recommended that Council create a Heritage Area and accompanying LPP in the context of the Department of Planning (DoP) not supporting the introduction of a SCA.		

OFFICER COMMENT

41. Officer comment based on the options presented in this report is provided below.
42. **Add the Trees to the adopted Municipal Heritage Inventory**
Listing the Trees within the MHI will go part way in acknowledging the local heritage status of the Trees. However, the MHI has no provision to enforce development control and is considered a reference document only.
43. Given the information brought to the City's attention regarding the historical origins of the Trees, it is considered appropriate to modify the MHI accordingly and include the Trees.
44. The consultants that prepared the City's MHI can be readily contacted to modify the document to include the Trees. It is recommended that Council modify the MHI accordingly.
45. **Create a Heritage List and add the Trees**
In June 2015, the MHI was presented to Council for adoption. The City has since decided not to pursue the development of a formal Heritage List. The Trees were not included as part of the MHI.

-
46. Advice received from the Department of Heritage indicates that the Trees are not required to be listed on a Heritage List to create a Heritage Area.
47. The process for establishing a Heritage List is outlined within Paragraph 21 of this report. It is not recommended to pursue the development of a Heritage List in the context of being able to create a Heritage Area for the Trees.
48. **Create a Heritage Area and prepare a Local Planning Policy for the Trees**
The designation of a Heritage Area and corresponding LPP is an option available to Council in order to provide special planning control to protect the Trees and acknowledge their heritage significance.
49. It is understood that Council's primary intention is to acknowledge the heritage significance of the trees but also provide special planning control to prevent any further development impacting the Trees. The establishment of a Heritage Area and accompanying LPP will enable this.
50. The Heritage Area will include the preparation of an LPP which will provide special planning control and will include requirements for the Trees protection from future development.
51. **Create a Special Control Area for the area surrounding the Trees**
A SCA could be prepared for the area where the Trees are contained with special development control that provides for their protection and acknowledgement of local heritage significance. The special development controls would be inserted as provisions of LPS3.
52. The SCA would be required to be inserted into LPS3 through a scheme amendment and would ultimately be required to be approved by the Western Australian Planning Commission and Minister for Planning. Advice received by senior officers at the Department of Planning indicates that a SCA is unlikely to be supported in the context of the Regulations having provision for a Heritage List and Heritage Area.
53. Based on the information detailed in this report it is recommended that Council undertake the required investigations to pursue Options 1 and 3.
54. It is important to note that none of the options above can be applied retrospectively. The existing Development Application approved by Council will not be impacted by these options. However, these options will provide additional planning controls to prevent further impacts to the Trees.
55. A table summarising considerations and details associated with the various options is contained within Attachment 3.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Note the information provided in this report relating to the decision of the Heritage Council not to include the avenue of lemon scented gums along Welshpool Road East in the State Register of Heritage Places in response to the Notice of Monition OCM 235/2017.
2. Resolve to pursue investigations in accordance with Options 1 and 3 of this report.

Moved:

Seconded:

Vote:

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

10.2.2 Membership and Terms of Reference for Community Safety and Crime Prevention Advisory Committee for term 2017 to 2019

The Director Development Services provided a presentation on this item.

Previous Items	OCM 167/2017; OCM 199/2017
Responsible Officer	Director Development Services
Service Area	Community Safety
File Reference	N/A
Applicant	N/A
Owner	N/A

[Attachment 1](#) Draft Membership and Terms of Reference for Community Safety and Crime Prevention Advisory Committee for term 2017 to 2019

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the revised Membership and Terms of Reference (TOR) for the Community Safety and Crime Prevention Advisory Committee for term 2017 to 2019.
2. The TOR have been reviewed to include:
 - a) frequency of meetings being a minimum of one in every 3 months
 - b) four members be made up of community representatives
 - c) standing items be identified by the committee such as hooning, graffiti, youth issues etc.
3. This report recommends Council:
 - a) Adopt the revised Membership and Terms of Reference for the Community Safety and Crime Prevention Advisory Committee for term 2017 to 2019.
 - b) Approve the advertising of four community members to join the Community Safety and Crime Prevention Advisory Committee
 - c) Appoint two Councillors as delegates to the Community Safety and Crime Prevention Advisory Committee.

BACKGROUND

4. Every two years in line with Council elections, the City undertakes a review of the Terms of Reference of all Advisory Committees. This review ensures that the Committees:
 - a) remain relevant,
 - b) are aligned with the direction and requirements of the Council,
 - c) enables a refreshing of Membership; and
 - d) reassesses the need for a committee to continue.
5. Council resolved at its September meeting (OCM 167/2017) to "Abolish the Community Safety and Crime Prevention Advisory Committee".

-
6. Cr Lesley Boyd put forward motion to reinstate the Community Safety and Crime Prevention Advisory Committee (OCM 199/2017).

DETAILS

7. The review of all advisory committees was undertaken by the City of Kalamunda supporting each of the Committees and comment was elicited from the members of the committees where required.
8. The Terms of Reference were aligned to have greater consistency across the operations of all advisory committees.

STATUTORY AND LEGAL CONSIDERATIONS

9. *Section 5.8 of the Local Government Act 1995 – Establishment of Committees.*
Section 5.9(2)(c) of the Local Government Act 1995 – Types of Committees.
Section 5.11(2)(d) of the Local Government Act 1995 – Tenure of Committee Membership.

POLICY CONSIDERATIONS

10. The Council does not have a policy position for Advisory Committees.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

11. Cr Lesley Boyd and Cr David Almond have been consulted regarding the reestablishment of the Community Safety and Crime Prevention Advisory Committee with the following recommendations being adopted as amendments to the terms of reference:
 - a) frequency of meetings being a minimum of one in every 3 months
 - b) four members be made up of community representatives
 - c) standing items be identified by the committee such as hooning, graffiti, youth issues etc.

External Referrals

12. Public consultation is not required for the review of the Management and Terms of Reference of Advisory Committees.
13. Once Council has approved the establishment of the Committee and Terms of Reference, nominations from appropriate community representatives for appointment to the Committee will be sought.

FINANCIAL CONSIDERATIONS

14. The cost to administer an advisory committee is in the order of \$5,000 to \$6000 per year based on four meetings per year. This can vary depending on requirement of the committee.

Meeting agenda preparation	2 hours/meeting	\$ 400.00
Briefing Papers prepared and research	8 hours/meeting	\$ 1,600.00
Meeting attendance x 3 staff	2 hours/meeting	\$ 1,200.00
Minutes	2 hours/meeting	\$ 400.00
Senior Officers review and signoff	3 hours/meeting	\$ 900.00
Ongoing Liaison	2 hours/meeting	\$ 400.00
Reporting to council	4 hours/meeting	\$ 800.00
	Total estimate	\$ 5,700.00

These costs have been calculated using previous meeting statistics and information provided by the City's financial management team.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 4.1: To provide leadership through transparent governance.
Strategy 4.1.1 Provide good governance

SUSTAINABILITY

Social Implications

16. Reduction of antisocial behaviour through the introduction of new initiatives coming from the activities of the advisory committee.

Economic Implications

17. Nil.

Environmental Implications

18. Nil.

RISK MANAGEMENT CONSIDERATIONS

19.	Risk: Advisory Committees become irrelevant and become a cost to the City rather than a benefit.		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action / Strategy		
	By regularly, reviewing the terms of reference and the efficacy of advisory committees the City will not incur a cost without benefit.		
	Risk: Committee goals do not align with City's objectives and strategies.		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action / Strategy		
	Provide guidance to the Chair and at the first meeting communicate the City's strategic plan and objectives to ensure the Committee understands its role and works within its Terms of Reference.		
	Risk: The Terms of Reference are not reviewed.		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action / Strategy		
	Clarify that while the Committee can still operate with the existing Terms of Reference, the revised Terms of Reference provide greater clarity for the purpose and operation of the Committee.		

OFFICER COMMENT

20. Upon endorsement by Council of the Terms of Reference and the establishment of Committees, advertisements seeking nominations from the community for appointment to the Committees will be placed in the local newspapers. Following this a report will be brought to Council in to formalise the appointments.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Approves the Membership and Terms of Reference for Community Safety and Crime Prevention Advisory Committee as outlined in Attachment 1.
2. Approve the advertising of four community members to join the Community Safety and Crime Prevention Advisory Committee.
3. Appoint the following Councillors as members of the Community Safety and Crime Prevention Advisory Committee:
 - 1.
 - 2.

4. Appoints the following Councillor as a Deputy Member of the Community Safety and Crime Prevention Advisory Committee:
 - 1.

Moved:

Seconded:

Vote:

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

10.2.3 Approval for Parking of Two Commercial Vehicle - Lot 27 (236) Holmes Road, Forrestfield

The Director Development Services provided a presentation on this item.

Clarification was sought from members of the public and Councillors and information was provided by the Director.

Previous Items	Nil
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	HL-10/0236
Applicant	Haydn Robert Tieleman
Owner	Haydn Robert Tieleman & Amy Lyn Burns

Attachment 1	Site Plan
Attachment 2	Site photos of Commercial Vehicles
Attachment 3	Submission Table
Confidential Attachment 4	Confidential Submitters Map
<u>Reason for confidentiality:</u> <i>Local Government Act 1995</i> <i>S5.23 (2)(b) – ‘the personal affairs of any person.’</i>	

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider a planning application for the parking of two commercial vehicles at Lot 27 (236) Holmes Road (the Site) Refer Attachment 1.
2. The proposal was advertised in accordance with Clause 9.4 of the Local Planning Scheme No. 3-Advertising of Applications where the City received five submissions, consisting of three objections, one comment and one non-objection on the proposal. The concerns raised were in relation to amenity impacts, noise and traffic safety.
3. It is recommended that Council approve the application subject to conditions as the proposal is compliant in respect to Local Planning Policy P DEV 22- Parking of Commercial Vehicles on Private Property (the Policy).

BACKGROUND

4. **Land Details:**

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

5. The subject property contains a single dwelling and an existing outbuilding. The property is located in an area characterised by semi-rural lifestyle properties. The applicant proposes that the vehicles will 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 off site.

6. **Locality Plan:**



DETAILS

7. The applicant is seeking an approval for the parking of two commercial vehicles (rigid trucks) on the site. The proposed commercial vehicles are compliant with the Local Planning Policy P DEV 22- Parking of Commercial Vehicles on Private Property. Details of the proposal are contained in the Policy Considerations section of this report.
8. The trucks are 7m and 9m in length and 3.5m and 4.2 in height respectively. One vehicle is proposed to be parked behind the dwelling, and one truck to be parked inside an existing outbuilding on the site.

STATUTORY AND LEGAL CONSIDERATIONS

Local Planning Scheme No.3

9. 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 an "D" use, which means that the use is not permitted unless Council has exercised its discretion by granting development approval. A maximum of two commercial vehicles can be permitted on any Rural zoned land.
10. 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."

11. 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

12. 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

13. The objective of the P-DEV 22 (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.

14. The parking of two Commercial Vehicles is assessed against the Policy as per the following analysis:

Policy requirement	Proposal	Compliant with policy
Maximum 11 metres in length and 4.3 metres in height.	The trucks are 7 m and 9m in length and 3.5m and 4.2 in height.	Yes
The vehicles shall only be started and manoeuvred on the lot in accordance with times and a manner approved by Council. 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.	The applicant has no specific movement times at this point. If approved, this will be included as a condition.	Yes
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. One of the commercial vehicle is proposed to be parked in the outbuilding on 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

15. The proposal was discussed with internal departments and no objections were raised in regards to the proposal. The City's Assets Services has looked into the proposal for traffic safety and sight lines, and raised no objection.

External Referrals

16. In accordance with Scheme requirements, the 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, one comment and one non objection on the proposal.
17. The main issues raised in the comments are:
- a) Preservation of the amenity of the Special Rural Zone.
 - b) The subject property is on the bend of the road and large vehicles entering and leaving the property would pose a risk to other vehicles on the road.
 - c) The proposal to park the truck at the proposed location will have a negative impact on the amenity of the area.
 - d) The property has a narrow access and hence the crossover is not designed for heavy vehicles and should be changed if the proposal to park is approved.
 - e) The objectors are concerned that the applicant would breach the conditions if approval is granted.
 - f) 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.
18. The above concerns raised by the local community are addressed in the officer comment section of the report.

FINANCIAL CONSIDERATIONS

19. 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

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

OBJECTIVE 3.1 - To plan for sustainable population growth.

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

SUSTAINABILITY

Social Implications

21. The location of the vehicles on site may impact the amenity of the neighbouring property.

Economic Implications

22. The parking of the commercial vehicles on the property will assist the applicant with his business.

Environmental Implications

23. Nil.

RISK MANAGEMENT CONSIDERATIONS

24.	Risk: The proposed parking of two commercial vehicles may impact on the amenity of surrounding residents.		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/ Strategy		
	Ensure the proposal complies with the Policy in respect to amenity impacts.		

OFFICER COMMENT

25. The proposal is compliant with the Policy- DEV 22 – Parking of Commercial Vehicles on Private Property.

26. In respect to the principal concerns raised regarding the proposed the following is noted:

Amenity impacts resulting from the parking of the truck

It is noted that the proposed location of the truck is 25m from the nearest boundary of the nearby residents but due to the topography of the site the truck is not visible from the neighbouring property. The truck is parked behind the dwelling and has natural vegetation that reduces the impact on the neighbouring properties.

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 the approval of the City or Council, 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.

Traffic safety

Holmes Road is a 20m wide road providing access to properties that are mostly 1 hectare in area, the nearest intersection is approximately 150 m away. Whilst there are other properties accessing the road, the geometry of

the road combined with appropriate sightline does not compromise the safety of vehicles and the drivers.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Approve two commercial vehicles (Trucks) 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) Loading or offloading of materials and machinery is not permitted on site.
 - e) 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.
 - f) 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.

Moved:

Seconded:

Vote:

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

10.2.4 Change of Use, Function Centre to Place of Worship, Alterations and Additions to Existing Building, Two Function Halls, Crèche and Office Space and Signage - Lot 503 (105) Watsonia Road, Maida Vale

The Director Development Services provided a presentation on this item.

Discussion was held between Councillors and members of the public.

Previous Items	OCM 11/2016
Responsible Officer:	Director Development Services
Service Area	Approval Services
File Reference	DA17/0449
Applicant	Andre Liebenberg
Owner	Westminster Presbyterian Church Maida Vale Inc.
Attachment 1	Feature Survey Plan
Attachment 2	Existing Floor Plan
Attachment 3	Proposed Floor Plan
Attachment 4	Elevation Plan
Attachment 5	Colour Scheme and Development description
Attachment 6, 6A	Applicant Covering Report & Associated Information
Attachment 7	Landscaping Plan
Attachment 8	Stormwater and Drainage Plan
Attachment 9	Site Parking, Traffic and Signage Plan
Attachment 10	Bushfire Management Plan
Attachment 11	Vegetation Removal Plan
Attachment 12	Submitters Table
Confidential Attachment 13	Confidential Submitters Map
<u>Reason for confidentiality:</u> <i>Local Government Act 1995 S5.23 (2)(b) – ‘the personal affairs of any person.’</i>	

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider a planning application for the redevelopment of Lot 503 (105) Watsonia Road, Maida Vale. (the subject site)
2. The proposal incorporates a Place of Worship auditorium for 325 people, a crèche, Sunday school and outdoor toddlers play area and an illuminated pylon sign. It is indicated that the caretakers dwelling which exists on site will be converted for the purposes of the proposed crèche. This application consists of the development application for the conversion of the previous training centre to a place of worship and associated works.
3. The proposal was advertised in accordance with Council’s Policy P-Dev. 45 Public Notification of Planning proposals where the City received 12 submissions comprising of (9) non-objections and (3) objections. The concerns raised were in relation to amenity impacts, including increases in traffic, noise and privacy associated with the proposal.

4. It is recommended that Council approve the current planning application subject to appropriate conditions.

BACKGROUND

5. On 22 February 2016, Council resolved to adopt amendment 79 to Local Planning Scheme No.3 (the Scheme) to allow for a Special Use zone over the site, incorporating a 'Place of Worship' which is considered to be an 'A' use which means the use is not permitted unless the local government has exercised its discretion by granting planning approval following advertising. The amendment also included Reception Centre as a 'D' use and a Care Takers Dwelling as a (D) use which are defined as a use that is not permitted unless the local government has exercised its discretion by granting planning approval. The amendment was approved by the then Minister for Planning on 17 January 2017.
6. The subject property was originally developed in the 1978 as a licensed reception centre and restaurant named the Pinewood Function and Reception Centre which has a licenced capacity for 250 people. In 2006 the Minister for Planning approved an amendment to District Planning Scheme No.2 (Amendment 233) for the purposes of a Special Use for an administration and training centre for people with physical and intellectual disabilities and until 2006 the applicant states that the site was used as an administration and training centre. The meeting and conference room had an approved maximum accommodation permit for 175 people.

As a reception centre the building consisted of two function halls, a caretakers dwelling, a commercial kitchen, toilets, a large outbuilding, two gazebos and a sealed parking area for 112 vehicles. When the site was utilised as a reception centre the applicant states that the function halls were used for group training sessions and the offices for co-ordination purposes. It is considered that the land uses previously approved on site since 1978 have established a level of intensity that reflect the proposed development and land uses currently proposed.

DETAILS

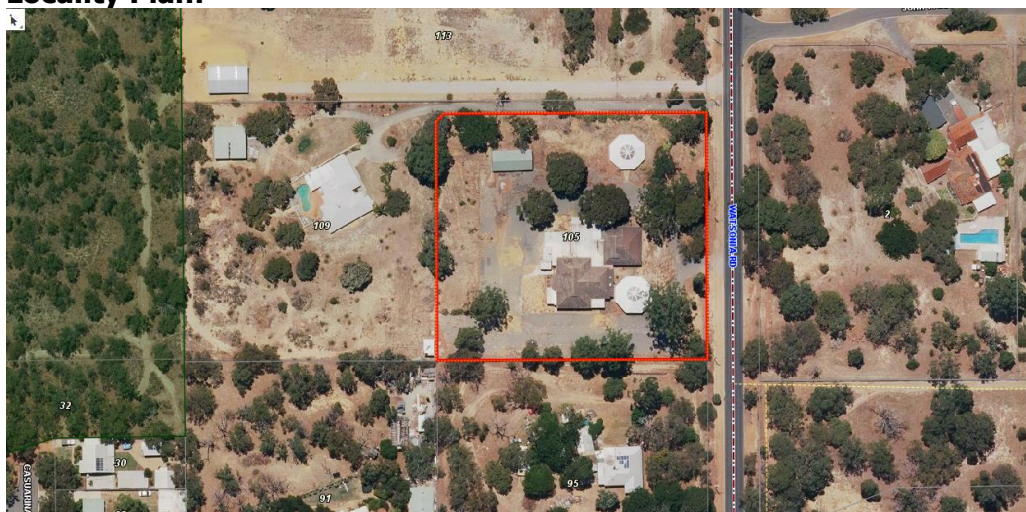
7. **Land Details:**

Land Area:	10016m ²
Local Planning Scheme Zoning:	Special Use (SU7)
Metropolitan Scheme Zoning:	Rural

8. The application consists of the redevelopment of an existing function hall and car park with the construction of an additional auditorium. The proposal also consists of the following alternations and additions (Refer Attachments 1-11):
 - a) Renovation and repurposing of the land use from function hall to Place of Worship (Auditorium) accommodating up to 325 persons and being 393m² in floor space.
 - b) Sunday church services are between the hours of 10am to 12 noon and 6pm to 7.30 pm
 - c) Community purpose use areas such as a crèche, new commercial kitchen, reconfiguration and reconstruction of ablutions.

- d) Reconfiguration of existing office space to form four separate offices plus an open office area.
- e) Three new meeting rooms including a board room.
- f) Relocation of the front entrance to the building.
- g) Resurfacing of the existing car park, reducing the parking bays from 112 to a total of 103 parking bays with 2 ACROD bays for persons requiring universal access.
- h) Creation of pedestrian link around the building. Reticulated lawn area with drainage piped from the roof to underground soak wells and surface run off directed to existing drainage soak wells.
- i) Relocation of existing gazebo from adjacent to the existing building to the northern elevation, setback 9.0 metres from the boundary.
- j) Provision of an overflow car parking area (grassed area) adjacent to the Western lot boundary for 20 vehicles.
- k) Removal of approximately six (6) trees as shown on Attachment 7, Landscaping Plan.
- l) An increase in building floor space from 1253m² to 393m² to form a total of 1646m² to accommodate the auditorium.
- m) An illuminated pylon sign measuring 3.7m in height.

9. **Locality Plan:**



- 10. The existing caretaker's residence will be removed and converted to a crèche which also includes an outdoor toddler play area and also the conversion of the front hall into an activity room for Sunday School and community craft activities.
- 11. To the exterior of the building the applicant seeks to establish a large children's play area to the north of the building. This seeks to incorporate one of the existing gazebos. The works also include paved walkways creating pedestrian links and to also separate traffic from pedestrian movement. It is also proposed to construct a pathway around the entire building.
- 12. The majority of the existing sealed parking area will be retained with a small portion being removed for the pedestrian link and new auditorium.
- 13. The applicant has stated that select trees and shrubs will be removed as per the associated landscaping plan. It is stated that this removal is to mitigate bushfire risks as recommended in the Bushfire Management Plan with the

introduction of managed reticulated landscaping areas. The applicant has stated that they have chosen water wise and native planting selection to compliment local flora and fauna as to attract birds and wildlife.

14. The applicant has stated that their aim is to seamlessly merge the old building with the new building, removing the existing concrete tiled roof and replacing it with 'Woodland Grey' Colorbond for the existing and proposed portions of the building.
15. The proposed building addition has a wall height of 5.0m and a roof ridge height of 7.6 metres.
16. The land use component of the application consists of the following:
 - a) Relocation of existing congregation which currently meets at their existing site at 4 Old Maida Vale Road, Maida Vale. They have outgrown this facility and need a larger building and property. The current capacity for the existing hall is 162 people and 35 people for the Sunday School bringing the total capacity to 197 people.
 - b) To accommodate church administration which includes four full time staff, one part time intern. It is stated that congregants and visitors who intend to visit the church throughout the week will normally report to the offices for attendance via the secondary entry near the offices.
 - c) The applicant has provided the following table to outline the congregational activities:

Activity or Ministry	Day Used	Typical Attendance	Hours of Operation	Room / Hall Used
Church service - Morning	Sunday	240-280	10am to 12 noon	New Auditorium
Church service - Evening	Sunday	30-60	6pm to 7.30pm	New Auditorium
Administration	Week days	5	8.30 to 5pm	Offices
Craft Group	Thursday	15-30	9.30am to 12pm	Activity Room
Young Parents Group	Thursday	15-25	9.30am to 12pm	Activity Room
Youth Groups	Friday	30-50	7pm to 9pm	Activity Room
Bible Studies	Monday & Wednesday	10-20	7.30pm to 9.30pm	Activity Room

STATUTORY AND LEGAL CONSIDERATIONS

Local Planning Scheme No.3

17. The subject site is zoned Special Use in accordance with the City's Scheme. Clause 4.7 (Special Use Zones) of the Scheme states that:
 - a) Special Use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.

- b) A person must not use any land, or any structure or buildings on land, in a Special Use zone except for the purposes set out against that land in Schedule 4 with respect to that land.
- c) It is noted in the scheme that Special Use Zones apply to special categories of land use which do not comfortably sit within any other zone within the Scheme.

18. Schedule 4, Special Use 7 (SU7) as per Local Planning Scheme Amendment 79, which was gazetted on the 17 January 2017 lists the following:

- Reception Centre (D) use.
- Caretakers Dwelling (D) use.
- Place of worship (A) use.

- a) A 'D' land use is defined in the scheme as "*Means that the use is not permitted unless the council has granted planning approval.*"
- b) An 'A' land use is defined in the scheme as "*Means that the use is not permitted unless the Council has granted planning approval after giving notice in accordance with Clause 9.4 of the Scheme (Advertise)*"
- c) It is also stated that the uses of Reception Centre and Caretakers dwelling are not permitted unless approval is granted by the Local Government and;
- d) The use of Place of Worship is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with Clause 64 (3) of the Deemed Provisions.
- e) It is also stated that prior to the determination of planning approval by Council for a 'Place of Worship' on the land, the applicant shall prepare a traffic impact assessment.

19. 'Table 2- Site Requirements' of the Scheme outlines development requirements for proposals within the Special Use zone are *'at the discretion of the local government'*. However as a guide, given the prevailing zone in the area, the requirements of the 'Special Rural' zone has been applied as a guide only.

LPS 3 Table 2 Requirement (Special Rural)	Requirement	Proposed	Complies Yes/ No
Setback Front (Watsonia Rd)	15m	24.8m	Yes
Setback Side (North)	<i>At the discretion of the local government.</i> 10m	9.0m to existing gazebo. 29.6m to proposed building.	Yes
Setback Side (South)	<i>At the discretion of the local government.</i> 10m	20.9m	Yes
Setback Rear (West)	<i>At the discretion of the local government.</i> 10m	33.61m	Yes
Landscaping Strip	<i>At the discretion of the local government.</i>	8m width	As existing

20. Table 3- Parking Requirements' of the Scheme outlines parking requirements for proposals considered to be 'Place of Worship' at a ratio of 1 parking bay per every 5m² of net lettable area.

LPS 3 Table 3 Requirement	Requirement	Proposed	Complies Yes/No
Place of Worship @ 393m²	1 parking bay per 5m ² of NLA 79 parking bays	79 parking bays	Yes
Community Purpose @ 501m² Including Crèche, Activity Hall and Multipurpose Hall	1 bay per 5 persons the facility is designed to accommodate 130 people 26 parking bays	20 parking bays	Yes, 20 additional car parking bays are provided as overflow parking in the event they are required. A cross utilisation of bays is likely between the community purpose uses and the place of worship given the times that activities and services are held.
Offices @ 100m² Including four offices and open office area.	4 bays per 100m ² of NLA 4 parking bays	4 parking bays	Yes

21. **Planning and Development (Local Planning Schemes) Regulations 2015**

In considering an application for development approval, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations) requires that Council give due regard to a number of matters, including:

- a) The compatibility of the development within its settings;
- b) Amenity of the locality;
- c) The amount of traffic to be generated by the proposed development,
- d) particularly in relation to the capacity of the road system and effect upon traffic flow and safety; and
- e) Any relevant submissions received on the application.

22. 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 to \$30,000.

POLICY CONSIDERATIONS

23. State Planning Policy 3.7 Planning for Bushfire Prone Areas

The subject site has been identified as being within a Bushfire Prone Area, therefore the requirements of SPP 3.7. A Bushfire Management Plan has been submitted. A place of worship is not considered to be a vulnerable land use and therefore referral to Department of Fire and Emergency Services is not required at this time.

As Asset Protection Zone (APZ) of 20 metres around the existing and future building has been recommended by bushfire planning consultants within the Bushfire Management Plan (BMP). This is to be implemented and maintained within the site. Refer Attachment 10.

The BMP outlines in Section 8.2 a list of developer responsibilities which include:

- a) Construction of an APZ in accordance with Section 6.2 of the BMP report.
- b) Installation of fire breaks and access ways in accordance with Section 6.3 of the BMP.
- c) Supply a copy of The Homeowners Bush Fire Survival Manual, prepare Act Survive (or similar suitable documentation) and the annual Firebreak Notice issued by the City of Kalamunda to the land owners.
- d) Comply with any legal requirements by the City of Kalamunda that may override or exceed the limits of the BMP.
- e) Place a Section 70A notification on the Certificate of Title of the lot, advising landowners of the existence of the submitted BMP.

It is recommended that where applicable, conditions be added to ensure compliance with the recommendations of the BMP for this site.

24. Local Planning Policy P-Dev. 42- Signage on Private Property

- a) An illuminated pylon sign is proposed which states the name of the Church "Westminster Presbyterian Church", associated logo, opening times and telephone number. Refer Attachment 9.
- b) Signage Panel is 1.8m in width by 1.2m in height and is 2.5m clearance height distance from the natural ground level. The total height of the pylon sign is 3.7m in height. The sign structure consists of 38 x 5mm galvanised poles and a 60mm diameter galvanised pole.
- c) The proposed signage complies with the assessment standards of Clause 3.1 whereby it does not pose any threat to public safety or health.
- d) The sign clearance from the ground does not comply with Clause 3.9.1 a) which stipulates a height clearance of 2.75m. A condition will be recommended seeking compliance with this requirement.
- e) As the application indicates that the sign is to be illuminated, the signage must therefore comply with Clause 3.5 of this Policy which includes the following requirements, namely every illuminated sign shall:
 - i) Have any boxing or casing in which it is enclosed constructed of incombustible material;
 - ii) Have its electrical installation constructed and maintained to the satisfaction of the State Energy Commission or the appropriate electricity supply authority and in accordance with the S.A.A Code 3000 -1976.
 - iii) Be maintained to operate as an illuminated sign; and

- iv) Not have a light of such intensity or colour as to cause annoyance to the public and not interfere with traffic control lights.
- v) Signs not be internally or indirectly illuminated, move, flash, rotate or reflect so as to be a distraction to drivers.

25. **City of Kalamunda, Draft Policy P-DEV 55 Places of Worship**

The City has recently drafted a planning policy to provide guidance with respect to the location and application for additional or special land uses for the purposes of development of place of worship. The policy is currently released in draft format for public consultation.

As the policy is in draft format it is currently not an operatable policy and therefore has not been applied to the current proposal. The policy seeks to create site location criteria for the purpose of discouraging the conglomeration of places of worship in order to avoid significant impacts on the local amenity of the surrounding area. In this instance if the policy were adopted in its current format, given the Special Rural zoning, a 500m separation distance would be required between one proposal for place of worship and an existing place of worship land use.

The policy also seeks to introduce new control measures to assess items such as:

- a) Scale and intensity of the operation (requiring a site master plan to show various proposed stages of development over time)
- b) Capacity relating to effluent disposal, floor space and occupancy levels.
- c) Intended catchments
- d) Built form.

26. Noting the above draft Policy requirements, a preliminary assessment indicates that with the exception of the requirement for a Master Plan, the proposal satisfies the intent of the draft Policy provisions, in particular the separation distance between existing and proposed places of worship. Importantly, the proposal is replacing a previous function center and training and administration center land on the site which is considered an acceptable land use transition which is unlikely to impact on the amenity of the prevailing area, a key objective of the draft Policy. Please note however that the Policy is still in draft form and therefore cannot be applied to the current proposal. The advertising period for the draft Policy concludes on 14 February, following which the Policy will be referred to council for adoption.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

27. The application was referred to the City's Asset Services, Environment, and Environmental Health Departments for comment. The comments received are summarised as follows:

Environmental Health

Comments: Septic application is in and currently being prepared for DOH approval. I have advised the applicant that a public building application is required and they will arrange for this next year.

Conditions:

- a) The applicant must submit floor plans and an application for a Certificate of Approval under the Health (Public Buildings) Regulations 1992 to the City of Kalamunda and receive approval prior to use of the building
- b) A new effluent disposal system that complies with the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulation 1974 must be installed as per pending approval with the Department of Health.

Advice:

- a) The applicant is advised that the food premises must comply with the Food Act 2008 and Food Standards Code. Further advice on these requirements is available from the City's Health Service on 9257 9813.
- b) The applicant is reminded of their obligations to comply with the "Land development sites and impacts on air quality: a guideline for the prevention of dust and smoke pollution from land development sites in Western Australia", prepared by the Department of Environment & Regulation.

Asset Services (Engineering)

Comments: no objection to the proposal subject to the following conditions.

Conditions:

- a) Vehicle parking, maneuvering and circulation areas to be suitably designed and constructed to the specification and satisfaction of the City.
- b) Crossover shall be designed and constructed to the specification and satisfaction of the City.
- c) Vehicle access ways shall be suitably constructed, sealed and drained to the specifications and satisfaction of the City.
- d) Storm water drainage from roofed and paved areas being disposed of to the specification and satisfaction of the City.
- e) Engineering drawings and landscaping plans are to be submitted and approved by the City and development works undertaken in accordance with the approved plans.

Advice:

- a) In regards to Storm water requirements a geotechnical report is advisable
- b) No stormwater runoff is to enter neighbouring property via overland flow from subject lot unless easement is secured between the neighbouring properties.
- c) Prior to obtaining approval from the City of Kalamunda, no works relating to clearing of vegetation, trees and earthworks shall be carried out on site and adjacent areas.
- d) The applicant is advised that all drainage is required to utilize and comply with water sensitive urban design principles/guidelines.

Asset Services (Environment)

Conditions:

- a) The highlighted trees are to be retained for amenity and landscape.
- b) The applicant is to engage an arborist to determine how these trees can be protected, retained and incorporated into the development and landscape plan. AS 4970-2009 Protection of trees on development sites applies.

- c) Two native street trees are to be planted in the verge as per the guidelines.

Advice:

- a) This property is not far from Maida Vale Reserve an important bushland area containing rare flora. The follow plants in the booklet 'garden escapees' should not be part of the future landscape plan <http://www.kalamunda.wa.gov.au/Waste-Environment/Managing-Our-Reserves/Weeds> and in addition neither should the following:
- a. Feather Grass - *Pennisetum sp.*
 - b. Geraldton Wax – *Chamelaucium uncinatum*

External Referrals

28. The proposal was advertised in accordance with the City's Local Planning Policy P-DEV 45 Public Notification of Planning Proposals for a period of 28 days. As part of the advertising, letters were sent to surrounding neighbours to a radius of 500m inviting comment, with a total of 218 properties advertised to. A sign was also erected on site for the duration of the advertising period, as well as notification and plans of the proposal being displayed on the City's website and social media platform.
29. During the advertising period a total of 12 responses were received, comprising of (9) non-objections and (3) objections, (Attachment 12). The nature of the objections relate to disruption to current amenity including increase in traffic, privacy and noise.
30. The concerns raised are addressed in Attachment 12 of the report and also in the officer comment section of this report.

FINANCIAL CONSIDERATIONS

31. In the event that Council resolves to refuse the application, it is anticipated that the proponent will appeal the decision to the State Administrative Tribunal. Notwithstanding Council has its own legal counsel, there may be costs incurred in the City engaging expert planning witnesses, which could be in the vicinity of \$20,000.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

32. *Kalamunda Advancing: Strategic Community Plan to 2027*
- OBJECTIVE 3.1: To plan for sustainable population growth.
- Strategy 3.1.1 Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

SUSTAINABILITY

Social Implications

33. The local Westminster Presbyterian Church community will benefit from a larger premises than their existing worship hall on Old Maida Vale Road. The site will be upgraded and rejuvenated as well as re-activated from its dormant current usage.

Economic Implications

34. Nil.

Environmental Implications

35. The removal of vegetation for this proposal has been kept to a minimum. The zoning supports the proposed land use. The application is sensitive to the environment even though it is noted that the vegetation on the site is predominantly exotic.

RISK MANAGEMENT CONSIDERATIONS

- 36.
- | | | |
|---|--------------------|---------------|
| Risk: The surrounding rural amenity and character is affected by the place or worship proposal. | | |
| Likelihood | Consequence | Rating |
| Possible | Moderate | Medium |
| Action/ Strategy | | |
| Ensure that the planning, siting and design of the place of worship development is designed so as to minimize undue amenity impacts to surrounding land owners. | | |
| Risk: That the approval of tree removal could damage the reputation of the City of Kalamunda. | | |
| Likelihood | Consequence | Rating |
| Likely | Significant | High |
| Action/ Strategy | | |
| Ensure that the planning, siting and design of the development is designed so as to minimize the removal of trees on site and on any adjacent verge. | | |

OFFICER COMMENT

37. A number of concerns have been raised regarding the location and orientation of the front entrance of the facility. In response to this objection the applicant has provided the following response:

'The design is focused on sensitively blending the new auditorium into the existing building while retaining the existing architecture. The bulk of the parking and the main entrance is on the south eastern side of the building, with the Northern side of the property developed as a child safe green space.

During normal weekday operation of the church the Eastern entrance will exclusively be employed for all activities. On Sunday mornings the Eastern and

Western entrances will both be open to allow people to move in and out of the church conveniently to their parking location. So, not all person traffic will enter/exit through the western entrance. Further, the hibiscus hedge and trees along the rear boundary of the property will screen much of the activity on a Sunday morning.'

Given that the building is setback greater than 29 metres from the northern boundary and 33 metres from the western boundary, this greatly exceeds the requirements for the Special Rural Zone which would require the building be setback 10 metres from the boundary. It is also noted that where a Special Use Zone is approved, setbacks are at the City's discretion. In this instance the setback distances more than double the standard for the adjacent zoning and therefore deemed to comply.

38. In regard to tree retention and protection on site, the applicant has indicated that only a minimal number of trees are to be removed as part of this application. The applicant has been liaising with the City's Environment team, and as such the recommended conditions and advice from that team is recommended to form part of the conditions of approval for this application.
39. It is considered that the proposed development is consistent with the Special Use approved by Council for Place of Worship and incidental and complementary uses. The intensity of the proposed use is assessed as an acceptable transition from the previous Pinewood Function Centre and subsequent training and administration centre and therefore should be approved. The scale of the proposed additions are assessed as acceptable and will see an overall improvement to the site.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Approves the development application for a Change of Use, Function Centre to Place of Worship. Alterations and Additions to Existing Building, Two Function Halls and Office Space and Pylon Sign at Lot 503 (105) Watsonia Road, Maida Vale subject to the following conditions:
 - a) The development shall be carried out only in accordance with the terms of this approval herein, and any approved plan.
 - b) Permitted hours of operation for the Place of Worship are limited to 10am to 12 noon and 6pm to 7.30pm 7 days a week.
 - c) A maximum of 325 patrons are permitted to attend the site at any one time.
 - d) Prior to the commencement of the Place of worship use, all parking and vehicle circulation areas shall be designed, constructed and drained to the specifications and satisfaction of the City of Kalamunda, and Australian Standards AS2890
 - e) Vehicle parking associated with the place of worship and associated uses shall be contained wholly within the subject site.
 - f) The Crossover shall be designed and constructed to the specification and satisfaction of the City of Kalamunda.

-
- g) Engineering drawings and landscaping plans are to be submitted and approved by the City and development works undertaken in accordance with the approved plans.
 - h) A revised landscape plan is required to be submitted prior to commencement of works on-site outlining current and proposed landscape design for approval to the satisfaction of the City of Kalamunda, including as a minimum
 - i) Species type(s) (botanical names)
 - ii) Pot size(s).
 - iii) Quantities.
 - iv) The location of proposed landscaping, and if applicable, existing landscaping being retained.
 - v) The proposed landscaping shall be planted prior to occupancy and maintained thereafter to the satisfaction of the City of Kalamunda.
 - vi) Arborist report / statement indicating how the trees will be retained and incorporated in the development and landscaping plan.
 - vii) The location of two native street trees which are to be planted in the verge area to the satisfaction of the City of Kalamunda.
 - i) Stormwater drainage from roofed and paved areas being disposed of to the specification and satisfaction of the City of Kalamunda.
 - j) Protection and retention of Trees and vegetation shall be in accordance with Australian Standards AS 4970-2009 Protection of trees on development sites.
 - k) The proposed illuminated pylon sign shall comply with the provisions of the City's Local Planning Policy P Dev 42 Signage on Private Property and shall afford a clearance of 2.75m from natural ground level to the signage panel structure. The sign shall comply with clause 3.5 whereby the illuminated sign shall:
 - i) have any boxing or casing in which it is enclosed constructed of incombustible material;
 - ii) have its electrical installation constructed and maintained to the satisfaction of the State Energy Commission or the appropriate electricity supply authority and in accordance with the S.A.A. Code3000 - 1976.
 - iii) be maintained to operate as an illuminated sign; and
 - iv) not have a light of such intensity or colour as to cause annoyance to the public and not interfere with traffic control lights.
 - v) Signs must not be internally or indirectly illuminated, move, flash, rotate or reflect so as to be a distraction to drivers.

Moved:

Seconded:

Vote:

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

10.2.5 Change of Use, Place of Worship, Single Storey Community Hall Auditorium, Car Park, Culvert Crossing and Community Purpose uses at Lot 213 (28) Lewis Road, Wattle Grove.

Ms Leah Gorman and Mr Michael Sala Tenna presented deputations both speaking against the officer recommendation as they are neighbours to the development and have concerns regarding privacy and number of patrons attending the development.

Ms Maria Daniel and Mr Brian La Fontaine presented a deputation speaking in favour of the officer recommendation. Ms Daniel is the Director of Fount of Youth Sanctuary. Mr La Fontaine provided a presentation showing the overview of the design.

Mr Kim Sinclair presented a deputation speaking against the officer recommendation. Mr Sinclair is a direct neighbour to the development and held concerns with its size.

Mr Peter O'Malley presented a deputation speaking against the officer recommendation. Mr O'Malley is a neighbour to the development and has concerns regarding the zoning of the property.

The Director Development Services provided a presentation on this item.

Discussions ensued between Councillors, members of the public and the Director Development Services.

Cr Thomas left the room at 8.56pm and returned at 8.57pm

Previous Items	Nil
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	DA17/0367
Applicant	Peter Hunt Architect
Owner	Mr Vincent Rajkumar Lourduswamy, Fount of Youth Sanctuary
Attachment 1	Overall Site Plan
Attachment 2	Stormwater Drainage Plan
Attachment 3	Proposed Floor Plans
Attachment 4	Elevation Plans
Attachment 5	Flora, Fauna and Biophysical Assessment
Attachment 6	Site Feature Survey Plan
Attachment 7	Transport Impact Statement
Attachment 8	Site Plan
Attachment 9	Applicant Covering Letter
Attachment 10	Bushfire Statement
Attachment 10a	Bushfire Management Plan
Attachment 10b	Bushfire Evacuation Plan
Attachment 11	Culvert Crossing Plan
Attachment 11a	Culvert Crossing Supporting documents
Attachment 11b	Department of Water and Environmental Regulation Permit
Attachment 12	Clearing Permit Exemption Detail
Attachment 13	Car Parking demand table
Attachment 14	Addendum to Environmental Report
Attachment 15	Land Use timetable
Attachment 16	Submitters Table

Attachment 17	Tree removal diagram
Confidential Attachment 18	Confidential Submitters Map
<u>Reason for confidentiality:</u> <i>Local Government Act 1995</i> <i>S5.23 (2)(b) – 'the personal affairs of any person:'</i>	
Attachment 19	Site Photographs

EXECUTIVE SUMMARY

1. The purpose of this report is to consider a planning application for the redevelopment of the subject site for the purposes of Change of Use, Place of Worship, Single Storey Community Hall Auditorium, Car Park, Culvert Crossing and Community Purpose uses
2. The application also includes the development of a culvert crossing across Yule Brook for the purposes of creating an appropriate crossing for vehicular and pedestrian access, including for use of bushfire emergency services.
3. The application was advertised in accordance with Planning Policy P-Dev45 Public Notification of Planning Proposals. There was a total of 54 submissions including one non objection and 53 objections. The principal concerns that were raised are as follows:
 - a) Traffic, noise and safety.
 - b) Environmental concerns relating to removal of trees and to flora and fauna.
 - c) Privacy, particularly from adjoining property owners.
 - d) Existing Rural Community Character, concerns regarding the size of the building and conglomeration of Places of Worship in the immediate vicinity.
 - e) Social issues associated with counselling services.
 - f) Zoning concerns as the area is Special Rural not a Place of Worship Zone.
4. It is recommendation that the application is approved the subject to conditions.

BACKGROUND

5. On the 19 August 2016 The Minister for Planning approved Local Planning Scheme No.3 Amendment 74 for Additional Use 'Place of Worship' and 'Community Purposes' which are considered to be 'A' uses, defined as a use that is not permitted unless Council grants planning consent following advertising. This was applied to the subject property at 28 Lewis Road, Wattle Grove.

DETAILS

6. **Land Details:**

Land Area:	20082m2
Local Planning Scheme Zoning:	Special Rural (Additional Use) (A 54)
Metropolitan Scheme Zoning:	Rural

7. The application consists of the development of a Community Hall / Auditorium (425m²) which is used for a Place of Worship, car park as well as Community Purpose facilities including a Kitchen (52m²), Clinic (22m²), Crèche (22m²), Staff Offices and Store Rooms. The proposal also consists of the following:
- a) The application for development includes the construction of a new auditorium / community purpose centre which seeks to accommodate 120 patrons for the place of worship use and 98 people for the community purpose land uses operating at various times during the week.
 - b) Retention of existing dwelling as a caretakers dwelling.
 - c) Construction of a car park inclusive of 59 car parking bays including 2 universal accessible bays. An additional 29 car parking bays in an overflow area are provided behind the proposed building. The parking assessment requires consideration of reciprocal parking arrangements on site in accordance with Clause 5.7.3 of the Scheme.
 - d) Construction of a culvert crossing over Yule Brook for vehicles and pedestrians. The purpose of this crossing is to replace an existing insufficient crossing which will connect the site from East to West throughout all seasons, improving the functionality of the entire lot.
 - e) The applicant has stipulated that they aim to remove 1 large tree, and 8 small trees for the building footprint and car park. The environmental survey identified approximately 190 trees of significant size. The applicant states that they wish to remove 1 large tree, and 8 small trees for the building footprint and car park and seek to remove 2 small trees for the creek crossing.
Total number of trees removed 11 trees - this represents only 5% of the total number of trees. (Trees identified are those with a trunk diameter of 300mm or greater. The applicant has stated that they are happy to replace those 11 trees with new trees of similar species.
 - f) Construction of Community purposed building which consists of rendered masonry block work construction, contrasting Colorbond cladding, timber soft eaves and metal Colorbond skillion roof. The height of the structure is proposed at 8.07m in total height as measured from natural ground level.
 - g) Construction of a half basketball court adjacent to an existing outbuilding.
 - h) The site is generally flat with contour differences sloping downwards into Yule Brook to the centre of the site behind the proposed building. This is located more than 30 metres from any proposed building.

8. **Locality Plan:**



9. The land use component of the application as per information provided by the applicant consists of the following:
- a) Community Purpose land uses including a youth group service, men’s group, women’s group, a community clinic including a doctor, audiologist, occupational therapist and counselling services, life readiness skills training, a Food preparation and Soup Kitchen, non-perishable food distribution, learning centre for children with disabilities and a petting farm. The applicant has stated that they are *not* providing direct intervention services rather education support helping families and persons_struggling to get the right help by pointing them to other agencies that do the direct intervention.
 - b) The applicant has provided the following table to outline the congregational and community purpose activities:

Service / activity	Day Used	Time	Typical attendance	Room / Hall Used
Church Service	Sunday	10am-2pm	120 people	Main auditorium
Music practice	Saturday	4pm-7pm	10-15 people	Main auditorium
Youth (as currently done onsite)	Friday	6pm-9pm	10-20 youth approx.	Youth Hall
Men’s group (as currently done onsite)	Saturday (once a month)	7pm-9pm	10-15 men approx.	Main auditorium
Women’s group (as currently done onsite)	Saturday (once a month)	7pm-9pm	10-15 women approx.	Main auditorium
Prayer time (as currently done onsite)	Monday Tuesday Saturday	7pm-8pm 7pm-8pm 7am-8am	10 people approx.	Main auditorium
Clinic – Doctor, Audiologist, Occupational Therapy, counselling services.	Week days – during the day Example: Doctor 4hrs on a Tuesday, Occupational Therapy 4hrs Wed & Thurs (yet to be determined)	Varying hours during the day (could be 2hrs/day or 4hrs three days/week, etc.)	Various 15min-30mins/consult . (6-8 people) based on pro-bono services provided by the consultants. <i>‘Will be based on the specific number of cases we take on board.’</i>	Clinic
Life readiness skills training, seminars Courses on mental health, disability, learning sessions for families managing family members	Weekdays – based on community trends and needs.	Primarily 1hr-4hr sessions/ may occasionally be a day session 10am-4pm.	Depends on nature of the learning course – small groups up to 10-15 people and large groups up to 50-60.	Activity room and auditorium

with drug/alcohol issues, suicide, anxiety, etc. and includes on-line E-learning opportunities.				
Food prep Soup kitchen includes Apprenticeship Training for marginalised students	Weekdays (Soup kitchen)	9am-2pm 3pm-6pm approx.	5 volunteers approx. and 3 cooks-Food cooked and provided to homeless and disadvantaged families. 1-2 students case managed.	Kitchen Prep and then taken out into the Community – Perth City and families in need in the local community.
Non-Perishable Food Distribution	Any day– dependant on call out/need. Hampers will be dropped off.	During the day–based on calls for help from the community.	1-2 people will deliver the hampers to community homes.	Store Room 2
Administration	Weekdays	8am-5pm	1 -2 persons	Staff Office/ Auditorium The current home on the property.
'Joshie's Hub' (Learning centre for children with disabilities) and petting farm	Weekday (<i>i.e.</i> : Clients case managed and may be 4hrs on a Mon, 3hrs on a Wed, etc., to be determined.)	During the day	6 children/ youth <i>i.e.</i> : 4-6 children + 2 trainers) This is done through case management.	Auditorium/ Garden/ Kitchen
Community garden	Weekdays (Mon-Fri)	During the day – 10am-3pm	Varies – may have up to 10 people (case managed as a part of the program) or a few people on a given day + trainers (6 people approx.) Partnership with senior citizens centre for day placement activity is also envisaged.	Outdoors

10. The applicant has provided a comprehensive set of professional reports outlining and evaluating specific aspects of the proposal including the following:
- a) Flora, Fauna and Biophysical Assessment (Environmental Consultant) See Attachment 5
 - b) Transport Impact Statement, See Attachment 7
 - c) Bushfire Management Plan, Statement and Evacuation Plans. See Attachments 10, 10a and 10b.

The applicant has also provided detailed plans regarding the culvert crossing including a permit issued by the Department of Environment clearing permit exemption and a tree removal diagram (refer to Attachments).

STATUTORY AND LEGAL CONSIDERATIONS

11. **City of Kalamunda, Local Planning Scheme No.3**

The subject site is zoned Special Rural in accordance with the City's Local Planning Scheme No.3 (Scheme). Clause 5.9 (Special Rural Zones) of the Scheme states that:

- a) *This zone provides for small rural lots to accommodate uses compatible with rural residential living.*

5.9.2 Land Use and Development

The following provisions shall apply specifically to all land included in the Special Rural Zone in addition to any provisions which are more generally applicable to land under the Scheme.

- a) *In order to conserve the rural environment trees shall be retained unless their removal is approved by local government, in accordance with clause 5.18 'Tree and Vegetation Preservation'*
- b) *The keeping of animals shall be in accordance with clause 5.17 'Rural Pursuit'.*
- c) *With the exemption boundary or other fencing that complies with the Local Laws or Policy adopted by local government, no boundary or other fence shall be erected in a Special Rural Zone without the approval of local government having first been obtained. In making its decision on applications for approval to erect a fence, local government shall take into consideration the aesthetic impact of the fence on the environment of the Special Rural Zone.*
- d) *The use of fibre cement sheeting, wooden pickets and metal sheeting as fencing material is not permitted.*
- e) *In order to enhance the rural amenity of the land, in areas deficient of tree cover, the owner may be required, as a condition of planning or subdivision approval, to plant and maintain such trees and/or groups of trees as specified by the local government.*
- f) *The minimum setback for structures or buildings from lot boundaries in this zone shall be as per Table 2, unless otherwise approved by the Local Government.*

12. Schedule 2, Additional Use 7 (A 53) as per Local Planning Scheme Amendment 74, which was gazetted on 30 December 2016 lists the following:
- Community Purpose (A) use.
 - Place of worship (A) use.

- a) An 'A' land use is defined in the scheme as "*Means that the use is not permitted unless the Council has granted planning approval after giving notice in accordance with Clause 9.4 of the Scheme (Advertise)*"
- b) Community Purpose is defined as '*means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit*'
- c) Place of worship is defined in the scheme as '*Means premises used for religious activities such as a church, chapel, mosque, synagogue and temple.*
- d) It is stated that prior to the determination of planning approval by Council for a 'Place of Worship' on the land, the applicant shall prepare a traffic impact assessment.
- e) It is stated that prior to the determination of planning approval by Council, the applicant shall prepare a Bushfire Management Plan where a Bushfire Hazard Assessment determines the land to have a moderate or extreme risk of Bushfire.

13. Clause 5.18 of the scheme relates to Tree and vegetation preservation. '*Native vegetation shall not be damaged, destroyed unless it is in accordance with relevant state legislation, acts regulations and guidelines. Such legislation includes the Environmental Protection Act 1986, the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 and other legislation as adopted from time to time.*'

The application is required to comply with the requirements of the Scheme for the preservation of native vegetation.

14. 'Table 2- Site Requirements' of the Scheme outlines development requirements for proposals within the Special Rural zone, the following table outlines the requirements and proposed elements.

LPS 3 Table 2 Requirement (Special Rural)	Requirement	Proposed	Complies Yes/ No
Setback Front (Lewis Rd)	15m	33.8m	Yes
Setback Side (North East)	10m	14.8m	Yes
Setback Side (South West)	10m	22.7m	Yes
Setback Rear (East North East)	10m	100m2+	Yes
Landscaping Strip	Not specified	1.5m	Yes

15. The proposed place of worship / community purposes building has a wall height of 4.14m and a roof height of 8.07 metres.
16. Table 3- Parking Requirements' of the Scheme outlines parking requirements for proposals considered to be 'Place of Worship' at a ratio of 1 parking bay per every 5m² of net lettable area.

17. Clause 5.7 Car Parking Requirements of the Scheme specifies in Clause 5.7.2 and Clause 5.7.3 (reciprocal parking) that the local government may apply a discretion, a greater or lesser requirement for car parking than that stipulated as the minimum requirement in Table 3, if in its opinion the proposed use is likely to demand a greater or lesser need for car parking bays, having due regard to the scale and nature of the intended use or uses.
18. The applicant has provided a summary of the parking demands as per the associated activities that will be undertaken on site.

Mondays to Saturdays (9-6pm)

The maximum generator would be a seminar type activity which can vary between 10 to 15 people up to 50 to 60 people.

There are various activities including several services that only occur occasionally or on an as needed basis (See Attachment 13).

While highly unlikely, assuming under the worst-case scenario that all activities are scheduled concurrently, the maximum attendance would be 104 people.

Sunday

Sunday church service is the largest and only generator of attendees (between 80-120 people). It is worth noting that no other activities would occur at the same time as the church service.

The applicant has stated that *'I think it would be reasonable to calculate the demand against the LPS 3 requirements based on these two peak activities – As the demand does not overlap, the appropriate supply would be the maximum of the two demands.'*

LPS 3 Table 3 Requirement	Requirement	Proposed	Complies Yes/No
Place of Worship @ 425m2 80 person congregation	1 parking bay per 5m2 of NLA 85 parking bays	Total on-site 59 parking bays constructed plus 29 overflow parking bays 88 bays total proposed	Yes
Community Purpose @ estimated max. 98 people (on site) Including all uses stipulated by applicant excluding place of worship.	1 bay per 5 persons the facility is designed to accommodate 20 parking bays	Total on-site 59 parking bays constructed plus 29 overflow parking bays 88 bays total Proposed	Yes if car parking is used as reciprocal parking is achieved across the use of the facility at different times during the week.
Total	105 parking bays required if both (Community purposes) land uses and place of	88 parking bays	Shortfall of 17 bays. (assuming all activities were

	worship were to operate concurrently.		undertaken at the same time) Yes if reciprocal parking arrangements are achieved.
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The proposed land uses are operating at different times. The peak capacity is during Sunday church services. The predominance of community purpose activities are operating during the week and not at the same time as the church service which is 10am-2pm on Sundays.

19. **Planning and Development (Local Planning Schemes) Regulations 2015**

In considering an application for development approval, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations) requires that Council give due regard to a number of matters, including:

- a) The compatibility of the development within its settings;
- b) Amenity of the locality;
- c) The amount of traffic to be generated by the proposed development, particularly in relation to the capacity of the road system and effect upon traffic flow and safety; and
- d) Any relevant submissions received on the application.

20. Clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, (Deemed Provisions), outlines the procedures relating to the advertising of development applications. The local government may advertise, or require the applicant to advertise, an application for development approval.

21. The use of Place of Worship / Community Purposes are not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with Clause 64 (3) of the Deemed Provisions.

22. 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 to \$30,000.

POLICY CONSIDERATIONS

23. **State Planning Policy 3.7 Planning for Bushfire Prone Areas (SPP 3.7)**

The subject site has been identified as being within a Bushfire Prone Area (BPA), therefore the requirements of SPP 3.7. A Bushfire Management Plan (BMP) has been submitted.

In accordance with SPP 3.7, A place of worship is not considered to be a vulnerable land use and therefore referral to Department of Fire and

Emergency Services is not required at this time. A Bushfire Evacuation Plan has been provided however which is contained in (Attachment 10B) of this report.

24. As assessment of the site provided by Bushfire Prone Planning stipulates that with the selective removal and subsequent management of existing native vegetation can be implemented to result in the achievable BAL rating of the proposed Community Hall building being no greater than BAL 12.5. Future buildings within 100 metres of classified vegetation is to be constructed to standards which correspond to the determined BALs, as required by Australian Standard AS3959-2009 Construction of buildings in bushfire prone areas.
25. The proposal complies with the acceptable solutions for all relevant Bushfire Protection Criteria including location, siting and design of development, vehicular access and access to a water supply.
26. The BMP outlines in Section 10 a list of developer responsibilities which include:
 - a) Construction of an Asset protection Zone (APZ) in accordance with Section 7.3 'Vegetation Management' and Appendix 4 APZ of the BMP report.
 - b) Construction of private driveways must comply with the standards (Appendix 5 'Vehicular Access' of the BMP.
 - c) Ensure all future buildings the landowner/proponent has responsibility for, are designed and constructed in full compliance with the requirements of the WA Building Act 2011 and the referenced Building Code of Australia (BCA), and with any identified additional requirements of the relevant local government. This should include due consideration of constructing any Class 4-9 buildings to the standard corresponding to their determined BAL even though not required by the BCA.
 - d) Comply with any legal requirements by the City of Kalamunda that may override or exceed the limits of the BMP.
 - e) Place a Section 70A notification on the Certificate of Title of the lot, advising landowners of the existence of the submitted BMP.

It is recommended that where applicable, conditions be added to the development notice of approval ensure compliance with the recommendations of the BMP for this site.

27. An asset protection zone (APZ) of 20 metres around the existing and future building has been recommended by bushfire planning consultants within the Bushfire Management Plan (BMP). This will necessitate the clearing of understorey vegetation only. This is to be implemented and maintained within the site.
28. **City of Kalamunda Policy P-Dev. 41, Framework for Assessing Requests for Variation to the number of Car Parking Bays**
The City's policy addresses the procedure for considering discretion relating to car parking for non-residential land uses.

Clause 2.1 (i) states that *where there are two separate and different developments with different hours of peak operation, but being located on the same lot or adjoining lots, the City may permit a reduction of the required*

number car parking bays on either or both lots, provided it is satisfied there would be no resultant lowering of safety, convenience and amenity standards and there is agreement to the reciprocal use of some or all car parking bays.

29. **City of Kalamunda, Draft Policy P-DEV 55 Places of Worship**

The City has recently drafted a planning policy to provide guidance with respect to the location and application for additional or special land uses for the purposes of development of place of worship. The policy is currently released in draft format for public consultation.

As the policy is in draft format it is currently not an operatable policy and therefore has not been applied to the current proposal. The policy seeks to create site location criteria for the purpose of discouraging the conglomeration of places of worship in order to avoid significant impacts on the local amenity of the surrounding area. In this instance if the policy were adopted in its current format, given the Special Rural zoning, a 500m separation distance would be required between one proposal for place of worship and an existing place of worship land use.

The policy also seeks to introduce new control measures to assess items such as:

- a) Scale and intensity of the operation (requiring a site master plan to show various proposed stages of development over time)
- b) Capacity relating to effluent disposal, floor space and occupancy levels.
- c) Intended catchments
- d) Built form.

30. Noting the abovementioned control measures, an assessment of the proposal against the draft Policy provisions reveals the proposal would not comply in respect to site location. Under a Special Rural zone, the minimum separation distance to an existing place of workshop is 500m. The distance to the existing place of worship on Welshpool Road East is approximately 160m. It is also recognised that no master plan has been provided as per the policy provision. As mentioned previously, this Policy is still in draft form and therefore is not operational and therefore can't be applied to this current proposal. The draft Policy is currently being advertised to 14 February 2018. At the conclusion of the advertising period, the Policy will be referred to Council for adoption.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

31. The application was referred to the City's Asset Services, Environment, and Environmental Health Departments for comment. The comments received are summarised as follows:

Environmental Health

Comments:

The permitted numbers onsite will be limited by the Government Sewage Policy and floor space for the proposed uses. Max 162 people @ 30L/day, Monday – Saturday and Sunday for church use only 300 people meets the permitted Residential equivalent (RE's) 1 RE = the equivalent waste of one

standard dwelling. The existing dwelling, (with a waste water disposal system – although site plans indicate will be connected to new system), will remain – The waste water application will need to advise of the number of people intending to use the Community facility – this application will require approval from the Department of Health. The building is to comply with the Public Building Regulations - noted some of the exit doors open in the wrong direction.

The State Government Sewerage Policy uses RE's as a measure for capping the capacity for effluent disposal on a site (to limit the extent of development off mains sewer). The allowable RE is essentially a rate of 540/L/Day waste per 2000m².

Conditions

- a) The applicant must submit floor plans and an application for a Certificate of Approval under the Health (Public Buildings) Regulations 1992 to the City of Kalamunda and receive approval prior to use of the building.
- b) A new effluent disposal system that complies with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulation 1974* must be installed.
- c) The applicant is required to submit an *Application for Registration of a Food Business* accompanied with the appropriate registration fee a minimum of two weeks prior to commencing operation
- d) All septic sewer systems including all tanks, pipes and associated drainage systems (soak wells or leach drains) are to be decommissioned, removed, filled with clean sand and compacted. The applicant must provide a statutory declaration to the City of Kalamunda stating that the site has been inspected and all effluent disposal systems have been removed. A pro-forma for this declaration is available from the City of Kalamunda.

Advice

- a) Clearances are to be maintained from the existing waste water disposal system(s) to new buildings and boundaries in accordance with the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974 (if retaining).
- b) The applicant is reminded of their obligations to comply with the "Land development sites and impacts on air quality: a guideline for the prevention of dust and smoke pollution from land development sites in Western Australia", prepared by the Department of Environment & Regulation.
- c) The applicant is advised that with regard to Condition 2 an "Application to Construct or Install an Apparatus for the Treatment of Sewage" must be submitted and approved before a building licence will be issued.
- d) The applicant must book a food premises inspection with the City's Health Service prior to commencing operations. The premise must meet all requirements and pass the inspection without requiring any corrective actions before it will be allowed to trade.

Asset Services (Engineering)

The Traffic Impact Statement (TIS) report has been referred to Asset Services for their comment with no issues arising from the review of this TIS report.

- a) Install "No Entry" signage for the proposed emergency exit point /crossover located at North-East boundary.
- b) Drainage easement to be provided along the creek within the property boundary.

Conditions:

- a) Drainage easements and reserves as may be required by the City of Kalamunda for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that City of Kalamunda under Sections 152 and 167 of the *Planning and Development Act 2005*.
- b) Vehicle parking, maneuvering and circulation areas to be suitably designed and constructed to the specification and satisfaction of the City.
- c) Crossover shall be designed and constructed to the specification and satisfaction of the City.
- d) Vehicle access ways shall be suitably constructed, sealed and drained to the specifications and satisfaction of the City.
- e) Storm water drainage from roofed and paved areas being disposed of to the specification and satisfaction of the City.
- f) Engineering drawings and landscaping plans are to be submitted and approved by the City and development works undertaken in accordance with the approved plans

Advice:

- a) In regards to condition no. 1, drainage easement is to be provided along the creek for maintenance by the City. The width of the drainage easement shall be the flood width of the creek at 1 in 20 years flood event, the minimum width of the drainage easement shall be 3m wide.
- b) In regards to condition no. 3, crossover shall be treated as a commercial crossover and shall be designed and constructed as required.
- c) No stormwater runoff is to enter neighbouring property via overland flow from subject lot unless easement is secured between the neighbouring property.
- d) Prior to obtaining approval from the City of Kalamunda, no works relating to clearing of vegetation, trees and earthworks shall be carried out on site and adjacent areas.
- e) The applicant is advised that all drainage is required to utilize and comply with water sensitive urban design principles/guidelines.

Asset Services (Environment)

Comments:

Although clearing (pg. 39) footprint shows the removal of all trees, pg. 100 site plan shows the retention of trees in the car park and around the building.

Zoned Special Rural – this zone seeks to ensure development in harmony with natural environment. Land uses, activities and land management practices are to be consistent with natural resources conservation including conservation of natural vegetation so as to maintain a diversity of landscape quality and preserve and promote natural ecosystems.

Conditions:

- a) Applicant is to engage an arborist to determine pre and post treatment for trees to be retained as part of the development to maintain rural

landscape. AS 4970-2009 Protection of trees on development sites applies.

- b) Applicant to ensure any development does not occur within 15m of the creek as defined in Policy ENV4 Flood and Stream Management.
- c) A landscape plan is required to be submitted outlining current and proposed landscape design for approval as per City of Kalamunda requirements. It should include as a minimum,
 - (i) Specie type(s) (botanical names)
 - (ii) Pot size(s).
 - (iii) Quantities.
 - (iv) The location of proposed landscaping, and if applicable, existing landscaping being retained.
- d) Applicant should look at relocation of grass trees as part of landscaping plan.

External Referrals

- 32. The proposal was advertised in accordance with the City's Local Planning Policy P-DEV 45 Public Notification of Planning Proposals for a period of 28 days. As part of the advertising, letters were sent to surrounding neighbours to a radius of 500m inviting comment, with a total of 196 properties advertised to. A sign was also erected on site for the duration of the advertising period, as well as notification and plans of the proposal being displayed on the City's website and social media platform.
- 33. During the advertising period a total of 54 responses were received, comprising of one non-objection and 53 objections (Attachment 14).
- 34. As outlined in Point 4 of this report the themes of objection and Community Concern raised are addressed in the officer comment section of this report.
- 35. The application was referred to the Department of Water and Environmental Regulation (DWER) with a response provided on 13 November 2017 stipulating that the proposal is of no interest and therefore the Department has no further comments to make regarding the application.

FINANCIAL CONSIDERATIONS

- 36. In the event that Council resolves to refuse the application, it is anticipated that the proponent will appeal the decision to the State Administrative Tribunal. Notwithstanding Council has its own legal counsel, there may be costs incurred in the City engaging expert planning witnesses, which could be in the vicinity of \$20,000 - \$30,000.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

- 37. *Kalamunda Advancing: Strategic Community Plan to 2027*

OBJECTIVE 3.1: To plan for sustainable population growth.

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

SUSTAINABILITY

Social Implications

38. The local community will benefit from the formalisation of appropriate premises for their various community purpose land uses as well as a community auditorium for place of worship and other uses as specified.

Economic Implications

39. The proposed land uses are for a not for profit entity and therefore the site will not be utilised for business related purposes.

Environmental Implications

40. The removal of native vegetation may have an impact on local habitat species.

Due to the proposed construction of a culvert over the creek, a separate application Form 3P (Section 11/17/21A permit to interfere with bed and banks application has been submitted to the Department of Water in accordance with the *Rights in Water and Irrigation Act 1914*. A copy of this application was submitted to the City as part of the submission for planning approval. An approval has been granted by the Department of Water and Environmental Regulation on the 23rd of November 2017 issuing a permit (PMB200554 (1)) \permit to interfere with the beds and banks of a watercourse.

RISK MANAGEMENT CONSIDERATIONS

41.	Risk: The surrounding rural amenity and character is affected by the place of worship / community purposed proposal.		
	Likelihood	Consequence	Rating
	Possible	Significant	High
	Action/ Strategy		
	Ensure that the planning, siting and design of the place of worship development is designed so as to minimize undue amenity impacts to surrounding land owners.		
	Risk: That the approval of tree removal could damage the reputation of the City of Kalamunda.		
	Likelihood	Consequence	Rating
	Likely	Significant	High
	Action/ Strategy		
	Ensure that the planning, siting and design of the development is designed so as to minimize the removal of trees on site and on any adjacent verge.		

OFFICER COMMENT

42. A number of concerns have been raised which include the following key themes:
- a) Traffic, Parking, Noise and associated Safety Impact.
 - b) Environmental Concerns, tree removal and habitat for endangered cockatoos.
 - c) Privacy concerns, requires adequate screening, current proposal will be an invasion of privacy.
 - d) Community Character and scale. Concerns regarding the incompatible scale of the special rural properties. The height, bulk scale of the building impacting the visual amenity of the Special Rural area.
 - e) Social Issues associated with crisis care and with people attending the site dealing with drug and alcohol issues.
 - f) Bushfire, disagree that trees should be removed to mitigate fuel load reduction.
 - g) Direct neighbours concerned about noise, privacy and the requirement for dividing fencing between special rural properties to remain open style and not solid.
 - h) Conglomeration of place of worship applications in the vicinity of the subject site, being 831 Welshpool Road East Syrian Orthodox Church and the current application. Concerned that this conglomeration will negatively impact on the rural zoning and character as well as increasing congestion and impact on the intersection of Lewis Road and Welshpool Road East.
 - i) Concerns have been raised regarding the intensity of the land uses proposed on site and are concerned that there will be chalets for crisis care and that the site will be used for weddings.
 - j) The residents have raised concerns regarding local rural character and amenity and the slow erosion of those characteristics by the introduction of several place of worship additional uses within 300m proximity to one another in a Special Rural Zone. The City has sought to address this issue by proposing a new Local Planning Policy for Place of Worship which seeks to identify appropriate locations as well as providing guidance to land owners and developers regarding situations where the City would deem it appropriate to consider either an additional or special use to accommodate this land use and associated incidental land uses.
43. The nature of the land uses proposed being of community purpose and place of worship will result in an intensification of activity, traffic and people present at the subject site. The City acknowledges that the proposal will revert from the Special Rural zoning and rural characteristic found in this local precinct. This has previously been considered and approved by the Minister of Planning when considering the additional land uses on this site. It is evident in this proposal that the applicant has sought to design a building and associated car park where tree removal has been kept to a minimum, that adequate car parking is provided and will not be permitted to encroach onto the street, and that the centre is designed in such a way to be integrated, allowing for varied community based activities at different times during the week.

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44. In addressing concerns regarding traffic, the applicant has submitted a Transport Impact Statement (TIS) as per requirements of the Additional Use approved by the Minister for Planning. The TIS has been referred to the City's Asset Services Department who have requested a condition requiring that the applicant Install "No Entry" signage for the proposed emergency exit point /crossover located at North-East boundary.
45. Having regard to traffic safety, the TIS analyses crash data for the adjacent road network. The intersection of Lewis Road and Welshpool Road East was listed in the State Black Spot Program for 2015/16 and several upgrades were implemented at the intersection in April 2016 including:
- a) An acceleration lane on Welshpool Road East for vehicles turning right from Lewis Road.
 - b) Left Turn arrows painted on the pavement on Lewis Road.
 - c) A new splitter island and give way line marking to establish priority between right and left turning vehicles from Welshpool Road East onto Lewis Road.

It is stated that the proposed uses will slightly increase the volume of traffic on the surrounding road network, however that increase is low and not considered to increase the risk of crashes.

It has been concluded by the applicant's traffic engineer that the proposal does not pose an undue additional risk to traffic uses, and that the road network is sufficiently designed and constructed to accommodate the proposed change of use for Place of Worship and Community Purpose land uses.

46. Having regard to the total number of parking bays on site, it is assessed that the place of worship and associated community purpose land uses will be operating at different times during the week. The car parking proposed has been assessed as being sufficient given that the car park can be used at the times proposed and that not all activities will be functioning at the same time.
47. In regards to tree retention and environmental protection on site, the applicant has provided a detailed flora, fauna and biophysical report by a suitably qualified environmental consultant. The applicant requested a design by the architect which would minimise the removal of remnant vegetation, and at the same time introduce managed and maintained areas which would reduce bushfire risk. The applicant's environmental consultant has provided an updated addendum (Attachment 15) which addresses the concerns of the submitters. Following an onsite meeting with the City's officers, the applicant and their team of consultants, the applicant has revised the location of the proposed building to avoid the removal of significant remnant vegetation. It is considered that the number of trees being removed has been minimised and the environmental consultant has sufficiently documented the statutory requirements for tree removal. Attachment 17 outlines the extent of tree removal for trees with a trunk diameter greater than 300mm. A total of 11 trees falling under that description are to be removed.
48. The applicant originally requested a reduction in the provision of car parking bays for the Place of Worship use. The proposal includes the construction of 59 car parking bays with provision for overflow parking of 29 bays but

requires in accordance with Table 3 of the Scheme that 105 car parking bays are provided. Therefore there is a 17 car parking bay shortfall.

The applicant has provided sufficient justification in accordance with Clause 5.7.3 of the Scheme and by outlining the timing of activities on site, their duration and timing to establish that the car parking can be utilised in a reciprocal manner. The City is required as part of that Clause to consider the following:

- i) *The nature of the proposed development in relation to the existing or future development of any land within the immediate vicinity;*
- ii) *The hours of normal operation of the intended use and the abutting land uses;*
- iii) *Any such matters as the local government considers relevant including any legal agreement between affected land owners.*

It is assessed that the proposed overflow car parking can sufficiently accommodate a shortfall of 17 parking bays. Upon discussion with the applicant an amended plan was submitted providing an additional 3 constructed car parking bays being accommodated on site.

The use of the car parking bays reciprocally at different times for the different land uses can be sufficiently accommodated on site within the car parking area provided and is therefore deemed to be acceptable.

49. The proposed land uses which form part of the community purposes land use category which is defined as *'the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit'*. It is assessed that the proposed uses fall within the community purpose and place of worship land uses which have been approved as additional uses for this site.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Approves the development application for a Place of Worship, Single Storey Community Hall Auditorium, Car Park, Culvert Crossing and Community Purpose uses, subject to the following conditions;
 - a) The development shall be carried out only in accordance with the terms of this approval, and any approved plan.
 - b) Prior to the commencement of the Place of worship and Community Purpose land use, all parking and vehicle circulation areas shall be designed, constructed and drained to the specifications and satisfaction of the City of Kalamunda, and Australian Standards AS2890
 - c) Vehicle parking associated with the place of worship and community purpose uses shall be contained wholly within the subject site.
 - d) Drainage easements and reserves are required by the City of Kalamunda for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that City of Kalamunda under Sections 152 and 167 of the *Planning and*

Development Act 2005 prior to the occupancy of the building for the proposed place of Worship and Community uses to the satisfaction of the City of Kalamunda.

- e) Prior to occupation crossovers shall be designed and constructed to the specification and satisfaction of the City of Kalamunda.
- f) Storm water drainage from roofed and paved areas being disposed of to the specification and satisfaction of the City of Kalamunda.
- g) Prior to occupation engineering drawings and landscaping plans are to be submitted and approved by the City and development works undertaken in accordance with the approved plans.
- h) Prior to occupation the applicant shall install "No Entry" signage for the proposed emergency exit point /crossover located at North-East boundary to the satisfaction of the City of Kalamunda.
- i) Prior to occupation the applicant shall engage a suitably qualified arborist to determine pre and post treatment for trees to be retained as part of the development to maintain rural landscape. Australian Standard AS 4970-2009 Protection of trees on development sites shall apply. Trees are treated in accordance with the Arborists report to the satisfaction of the City of Kalamunda.
- j) Other than the proposed culvert crossing, the applicant shall ensure that no development occurs within 15m of the creek.
- k) A landscape plan is required to be submitted prior to commencement of works on-site outlining current and proposed landscape design for approval to the satisfaction of the City of Kalamunda, including as a minimum
 - i) Species type(s) (botanical names)
 - ii) Pot size(s).
 - iii) Quantities.
 - iv) The location of proposed landscaping, and if applicable, existing landscaping being retained.
 - v) Relocation of grass trees as part of landscaping plan.
 - vi) The landscaping plan shall provide details of vegetative screening to be planted and maintained along the common lot boundary between the subject site and the adjoining properties to Lots 212 and 800 Lewis Road Wattle Grove, to the satisfaction of the City of Kalamunda.
 - vii) The proposed landscaping shall be planted prior to occupancy and maintained thereafter to the satisfaction of the City of Kalamunda.
- l) All septic sewer systems including all tanks, pipes and associated drainage systems (soak wells or leach drains) are to be decommissioned, removed, filled with clean sand and compacted. The applicant must provide a statutory declaration to the City of Kalamunda stating that the site has been inspected and all effluent disposal systems have been removed. A pro-forma for this declaration is available from the City of Kalamunda.
- m) Protection and retention of Trees and vegetation shall be in accordance with Australian Standards AS 4970-2009 Protection of trees on development sites.
- n) This approval shall limit the land uses on site to that applied for and does not include approval for Chalets / short term accommodation, crisis accommodation or Reception Centre for Weddings.

- o) The applicant shall submit and implement a Noise Management Plan within 60 days of the date of the approval to the satisfaction of the City of Kalamunda.
- p) The proposed development shall comply with the requirements of the Bushfire Management Plan including ongoing maintenance of Asset Protection Zone (APZ).
 - i) An APZ shall consist of a low fuel area with a minimum of 20 metres width ensuring that the potential radiant heat impact of fire does not exceed 29KW/m² or BAL 29 rating.
 - ii) The APZ shall be maintained in accordance with AS 3959 s2.2.3.2 (e) and (f).
 - iii) Any classified vegetation onsite that has directly contributed to the determined BAL rating for a given building, to be managed such as to not change that vegetation to a higher risk classification.
- q) A notification, pursuant to Section 165 of the *Planning and Development Act 2005*, is to be placed on the certificate(s) of title of the subject lot(s) within 60 days of the date of the approval, advising of the existence of a hazard or other factor. The notification is to state as follows:
'This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land'.

Moved:

Seconded:

Vote:

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

10.2.6 Proposed Family Day Care – Lot 758 (89) Sheffield Road, Wattle Grove

The Director Development Services provided a presentation on this item.

Previous Items	N/A
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	SH-07/089
Applicant	Pavithra Weerasingha
Owner	Pavithra Weerasingha

Attachment 1	Site Plan
Attachment 2	Floor Plan
Attachment 3	Submission Table
Confidential Attachment 4	Confidential Submitters Map
<u>Reason for Confidentiality:</u> <i>Local Government Act 1995</i> <i>s5.23 (2) (b) – "the personal affairs of any person."</i>	
Attachment 5	Site Photos

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider a development application for a proposed family day care at Lot 758 (89) Sheffield Road, Wattle Grove.
2. The applicant is seeking approval to operate a Family Day Care Facility Monday to Friday between 7:30am and 5:30pm, with a maximum of seven children inclusive of two children who currently reside at the property.
3. The application was referred to surrounding residents for comment. A total of two submissions were received comprising one objection and one non-objection. The concerns raised in the objection relate to on-street parking and noise.
4. It is recommended that the application be approved subject to appropriate conditions given the application is compliant with the Statement Criteria identified in Local Planning Policy P-DEV 56 – Family Day Care and Child Care Premises (the Policy) and is considered low impact by virtue of the number of children and the operating hours.

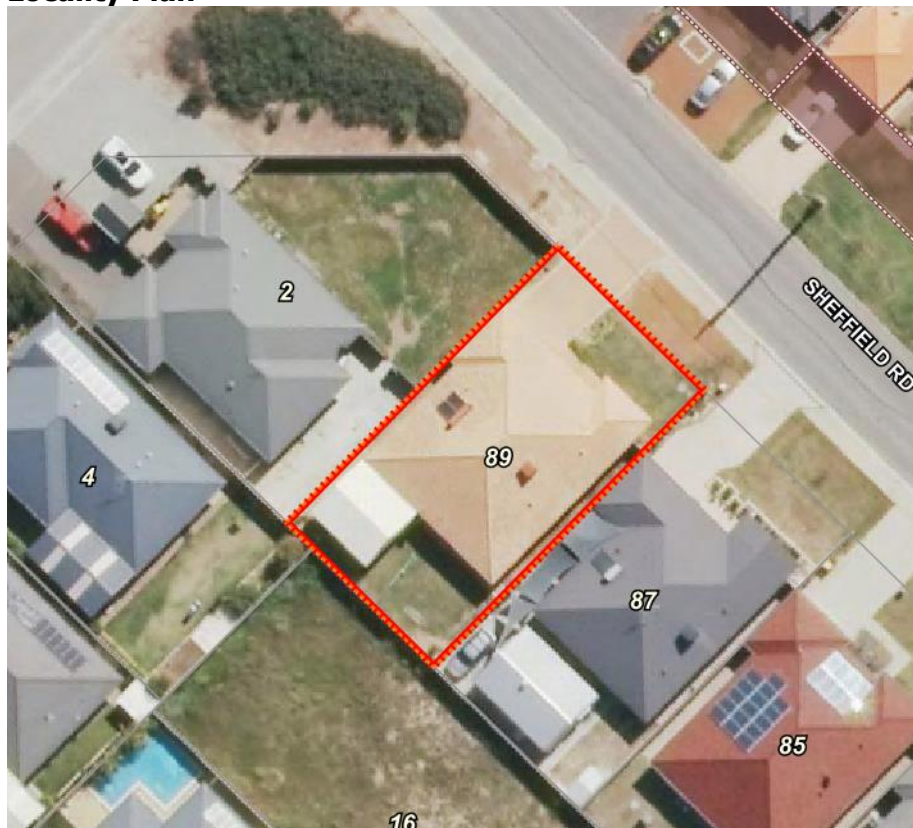
BACKGROUND

5. Land Details:

Land Area:	501sqm
Local Planning Scheme Zone	Urban Development
Metropolitan Region Scheme Zone:	Urban

6. The proposal is located in a low density residential area with vehicle access to the property via Sheffield Road a local access street.

7. **Locality Plan**



DETAILS

8. The applicant is seeking approval to operate a family day care from the subject property refer Attachments 1 and 2.
9. The applicant is seeking approval to operate the family day care Monday to Friday between 7:30am and 5:30pm, with a maximum of seven children inclusive of two children who currently reside at the property.

STATUTORY AND LEGAL CONSIDERATIONS

Local Planning Scheme No. 3

10. Clause 4.2.1 (Objectives of the Zones – Residential) of Local Planning Scheme No. 3 (the Scheme) stipulates that the objectives of the Residential zone are as follows:
 - a) 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 City.
 - b) To give consideration to grouped dwelling developments if the site is near amenities and can be integrated into the single residential environment.
 - c) 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.
- d) To encourage the retention of remnant vegetation.

11. Under the Scheme, a family day care has the same meaning as defined in the *Community Services (Child Care) Regulations 1988*, as follows:

"Family Day Care means a child care service provided to a child in a private dwelling in a family or domestic environment."

12. Family Day Care is a 'D' (Discretionary) use within the Residential zone, which means the use is not permitted unless the City has exercised its discretion by granting planning approval.

Planning and Development (Local Planning Scheme) Regulations 2015

13. 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

P-DEV 56 Family Day Care and Child Care Premises

14. The application complies with the Policy with respect to the following:
- a) **Location Criteria** – The family day care is located in the Cell 9 Wattle Grove Urban Area with access to the Wattle Grove Primary School, Shopping Centre and Public Open Space and has access to Public Transport on Hale Road.
 - b) **Siting Criteria** – the property satisfies the minimum lot size requirement for a family day care of 500sqm and maximum 50% site coverage.
 - c) **Operational criteria** – The proposed hours of operation being Monday to Friday 7:20am to 5:30pm are consistent with the Policy requirements.
 - d) **Design Criteria** – In respect to parking and traffic, the property has sufficient space for a drop off bay on site to allow for vehicles to enter and leave the site in forward gear.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

15. The development application was referred to internal departments and no objections to the proposed use were raised.

External Referrals

16. The proposal was advertised for a period of 14 days in accordance with P-DEV 45 Public notification of Planning Proposals which involved letters being sent to 13 surrounding landowners. A total number of two submissions were received comprising of one objection and one non-objection.
17. The following concerns were raised during the advertising period:
 - a) Car parking, cars being parked on the verge and potential traffic congestion.
 - b) Negative impact on the amenity by virtue of potential noise.
18. Refer to Attachment 3 for the submission table for further details and comments.

FINANCIAL CONSIDERATIONS

19. 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

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

OBJECTIVE 3.1: To plan for sustainable population growth.
Strategy 3.1.1 Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

SUSTAINABILITY

Social Implications

21. The proposal will afford local residents to the opportunity of family day care services In the Wattle Grove area.

Economic Implications

22. The proposal will afford the applicant to undertake a business from home, whilst being in the care of her own children.

Environmental Implications

23. The proposal would be required to comply with the *Environmental Protection (Noise) Regulations 1997*.

RISK MANAGEMENT CONSIDERATIONS

24.	Risk: There is an overflow of cars from the site blocking driveways.		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action/ Strategy		
	Ensure that adequate parking is provided to reduce chances of overflow onto the street, and condition the approval to this effect.		
	Risk: More than maximum allowable number of seven children on site.		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/ Strategy		
	Ensure that conditions are imposed stipulating no more than seven children, inclusive of the owners children, are allowed under the approval.		
	Risk: The proposal may impact on the amenity of adjoining landowners.		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action/ Strategy		
	Ensure that the proposal is compliant with conditions of the approval in respect to hours of operation, number of children and vehicle movements.		

OFFICER COMMENT

25. A Family Day Care is a business intended to be operated from a dwelling within a residential area, on the proviso that the proposal does not significantly adversely impact the amenity of the area and does not have an impact on the localised traffic flow and safety of the area.
26. In response to the concerns raised in the objections to the proposal the following comments are provided:

Amenity and Noise Pollution

The application is considered low impact by virtue of the number of children and hours of operation and therefore is considered unlikely to have a negative impact on the amenity of the residential locality. Notwithstanding, the proposal will need to comply with the *Environmental Protection (Noise) Regulations 1997*.

Parking Congestion

In accordance with the Policy provisions, the applicant is required to contain all parking on site, thus avoiding on street parking occurring and impacting on surrounding residents. To this end the applicant has sufficient space on site to provide a drop-off bay that allows for forward-in, forward-out movement. The bay is for the usage of patrons of the day care and is required to ensure traffic safety for persons entering and leaving the property and people driving by on the road. The bay is to be constructed to the specifications and satisfaction of the City.

27. Noting the application is compliant with the Policy and can accommodate on-site parking it is recommended that the application for the Family Day Care facility be approved subject to conditions.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Approves the application for a family day care at Lot 758 (89) Sheffield Road, Wattle Grove subject to conditions below:
 - a) The family day care is only to operate Monday to Friday between the hours of 7:30am and 5:30pm.
 - b) A maximum number of seven (7) children inclusive of those already residing at the property between the ages of 0-13 years are permitted.
 - c) All parking associated with the family day care is to be contained on the subject property.
 - d) Prior to commencement of operations at the property a drop-off bay is to be constructed on site to the specifications and satisfaction of the City of Kalamunda.
 - e) Clients are to visit the property via prior appointment only. A running log of appointments is to be kept and made available for inspection by the City of Kalamunda on request.

Moved:

Seconded:

Vote:

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

10.2.7 Proposed Home Business (Paint Workshop) – Lot 35 (36) Magnolia Way, Forrestfield

The Director Development Services provided a presentation on this item.

Previous Items	Nil
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	MG-01/036
Applicant	John and Sandra Stallard
Owner	John and Sandra Stallard
Attachment 1	Site plan
Attachment 2	Applicant Justification
Attachment 3	Submitters Table
Attachment 4	Site Photo
Attachment 5	Confidential Item - Map of Respondents
<u>Reason for Confidentiality:</u>	
<i>Local Government Act 1995</i>	
<i>s5.23 (2) (b) – "the personal affairs of any person."</i>	

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider a development application for a proposed Home Business (Paint Workshop) at Lot 35 (36) Magnolia Way, Forrestfield.
2. The applicant is seeking to establish a paint mixing workshop in the existing outbuilding located to the rear of the dwelling onsite.
3. The proposal was advertised to the surrounding landowners in accordance with the City's P-DEV 45 (Public Notification of Planning Proposals). During the advertising period a total of two objections were received. The applicant has provided further justifications for the proposed paint workshop addressing the objectives of the Local Planning Scheme No 3.
4. It is recommended that Council refuse the application, as the nature of the paint mixing material and process has injurious environmental health and amenity effects not consistent with the objectives of a home business in a residential zone.

BACKGROUND

5. Land Details:

Land Area:	702.000 m ²
Local Planning Scheme Zone:	Residential R20
Metropolitan Regional Scheme Zone:	Urban

6. **Locality Plan**



DETAILS

7. The applicant is seeking approval for a Home Business at the subject property with a view to establishing a paint mixing workshop in the existing outbuilding located to the rear of the dwelling onsite. The paint mixing process involves the following:
- a) Decanting of 1L - 4L quantities of vehicle touch-up paint into small (15mL) bottles and mixing via an automated paint stirrer machine.
 - b) Paint may also be decanted into primed aerosol spray cans though it is noted this is not seen as a principal product.
 - c) The machine is intended to be operated up to two times a day for approximately 2 minutes.
 - d) 107 litres of paint, and 20 litres of paint thinner may be stored at the site at any one time.
 - e) A maximum of two vehicles visit the site per day including a courier for deliveries and another employee vehicle should the applicant go on holidays.
 - f) The proposal is for vehicle paint mixing and delivery only, the application of the paint to vehicles is not to be undertaken onsite.
 - g) No onsite signage is proposed, the products are proposed to be purchased via a website with deliveries by a once-daily courier.
8. In support of the proposal, the applicant submits that the home business has been operating at an alternative site in Forrestfield zoned Residential R20 since approval was issued in 2005. Furthermore, the existing outbuilding can be upgraded to incorporate appropriate insulation, ventilation to ensure the storage of combustible materials can be upgraded to meet Environmental Health and Building requirements.

STATUTORY AND LEGAL CONSIDERATIONS
Local Planning Scheme No. 3

9. The subject property is zoned "Residential" in accordance with Local Planning Scheme No. 3 (the Scheme) with a density coding of "R5". Under Clause 4.2.1 the objectives of the residential zone are as follows:

- a) *To provide primarily for single residential development whilst allowing for a range of densities in order to encourage a wide choice of housing types within the City.*
- b) *To give consideration to grouped dwelling developments if the site is near amenities and can be integrated into the single residential environment.*
- c) *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.*
- d) *To encourage the retention of remnant vegetation.*

Planning and Development (Local Planning Schemes) Regulations 2015

10. 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

11. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

12. The proposal was referred to internal departments for comment on the proposal or request that the proposal be referred to them for formal assessment. As part of this process the City's Environmental Health requested to make comment.

Following the completion of the internal referral the Environmental Health department returned with comments as follows:

The decanting of solvent based paints, particularly those used in the automotive industry may produce noxious fumes which would be hazardous to human health. The requirements imposed on commercial premises which undertake this type of activity, require all associated processes to be conducted in well ventilated areas, normally with some form of extraction and treatment system to reduce the exposure of staff to the fumes. The extraction of the fumes can cause a nuisance to neighbouring premises if not properly located. The location of paint decanting operations in a residential area may have long term environmental health issues.

External Referrals

13. The proposal was advertised in accordance with the City's Local Planning Policy P-DEV 45 (Public Notification of Planning Proposals). As part of this advertising letters were sent to adjoining property owners inviting comment. During the course of advertising a total of two (2) responses were received, comprising two objections with comments.

A summary of the objections is as follows:

Health concerns from the paint production process

The respondent raised concerns that high grade extraction fans would be required to remove hazardous fumes and that compounds (such as Isocyanates) within the paint will have long term health consequences such as cancer, asthma or lung problems which may invite risk of liability.

Fumes

Both respondents raised concerns about fumes and smell.

Proposal not compatible with a residential area

Both respondents opined the health effects are not compatible with a residential area and may affect neighbouring residents and children.

Industrial not residential use

The respondent noted the proposal should be located in an industrial area and is not compatible with a residential zone.

Increased Traffic

The respondent raised concerns about the increased traffic and that it would create more smell and fumes.

FINANCIAL CONSIDERATIONS

14. 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

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

OBJECTIVE 3.1: To plan for sustainable population growth.

Strategy 3.1.1 Plan for diverse housing, facilities and industry to meet changing social and economic needs.

SUSTAINABILITY

Social Implications

16. The production of vehicle touch-up paint onsite may affect the amenity of the neighbourhood and may have environmental health consequences.

Economic Implications

17. Nil.

Environmental Implications

18. The decanting of solvent based paints, particularly those used in the automotive industry may produce noxious fumes which would be hazardous to human health.

RISK MANAGEMENT CONSIDERATIONS

- 19.
- | | | |
|---|--------------------|---------------|
| Risk: Neighbouring residents and owners are affected by smell and fumes which incurs long term health effects. | | |
| Likelihood | Consequence | Rating |
| Possible | Significant | High |
| Action/ Strategy | | |
| Recommend refusal of the application due to the potential amenity impacts arising from the proposal. | | |

OFFICER COMMENT

20. The proposed Home Business for a paint mixing workshop, incorporates a process, involving the decanting of small quantities of vehicle touch up paint into bottles and mixing via an automated paint stirring machine. The process also involves the decanting into primed aerosol. Whilst it is acknowledged the process is small in scale, the process involved suggests the proposed activity is more akin to a light industrial use and therefore not compliant with the definition of "home business" by virtue of the perceived amenity impacts arising.

21. In regard to the objections raised by the respondents the following comments are made:

Health concerns from the paint production process

It is considered that vehicle paint in particular contains ingredients which are hazardous to human health. While the internal effects of the paint workshop can be managed through appropriate ventilation, the fumes are still be ventilated outside into the adjoining area, which is likely to have an impact on the amenity of those residents.

Fumes

As noted above, fumes and odour may occur. Ventilation and extraction will be required in accordance with Environmental Health Regulations, which may impact on adjoining residents

Proposal not compatible with a residential area

It is acknowledged that the fumes associated with the production of vehicle touch-up paint as part of the proposed Home Business may have adverse effect on the health and amenity of the surrounding residents.

Industrial not residential use

The production of vehicle touch-up paint is considered to be industrial in nature and therefore not appropriate to a location in a residential area. While the applicant submits the proposal is reasonably small scale, the Environmental Health effects of vehicle touch-up paint are considered inconsistent with a residential area.

Increased Traffic

It is deemed that an increase two cars per day to the site will not result in traffic difficulties and parking can be contained wholly within the site. Health effects from a proposed increase to two visiting vehicles per day is not considered unduly hazardous.

22. It is considered that the decanting of vehicle touch up paint in the existing outbuilding located to the rear of the property, may produce noxious fumes which would be hazardous to human health and impact on the amenity of adjoining residents. Such an activity is considered industrial in nature, and therefore defined as "Industry" which is not permitted in residential zoned land. On this basis it is recommended that the application be refused.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Refuses the application for a proposed Home Business (Paint Workshop) at Lot 35 (36) Magnolia Way, Forrestfield for the following reasons:
 - a) The proposed Home Business (Paint Workshop) involves processes which are industrial in nature, and therefore does not comply with clause (b) of the definition of "home business" under Schedule 1 of Local Planning Scheme No.3.
 - b) The fumes and odour associated with the proposed Homes Business (Paint Workshop) is likely to have a detrimental impact on the amenity and health of the surrounding residential area.
 - c) The proposed Homes Business (Paint Workshop) is not consistent with the principles of orderly and proper planning.

Moved:

Seconded:

Vote:

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

10.2.8 Proposed Outbuilding – Lot 44 (41) Bridle Drive, Maida Vale

The Director Development Services provided a presentation on this item.

Discussions ensued between Councillors, the applicant and the Director.

Previous Items	Nil
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	BR-27/041
Applicant	Scott Moss and Lisa Begg
Owner	Scott Moss and Lisa Begg
Attachment 1	Development Plans
Attachment 2	Justification – provided by applicant
Attachment 3	Photo compilation – Subject Site
Attachment 4	Photo compilation - Storage
Attachment 5	Submitters Table
Confidential Attachment 6	Confidential Photo compilation
<u>Reason for Confidentiality:</u> <i>Local Government Act 1995</i> <i>S5.23 (2)(b) – ‘the personal affairs of any person.’</i>	
Confidential Attachment 7	Confidential Submitters Map
<u>Reason for Confidentiality:</u> <i>Local Government Act 1995</i> <i>S5.23 (2)(b) – ‘the personal affairs of any person.’</i>	

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider a development application for a proposed Outbuilding at Lot 44 (41) Bridle Drive, Maida Vale.
2. The applicant is seeking variations to the following elements of Local Planning Policy P-DEV 20 Outbuildings and Sea Containers (the Policy)
 - a) Individual floor area of 336m² in lieu of 90m².
 - b) Aggregate floor area of 336m² in lieu of 150m².
 - c) Wall height of 4.5m in lieu of 3m.
 - d) Roof pitch height of 5.8 in lieu of 4.2m

The applicant submits the above variations are due to the need to store a boat, three vehicles, a caravan and additional belongings.

3. The proposal was advertised to the surrounding landowners in accordance with the City’s P-DEV 45 (Public Notification of Planning Proposals). During the advertising period a total of one objection and one non-objection was received. The applicant has provided amended plans and further justifications for the variations in line with the P-DEV20 – Outbuildings and Sea Container’s Policy.
4. It is recommended that Council refuse the application.

BACKGROUND

5. Land Details:

Land Area:	4100.000 m ²
Local Planning Scheme Zone:	Residential Bushland R2.5
Metropolitan Regional Scheme Zone:	Rural

6. Locality Plan



DETAILS

7. The applicant is seeking approval for an outbuilding comprising of 336m² in floor area. The proposal incorporates the following aspects (Attachment 1):
 - a) 4.5m wall height
 - b) 5.8m roof pitch height
 - c) 14m in width x 24m in length
 - d) Colour "forest green" colorbond
8. The outbuilding is proposed to be located to the rear of the existing dwelling on a site previously utilised for a tennis court.
9. The south side setback complies with a proposed setback of 3.5m in lieu of 1.5m. The rear setback also complies with a proposed 3m in lieu of 1.7m. It is acknowledged considerable dense vegetation exists to the rear lot boundary.
10. In support of the proposal, the applicant has stated that the proposed variations are required to accommodate the storage of a boat, and caravan, and general domestic storage needs, refer to Attachment 2 for applicant justification. Attachment 3 and 4 for site photos and images of proposed vehicles and storage.

STATUTORY AND LEGAL CONSIDERATIONS

Local Planning Scheme No. 3

11. The subject property is zoned "Residential Bushland" in accordance with Local Planning Scheme No. 3 (the Scheme) with a density coding of "R2.5". Under Clause 4.2.1 the objectives of the residential bushland zone are as follows:
- To promote the development and use of land primarily for single detached houses, ensuring that development is designed and sited in a manner which is sensitive to the environmental characteristics of the land.
 - To give due consideration to land uses that are compatible with the amenity of surrounding residential development.
 - Encourage the retention and rehabilitation of native vegetation and the minimisation of bush fire hazard.

Planning and Development (Local Planning Schemes) Regulations 2015

12. 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:
- The compatibility of the development within its settings;
 - Amenity in the locality;
 - 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
 - Any relevant submissions received on the application.

POLICY CONSIDERATIONS

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

13. The subject property is located within a bushfire prone area. As an outbuilding more than 6m from an existing dwelling the proposed outbuilding is considered minor development and does not require a Bushfire Attack Level (BAL) assessment.

Local Planning Policy PDEV20- Outbuildings and Sea Containers

14. The proposed outbuilding was assessed against the Policy as follows:

Assessment Under P-DEV20	Deemed to Comply Provision	Proposed	Variation to Policy Provisions Sought
Individual Outbuilding	90m ²	336m ²	+246 m ²
Max Aggregate Floor Area	150m ²	336m ²	+186 m ²
External Wall Height	3m	4.5m	+1.5m
Roof Pitch	4.2m	5.8m	+1.6m

It is important to note that the Policy is currently under review. The amended version of the Policy is proposing variations to the recommended heights and floor area which are as follows:

- a) Individual floor area: 120m²
- b) Maximum aggregate floor area: 180m²
- c) Wall height: 4m
- d) Roof pitch height: 4.8m

15. Where an outbuilding does not comply with the Policy the variations are assessed against the Acceptable Design Outcomes which, for a residential bushland zone, state:
- a) Compliant with LPS No. 3 setback requirements and located within any designated building envelope.
 - b) Outbuilding located behind the main dwelling alignment and not directly visible from a street or public space.
 - c) Are not located within a Flood and Stream Management Area or any other area where there is historical evidence of flood waters reaching high levels.
 - d) Does not result in the excessive or unnecessary removal of vegetation.
 - e) The proposed colours and materials are consistent with the criteria set out in in Table 2 of this policy.
 - f) Will not unduly impact on the amenity of an adjoining property owner/occupier.
16. It is considered the area of contention relates to the acceptable design criteria which includes:
- a) The outbuilding is not directly visible from a street or public space.
 - b) Will not unduly impact on the amenity of an adjoining property owner/occupier.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

17. The proposal was referred to internal departments who were invited to comment on the proposal or request that the proposal be referred to them for formal assessment. As part of this process the City's Environmental Health department provided the following comments:

Following the completion of the internal referral the Environmental Health department returned no concerns to the proposal. The proposed location is clear of the existing effluent disposal system and the proposed outbuilding will not be connected to septic and have no toilet.

External Referrals

18. The proposal was advertised in accordance with the City's Local Planning Policy P-DEV 45 (Public Notification of Planning Proposals). As part of this advertising letters were sent to adjoining property owners inviting comment. During the course of advertising a total of two (2) responses were received comprising of one (1) non-objection and (1) objection with comments.

The comments related to concerns with the increased height, colour, proximity to the lot boundary, and adequate drainage. See Attachment 5 for summary of the objection and responses to submitted comments.

FINANCIAL CONSIDERATIONS

19. 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

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

OBJECTIVE 3.1: To plan for sustainable population growth.

Strategy 3.1.1 Plan for diverse housing, facilities and industry to meet changing social and economic needs.

SUSTAINABILITY

Social Implications

21. The increased bulk and scale of the proposed outbuilding is likely to have a detrimental impact on the amenity of neighbouring properties.

Economic Implications

22. Nil.

Environmental Implications

23. Nil.

RISK MANAGEMENT CONSIDERATIONS

- 24.
- | | | |
|---|--------------------|---------------|
| Risk: Undue visual impact on the amenity of neighbouring properties due to the increased bulk and scale of the proposal. | | |
| Likelihood | Consequence | Rating |
| Possible | Moderate | Medium |
| Action/ Strategy | | |
| Recommend refusal of the application due to the bulk and scale of the proposed outbuilding. | | |

OFFICER COMMENT

25. The applicant is seeking variations to the provisions of the Policy to accommodate domestic storage needs. It is considered additional storage is insufficient justification for a proposed outbuilding which exceeds the

maximum aggregate floor area by more than double the policy recommendations, and deemed unsuitable for the character of the area by virtue of its bulk and scale.

26. It is acknowledged the applicant has taken steps to modify the proposal originally submitted to the City by confirming the forest green colour, increasing the setback to affected neighbours, included vegetative screening and reduced the proposed wall and ridge height of the outbuilding by 700mm and 500mm respectively and reducing the floor area by 48m². However upon request the applicant has advised they will not consider substantially reducing the proposed floor area of 336m² any further. Despite the above modifications, the current proposal represents a substantive increase, particularly in reference to the floor area, allowable under the current and draft Policy.
27. In regard to the objections raised by the respondent it is acknowledged the outbuilding bulk and scale substantially exceeds the Policy provisions and will likely impact on adjoining residents.
28. It is considered the proposal does not meet the following acceptable design criteria of the Policy in respect to the following:
 - a) The outbuilding is not directly visible from a street or public space. Will not unduly impact on the amenity of an adjoining property owner/occupier.

It is noted that existing vegetation does exist on adjoining lot boundaries and the applicant has offered to provide additional landscaping which affords some privacy to the rear and side boundaries, that said, the sheer size of the structure will still mean it can be viewed through the vegetation in part from neighbouring properties. Furthermore the structure will be viewed from the street due to its wall and ridge height thereby impacting on the visual amenity of adjoining residents

29. Noting the above, it is recommended that the proposal for the outbuilding be refused.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Refuses the application for an Outbuilding at Lot 44 (41) Bridle Drive, Maida Vale for the following reasons:
 - a) The bulk and scale of the Outbuilding is considered to have a detrimental impact on the visual amenity of the area.
 - b) The proposal does not comply with the provisions of Local Planning Policy P-DEV 20 Outbuildings and Sea Containers in respect to maximum allowable floor area, wall height and ridge height.
 - c) The proposal is not consistent with the principles of orderly and proper planning.

Moved:

Seconded:

Vote:

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

**10.2.9 Proposed Telecommunications Infrastructure – Lot 57 (10)
Television Road, Bickley**

The Director Development Services provided a presentation on this item.

Previous Items	Nil
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	TL-03/010
Applicant	Evolution Planning
Owner	TX Australia Pty Ltd

Attachment 1	Site Plan
Attachment 2	Elevation Plans
Attachment 3	Site Photo
Attachment 4	Photo Simulation

EXECUTIVE SUMMARY

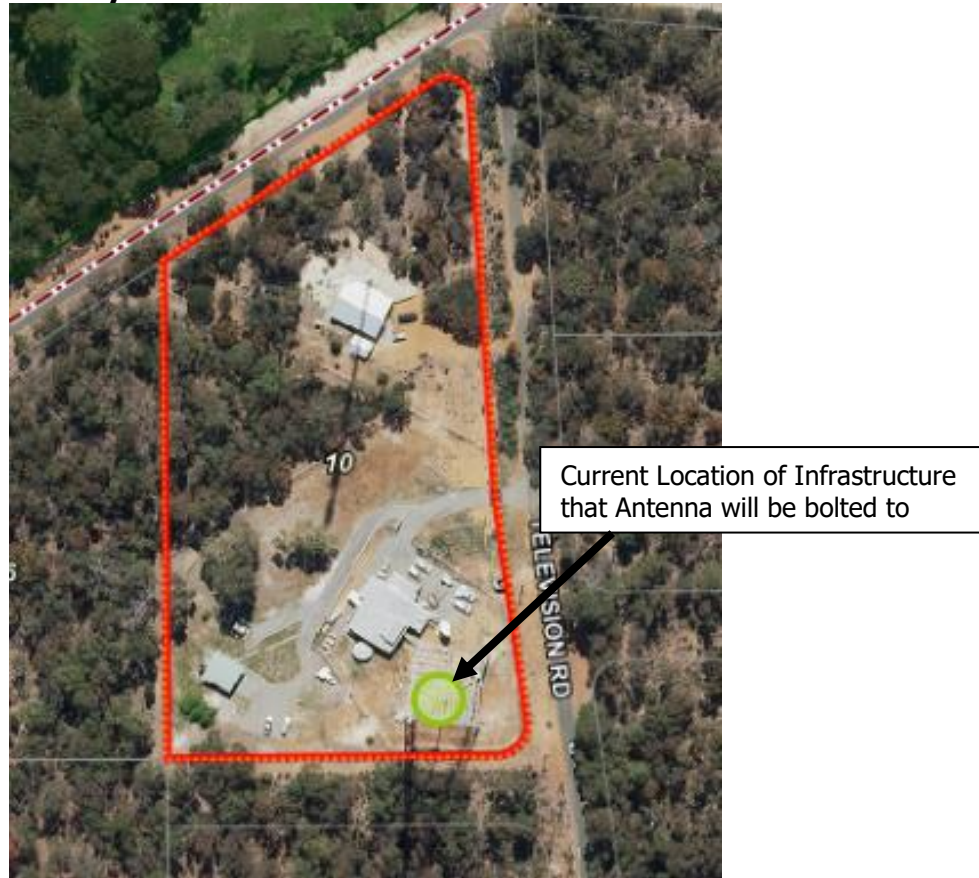
1. The purpose of this report is to consider a development application for proposed telecommunications infrastructure at Lot 57 (10) Television Road, Bickley.
2. The applicant is proposing to install an 11m high FM radio antenna approximately 60m above the ground on an already existing television tower.
3. The application was advertised in accordance with the City's P-DEV 45 (Public Notification of Planning Proposals). Over the course of the advertising one response was received, being a non-objection to the proposal.
4. It is recommended that Council approve the application for the telecommunications infrastructure, subject to appropriate conditions.

BACKGROUND

5. **Land Details:**

Land Area:	1.71ha
Local Planning Scheme Zone:	Residential Bushland
Metropolitan Regional Scheme Zone:	Urban

6. **Locality Plan:**



7. The subject site is located in an area that is zoned as residential bushland and is surrounded by bushland identified as reserved land under the Metropolitan Region Scheme. The nearest residence to the tower is approximately 320m from the existing tower.
8. The site has previously had approval granted in 2008 for a receiving antenna, and the current application proposes to attach an additional antenna to this structure.

DETAILS

9. The applicant is seeking approval to undertake the following works:
a) Installation of a new 11m high FM antenna;
b) Antenna to be approximately 60m above the base of the tower;
10. The existing antenna is located in the south-east corner of the property as indicated on the above locality plan. The existing tower is adjacent to Television Road and will make use of the existing infrastructure on site.

The applicant submits that the antenna is for back-up purposes only to services that are already transmitted from the site. The antenna provides managed transmission services to Channels Seven, Nine and Ten, as well as for Commercial and Community television.

Development plans for the proposal can be seen in Attachments 1, 2 and 3.

11. The applicant states as part of documents included that the system has been assessed as being well within the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) standards in terms of electromagnetic emissions.

STATUTORY AND LEGAL CONSIDERATIONS

Local Planning Scheme No. 3

12. Clause 4.2.1 (Objectives of the Zones – Residential) of Local Planning Scheme No. 3 (the Scheme) states that the objectives of the Residential Bushland zone are as follows:

- a) *To promote the development and use of land primarily for single detached houses, ensuring that development is designed and sited in a manner which is sensitive to the environmental characteristics of the land.*
- b) *To give due consideration to land uses that are compatible with the amenity of surrounding residential development.*
- c) *Encourage the retention and rehabilitation of native vegetation and the minimisation of bush fire hazard.*

13. Under the Scheme telecommunications infrastructure is defined as follows:

"telecommunications infrastructure" means any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use, on or in connection with a telecommunications network"

14. Under the Scheme, 'Telecommunications Infrastructure' is an 'A' use within the Residential Bushland zoning, meaning the use is not permitted by the Scheme unless Council exercises its discretion in approving the application after first giving notice in accordance with Clause 9.4 (Advertising Clause) of the Scheme.

15. 'Table 2 – Site Requirements' of the Scheme outlines that development requirements for proposals within the Residential Bushland zone are as per the Residential Design Codes (R2.5 & R5). While the site is zoned as Residential Bushland there is no associated coding attributed to the site, therefore given the size of the property, a general assessment has been undertaken as if the site has an R2.5 coding as follows:

Residential Design Codes Requirement (R2.5)	Requirement	Proposed	Complies Yes/No
Setback Front (Television Road)	15m	9m to closest point of existing tower	No
Setback Minor Street (Pomeroy Road)	7.5m	154m to nearest point	Yes
Side Setback (South)	7.5m	7.5m	Yes
Setback Rear	7.5m	72m	Yes
Site Coverage	20%	6%	Yes

Planning and Development (Local Planning Schemes) Regulations 2015

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

POLICY CONSIDERATIONS

State Planning Policy 5.2 – Telecommunications Infrastructure

17. State Planning Policy 5.2 – Telecommunications Infrastructure (SPP 5.2) aims to balance the need for effective telecommunications services and effective roll-out of networks, with the community interest in protecting the visual character of local areas. Using a set of land use planning policy measures, the policy intends to provide clear guidance pertaining to the siting, location and design of telecommunications infrastructure.
18. In respect to Electromagnetic Emissions (EME), SPP 5.2 states as follows: "The use of mobile telephones has raised public concern about possible health issues associated with exposure to electromagnetic emissions. However, telecommunications carriers must comply with the Australian Communications and Media Authority (ACMA) Radio communications Licence Conditions (Apparatus Licence) Determination 2003. These licence conditions make mandatory the limits in the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) Radiofrequency (RF) Standard which sets limits for human exposure to RF electromagnetic fields from all sources, including telecommunications infrastructure. ARPANSA is the primary Commonwealth agency responsible for protecting the health and safety of people and the environment from the harmful effects of radiation.

Measurement surveys undertaken by ARPANSA demonstrate that environmental radiofrequency levels near base stations for the mobile telephone network are extremely low. The ARPANSA surveys reported that typical exposures to radiofrequency fields were well below one per cent of the Standard's public exposure limits. It concluded that "given the very low levels recorded and the relatively low power of these types of transmitters, it is unlikely that the radiofrequency radiation from base stations would cause any adverse health effects, based on current medical research".

Standards set by ARPANSA incorporate substantial safety margins to address human health and safety matters; therefore it is not within the scope of this Policy to address health and safety matters. Based on ARPANSA's findings, setback distances for telecommunications infrastructure are not to be set out in local planning schemes or local planning policies to address health or safety standards for human exposure to electromagnetic emissions."

P-DEV 52 – Telecommunications Infrastructure

19. The objectives of P-DEV 52 are as follows:

"The City recognises the importance of telecommunications infrastructure to provide an appropriate level of telecommunication coverage for the local community. The Shire also recognises that some telecommunications infrastructure, particularly mobile telephone towers, can be visually obtrusive. This policy supports low-impact facilities, and opposes other telecommunications infrastructure that would have a significant adverse visual impact."

20. P-DEV 52 recognises that the City is not in a position to consider the alleged public health impacts of telecommunications infrastructure when determining an application for development approval. National and international health authorities have determined that these facilities do not have major health impacts.

21. In considering an application for development approval, in particular the visual impact of the facility, P-DEV 52 recommends that regard be given to the provisions of the Scheme and SPP 5.2. In this respect, development approval may be refused where the City is of the opinion that the proposed facility would have a significant adverse visual impact.

Alternatively, the City may grant development approval conditional upon appropriate modifications to minimise the adverse visual impact.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

22. The proposal was referred to internal departments who were invited to comment on the proposal or request that the proposal be referred to them for formal assessment. As part of this process no internal departments requested referral.

External Referrals

23. The proposal was advertised in accordance with the City's Local Planning Policy P-DEV 45 (Public Notification of Planning Proposals). As part of this advertising letters were sent to surrounding neighbours to a radius of 500m inviting comment. A sign was also erected on site for the duration of the advertising period, as well as notification and plans of the proposal being displayed on the City's website, within the local newspapers, and on social media platforms.

The applicant was requested to organise a community engagement session, however in this instance the request was declined.

24. During the advertising period one response was received from the public, which was a non-objection with comments. A summary of the comment is provided below.

Potential Future Increase in EMR Levels:

The public comment received stated that while there was no objection to the current proposal and the low EMR levels at this time there is a chance that future installations will cause EMR levels to rise over time and approach the recommended levels as stated by the ARPANSA. The respondent requested that additional modelling be undertaken that specifically outlines the potential impact of their property.

A response to this comment is included in the Officer Comment section of this report.

FINANCIAL CONSIDERATIONS

25. In the event that Council resolves to refuse the application, it is anticipated that the proponent will appeal the decision to the State Administrative Tribunal. Notwithstanding Council has its own legal counsel, there may be costs incurred in the City engaging expert planning witnesses, which could be in the vicinity of \$20,000.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 3.1: To plan for sustainable population growth.

Strategy 3.1.1 Plan for diverse housing, facilities and industry to meet changing social and economic needs.

SUSTAINABILITY

Social Implications

27. The installation of the backup antenna will assist the local community by ensuring that television service is not interrupted.
28. The presence of the antenna on the tower may make individuals who believe that they are hazardous to the health of the community uncomfortable with being in the area, and may lead to complaints to the City.

Economic Implications

29. Nil.

Environmental Implications

30. Nil.

RISK MANAGEMENT CONSIDERATIONS

31. Risk: The amenity of the area is unduly affected.		
Likelihood	Consequence	Rating
Unlikely	Moderate	Low
Action/ Strategy		
Ensure that the facility is appropriately located and designed so as to minimise undue impacts on visual amenity.		

OFFICER COMMENT

- 32. The property in question has no official residential coding, which means that the noted variation in the street setback can be applied to either the R5 or R2.5 Code. Noting the size of the lot, the R2.5 coding has been applied as per point 14 of the report. It is considered however that as the variation is in relation to an existing and approved structure on the site and that the proposal in this case only relates to attaching additional infrastructure to the existing tower the setback variation is considered acceptable in this instance.
- 33. The visual impact of the proposal is considered to comply with the requirements of SPP 5.2 policy measures and the objectives of Local Planning Policy P-DEV 52. With respect to the visual impact, the applicant in support of the application and in accordance with Policy requirements, has provided a photo simulation of the location of the proposed antenna extension to the existing tower, (Attachment 4).
- 34. In regards to the comment received during public advertising the following is considered:

Potential Future Increase in EMR Levels:

The applicant has provided information that states that the current proposal is well within the required EMR levels. It is considered that for the purposes of this application additional studies regarding the possible future EMR levels will be unnecessary as they do not apply to this specific application and there is no way to fully gauge future EMR without having an application to assess that comprises this infrastructure. However, any future applications for infrastructure on the site will be required to adhere to the relevant state and local legislation and policy provisions, and thus it is considered that any deviation from allowable EMR levels will be noted and evaluated at that time.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

- 1. Approves the development application for telecommunications infrastructure at Lot 57 (10) Television Road, Bickley, subject to the following conditions:
 - a) The development shall be carried out only in accordance with the terms of this approval, and any approved plan.
 - b) The antenna is to match the colour of the existing infrastructure and tower.

Moved:

Seconded:

Vote:

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

10.2.10 Outcomes of Consultation – Third Party Appeal Rights in Planning

The Director Development Services provided a presentation on this item.

Discussions followed the presentation between Councillors and the Director.

Previous Items	N/A
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	OR-IGR-005
Applicant	N/A
Owner	N/A

[Attachment 1](#)

WALGA Outcomes of Discussion Paper

EXECUTIVE SUMMARY

1. The purpose of this report is:
 - a) to advise Council of the outcomes of discussions to the workshops conducted by Western Australian Local Government Association (WALGA) with respect to the introduction of Third Party Appeals in the Western Australian Planning Process; and
 - b) to give consideration to the preferred model, being Option 1, and advise WALGA as to whether they support this model of Third Party Appeal.
2. Initially there were four options considered at the workshop, however there was also an opportunity for participants to provide a 'fifth option' if they had a preferred model. The option which received the greatest level of clear support was Option 1: Third Party Appeal Rights for decisions made by Development Assessment Panels.
3. It is recommendation that Council support Option 1 as the preferred model for the introduction of Third Party Appeal Rights in the Western Australian Planning process.

BACKGROUND

4. Presently no Third Party Appeal Rights exist in Western Australia under the *Planning and Development Act 2005*. It is understood however, that previously some Local Government planning schemes allowed them. The last Local Government to allow Third Party Appeals was the City of Albany, however with the introduction of the City's new local planning scheme in 2014, which removed Third Party Appeal Rights, there is no longer any Third Party Appeal Rights for planning in Western Australia.
5. The introduction of Third Party Appeal Rights has been considered by local governments on several occasions over the past few decades, however nothing has been progressed further.
6. In December 2016, WALGA resolved to undertake research on third party appeals around Australia and further consult with its members regarding its

current policy position. WALGA prepared a discussion paper which provided background on the development of WALGA's position and a review of the arguments both for and against third party appeals which was then circulated to the local government sector for comment and feedback.

7. Feedback was presented to the State Council in September 2017 where the following was resolved:

- a) *State Council notes that there is increased support for the introduction of some form of Third Party Appeal rights.*
- b) *WALGA undertakes further consultation with members on Third Party Appeal Rights, including Elected Member workshops, discuss the various concerns and suggestions raised in response to the discussion paper, the form and scope of any such appeal right should include the appropriate jurisdiction including JDAPS, SAT and WAPC to determine a preferred model.*
- c) *The findings to be distributed for comment and the Item then be reconsidered by State Council.*
- d) *WALGA continue to advocate that an independent review of decision making within the WA planning system is required, including the roles and responsibilities of State and Local Government and other decision making agencies, Development Assessment Panels and the State Administrative Tribunal appeal process.*

8. In November 2017, two workshops were held attended by representatives from 25 local government areas, including the City Of Kalamunda, to review the four options and discuss the possible scope and form any such appeal rights should take in order to determine a preferred model for Third Party Appeal Rights in Planning in Western Australia.

DETAILS

9. WALGA are seeking recommendations from local government as to the preferred model for Third Party Appeal Rights as part of the planning process in Western Australia. Whilst initially there were four options considered at the workshop, there was also an opportunity for participants to provide a 'fifth option' if they had an alternative preferred model. The five options are described below:

1. **Support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels:** Under this system, third party appeals would be broadly similar to the New South Wales system whereby appeal rights are limited to uses such as major developments where the development is high impact and possibly of state significance. This would include the ability to appeal amendments to an existing approval.
2. **Support the introduction of Third Party Appeal Rights for decisions where *discretion* has been exercised under the R-Codes, Local Planning Policies and Local Planning Schemes:**

Under this system, third party appeals would be broadly similar to the Tasmanian system whereby third party appeals are limited to development applications where discretion has been exercised. This would include the ability to appeal an amendment to an existing approval.

3. **Support the introduction of Third Party Appeal Right against development approvals:** Including all development application approvals made by Local Governments, JDAPs and the Perth DAP, MRA or WAPC. This would include appeal rights for affected neighbours and community groups for applications and the ability to appeal amendments to an existing approval.
4. **Support the introduction of Third Party Appeal Rights against development approvals and/or the conditions or absence of conditions of an approval:** Under this system, third party appeals would be broadly similar to the Victorian system whereby the provision of third party appeal rights cover most development applications and the use of, or lack of, any conditions being imposed. This would include the ability to appeal an amendment to an existing approval.
5. **Other:** As a range of options were provided by members, any alternate versions to the above, or combination of the above could be proposed, including maintaining WALGA's current policy position of not supporting Third Party Appeal Rights.

10. It should be noted that any form of Third Party Appeals which could be introduced into the Western Australian planning system would need to include criteria that:
 - a) Ensures that appeals are only made on valid planning grounds and are not made for commercial or vexatious reasons.
 - b) Limits Third Party Appeals Rights to those parties which previously made a submission on that development application during the advertising period.
 - c) Require a short window in which to appeal (for example 14 days).
11. During the workshops, there was a general consensus on the benefits that the introduction of Third Party Appeal Rights would provide. These included:
 - a) Greater accountability of decision-makers, including Local Government, Development Assessment Panels and the State;
 - b) Greater transparency in the planning decision-making process;
 - c) Improved consultation by applicants;
 - d) Increased community confidence in the planning system and planning decisions; and
 - e) More equity between applicants and appellants.
12. There was also general agreement on areas of concern should some form of Third Party Appeals be introduced. These included:
 - a) Increased costs, in terms of both staff resources and financial requirements;

- b) More time required for a development to receive a planning approval in order to allow for third party appeals;
- c) Introduction of Third Party Appeal Rights would be counter to current efforts to streamline the planning process;
- d) Introduction of Third Party Appeal Rights would create uncertainty for the development industry;
- e) Removal of decision making power from Local Government;
- f) Raises community expectations which may not be met in practice;
- g) Creates an adversarial/litigious environment around planning decisions; and
- h) Introduction of Third Party Appeals does not address most of the underlying concerns regarding the current planning system.

13. It was also clear from the workshop that any system of Third Party Appeals would need to be carefully constructed and provide clear guidance on several issues, including:
- a) When and how a third party can lodge an appeal, and the types of appeals that would be supported;
 - b) Ensuring appeals are only lodged for proper planning grounds, and not for vexatious or competitive purposes;
 - c) Whether 'deemed-to-comply' decisions would be appealable; and
 - d) Would third party appellants be provided some form of 'legal aid' to assist in lodging appeals, to keep the process from being cost prohibitive?
14. The option which received the greatest level of clear support was Option 1 that involves the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels. A summary of the most common remarks, both for and against, is provided below (for a complete list see Attachment 1).
15. A summary of the workshop comments for and against Option 1 is listed below:

For	Against
Local Government would be able to appeal a DAP decision and defend the merits of their policies and enforceability of their conditions.	Will still require increased staff and resources.
Addresses community concerns that decisions are being made 'removed' from the local community, leading to improved community confidence in the system.	Possibility that the minister could remove Elected Members from DAPs if Local Government can appeal anyway. Possible conflict of interest for Elected Member panellists.
More transparent process with more accountable DAP members, in both decision making and condition setting.	Elected Members may be pressured to initiate an appeal, rather than the community initiating an appeal.

Could allow for appeal on conditions that may have been removed from a RAR.	Reduces certainty in the decision making process.
Limits appeal rights to larger, more complex applications and would filter out 'smaller' impact applications which could potentially overburden system.	Only applies to DAP determinations, does not include applications for \$2-\$10 million that are determined by Council. If the applicant does not opt in to DAPs then they avoid Third Party Appeal Rights.
A good first stage approach for the introduction of Third Party Appeal Rights - could be expanded later.	Possibility for more than one person to want to appeal - how to manage multiple appeals/appellants, and determine degree of impact?
May rarely be used in rural areas, is almost the status quo.	Could undermine the reason for DAPs being set up originally.
Likely that more applications will be decided by Council.	Adds another layer to an already complex system.

STATUTORY AND LEGAL CONSIDERATIONS

16. Currently there are no Third Party Appeal Rights that exist in planning legislation in Western Australia.

POLICY CONSIDERATIONS

17. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

18. Nil.

External Referrals

19. Nil.

FINANCIAL CONSIDERATIONS

20. Local Government is likely to incur additional administrative associated with the processing of the State Administrative Tribunal application and additional planning resources to assess the application.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 4.1: To provide leadership through transparent governance
Strategy 4.1.1 Provide good governance

SUSTAINABILITY

Social Implications

22. Directly affected members of the local community will have the opportunity to appeal a decision of the JDAP

Economic Implications

23. The introduction of Third Party Appeal Rights would result in additional costs for development industry associated with defending appeals and likely delays in securing a decision from the JDAP.

Environmental Implications

24. Nil.

RISK MANAGEMENT CONSIDERATIONS

- 25.
- | | | |
|--|--------------------|---------------|
| Risk: The introduction of Third Party Appeal will increase the processing times for planning applications determined by DAP's. | | |
| Likelihood | Consequence | Rating |
| Likely | Significant | High |
| Action/ Strategy | | |
| Increase staff resources to maintain appropriate reasonable processing times and/or exempt further development applications from requiring planning approval. | | |
| Risk: The introduction of Third Party Appeal will likely result in increased costs to local government associated with the processing of planning applications. | | |
| Likelihood | Consequence | Rating |
| Likely | Significant | High |
| Action/Strategy | | |
| To address potential increase costs, local government could either absorb the cost, as is currently the case with SAT applications, or advocate local government fees. | | |

OFFICER COMMENT

26. Western Australia is the only State in Australia which has no Third Party Appeal Rights legislated in the planning process. WALGA previously formed a policy position in 2008 not to introduce Third Party Appeal Rights on the basis that there was no justification for the proposed legislation and there were significant negative implications for local government, the development industry and local community in doing so. However with the introduction of a number of changes to the planning framework since 2009, WALGA has taken a proactive position in initiating discussion again on the topic.

27. Through its discussion process with local government, it is evident there are a number of views on the merits or otherwise of introducing Third Party Appeals into the planning system in Western Australia, with the interest of all key stakeholders having to be considered. It was also evident from submissions received regarding the discussion paper, that opinions were closely divided between support for a limited form of Third Party Appeal and opposition to its introduction. From a local government perspective the introduction of Third Party Appeals needs to be considered in the context of community expectation and the implications with respect to resourcing, costs and likely delays in the planning decision making process. In respect to resourcing implications, it should be noted that the City in 2017 received three applications that required determination by the DAP.
28. Noting the above comments, the five options canvassed and the resulting choice of Option 1 represents a pragmatic approach to the introduction of Third Party Appeals. Whilst it is acknowledged there are a number of positives and negatives surrounding Option 1 as indicated in paragraph 15 of the report, limiting the scope of Third Party Appeals to decisions made by Development Assessment Panels provides local government with the opportunity to consider the operational implications before deciding whether to expand the scope or potentially not proceed with the introduction of Third Party Appeals in the Planning process.
29. In considering the preferred model of option 1, it should be noted that the appeal rights are limited to uses such as major developments where the development is high impact and possibly of state significance which further limits the scope of the appeal process.
30. It is noted that proceeding with Option 1, still requires a lot more work in respect to details as to how this would be implemented through the DAP process. However as a starting point, Option 1 represents a pragmatic approach where the interests all key stakeholders can be considered and implications arising evaluated before any decision is made to expand the scope of Third Party Appeals further.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Advises the Western Australian Local Government Association that it supports Option 1 (Support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels) for decisions made by Development Assessment Panels as a way forward with the introduction of Third Party Appeals in the Planning Process

Moved:

Seconded:

Vote:

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

10.2.11 Draft Planning Policy P-DEV 20 – Outbuildings and Sea Containers

The Director Development Services provided a presentation on this item.

Previous Items	OCM 148/2015, OCM 142/2017
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	OR-CMA-16
Applicant	N/A
Owner	N/A

[Attachment 1](#) Draft Local Planning Policy P-DEV 20 –
Outbuildings and Sea Containers

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider the final adoption of the amended Local Planning Policy P-DEV 20 – Outbuildings and Sea Containers (the Policy) following advertising.
2. The Policy has been updated to incorporate current statutory planning requirements to accord with changes in the State Planning legislative framework, particularly in relation to planning in Bushfire Prone Areas and compliance with the requirements of the Regulations. The changes also aim to address some of the policy anomalies, including the clearer stipulation of Acceptable Design Outcomes.
3. During the advertising period no submissions were received.
4. It is recommended that Council adopt the revised policy.

BACKGROUND

5. The City periodically reviews, revokes, and adds new policies for the purpose of ensuring consistency and transparency in decision-making and to ensure Council has a clear and defensible position.
6. The Policy was previously adopted by Council on 23 November 2015. Since that time the City has noted how the Policy has been applied to applications and where improvements need to be made to assist with the assessment process. Accordingly, a number of minor changes are proposed to the Policy document.
7. Council resolved in August 2017 (OCM 142/2017) to adopt the Policy for the purpose of public advertising with minor modifications highlighted in red in Attachment 1, specifically requiring clause 4.6 b) of the Policy pertaining to Sea Containers to be deleted. The advertising period has now closed and the final version of the policy is now ready for consideration for adoption by Council.

8. The proposed revised policy was tabled at December 2017 OCM. However, it was withdrawn prior to consideration following a request for clarification being made by an elected member in respect to Clause 4.6 and 4.7 of the Policy. These points are clarified in point 28 of the report, accordingly the Policy is returned to Council for final adoption.

DETAILS

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

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. As per the Regulations and the City of Kalamunda Local Planning Scheme No. 3, 9 (the Scheme) planning policies are required to be approved by Council for advertising and adopted by Council at the conclusion of the advertising period.

14. When deciding whether to amend a local planning policy, Clause 4 (3) of the Regulations requires Council to review any submissions made during advertising and resolve to:
 - a) Proceed with the policy without modification; or
 - b) Proceed with the policy with modification; or
 - c) Not to proceed with the policy.
15. A Local Planning Policy does not bind the City in its application of discretion but must be given due regard. If a planning policy is inconsistent with the Regulations and scheme provisions the Regulations and scheme prevail.

POLICY CONSIDERATIONS

16. The proposed draft policy follows the adopted Council templates with some small modifications for improved structure, legibility and clarity.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

17. Prior to the document being submitted to Council for approval to advertise, the Policy was referred to internal departments for comment. No objections to the Policy were received.

External Referrals

18. Following approval by Council, the Policy was advertised in accordance with the provisions of Local Planning Policy P-DEV 45 – Public Notification of Planning Proposals. As part of this process the draft policy was advertised for 28 days, a notice was placed in the local newspaper for two consecutive weeks, and a notification was placed on the City social media portal. At the conclusion of the advertising period no submissions were received.

FINANCIAL CONSIDERATIONS

19. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 3.1: To plan for sustainable population growth.

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

SUSTAINABILITY

Social Implications

21. If the Policy is adopted the City will have greater certainty when it comes to reviewing applications for outbuildings and sea containers or undertaking compliance matters.
22. Additionally, the community will have access to more clarity and transparency in how the City and Council makes decisions, leading to improved outcomes and reduced timeframes.

Economic Implications

23. Nil.

Environmental Implications

24. Nil.

RISK MANAGEMENT CONSIDERATIONS

25.	Risk: The revisions to the policy are not adopted resulting in assessment of outbuildings and sea containers reverting to the original policy.		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action/ Strategy		
	Demonstrate the importance of having sound and robust planning policies that are up to date and support the Scheme when assessing development applications.		

OFFICER COMMENT

26. The proposed revisions provide further clarity regarding the requirements for Outbuildings and Sea Containers within the City.
27. The Policy has been updated to incorporate current statutory planning requirements to accord with changes in State Planning legislative framework, particularly in relation to planning in Bushfire Prone Areas and compliance with the requirements of the Regulations. The changes also aim to address some of the policy anomalies, including the clearer stipulation of Acceptable Design Outcomes.
28. Clause 4.6 and 4.7 of the Policy has been amended as highlighted in red, to reflect the decision of Council to remove the requirement for a personnel door and permanent ventilation being provided by either openable windows or a roof vent where sea containers are proposed to be placed permanently on site. Further modifications to the wording of the two clauses have been made to include reference to the National Construction Code where a building permit is required.

29. With reference to National Construction Code, it is important to note that sea containers are not required to comply with the following elements:
 - a) Disability Access.
 - b) Termite Treatment.
 - c) Footings (there may be some circumstances where they need to be secured).
 - d) Drainage and Stormwater collection (other than ensuring runoff is contained on the property).
 - e) Smoke alarms.
 - f) Water proofing.
30. The recommended changes to the floor area proposed are reflective of noted community desire to have larger outbuildings that meet domestic storage needs.
31. Noting the provisions of Clause 7.3.1 of the R-Codes, the proposed Policy will require referral to the Western Australian Planning Commission for their endorsement.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Pursuant to Clause 4 (3)(b)(ii) of the *Planning and Development (Local Planning Scheme) Regulations 2015*, proceeds with amending Local Planning Policy P-DEV 20 – Outbuildings and Sea Containers in accordance with Attachment 1.
2. Refer the adopted Local Planning Policy P-DEV 20 – Outbuilding and Sea Containers to the Western Australian Planning Commission for endorsement.

Moved:

Seconded:

Vote:

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

10.2.12 Revocation of P-DEV28 – Reflective Material in Cladding or Roofing – Guidelines for Assessment and P-DEV 03 Use and Removal of Asbestos

The Director Development Services provided a presentation on this item.

Discussions ensued between Councillors and the Director.

Previous Items	Nil.
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	P-DEV28
Applicant	N/A
Owner	N/A

Attachment 1	Existing P-DEV 28 - Reflective Material in Cladding or Roofing – Guidelines for Assessment
Attachment 2	Existing P-DEV 03 – Use and Removal of Asbestos

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the revocation of Local Planning Policy P-DEV28 – Reflective Material in Cladding or Roofing – Guidelines for Assessment. (P-DEV28) and P-DEV 03 Use and Removal of Asbestos (P-DEV03).
2. It is considered that the existing P-DEV28 does not meet the expectations of a contemporary local planning policy. Several issues have been identified with P-DEV28, leading to this request for Council to consider revoking the policy. Furthermore the Policy has been superseded by the provision of *the Building Act 2012* and therefore is not legally enforceable.
3. In regard to P-DEV03, the removal of asbestos is addressed through the *Public Health Act 2016* and the *Occupational Safety and Health Act*, as such there is no requirement for the Policy.
4. Should Council consider that the negative impacts from the use of reflective building materials should be controlled through the planning process, it is recommended that a new policy be developed in the future. At this time however it is recommended that the existing P-DEV28 be revoked and not replaced.
5. It is recommended that Council revoke Local Planning Policy P-DEV28 – Reflective Material in Cladding or Roofing – Guidelines for Assessment. (P-DEV28) and P-DEV 03 Use and Removal of Asbestos (P-DEV03).

BACKGROUND

6. The City periodically reviews, revokes and adds new policies to its register. Local planning policies are used to ensure consistency and transparency in decision making as well as adding clarity to and intent to existing legislation.

7. Issues have recently been identified with the content of the existing P-DEV28 which has resulted in this request for Council to revoke the policy.

DETAILS

8. The intent of P-DEV28 is to provide guidelines for the assessment of reflective cladding material (aluminium, zincalume, galvanised iron, glass, white coloured steel) relating to development proposals. The policy discourages the use of these materials where it is likely to cause significant glare, particularly in steep sloping or undulating areas.
9. The intent of P-DEV03 is to provide guidelines on the use and removal of asbestos related products.
10. The following issues have been identified in relation to both policies:
P-DEV28:
 - a) It is unclear when the policy was first adopted by Council and whether the policy was ever adopted with the intent that it would be used as a planning instrument for the assessment of planning proposals.
 - b) There is limited rationale for retaining P-DEV28 as a local planning policy given the infrequency of issues/complaints being raised with the City regarding reflective building materials.
 - c) The policy is considered to be inconsistent with the approach of a majority of other comparable local governments in the region.
 - d) It is arguable whether P-DEV28 is in line with contemporary planning practice and policy.
 - e) The policy refers 'Manager Building Services', a position which no longer exists at the City.
 - f) The policy gives the Manager Building Services discretion to make decisions relating to a planning function (whether to advertise or approve without advertising), whereas these decisions are now delegated from the Chief Executive Officer to senior planning staff.
 - g) The Policy has been superseded by the provisions of the Building Act 2012.
P-DEV03:
 - a) The provisions of the policy are covered under separate health legislation, and therefore the policy is not required.

STATUTORY AND LEGAL CONSIDERATIONS

Planning and Development (Local Planning Schemes) Regulations 2015

11. Local Planning Policies are created under Clause 3 (1) of the *Planning and Development (Local Planning Scheme) Regulations 2015* (the Regulations).
12. A Local Planning Policy does not bind the City in its application of discretion but must be given due regard. If a planning policy is inconsistent with the Regulations and scheme provisions the Regulations and scheme prevail.
13. Clause 6 of the Regulations enables a local planning policy to be revoked in the following circumstances:
 - a) By a subsequent local planning policy that –
 - i) Is prepared in accordance with the Regulation; and

- ii) Expressly revokes the local planning policy.
- b) By a notice of revocation –
 - i) Prepared by the local government; and
 - ii) Published in a newspaper circulating in the Scheme area.

POLICY CONSIDERATIONS

14. Should Council resolve to revoke P-DEV28 and P-DEV03, the policies will be removed from the Policies and Procedure Register and will no longer be given any regard.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

15. Nil.

External Referrals

16. If Council resolves to revoke the subject policies, notice of the revocation is required to be published in a local newspaper.

FINANCIAL CONSIDERATIONS

17. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 3.1 To plan for sustainable population growth.

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

OBJECTIVE 4.1: To provide leadership through transparent governance.

Strategy 4.4.1 Provide good governance.

SUSTAINABILITY

Social Implications

19. Highly reflective roof and wall cladding materials may cause glare and discomfort to nearby neighbours.

Economic Implications

20. Light coloured building materials (e.g. Zinalume ® and Colorbond ®) are popular building materials for the construction of new dwellings in the City, in particular the suburbs of Kalamunda, Lesmurdie and Gooseberry Hill where

older buildings exist, and the roofing material is considered to better reflect age of the dwellings.

Environmental Implications

21. There is increasing recognition that reflective roof materials can be effective in reducing the heat absorbed by dwellings during summer months. The Building Code of Australia encourages the use of light coloured roofing to facilitate improved energy efficiency of dwellings.

RISK MANAGEMENT CONSIDERATIONS

22.	Risk: P-DEV28 is not revoked, resulting in ongoing uncertainty about whether the policy is relevant and in line with contemporary planning practice/policy.		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action/ Strategy		
	Outline the rationale for revoking P-DEV28 and identify the current operating issues with the policy.		
	Risk: Without P-DEV03 there is an increased possibility of asbestos not being disposed of appropriately.		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action/ Strategy		
	Clarify that the removal of asbestos is addressed through the <i>Public Health Act 2016</i> and the <i>Occupational Safety and Health Act</i> , as such there is no requirement for the Policy.		

OFFICER COMMENT

23. The impact of a highly reflective building material can vary depending on a number of factors, including:
- a) Season and time of day;
 - b) Position and altitude of observer (or windows) relative to the building material and significance and size of the outlook of any opening affected by the reflection;
 - c) Roof pitch;
 - d) Age of the roof material;
 - e) Light levels of the area impacted by the reflection;
 - f) Extent (surface area) of the material from which the reflection is generated; and
 - g) Presence of any landscaping or other screening (including fencing, curtains/blinds) between the reflection and observer.
24. While it is acknowledged that reflective building materials can impact on the amenity of adjoining or nearby residents, this needs to be balanced with the desirable attributes of these materials, such as aesthetic appeal of the material, energy efficiency and affordability of construction. It is worth noting that the R Codes makes no reference to the use of reflective building materials in respect to building design.

25. The City does not regularly receive complaints regarding reflective materials, which indicates that intervention is seldom required. A review of number of other local authorities, could find no reference to policy provisions for reflective roofs, these included:
- a) City of Swan
 - b) Shire of Mundaring
 - c) City of Armadale
 - d) City of Gosnells
 - e) City of Canning
 - f) City of Vincent

Some local authorities, have detailed policy provisions for heritage listed buildings, however as indicated above many local governments do not contain such measures.

26. It is considered that development controls relating to the use of reflective materials should be primarily in areas identified as having special character or landscape values, and only where the use of reflective materials will unduly impact those values, rather than to control the impact of the material on visual amenity. In this regard, it is not considered that there are any locations within the City which currently require special development controls relating to reflective building materials.
27. Should Council consider that the negative impacts from the use of reflective building materials, including the lighter colorbond colours, should be controlled through the planning process, it is recommended that a new local planning policy be developed in the future. At this time however it is recommended that the existing P-DEV28 be revoked and not replaced.
28. In respect to P-DEV 03, guidelines around the removal of asbestos is adequately controlled through health related legislation and therefore the policy can be revoked.
29. In summary, it is recommended that existing P-DEV28 and P-DEV03 be revoked for the reasons described above.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Pursuant to Clause 6 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, revokes the following:
 - a) Policy P-DEV 28 – Reflective Material in Cladding or Roofing – Guidelines for Assessment.
 - b) Policy P-DEV 03 – Use and Removal of Asbestos

Moved:

Seconded:

Vote:

10.3 ASSET SERVICES

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

10.3.1 Consideration of Tenders for the Construction of Hockey Club Rooms Facility – Hartfield Park, Forrestfield (RFT 1721)

Cr Cameron Blair declared an Indirect Financial Interest as his company is a tender subcontractor for the works and he is the owner of a subcontractor company. Cr Blair left the room at 9.25pm and returned at 9.27pm.

Cr Lohmeyer left the room at 9.25pm and returned at 9.26pm.

The Acting Director Asset Services provided a presentation on this item.

Previous Items	OCM15/2017 OCM97/2017 OCM223/2017
Responsible Officer	Director Asset Services
Service Area	Asset Services
File Reference	AD-TEN-00
Applicant	N/A
Owner	N/A
Confidential Attachment 1 <u>Reason for Confidentiality</u> <i>Local Government Act 1995 S5.23 (2) (c) – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."</i>	Tender Evaluation Report

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the award of a contract for the Construction of Hockey Club Rooms Facility – Hartfield Park, Forrestfield (RFT 1721).
2. On 18 November 2017, the City of Kalamunda (the City) issued the Request for Tender (RFT 1721) seeking Tenderers for the construction of a hockey club rooms facility at Hartfield Park, Forrestfield.
3. It is recommended that Council appoint BE Projects Pty Ltd for Construction of Hockey Club Rooms Facility – Hartfield Park, Forrestfield (RFT 1721) for a total Lump Sum Tender Price, incorporating the Option – Supply and Install Security System, of \$1,544,016.16 (excluding GST) and approve budget reallocations to accommodate the full cost of the project.

BACKGROUND

4. On 28 July 2014 the State of Western Australia and the City of Kalamunda entered into a Financial Assistance Agreement for the State to provide a grant amount of \$6.01m (exclusive of GST) for the provision of a number of deliverables as outlined in the Hartfield Park Masterplan 2010 (HPM) and

detailed in the Agreement. The current term of the Agreement is 24 June 2014 to 30 June 2018, however, due to the complications and lengthy process involved in the Section 18 Native Title process, approval to extend the completion date to 31 December 2018 has been requested from the Department of Local Government, Sport and Cultural Industries. The upgrading of the former Darling Range Pony Club Facility (the Project) was one of the deliverables detailed in the Agreement to accommodate a hockey facility.

5. At its meeting on 6 February 2017, Council considered a report on the Hartfield Park Redevelopment Project on Proposed Redevelopment to the Former Darling Range Pony Club Facility and resolved in part as follows:
 1. *Endorses the proposed redevelopment of the former Darling Range Pony Club facility at Hartfield Park in accordance with the Site Location and Hockey Field Layout Plan Drawing No. 14876-G01/A (Attachment 1).*
 2. *Endorses the demolition of the existing Darling Range Pony Club Facility and construction of a new shared use clubroom/change room facility generally in accordance with Option 2 Drawing No. 400-004/B (Attachment 5), for the purpose of further discussions with the Kalamunda Districts Hockey Club, noting that the final design will be undertaken to match the available funds for this facility, with a further report presented to Council for endorsement.*
 6. *Note that a further report will be presented on the outcomes of discussions with other sporting clubs for:*
 - a) *Joint use of the new facility during the summer months;*
and
 - b) *Use of the existing hockey club facilities on Morrison Oval when the Kalamunda United Hockey Club relocates to the new site.*
7. At its meeting on 26 June 2017, Council considered a report on the Hartfield Park Redevelopment Project and resolved in part as follows:

"Endorses the final clubroom facility concept design for the proposed Hockey Facility at Hartfield Park as detailed on Drawing Number 400-004/D, for the purpose of inviting public Tenders upon receiving Western Australian Planning Commission and Department of Aboriginal Affairs approvals."
8. The City issued a Request for Tender RFT 1721 through its e-tendering portal www.tenderlink.com.kalamunda and advertised in the West Australian newspaper on 18 November 2017. Receipt of tender submissions closed at 2.00pm, Tuesday 12 December 2017.
9. The scope of Services for the Contract is defined in RFT 1721 and includes, but not limited to the following:
 - a) Survey set out
 - b) Clearing and grubbing
 - c) Earthworks
 - d) Building Construction Works – Architectural, Mechanical, Structural, Electrical, Hydraulic and Mechanical Engineering
 - e) Provision of "As Constructed" plans for submission to the City

10. The City received Tender submissions from the following 10 organisations who attended the Mandatory Site Inspection and Briefing on 22 November 2017:
 - a) Alliance Builders Pty Ltd;
 - b) BE Projects Pty Ltd ;
 - c) Bistel Construction Pty Ltd ;
 - d) Top End Living Pty Ltd, Trading As Buildon Construction;
 - e) Geared Construction Pty Ltd;
 - f) McCorkell Constructions WA Pty Ltd;
 - g) Pindan Constructions Pty Ltd;
 - h) Solution 4 Building Pty Ltd;
 - i) WBS Commercial Pty Ltd; and
 - j) ZD Construction 93 Pty Ltd

DETAILS

11. The scope of the Tender requires the services of a suitable experienced and qualified Contractor to undertake the Construction of Hockey Club Rooms Facility at Hartfield Park, Forrestfield as outlined in the RFT 1721 specifications and drawings.
12. The Contract shall be in force until the end of the defects liability period. However, in the event of the Contractor failing in any manner to carry out the Contract to the City's satisfaction, the City may determine (terminate) the Contract by written notice to the Contractor.
13. The following Panel members were duly appointed to the Tender Evaluation Panel (Panel) by the Director Asset Services:
 - a) Coordinator Project Delivery (Panel Chair)
 - b) Project Manager – Project Delivery Team
 - c) Consulting Architect
14. In the lead up to commencement of the Tender Evaluation Process and based on the Qualitative Criteria for RFT 1721 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 1721 was set at 60%.
15. Compliance Criteria were evaluated on a "Yes/No" basis, with compliance assessment completed by the Procurement and Finance Officer. The submission from ZD Construction 93 Pty Ltd was assessed as not compliant in accordance with the Tender Compliance Criteria, as the Tenderers Offer Form was not signed. No further assessment was undertaken on the submission.
16. 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.
17. 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.

18. 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.
19. Panel members completed the Qualitative Evaluation through comparison of individual scores and determination of consensus scores for each of the Qualitative Criteria on Wednesday 3 January 2018, in accordance with the City's evaluation process in a fair and equitable manner.
20. The Qualitative Criteria and weighting used in evaluating the submissions received are noted in the table below.

Qualitative Criteria	Weighting
1. Relevant Experience	25%
2. Tenderers Resources	20%
3. Key Personnel Skills and Experience	15%
4. Demonstrated Understanding of Required Works	40%

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

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

Company Name	Qualitative Total Rank
BE Projects Pty Ltd	1
Solution 4 Building Pty Ltd	2
McCorkell Constructions WA Pty Ltd	3
Pindan Constructions Pty Ltd	4
Bistel Construction Pty Ltd	5
Geared Construction Pty Ltd	6
Alliance Builders Pty Ltd	7
WBS Commercial Pty Ltd	8
Buildon Construction	9

The Actual scores achieved are detailed in the attached Tender Evaluation Report (Confidential Attachment 1), with BE Projects Pty Ltd's score being equivalent to a "Very Good Offer".

22. The following Tenderer's achieved the required QPM of 60%, advancing to the price assessment stage of the Tender evaluation process.
- a) BE Projects Pty Ltd
 - b) Solution 4 Building Pty Ltd
 - c) McCorkell Constructions WA Pty Ltd
 - d) Pindan Constructions Pty Ltd
 - e) Bistel Construction Pty Ltd
 - f) Geared Construction Pty Ltd
23. Tenderers not achieving the required QPM, did not have their prices assessed.
24. Tenderers were required to provide a Lump Sum Price for the extent of works detailed in the Specifications and Drawings and a separate price for the Option – Supply and Install Security System in accordance with specifications and drawings for this option.
25. Tenderers who achieved the QPM were ranked on the combined Lump Sum Prices and Tender Prices for the Option - Supply and Install Security System, as summarised in the table below.

Tenderer	Rank
BE Projects Pty Ltd	1
Solution 4 Building Pty Ltd	2
McCorkell Constructions WA Pty Ltd	3
Geared Construction Pty Ltd	4
Bistel Construction Pty Ltd	5
Pindan Constructions Pty Ltd	6

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

STATUTORY AND LEGAL CONSIDERATIONS

26. Section 3.57 of *Local Government Act 1995*. Part 4 of the *Local Government (Functions and General) Regulations 1996*.
27. The implementation of the project is in accordance with the terms and conditions of the Financial Assistance Agreement with the State of Western Australia.
28. A Permit to Clear Native Vegetation Under the *Environmental Protection Act 1986* was sought for this project, with the City granted a clearing permit on 22 December 2015 for the proposed development subject to the following condition:
1. *The Permit Holder must implement and adhere to the document "Vegetation Management Plan – Hartfield Park Hockey Fields Development" Doc No. Ep15-054-001 Revision A, December 2015.*

29. Section 18 Notice under the *Aboriginal Heritage Act 1972* was sought for this project, with notice submitted to the Department of Aboriginal Affairs on 30 November 2016. Approval from the Minister of Aboriginal Affairs was granted on 19 May 2017.
30. Western Australian Planning Commission (WAPC) development approval was granted on 18 August 2017.

POLICY CONSIDERATIONS

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

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

32. Community Development provided advice and assisted with the Hockey Club liaison on the preparation of the functional brief for the facility.
33. Development Services provided advice on and assisted with the application for WAPC Development Approval.

External Referrals

34. Extensive consultation was undertaken with the Traditional Owners, Department of Aboriginal Affairs, Department of Environment, Department of Parks and Wildlife and the Western Australian Planning Commission.
35. Representatives from the Kalamunda Districts Hockey Club were consulted and involved in site meetings on a regular basis as the scope of works and concept designs were developed on the basis of the Club's functional brief for both the building (works in this regards are not included in the Tender being considered) and the field alignment layout requirements.

FINANCIAL CONSIDERATIONS

36. This project is a key deliverable in the implementation of the Hartfield Park Masterplan and is funded through the Agreement as per page 13, Project Schedule Item 3 Stage 2 – Development of the hockey clubroom and playing fields.

37. Budget provision in 2017/2018 for the development of the hockey playing fields and club room facility at Hartfield Park has been allocated as summarised below:

Job No 4415	\$1.2million	Hartfield Park – Develop three new hockey fields and upgrade car park.
Job No 4881	\$1.2million	Hartfield Park – Construction of new Hockey Club Room Facility (based on preliminary cost estimate undertaken on the Concept plan in March 2017).

38. The budget for Job No 4881 will need to be increased to \$1.6m to accommodate the recommended tender price and provide a small contingency amount.
39. Sources of funding for reallocation to Job No 4881 include:
- a) Job No 4415 Hartfield Park – Develop three new hockey fields and upgrade car park. Committed funding for this project is \$941,564.89 (RFT 1717), with a further requirement of approximately \$110,000 for the provision of training sports lights. An amount of \$148,435.11 is therefore available for reallocation.
 - b) The remaining \$251,564.89 can be reallocated from the unexpended State Government Grant determined in the FAA for the provision of deliverables as outlined in the Hartfield Park Master Plan.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

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

OBJECTIVE 3.2 - To connect community to quality amenities.

Strategy 3.2.1 - Optimal management of assets.

SUSTAINABILITY

Social Implications

41. This Club Rooms Facility Construction will provide the City of Kalamunda, the community and user groups of Hartfield Park with a unique facility which can be used for hockey and other sports. It will complement the playing fields which are currently under construction at this site.

Economic Implications

42. Nil.

Environmental Implications

43. The conditions of the Permit to Clear Native Vegetation Under the Environmental Protection Act 1986 must be implemented and adhered in accordance with the document "Vegetation Management Plan- Hartfield Park Hockey Fields Development" Doc No Ep15-054—001 Revision A, December 2015.

RISK MANAGEMENT CONSIDERATIONS

44.	Risk: The Contractor does not satisfy the specification.		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action/ Strategy		
	Warranties, Australian Standard contracts and Professional Project Management in place.		
	Risk: Tender not awarded.		
	Likelihood	Consequence	Rating
	Unlikely	Major	High
	Action/ Strategy		
	Tender will require re-advertisement, jeopardising the financial assistance agreement expenditure timeframes, with the potential for the City having to return the funding for this deliverable.		

OFFICER COMMENT

45. All Tenderers were given the opportunity to provide information in accordance with the RFT.
46. The Panel concluded that BE Projects Pty Ltd 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%.
47. Of the Tenderers which achieved the QPM of 60%, BE Projects Pty Ltd offered the lowest total Lump Sum Price of \$1,544,016.16 (excluding GST), incorporating the price for the Option - Supply and Install Security System,
48. The total Lump Sum Tender Price offered is in excess of the 2017/2018 budget allocation for the project and as such there is a requirement for budget reallocations as outlined in the Financial Considerations section.
49. It is anticipated that the Contract is to commence in March 2018, subject to consideration of Tender Award by Council.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Approves the appointment of BE Projects Pty Ltd for the Construction of Hockey Club Rooms Facility – Hartfield Park, Forrestfield (RFT 1721) for a total Lump Sum Tender Price, incorporating the Option – Supply and Install Security System, of \$1,544,016.16 (excluding GST).
2. Approves a budget reallocation of \$148,435.11 from Job No 4415 - Hartfield Park Project- Develop Three New Hockey Fields and Upgrade Parking - 100% State Government funded, to Job No 4881 - Hartfield Park - Construction of New Club Room Building - 100 % State Government funded (4881).

3. Approves a budget reallocation of \$251,564.89 from the unexpended State Government Grant determined in the Financial Assistance Agreement for the provision of deliverables as outlined in the Hartfield Park Master Plan to Job No 4881 Hartfield Park – Construction of New Hockey Club Room Building.

Moved:

Seconded:

Vote:

10.4 OFFICE OF THE CEO

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

10.4.1 Appointments to Strategic Sport and Recreation Committee

The Manager Community Development provided a presentation on this item.

Previous Items	C&C 67/2017 OCM 163/2017
Responsible Officer	Office of the CEO
Service Area	Community Development
File Reference	
Applicant	N/A
Owner	N/A

EXECUTIVE SUMMARY

1. The purpose of this report is to consider nominations and appointment of community representatives to the Strategic Sport and Recreation Committee (SSRC).
2. A comprehensive consultation process including direct emails to 39 Sport and Recreation clubs, advertising through the "Engage Kalamunda" web page and an information session detailing the role of the SSRC and nomination process has resulted in 15 nominations being received.
3. It is recommended that Council appoints the following nominees as representatives on the Strategic Sport and Recreation Committee:
 - a) Paul Curtis – Kalamunda Sporting Precinct – AFL/Cricket
 - b) Doug Harvey - Maida Vale Reserve - Archery
 - c) Allan Mappin –Stirk Park Kalamunda - Bowls
 - d) Buster Aamot – Ray Owen Reserve - Cricket
 - e) Terry Rolfe – Ray Owen Sports Centre – Basketball
 - f) Phil Barker – Hartfield Park - Soccer
 - g) Darryl Downing – High Wycombe - Tennis
 - h) Annaliese Arndt – Maida Vale Reserve – Baseball/Tee Ball
 - i) Floyd Sullivan – Scott Reserve - AFL

BACKGROUND

4. The SSRC is a new Committee of Council. The SSRC is based around the principles of Participatory Budgeting, which is a process of democratic deliberation and decision-making, and a mechanism by which the community determines spending priorities, investment and budget allocation decisions within the City's sport and recreation program.
5. In regards to the SSRC, at the 28 November 2017 OCM (218/2017) it was resolved that Council:

1. *Receive the public comment.*

- 2. Endorse the removal of the word "community" from the title of the new committee and amend the Terms of Reference accordingly.*
 - 3. In accordance with Section 5.8 of the Local Government Act 1995 (WA), establishes the Strategic Sport and Recreation Community Committee.*
 - 4. Adopt the amended draft Terms of Reference for the Strategic Sports and Recreation Community Committee.*
 - 5. Abolish the existing Sport and Recreation Advisory Committees effective from 28 November 2017.*
 - 6. Request the Chief Executive Officer continue to implement informal meetings with Scott Reserve and Kostera Oval stakeholders to deal with issues and operational matters on a as needs basis as required by the sporting clubs.*
6. All 39 Sport and Recreation groups were invited to attend an information session on the Nomination Process held on 13 December 2017.
 7. These same groups were emailed the nomination package and the nominations were advertised online via the City's "Engage Kalamunda" web page. Nominations remained open until 19 January 2018.
 8. The City is committed to engaging with its community in a collaborative manner to solve issues and achieve goals.
 9. Community led Advisory Committees and Reference groups assist in dealing with specific service areas or issues.
 10. This level of engagement provides participants with a high degree of influence over the outcomes, although the final decision remains with Council.

DETAILS

11. A total of 15 Nominations were received from representatives of the Sport and Recreation community;
 - a) Paul Curtis – Kalamunda Sporting Precinct – AFL/Cricket
 - b) Doug Harvey - Maida Vale Reserve - Archery
 - c) Allan Mappin –Stirk Park Kalamunda - Bowls
 - d) Buster Aamot – Ray Owen Reserve - Cricket
 - e) Terry Rolfe – Ray Owen Sports Centre – Basketball
 - f) Phil Barker – Hartfield Park - Soccer
 - g) Darryl Downing – High Wycombe - Tennis
 - h) Annaliese Arndt – Maida Vale Reserve – Baseball/Tee Ball
 - i) Floyd Sullivan – Scott Reserve – AFL
 - j) Trevor Cook – Hartfield Park – Rugby Union
 - k) Patricia Lovell – Hartfield Park – Hockey
 - l) David Armstrong – Kalamunda Sporting Precinct – Cricket
 - m) Graham England – Hartfield Park – Rugby Union
 - n) Frank Scardifield – Scott Reserve – Cricket
 - o) Stephen Mills – Hartfield Park – Rugby League

12. The Terms of Reference state that "*A total membership of up to nine members will be appointed by Council following a nomination process that is open to all sporting and recreation clubs*".
13. The Chief Executive Officer appointed a panel of five staff members to undertake the assessment of all applications received by the City.
14. The assessment panel undertook a review of the nominations and assessed the competencies of the nominees in line with the City of Kalamunda policy guidelines for appointments to Advisory Committees and Reference Groups. A ranked list of nominees was developed based on this assessment process.
15. The list of nominees was assessed as a whole, in order to identify a good balance of representatives to meet the objectives of the Terms of Reference.

STATUTORY AND LEGAL CONSIDERATIONS

16. *Local Government Act 1995* -Part 5 Subdivision 2- Committees and their meetings.
Section 5.10 Prescribes that all person appointed to any Committee be by Absolute majority.

Section 5.11 (2)(d) of the Local Government Act 1995 – Tenure of Committee Membership

POLICY CONSIDERATIONS

17. COMR 21 - Capital Grants Clubs and Community Groups
18. All applications have been assessed in accordance with the City Policy – Appointment of Community Members to Advisory Committees and Reference Groups, adopted in October 2017.
19. The formation of the Advisory Committees, and the process of recruiting members to the committees is in accordance with the City of Kalamunda Engagement Strategy 2017.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

20. An assessment panel established by the Chief Executive Officer was formed to evaluate all applications against a set matrix to determine the most suitable representatives.

External Referrals

21. A comprehensive consultation process including direct emails to 39 Sport and Recreation clubs, advertising through the "Engage Kalamunda" web page and an information session detailing the role of the SSRC and nomination process has resulted in 15 nominations being received.

FINANCIAL CONSIDERATIONS

22. The ongoing costs of the SSRC can be accommodated from the Operating Budget as outlined below:
- a) Administrative support.
 - b) Any advertising for nominations to the group through local media.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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.

OBJECTIVE 4.1 To provide leadership through transparent governance.

Strategy 4.1.1 Provide good governance.

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

Strategy 4.2.1 Actively engage with the community in innovative ways.

SUSTAINABILITY

Social Implications

24. The formation of the SSRC will provide strategic direction and guidance in regards to the development of facilities and reserve infrastructure in the City of Kalamunda and will assist in a long term approach in regards to the provision of sporting facilities within the region.

Economic Implications

25. The formation of the SSRC is expected to provide the community with an improved understanding of the economic costs and benefits associated with our sport and recreation services.

Environmental Implications

26. The formation of the SSRC will allow for improved promotion of strategies for reducing energy consumption when considering facility development, upgrades and other projects across the City. This could include the potential of installing PV solar panels on the roof of any new facilities and consideration of the use of energy efficient designs and technology where appropriate.

RISK MANAGEMENT CONSIDERATIONS

27.	Risk That a balanced representation is not achieved on the committee in terms of locality and sporting codes.		
	Likelihood	Consequence	Rating
	Possible	Moderate	Medium
	Action / Strategy		
	Membership of the SSRC provides for a wide representation from all sporting clubs across the City. One of the assessment criteria addresses the need for ensuring a broad community representation.		
	Risk: That a quorum is not present at the meeting preventing the members from voting on matters		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action / Strategy		
	Meeting days and time will be endorsed by the SSRC to ensure maximum participation by the members.		
	Risk: Unsuccessful SSRC nominees may feel disengaged.		
	Likelihood	Consequence	Rating
	Possible	Insignificant	Low
	Action / Strategy		
	Communicate the selection process to all 39 sport and recreation clubs.		
	Risk: Loss of local knowledge and advice if appointments are not made		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action / Strategy		
	Ensure assessment and recommendation of members aligns with Council's selection criteria procedure.		

OFFICER COMMENT

28. The Chief Executive Officer appointed a panel of five staff members to undertake the assessment of all applications received by the City.
29. All applications were assessed against a multi-criteria selection matrix, namely:
- Knowledge and experience of the topics the Committee will be required to provide advice on.
 - Previous experience in participating on other committees, working groups or boards.
 - The ability to allocate the necessary time to attend meetings and read documentation prior to the meeting.
 - Whether the application addresses a knowledge/skills gap on the Committee, with consideration given to the balance of the Committee (ensuring broad community representation).
30. Selection of the recommended representatives was undertaken on the strength of the application submitted and in accordance with Council Policy for assessment of nominees to Advisory Committees.

31. There was a number of high quality applications submitted and the recommended representatives will provide the Committee with a broad combination of knowledge relevant to the development of Capital projects that will be assessed.

Voting Requirements: Absolute Majority

OFFICER RECOMMENDATION

That Council:

1. Appoints the following nominees as representatives to the Strategic Sport and Recreation Committee.
 - a) Paul Curtis – Kalamunda Sporting Precinct – AFL/Cricket
 - b) Doug Harvey - Maida Vale Reserve - Archery
 - c) Allan Mappin –Stirk Park Kalamunda - Bowls
 - d) Buster Aamot – Ray Owen Reserve - Cricket
 - e) Terry Rolfe – Ray Owen Sports Centre – Basketball
 - f) Phil Barker – Hartfield Park - Soccer
 - g) Darryl Downing – High Wycombe - Tennis
 - h) Annaliese Arndt – Maida Vale Reserve – Baseball/Tee Ball
 - i) Floyd Sullivan – Scott Reserve - AFL
2. Endorses the Chief Executive Officer writing to all nominees thanking them for their nominations and advising of the appointed Community Representatives.
3. Notes that the initial meeting of the Strategic Sport and Recreation Committee will be held in March 2018 to appoint the Presiding Person and determine further suitable meeting times and dates.

Moved:

Seconded:

Vote:

11.0 CLOSURE

10.1 There being no further business, the Presiding Member declared the meeting closed at 9:32pm.

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