

# Public Briefing Forum

Minutes for Tuesday, 9 October 2018

## UNCONFIRMED



**city of  
kalamunda**

## INDEX

<b>1. Official Opening .....</b>	<b>3</b>
<b>2. Attendance, Apologies and Leave of Absence .....</b>	<b>3</b>
<b>3. Declarations of Interest .....</b>	<b>4</b>
<b>4. Announcements by the Member Presiding Without Discussion.....</b>	<b>4</b>
<b>5. Public Question Time.....</b>	<b>4</b>
<b>6. Public Statement Time .....</b>	<b>5</b>
<b>7. Public Submissions Received in Writing .....</b>	<b>5</b>
<b>8. Petitions Received .....</b>	<b>6</b>
<b>9. Confidential Items Announced But Not Discussed.....</b>	<b>6</b>
9.1. Item 10.1.4 - Proposed Two Storey Ancillary Accommodation - Lot 42 (31) Orange Valley Road, Kalamunda - Attachment 1. Submitters List.....	6
9.2. Item 10.1.5 - Proposed Animal Establishment Lot 64 (56) Brook Road, Wattle Grove - Attachment 1. Submitters List .....	6
<b>10. Reports to Council .....</b>	<b>7</b>
<b>10.1. Development Services Reports .....</b>	<b>7</b>
10.1.1. Proposed Heritage Area and Local Planning Policy - Avenue of Lemon Scented Gums on Welshpool Road East, Wattle Grove.....	7
10.1.2. Draft Planning Policy P-DEV 20 - Outbuildings and Sea Containers .....	15
10.1.3. Review of Local Planning Policy P-DEV 60 - Design Advisory Committee .....	20
10.1.4. Proposed Two Storey Ancillary Accommodation - Lot 42 (31) Orange Valley Road, Kalamunda .....	25
10.1.5. Proposed Animal Establishment - Lot 64 (56) Brook Road, Wattle Grove .....	32
10.1.6. City of Kalamunda - Fire Hazard Assessment Plan: 2018/2019 .....	42
<b>10.2. Corporate Services Reports .....</b>	<b>49</b>
10.2.1. Proposed Permanent Closure of Portion of William Street/Sheffield Road, Wattle Grove .....	49
<b>10.3. Office of the CEO Reports .....</b>	<b>56</b>
10.3.1. Proposal for Change of Name - Reserve 29873 - 39 Sanderson Road, Lesmurdie - Result of Public Consultation .....	56
<b>11. Closure.....</b>	<b>61</b>

**1. Official Opening**

The Presiding Member opened the meeting at 6:30pm and welcomed Councillors, Staff and Members of the Public.

**2. Attendance, Apologies and Leave of Absence**

**2.1 Attendance**

**Councillors**

**South East Ward**

John Giardina - (Mayor) *(left at 6:42pm and returned at 6:47pm)*

Michael Fernie

Geoff Stallard

**South West Ward**

Lesley Boyd

Allan Morton

Brooke O'Donnell

**North West Ward**

Sara Lohmeyer

**North Ward**

Cameron Blair (Presiding Member)

Margaret Thomas

**Members of Staff**

**Chief Executive Officer**

Rhonda Hardy

**Executive Team**

Simon Di Rosso - General Counsel & Executive Advisor

Brett Jackson- Director Asset Services

Gary Ticehurst - Director Corporate Services

Peter Varelis - Director Development Services

**Management Team**

Andrew Fowler-Tutt - Manager Approval Services

Nicole O'Neill - Manager Customer & Public Relations

Jamie Paterson - Manager Information Technology

**Administration Support**

Leisha Fair - Governance Officer

Tim Parry - Acting Coordinator Community Safety

Gabriel Porto - IT Coordinator

**Members of the Public**

15.

**Members of the Press**

Nil.

**2.2 Apologies**

**North West Ward**

David Almond

**North West Ward**

Dylan O'Connor (Deputy Mayor)

2.3        **Leave of Absence Previously Approved**  
Nil.

**3.        Declarations of Interest**

3.1        **Disclosure of Financial and Proximity Interests**

- a)        Members must disclose the nature of their interest in matters to be discussed at the meeting. (Section 5.56 of the *Local Government Act 1995*.)
  - i.        Nil.
- 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*.)
  - i.        Nil.

3.2        **Disclosure of Interest Affecting Impartiality**

- a)        Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.
  - i.        Cr John Giardina declared an Interest Affecting Impartiality on Item 10.1.1 - Proposed Heritage Area and Local Planning Policy - Avenue of Lemon Scented Gums on Welshpool Road East, Wattle Grove as his relatives own property in the area.

**4.        Announcements by the Member Presiding Without Discussion**

4.1        Nil.

**5.        Public Question Time**

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

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

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

5.1 Mr Peter Forrest of 36 Panoramic Terrace, Kalamunda

Public Safety in Kalamunda; Removal of Crossing Haynes Street / Canning Road (IGA) – From the Public Briefing Forum of 11 September 2018 Item 10.2.1 Roads Asset Management Plan

Summary of question:

Q1. *Have Main Roads taken any action on the crossing, or are they more concerned with traffic flow rather than the safety of the people of Kalamunda?*

Summary of response from the Director Asset Services:

A1. *The City is currently reviewing designs for pedestrian crossings on Canning Road approximate to the Kalamunda Town Centre. The remainder of this question has been taken on notice in order to provide further detail.*

Q2. *Has the Consultant reported yet?*

Summary of response from the Director Development Services:

A2. *The Consultant has completed a first draft which is currently being reviewed internally with City staff. The current schedule is for this to be presented before the end of the calendar year.*

**6. Public Statement Time**

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

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

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

6.1 Mrs Roxanne Balchin of 56 Brook Road, Wattle Grove

Item 10.1.5 - Proposed Animal Establishment - Lot 64 (56) Brook Road, Wattle Grove

Mrs Balchin, (the Applicant), addressed a number of issues with respect to the proposed development. Questions from Councillors were clarified.

**7. Public Submissions Received in Writing**

7.1 Nil.

**8. Petitions Received**

- 8.1 A petition was received from Bev Dornan of 28 Easterbrook Place, Wattle Grove opposing the inclusion of Wattle Grove South in the Draft Industrialisation Development Strategy. This petition has been accepted and validated and will form part of the Consultative Report.

**9. Confidential Items Announced But Not Discussed**

- 9.1 Item 10.1.4 - Proposed Two Storey Ancillary Accommodation - Lot 42 (31) Orange Valley Road, Kalamunda – Attachment 1. Submitters List  
Reason for Confidentiality: *Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."*
- 9.2 Item 10.1.5 - Proposed Animal Establishment Lot 64 (56) Brook Road, Wattle Grove - Attachment 1. Submitters List  
Reason for Confidentiality: *Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."*

## **10. Reports to Council**

### **10.1 Development Services Reports**

#### **10.1.1 Proposed Heritage Area and Local Planning Policy - Avenue of Lemon Scented Gums on Welshpool Road East, Wattle Grove**

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

*Cr John Giardina declared an Interest Affecting Impartiality on this Item as he has relatives that live in the area. Cr Giardina left the room at 6:42pm and returned at 6:47pm.*

*The Director Development Services gave a presentation on this Item. Questions asked by members of the public were clarified.*

Previous Items	OCM 235/2017; OCM 12/2018
Directorate	Development Services
Business Unit	Strategic Planning and Approval Services
File Reference	
Applicant	City of Kalamunda
Owner	N/A
Attachments	<ol style="list-style-type: none"><li>1. Map of Proposed Heritage Area <b>[10.1.1.1]</b></li><li>2. Draft Municipal Heritage Inventory Entry - Lemon Scented Gums on Welshpool Road East <b>[10.1.1.2]</b></li><li>3. Draft Local Planning Policy - Lemon Scented Gums on Welshpool Road East <b>[10.1.1.3]</b></li><li>4. State Heritage Council Decision <b>[10.1.1.4]</b></li></ol>

### **EXECUTIVE SUMMARY**

1. The purpose of this report is for Council to consider including an entry into the Municipal Heritage Inventory (MHI) for the Avenue of Lemon Scented Gum Trees (*Corymbia citriodora*) on Welshpool Road East (Trees) and adoption of P-DEV65 for the purposes of public advertising for a period of 28 days.
2. Should Council support the proposed entry to the MHI and the designation of the heritage area and associated Local Planning Policy (LPP), public advertising will be undertaken, and the matter will be subsequently returned to Council to consider public submissions and final adoption of these documents.
3. In view of the significant public interest in the protection of the Trees within the heritage area, it is considered that the proposed heritage area designation and associated LPP is a positive and appropriate balance of planning control for the area.
4. It is recommended that Council adopts the entry of the Avenue of Lemon Scented Gum Trees on Welshpool Road East into the Municipal Heritage Inventory and adopts the LPP for the purposes of public advertising.



## BACKGROUND

### 5. Land Details:

Land Area:	Approximately 450m on the southern half of Welshpool Road East
Local Planning Scheme Zone:	Nil
Metropolitan Regional Scheme Zone:	Primary Regional Roads

### 6. Locality Plan:



7. The need for consideration of the heritage status and protection of the Trees was highlighted as a result of a development application for a place of worship at Lot 36 (831) Welshpool Road East, Wattle Grove (Lot 36). The following sequence of events summarises this matter:
- 10 June 2015 – Minister for Planning approved Scheme Amendment 61 which enabled an additional use of Place of Worship to be considered at Lot 36;
  - 28 November 2016 – Council approved a place of worship proposal which would have resulted in the removal of up to 13 existing trees on Welshpool Road East;
  - September 2017 – the City of Kalamunda (City) became aware of a community driven "Save the Trees" campaign in response to the proposed removal of trees for the approved place of worship;



- d) 26 September 2017 – Council requested that the City negotiate with the landowner of Lot 36, and Main Roads to seek an alternative option with a view of retaining and protecting trees;
- e) 17 April 2018 – Council approved an amendment to the Development Approval for the Place of Worship at 831 Welshpool Road East, Wattle Grove, which resulted in at least one (1) tree being removed.

The road modifications to Welshpool Road East have now been substantially completed and have resulted in the removal of one (1) tree, as approved by Council in April 2018. The health of the remaining Trees adjacent to the road modifications are subject to ongoing monitoring.

- 8. On 28 November 2017, Council resolved (OCM 235/2017) to pass a Notice of Motion as follows:

*"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."*

- 9. Following Council's resolution on 28 November 2017, 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 4.

- 10. On 27 February 2018 (OCM 12/2018), Council considered four options to establish heritage status of the Trees, including:

- 1) Adding the Trees to the adopted Municipal Heritage Inventory.
- 2) Creating a Heritage List and add the Trees.
- 3) Creating a Heritage Area and prepare a Local Planning Policy for the Trees.
- 4) Creating a Special Control Area for the area surrounding the Trees.

Council ultimately resolved to pursue investigations in accordance with options 1 and 3 above.

- 11. The City engaged Hocking Heritage Studio to prepare a historical entry and statement of heritage significance of the subject Trees for entry into the MHI. Refer to Attachment 2.

## **DETAILS**

- 12. The documentation required for the consideration of designating a Heritage Area and LPP includes:

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

Refer to Attachments 1 (map showing heritage area) and 2 (statement of heritage significance and record of places for the heritage area). The Draft LPP is included in Attachment 3.

- 13. The heritage area is defined by the boundaries identified in Attachment 1 and includes the avenue of Lemon Scented Gum Trees lining the southern (westbound) carriageway of Welshpool Road East for a distance of approximately 450m. The heritage area is generally confined to the area between the junction of Lewis Road and Welshpool Road East, and east to the break in the median strip. The area includes approximately 18 trees in the central median strip and 18 trees along the southern verge.
- 14. It is noted that there are also approximately 60 smaller trees within the proposed heritage area that are a mixture of other species of Eucalypt and self-seeded Lemon Scented Gum Trees. These other trees have not been included in the previous assessment by the Heritage Council or by the MHI entry prepared by Hocking Heritage Studio as having cultural heritage significance.
- 15. The draft MHI excerpt notes that the Trees were planted circa 1959 by Main Roads Western Australia (MRWA), when Welshpool Road East was realigned from the current location of Crystal Brook Road to its new location. The policy of MRWA at the time was to actively plant trees in road reserves to better promote road verges. It is reputed that the planting was instigated by Patrick Moran, the Secretary of the Darling Range Road Board (later the Shire/City of Kalamunda), to provide an entry statement into the hills region and provide a refuge for local wildlife. The draft MHI excerpt also notes that the planting was potentially linked to a notable town planner and architect, Margaret Feilman, who is associated with a number of culturally significant urban landscapes in the State. However, research by the State Heritage Office has not been able to substantiate this connection.
- 16. The LPP includes objectives to:
  - a) conserve and protect the cultural heritage significance of the Welshpool Road East Avenue of Lemon Scented Gums Heritage Area;
  - b) ensure that any proposed subdivision or development will not adversely affect the area's heritage significance; and
  - c) provide improved certainty to landowners and community about the planning processes for development within and adjacent to the area.
- 17. The LPP provides basic provisions which requires any development or subdivision to be designed wherever feasible to ensure the retention and protection of Trees within the heritage area. The LPP also includes provision for the City to request a site survey with tree details, heritage impact assessment, arborist assessment and an archival record to assist with the determination of development or subdivision applications.

## STATUTORY AND LEGAL CONSIDERATIONS

### ***Planning and Development (Local Planning Schemes) Regulations 2015***

18. Part 3 – Clause 9 of the *Planning and Development Local Planning Schemes) Regulations 2015* (Regulations) provides for 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."*

19. If Council resolve to proceed with a heritage area for the Trees on Welshpool Road East, the City will initiate advertising and the matter will be subsequently returned to Council to review submissions received and pass a resolution to:
- a) Adopt the designation without modification; or
  - b) Adopt the designation with modification; or
  - c) Not proceed with the designation.
20. If Council ultimately designate a heritage area, the Council must give notice of the designation to the Heritage Council of Western Australia and any landowner affected by the designation.

### ***Heritage of Western Australia Act 1990***

21. Section 45 of the *Heritage of Western Australia Act 1990* requires that the City compile, and periodically review, a Municipal Inventory of Heritage Places. Council adopted the City's latest MHI on 22 June 2015. The MHI is required to be reviewed every four (4) years. It is currently anticipated that this review will commence in 2019.

## POLICY CONSIDERATIONS

### **State Planning Policy 3.5 – Historic Heritage Conservation (Western Australian Planning Commission)**

22. State Planning Policy 3.5 (SPP 3.5) sets out the principles of sound and responsible planning for the conservation and protection of Western Australia's historic heritage.

23. In regard to the designation of heritage areas, SPP 3.5 notes that a heritage area should be designated on the basis of a clear statement of significance, and clear identification of the significant physical fabric in the area. The entry into the MHI and an associated LPP contain information to this effect.

## **COMMUNITY ENGAGEMENT REQUIREMENTS**

### **Internal Referrals**

24. The preparation of the draft entry into the MHI and LPP has been prepared from an Approval Services and Strategic Planning perspective. Detailed technical considerations will occur during the assessment of any future development or subdivision applications which may potentially impact on the heritage area.
25. Should Council resolve to adopt the proposed Heritage Area designation and associated LPP for the purposes of public advertising, the documents will be referred to the Kalamunda Environmental Advisory Committee for comment.

### **External Referrals**

26. Part 3 – Clause 8 and 9 of the Regulations details the process for creating a Heritage Area. This process 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**

27. The preparation of the MHI excerpt was undertaken by Hocking Heritage Studio at a cost of \$1,650. The documentation required for the preparation of the Heritage Area and LPP has been facilitated by the City's staff internally.

## STRATEGIC COMMUNITY PLAN

### Strategic Planning Alignment

28. *Kalamunda Advancing Strategic Community Plan to 2027*

#### Priority 2: Kalamunda Clean and Green

**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

29. The Trees form a substantial avenue and create a natural entry statement to the Perth Hills. The place is considered to contribute significantly to the community's sense of place. It is envisaged that a majority of the community will be supportive of the proposed action to protect the Trees.

### Economic Implications

30. 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

31. 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

- 32.
- |  |                    |               |
|--|--------------------|---------------|
| <b>Risk:</b> The Heritage Area and LPP does not achieve its intended objectives to protect the heritage status of the Trees.   |                    |               |
| <b>Likelihood</b>  | <b>Consequence</b> | <b>Rating</b> |
| Unlikely   | Moderate           | Low           |
| <b>Action/Strategy</b>   |                    |               |
| Ensure the draft Heritage Area and LPP is appropriately structured to be enforceable through development and subdivision application processes. During advertising refer the draft documents to the Heritage Council of WA and the Department of Planning, Lands and Heritage for comment. |                    |               |
- 33.
- |   |                    |               |
|---|--------------------|---------------|
| <b>Risk:</b> The community oppose the heritage area.  |                    |               |
| <b>Likelihood</b>   | <b>Consequence</b> | <b>Rating</b> |
| Unlikely  | Moderate           | Low           |
| <b>Action/Strategy</b>  |                    |               |
| Undertake community consultation and engagement prior to introducing any heritage status or development controls. |                    |               |

## OFFICER COMMENT

34. The adoption of the MHI entry is important for creating a record of the place, however this does not result in any statutory protection of the place in the planning framework. The heritage area and associated LPP however will provide a planning instrument that will guide subdivision and development where it impacts on the heritage area.
35. Accordingly, in the event that Council does not adopt the heritage area or LPP, it will mean that the City will have less control over the retention and protection of Trees within the area identified on Welshpool Road East.
36. It should be noted that an LPP is an instrument that is required to be given due regard in making a determination on a development proposal. Accordingly, Council is not necessarily bound by the provisions of the LPP in making its decision. The provisions of the policy will however need to be considered in the context of the merits of a development proposal.
37. Should Council support the proposed entry to the MHI, the designation of the heritage area, and associated LPP, public advertising will be undertaken and the matter will be subsequently returned to Council to consider public submissions and the final adoption of these documents.
38. In view of the significant public interest in the protection of the Trees within the heritage area, it is considered that the proposed heritage area designation and associated LPP is a positive and appropriate balance of planning control for the area.

<b>Voting Requirements: Simple Majority</b>
---

## RECOMMENDATION

That Council:

1. ADOPTS the draft entry into the Municipal Heritage Inventory for the Avenue of Lemon Scented Gum Trees on Welshpool Road East (Attachment 2) for the purposes of public advertising for a period of 28 days.
2. ADOPTS the designation of a Heritage Area for the Avenue of Lemon Scented Gum Trees on Welshpool Road East (Attachment 1) for the purposes of public advertising for a period of 28 days, pursuant to Schedule 2, Part 3 of the *Planning and Development (Local Planning Schemes) Regulation 2015*.
3. ADOPTS the Local Planning Policy for the Heritage Area for the Avenue of Lemon Scented Gum Trees on Welshpool Road East (Attachment 3) for the purposes of public advertising for a period of 28 days, pursuant to Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulation 2015*.

### **10.1.2 Draft Planning Policy P-DEV 20 - Outbuildings and Sea Containers**

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

*The Manager Approval Services gave a presentation on this Item.*

Previous Items	OCM 148/2015, OCM 142/2017, OCM 11/2018
Directorate	Development Services
Business Unit	Approval Services
File Reference	3.009297
Applicant	N/A
Owner	N/A
Attachments	1. Planning Policy P-DEV 20 - Outbuildings and Sea Containers - Existing <b>[10.1.2.1]</b> 2. Draft Planning Policy P-DEV 20 - Outbuildings and Sea Containers - Modified <b>[10.1.2.2]</b>

#### **EXECUTIVE SUMMARY**

1. The purpose of this report is for Council to consider minor modifications to the Local Planning Policy P-DEV 20 – Outbuildings and Sea Containers (Policy).
2. Council adopted changes to the Policy in February 2018 (refer to the existing Policy in Attachment 1). The proposed changes to the Policy incorporate current statutory planning requirements in accordance with changes in the State's planning framework. Further to this, it has been determined that one additional minor modification is required with respect to Table 2 – Materials, Finishes and Outbuildings (refer to modified Policy Attachment 2).
3. Noting the minor nature of the changes proposed, it is recommended that Council adopts the revised Policy without the need for public advertising.

#### **BACKGROUND**

4. The City of Kalamunda (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 in making planning decisions.
5. The Policy was previously adopted by the Council in November 2015, with changes to the Policy adopted by Council in February 2018 (OCM 11/2018). The following provides a brief summary of the changes to the Policy adopted in February:
  - 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 90m<sup>2</sup> to 120m<sup>2</sup>;
- e) Special Rural zone, increasing the individual outbuilding maximum floor area from 100m<sup>2</sup> to 150m<sup>2</sup>;
- f) Rural Landscape Interest, Rural Agriculture zones, increasing the individual outbuilding maximum floor area from 150m<sup>2</sup> to 180m<sup>2</sup>;
- 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; and
- k) updating of Policy definitions.

## **DETAILS**

- 6. The intent of the Policy is to provide guidance to applicants and staff when preparing and assessing development proposals for outbuildings or sea containers.
- 7. The Policy has been reviewed to correct an irregularity in Table 1 of the Policy to incorporate current statutory planning requirements in accordance with changes in the State's planning legislative framework. The proposal also incorporates a minor change to Table 2 of the Policy. These changes are detailed below:
  - a) updating Column C of Table 1 (Setback Requirements) for properties coded Residential Bushland R2.5, Residential R5 and Residential R10 to read as follows:

"As per the R-Codes (as amended)."
  - b) modifying Table 2 – (Materials and Finishes, Outbuildings) to remove reference to 'Reflective – eg, Zinalume' under the column heading of 'Discretion Required'.
- 8. The revisions to the Policy are outlined as tracked changes in Attachment 2.

## **STATUTORY AND LEGAL CONSIDERATIONS**

### **Planning and Development (Local Planning Schemes) Regulations 2015**

- 9. Local Planning Policies are created under Clause 3 (1) of the Planning and Development (Local Planning Scheme) Regulations 2015 (the Regulations).

10. Under Clause 5 Part 2 in Schedule 2 of the Regulations the procedure for amending local planning policy states at sub clause (2) that despite the normal requirement for advertising a local planning policy, *'the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.'*

## **POLICY CONSIDERATIONS**

11. The Policy follows the adopted Council templates with some small modifications to improved structure, legibility and clarity as it relates specifically to the Policy.

## **ENGAGEMENT REQUIREMENTS**

### **Internal Referrals**

12. Due to the minor nature of the proposed changes, the Policy was not required to be referred internally in this instance.

### **External Referrals**

13. As the proposed changes are minor, and for the purposes of bringing the Policy in alignment with State planning legislation, it is considered that public advertising of the modifications is not required.

## **FINANCIAL CONSIDERATIONS**

14. Nil.

## **STRATEGIC COMMUNITY PLAN**

### **Strategic Planning Alignment**

15. *Kalamunda Advancing Strategic Community Plan to 2027*

#### **Priority 3: Kalamunda Develops**

**Objective 3.1** - To plan for sustainable population growth.

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

## **SUSTAINABILITY**

### **Social Implications**

16. If the Policy changes are adopted, the City will have greater certainty when it comes to reviewing applications for outbuildings and sea containers or undertaking compliance matters.

17. 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**

18. Nil.

### **Environmental Implications**

19. Nil.

### **RISK MANAGEMENT CONSIDERATIONS**

20.	<b>Risk:</b> The revisions to the Policy are not adopted.		
	<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
	Unlikely	Moderate	Low
	<b>Action/Strategy</b>		
	Demonstrate the importance of ensuring planning polices incorporate current statutory planning requirements in accordance with changes in the State Planning legislative framework.		

### **OFFICER COMMENT**

21. The proposed revisions provide further clarity regarding the requirements for Outbuildings and Sea Containers within the City.
22. The Policy has been reviewed to correct an irregularity in Table 1 of the Policy to incorporate current statutory planning requirements in accordance with changes in the State's planning legislative framework. The Policy also incorporates a minor change to Table 2 by removing reference to the use of Zincalume as a discretionary building material. In this regard, Zincalume is considered a contemporary building material no different to other reflective roofing colours and, as such, no discretion is required when assessing planning applications incorporating this material.
23. As the changes will bring the Policy in line with the Residential Design Codes, there is no requirement to refer the document to the Western Australian Planning Commission.

<b>Voting Requirements: Simple Majority</b>
---

**RECOMMENDATION**

That Council:

1. ACCEPTS that the proposed minor amendment to Local Planning Policy P-DEV 20 – Outbuildings and Sea Containers are in accordance with Clause 5(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and do not require advertising.
2. ADOPT Local Planning Policy P-DEV 20 – Outbuildings and Sea Containers, as outlined in Attachment 2, pursuant to Clause 5(2) of the *Planning and Development (Local Planning Scheme) Regulations 2015*.

### **10.1.3 Review of Local Planning Policy P-DEV 60 - Design Advisory Committee**

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

*The Manager Approval Services gave a presentation on this Item. Questions asked by Councillors were clarified.*

Previous Items	OCM 125/2017, OCM 120/2018
Directorate	Development Services
Business Unit	Approval Services
File Reference	3.009297
Applicant	N/A
Owner	N/A

Attachments	1. P-DEV 60 Design Advisory Committee (Revised) <b>[10.1.3.1]</b>
-------------	--

#### **EXECUTIVE SUMMARY**

1. The purpose of this report is to respond to a Council resolution (OCM 120/2018) to consider appropriate amendments to the Local Planning Policy P-DEV 60 – Design Advisory Committee (Policy) to include the Design Advisory Committee (DAC) minutes in future Joint Development Assessment Panel (JDAP) reports and for the DAC minutes to be tabled at Council meetings.
2. In response, a complete review of the Policy has been undertaken. In addition to the requests of the Council regarding the tabling of minutes, the review has considered the processes around the appointment of DAC members, the role of the Chair, the timing of the lodgement of development proposals, and the documentation requirements for DAC consideration.
3. While the number of changes are numerous, the intent and objectives of the amended Policy have not changed. For this reason, it is believed that the amended Policy can be adopted by the Council without the need for public advertising.

#### **BACKGROUND**

4. The City of Kalamunda (City) periodically reviews, revokes and adds new policies to provide a level of consistency and transparency in decision making and to ensure Council has a clear and defensible position regarding planning matters.
5. The Policy was adopted by the Council on 24 July 2017. The DAC was established to provide a mechanism for expert design opinion to be considered in the assessment of significant development applications and other selected planning matters. The adopted Policy does not directly refer to the minutes of the DAC being tabled at a Council meeting or linked to a JDAP Responsible Authority Report (RAR).

6. At the Ordinary Council Meeting of 26 June 2018, Council resolved (OCM 120/2018) to:

1. *REQUESTS the Chief Executive Officer to prepare a report for Council giving consideration of appropriate amendments to Planning Policy P-Dev-60 Design Advisory Committee:*
  - a. *To ensure that all development application recommendations of the Design Advisory Committee (DAC) be included in the City of Kalamunda Responsible Authority Report submitted to the Joint Development Assessment Panel (JDAP).*
  - b. *Gives consideration to the minutes of the Design Advisory Committee being tabled at Council meetings.*

## **DETAILS**

7. The key amendments to the Policy include:

- a) minor changes to clause 5.4 *Membership* to clarify the processes of appointment and termination of DAC members by the CEO. As the DAC is not a committee of the Council, the link with the two year Council election cycle for the renewal of membership has been removed and appointments made for five year periods. To ensure no conflicts of interest, the Policy now states that staff and Councillors cannot be appointed as members of the DAC;
- b) the role of the Chair of the DAC has been clarified and now includes attending and presenting at Council meetings, the State Administrative Tribunal (SAT), and JDAP as required or requested, rather than all DAC members potentially having that role;
- c) clause 6 *Matters to be Referred to the Design Advisory Committee* has been amended to recognise that there is no statutory power to require development proposals to be presented to a DAC prior to formal lodgement of the Development Application. The amendment to the Policy clarifies the separation between development proposals being considered by the DAC prior to formal lodgement of a development application, and those proposals which have been lodged as formal applications;
- d) clause 7 *Information to be Provided by the Applicant* has been amended to establish the requirements for documentation to be provided should a prospective applicant agree to putting their proposal to the DAC prior to formal lodgement (Clause 7.1), and the documentation required for presentation to the DAC once a development application has been lodged with the City (Clause 7.2); and
- e) clause 10.4 *Agenda and Minutes* has been amended to clearly require that all DAC minutes are to be tabled at a Council meeting and, where the matter is to be determined by the Council, the minutes are to be referenced in the officer's report and included as an attachment. Where the development application is to be determined by the JDAP, the DAC responsible authority report is to reference the DAC minutes and include them as an attachment. It is noted that the DAC minutes may need to be tabled as confidential given they may contain sensitive commercial information.

## STATUTORY AND LEGAL CONSIDERATIONS

### Planning and Development (Local Planning Schemes) Regulations 2015

8. Local Planning Policies are created under Clause 3 (1) of the *Planning and Development (Local Planning Scheme) Regulations 2015* (Regulations).
9. Under Schedule 2 Part 2 clause 5(2) of the Regulations the procedure for amending a local planning policy is described as follows:  
*Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.*

### Local Planning Scheme No 3

10. Clause 10.3 of Local Planning Scheme No. 3 (Scheme) details the provisions pertaining to the establishment of the DAC.

## POLICY CONSIDERATIONS

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

## ENGAGEMENT REQUIREMENTS

### Internal Referrals

12. The minor nature of the changes proposed did not warrant the Policy being referred internally in this instance.

### External Referrals

13. The minor nature of the changes proposed do not warrant the Policy being advertised.

## FINANCIAL CONSIDERATIONS

14. Nil.

## STRATEGIC COMMUNITY PLAN

### Strategic Planning Alignment

15. *Kalamunda Advancing Strategic Community Plan to 2027*

#### **Priority 3: Kalamunda Develops**

**Objective 3.1** - To plan for sustainable population growth.

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



**SUSTAINABILITY****Social Implications**

16. Nil.

**Economic Implications**

17. Nil.

**Environmental Implications**

18. Nil.

**RISK MANAGEMENT CONSIDERATIONS**

19.	<b>Risk:</b> The Policy objectives are not achieved.		
	<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
	Unlikely	Moderate	Low
	<b>Action/Strategy</b>		
	Demonstrate the importance of having clarity around the role of the DAC and circulation of their advice through Council meetings.		

**OFFICER COMMENT**

20. Following the resolution of the Council (OCM 120/2018) requesting the CEO consider changes to the Policy in relation to the DAC minutes being tabled at Council meetings and referenced and attached to JDAP reports, the opportunity was also taken to comprehensively review the Policy.
21. The review has considered the processes around the appointment of DAC members, the role of the Chair, the timing of the lodgement of development proposals, and the documentation requirements for the DAC consideration. The amended Policy also requires the minutes of the DAC to be tabled at a Council meeting and, where the matter is to be determined through a JDAP, to be referenced in the responsible authority report and included as an attachment. The majority of the amendments are around clarification of the Policy.
22. It is highly desirable for new development proposals to be considered by the DAC in their formative stages to avoid possible changes and delays to the assessment process once the application is formally lodged with the City. The City has no statutory power to require development proposals to be submitted to the DAC prior to them being formally lodged with the City as a development application. The amendments to the Policy recognise the statutory position and provide for slightly different documentation requirements if the applicant is agreeable to taking a proposal to the DAC before formal lodgement.

23. It should be noted that the details around a development proposal, particularly any commercial or financial information, will need to be maintained as confidential. This may mean that the minutes will need to be tabled as confidential attachments.
24. While there are numerous proposed amendments to the Policy, the intent and the objectives of the Policy have not changed. The recommended changes to the Policy are considered minor in nature and therefore it is recommended that the requirement for advertising the Policy be waived.

<b>Voting Requirements: Simple Majority</b>
---

## **RECOMMENDATION**

That Council:

1. NOTES that the proposed minor amendment to Local Planning Policy P-DEV 60 – Design Advisory Committees are in accordance with Clause 5(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and therefore do not require advertising.
2. ADOPT Local Planning Policy P-DEV 60 – Design Advisory Committees pursuant to Clause 5(2) of the *Planning and Development (Local Planning Scheme) Regulations 2015*, in accordance with Attachment 1.

### **10.1.4 Proposed Two Storey Ancillary Accommodation - Lot 42 (31) Orange Valley Road, Kalamunda**

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

*The Manager Approval Services gave a presentation on this Item. Questions asked by Councillors and members of the public were clarified.*

Previous Items	N/A
Directorate	Development Services
Business Unit	Approval Services
File Reference	OR-03/031
Applicant	Ryan Adams
Owner	Ryan Adams
Attachments	<ol style="list-style-type: none"><li>1. Site Plan <b>[10.1.4.1]</b></li><li>2. Floor Plans <b>[10.1.4.2]</b></li><li>3. Elevation <b>[10.1.4.3]</b></li><li>4. Overshadowing Diagram <b>[10.1.4.4]</b></li><li>5. Submission table <b>[10.1.4.5]</b></li><li>6. Site Photos Demonstrating View from Applicants Property <b>[10.1.4.6]</b></li><li>7. Site Photos Demonstrating View From Neighbour's Property <b>[10.1.4.7]</b></li></ol>
Confidential Attachment	<ol style="list-style-type: none"><li>1. Submitters List</li></ol> <p><u>Reason for Confidentiality:</u> <i>Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."</i></p>

#### **EXECUTIVE SUMMARY**

1. The purpose of this report is for Council to consider a Development Application for a two-storey ancillary dwelling at Lot 42 (31) Orange Valley Road, Kalamunda (subject site).
2. The proposal is compliant with the deemed to comply provisions of the Residential Design Codes (R Codes) with the exception of the rear setback. (Attachment 1). The proposal was advertised to adjoining landowners in accordance with the City of Kalamunda's (City's) P-DEV - 45 (Public Notification of Planning Proposals) and the R Codes. During the advertising period, a total of three submissions were received, two of which were objections and one non-objection.
3. It is recommended that Council approve the application, subject to appropriate conditions and advice notes.

## BACKGROUND

### 4. Land Details:

Land Area:	1,012sqm
Local Planning Scheme Zone:	Residential R10
Metropolitan Regional Scheme Zone:	Urban

5. The subject site contains a centrally located single residence and a swimming pool located to the rear of the site.

### 6. Locality Plan:



## DETAILS

7. The Applicant is seeking approval for a two-storey ancillary dwelling comprising the following: (Attachments 2 and 3)
- a) Ground floor – (Attachment 2) garage, workshop, laundry and bathroom;
  - b) Upper Floor – (Attachment 2) bedroom, living room and kitchen; and
  - c) Eastern elevation - (Attachment 3, Elevation 3) has no major openings and the southern elevation (Attachment 3, Elevation 4) has a highlight window.

The overall floor area of the ancillary dwelling is 116.8sqm, however the ancillary dwelling component comprises a plot ratio of 68.6sqm.

8. There is an existing retaining wall and fence along the eastern boundary approximately 2.5m in height. Due to the topography of the land, the natural ground level is at least one metre lower at the rear boundary of the subject site than the natural ground level on the adjoining lots.

9. The proposed location for the ancillary dwelling has been chosen due to the constraints on the lot. The Applicant has an existing swimming pool, which is to be retained, therefore making it hard to find an alternate location for the ancillary dwelling.

## **STATUTORY AND LEGAL CONSIDERATIONS**

### **Local Planning Scheme No. 3**

10. The subject site is zoned "Residential" in accordance with Local Planning Scheme No. 3 (Scheme) with a density coding of "R10". Under Clause 4.2.1 the objectives of the residential zone are as follows:
- *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.*
  - *To give consideration to grouped dwelling developments if the site is near amenities and can be integrated into the single residential environment.*
  - *To facilitate a range of accommodation styles and densities to cater for all community groups inclusive of the elderly, young people in transition and the handicapped. Such accommodation is supported where it is appropriately situated in proximity to other services and facilities.*
  - *To encourage the retention of remnant vegetation.*

### **Planning and Development (Local Planning Schemes) Regulations 2015**

11. In considering an application for planning approval, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) requires Council to have due regard to a number of matters, including:
- a) the compatibility of the development in its settings;
  - b) amenity of locality; and
  - c) any relevant submissions received on the application.
12. In the event that Council does not support the proposed development, there is a right of review (Appeal) to the State Administrative Tribunal under Part 14 of the *Planning and Development Act 2005*.

## **POLICY CONSIDERATIONS**

### **13. State Planning Policy 3.1 – Residential Design Codes (R-Codes)**

Should any aspect of a proposal not meet the deemed-to-comply provisions of the R Codes, an assessment of the proposal is made against the 'Design Principles' of the R Codes. In this case clause: 5.1.3 – Lot Boundary Setback.

<b>Assessment Under the R Codes</b>	<b>Deemed to comply Provision</b>	<b>Proposed by the Applicant</b>	<b>Variation to R Codes</b>
Rear setback	6m	1.5	-4.5

14. As indicated in the above table, when any aspect of the proposal does not satisfy the deemed to comply provisions of the R Codes, an assessment is made against the Design Principles of the R Codes as described below:

5.1.3 Lot Boundary Setback:

*P3.1 Buildings set back from boundaries so as to:*

- *Reduce impacts of the building bulk on adjoining properties;*
- *Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *Minimise the extent of overlooking and resultant loss of privacy on adjoining properties."*

15. An Ancillary Dwelling is defined under the R Codes as a 'self-contained dwelling on the same lot as a single house which may be attached to, integrated with or detached from the single house'.

16. **State Planning Policy 3.7 – Planning in Bushfire Prone Areas**

The subject site falls within a Bushfire Prone Area, meaning the proposed development is required to comply with State Planning Policy 3.7 (SPP 3.7). The intent of SPP 3.7 and the associated Guidelines for Planning in Bushfire Prone Areas, is to implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on a property and associated infrastructure.

The Applicant submitted a Bushfire Attack Level Assessment (BAL) which has determined the rating as BAL 12.5, the rating is relatively low and there are no requirements to upgrade the dwelling to meet Australian Standard AS 3959.

17. **P- DEV 50 – Ancillary Dwellings**

The Policy provides guidance when assessing proposals for ancillary dwellings. The proposed development demonstrates full compliance with the provisions of the Policy.

## **ENGAGEMENT REQUIREMENTS**

### **Internal Referrals**

18. The proposal was referred to the relevant disciplines for assessment and comments.
19. From a building perspective, it was noted the upper floor needs to have a minimum ceiling height of 2.4m to comply with the Building Code of Australia and this can be addressed at the building permit stage.

### **External Referrals**

20. 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 three responses were received, comprising of two objections and one non-objection.

A summary of the objections are as follows:

**a) Privacy:**

The respondents are concerned about the potential overlooking and overshadowing implications and the presumption the dwelling will block out natural sun light.

**b) Bulk Scale and Height:**

The respondents are concerned about the size of the ancillary dwelling due to the close proximity to their boundaries.

**c) Noise Pollution:**

The respondents have raised concerns about the noise levels that may be generated as a result of people residing in the dwelling close to their boundaries and also the workshop component being converted to a commercial business.

Responses to the above comments are noted in the submission table (Attachment 5).

## **FINANCIAL CONSIDERATIONS**

21. In the event Council refuses the application and the Applicant appeals to the State Administrative Tribunal, the City will incur the cost of engaging an independent expert with planning qualifications. General Counsel will attend to all legal preparation of the matter.

## **STRATEGIC COMMUNITY PLAN**

### **Strategic Planning Alignment**

22. *Kalamunda Advancing Strategic Community Plan to 2027*

**Priority 3: Kalamunda Develops**

**Objective 3.1** - To plan for sustainable population growth.

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

## **SUSTAINABILITY**

### **Social Implications**

23. The proposal addresses one of the objectives of the zone to encourage a wide choice of housing types.

### **Economic Implications**

24. Nil.



## Environmental Implications

25. Nil.

## RISK MANAGEMENT CONSIDERATIONS

26.	<b>Risk:</b> The reduced rear setback will result in an undue amenity impact on the rear adjoining lots by virtue of the bulk and scale of the building.		
	<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
	Possible	Moderate	Medium
	<b>Action/Strategy</b>		
	Ensure the assessment appropriately considers the design principles under the R Codes and that Council are aware that the proposal can be taken on its merits if the design principle can be ultimately satisfied.		

## OFFICER COMMENT

27. The proposed development meets the deemed-to-comply requirements of the R Codes with the exception of the rear boundary setback.
28. Notwithstanding the reduced rear setback of 1.5m, the rear setback requirement for an outbuilding to comply is 1.5m. The ancillary dwelling aesthetically presents similarly to an outbuilding in terms of the eastern façade (Attachment 3, Elevation 3) being a blank wall with no major openings.
29. It is acknowledged that the proposal is seeking a reduction to the rear lot boundary setback. The extent of the non-compliance aspect however is adequately addressed through the design principles of the R Codes.
30. It is acknowledged that the bulk and scale of the proposal could be considered excessive in the context of the proposed rear boundary setback an impact on the adjoining neighbours outdoor living area (64A Lyndhurst Road). However, in considering the issue, it should be noted that the extent of the upper floor equates to 17% of the neighbours outdoor living area which is not considered to have an undue impact given the overall outdoor living area is approximately 376sqm.
31. The Applicant has sought to address the impacts of the overall bulk scale and height by having a low pitch skillion roof. Taking into consideration the topography of the land and the existing 2.5m high fence on the eastern boundary, the dwelling will appear to be single storey from the adjoining properties (Attachment 4). To assist in reducing the overall impact of the building to the rear neighbour, it is recommended that additional screening be provided along a portion of the rear boundary fence to the satisfaction of the City.
32. The Applicant has indicated on the elevations where the existing fence line is, to show how much of the dwelling will be visible from the neighbour's property on the eastern boundary (Attachment 3).

33. When applying the design principles of the R Codes, the proposal provides adequate sunlight and ventilation to the building and is compliant with the overshadowing requirements of the R Codes, (Attachment 5). As a consequence, it will not impact on the provisions of daylight to major openings of neighbouring dwellings. In addition, the proposed development is compliant with respect to visual privacy to the side and rear boundaries of the site.
34. With respect to the visual privacy aspect of the R Codes, the eastern elevation (Attachment 3, Elevation 3) has no major openings to mitigate any potential overlooking issues, and the southern elevation (Attachment 3, Elevation 4) proposes a highlight window which is not deemed a major opening under the R Codes. The proposed development is compliant with respect to visual privacy to the side and rear boundaries of the site and therefore meets the design principles of the R Codes. (Attachment 3)
35. With regard to any increase in noise related concerns, as raised by one of the objectors, it is likely that the new building will act as a barrier and that much of the noise would be contained.
36. Noting the above, it is recommended that approval be granted subject to appropriate conditions and advice notes.

<b>Voting Requirements: Simple Majority</b>
---

## **RECOMMENDATION**

That Council:

APPROVES the application for a two-storey ancillary dwelling at Lot 42 (31) Orange Valley Road, Kalamunda, subject to the following conditions:

- a) the development shall be undertaken only in accordance with the terms of the application as approved herein, and approved plan to the satisfaction of City of Kalamunda;
- b) stormwater shall be disposed of on-site, to the satisfaction of the City of Kalamunda;
- c) the ancillary dwelling shall be constructed of similar and/or sympathetic materials and colours to the existing building(s), to the satisfaction of the City of Kalamunda; and
- d) the Applicant shall provide additional screening measures along a portion of the rear boundary fence to the satisfaction of the City of Kalamunda.

### **10.1.5 Proposed Animal Establishment - Lot 64 (56) Brook Road, Wattle Grove**

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

*The Manager Approval Services gave a presentation on this Item. Questions asked by Councillors were clarified.*

*Cr Boyd asked how many of the submissions received were from residents within the 300 metre radius, as detailed in paragraphs 31 and 32 of this report. The Manager Approval Services took this question on notice and the information will be provided in the Agenda for the Ordinary Council Meeting of 23 October 2018.*

*Mr Forrest asked questions regarding the appointment of DAC members and whether they have local knowledge of the City. The Presiding Member informed Mr Forrest that this question related to an earlier Item in the Agenda that was now closed for comment. Nevertheless, the Manager Approval Services gave an initial response and took this question on notice.*

Previous Items	Nil
Directorate	Development Services
Business Unit	Approval Services
File Reference	BR-36/044-056
Applicant	Roxanne and Kevin Balchin
Owner	Roxanne and Kevin Balchin
Attachments	1. Plans <b>[10.1.5.1]</b> 2. Environmental Noise Assessment <b>[10.1.5.2]</b> 3. Business Plan 2018 <b>[10.1.5.3]</b> 4. Submitters Table <b>[10.1.5.4]</b>
Confidential Attachment	1. Submitters List <u>Reason for Confidentiality:</u> Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."

#### **EXECUTIVE SUMMARY**

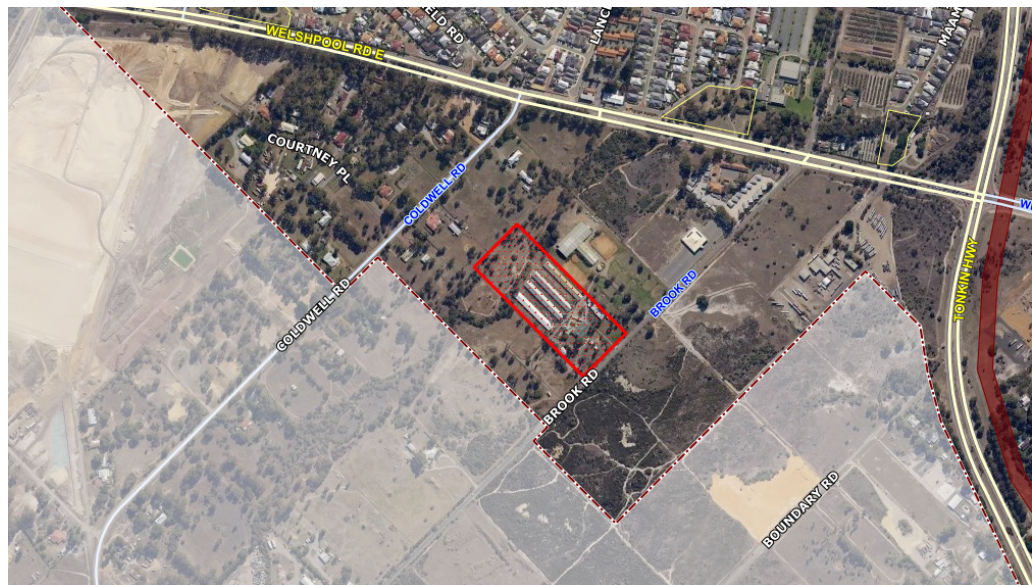
1. The purpose of this report is for Council to consider a Development Application for a proposed 'Animal Establishment' at Lot 64 (56) Brook Road, Wattle Grove (subject site).
2. The subject site has operated as a poultry farm ('Animal Husbandry – Intensive') since the 1970's. The existing land use is an 'X' use within the Special Rural zone under the City of Kalamunda's Local Planning Scheme No. 3 (Scheme) and is therefore not permitted.
3. The proposed land use of 'Animal Establishment' is also an 'X' use within the Special Rural zone and is therefore not permitted under the Scheme. The Applicant therefore seeks to obtain development approval under clause 4.9 Extensions and Changes to a Non-Conforming Use of the Scheme.
4. In accordance with Clause 4.9.3 of the Scheme, it is recommended that Council approve the application for the proposed 'Animal Establishment', subject to conditions.

## BACKGROUND

### 5. Land Details:

Land Area:	36,929. m <sup>2</sup>   3.69290 ha
Local Planning Scheme Zone:	Special Rural
Metropolitan Regional Scheme Zone:	Industrial

### 6. Locality Plan:



7. The subject site has historically operated an 88,000 head poultry farm ('Animal Husbandry – Intensive') distributed throughout four large sheds (100 metres by 12 metres). The subject site is currently improved by a single house and various ancillary structures.
8. The subject site is bounded by Brook Road to the south and similar zoned properties to all other boundaries. Further afield, the subject site has low to medium residential development to the north (Wattle Grove Cell 9), Tonkin Highway to the east, Roe Highway to the north and the Maddington Kenwick Strategic Employment Area (MKSEA) to the north and west.
9. The subject site forms part of MKSEA; a future light and general industrial area which is predominately within the City of Gosnells, and partly in the City of Kalamunda (City) at the southern end of Wattle Grove.
10. The subject site was rezoned, under the Metropolitan Region Scheme (MRS), from Rural to Industrial in October 2016.

11. Whilst the subject site is currently zoned Special Rural under the Scheme, in accordance with S.124 of the *Planning and Development Act 2005* (Act) the Special Rural zone under the Scheme will need to accord with the Industrial zone under the MRS. It is therefore important to note that the proposed land use of 'Animal Establishment' is a Discretionary land use within all the City's Light and General Industry zones.
12. The timing of the planned rezoning of the subject site to industry under the Scheme has not progressed due to the environmental constraints of the area. In this regard, the City of Gosnells has undertaken environmental investigations for the broader MKSEA, including the subject site, and the City will consider the industrial zoning of the subject site as part of the broader planning for MKSEA and the environmental investigations undertaken.
13. The Council has previously approved Scheme amendments for Additional Uses for 'Animal Establishment' at three sites all zoned Rural:
  - a) 95 Palmateer Drive, Bickley – zoned Rural Conservation;
  - b) 714 Welshpool Road, Wattle Grove – zoned Rural Composite; and
  - c) 810 Welshpool Road, Wattle Grove – zoned Rural Composite.

The abovementioned Scheme amendments highlight that Rural zones have previously been considered appropriate locations for 'Animal Establishments' by Council.

## **DETAILS**

14. The Applicant seeks to obtain development approval under Clause 4.9.3 of the Scheme for a change of use from an existing non-conforming use ('Animal Husbandry – Intensive') to another non-conforming use ('Animal Establishment').
15. The Applicant seeks to retrofit existing infrastructure on site, with no material change in the appearance of the property from Brook Road or surrounding properties.
16. The Applicant intends to convert one of the existing poultry sheds with the intention of operating a Doggy Day Care ('Animal Establishment') as follows:
  - a) the Doggy Day Care ('Animal Establishment') will comprise a total area of 2,400m<sup>2</sup>; 1,200m<sup>2</sup> of which will be an indoor play area to operate out of existing Shed 1, and the balance of 1,200m<sup>2</sup> outdoor play area to operate in a fenced off area between Shed 1 and 2 (refer to Attachment 1);
  - b) no more than 40 dogs at any one time;
  - c) no more than four staff members at any one time, determined by a ratio of one staff member per 10 dogs;
  - d) hours of operation from 7:00am to 6:00pm, Monday through Friday, with the facility closed weekends and public holidays;
  - e) no dogs will be housed overnight; and

- f) all waste produced will be removed from the site by a licenced commercial waste management company.
17. In support of the proposal, the Applicant has lodged proposed plans, a Business Plan and Operating Policies (Attachments 1, 3 and 4). The attachments also outline how the facility will operate in accordance with the Pet Industry Association of Australia's (PIAA) Standards and Guidelines for Boarding and Doggy Day Care.

## **STATUTORY AND LEGAL CONSIDERATIONS**

### **Planning and Development Act 2005**

18. If Council does not support the proposed development, there is a right of review (appeal) to the State Administrative Tribunal under Part 14 of the Act.

### **Planning and Development (Local Planning Schemes) Regulations 2015**

19. In considering an application for planning approval, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) (Matters to be Considered by Local Government) requires Council to have due regard to a number of matters, including:
- a) the compatibility of the development within its setting;
  - b) the preservation of amenity in the locality;
  - c) the history of the site where the development is to be located;
  - d) the impact of the development of the community as a whole notwithstanding the impact of the development on particular individuals; and
  - e) any submissions made on the application.

### **Local Planning Scheme No. 3**

20. The subject site is zoned 'Industry' under the MRS and 'Special Rural' under the Scheme.
21. Under Clause 1.9, the Scheme is to be complimentary to the MRS, and the provisions of the MRS is to have effect over the Scheme.
22. Under Clause 4.2.2 of the Scheme, the objectives of the 'Special Rural' are as follows:
- a) *To enable smaller lot subdivision to provide for uses compatible with rural development.*
  - b) *To retain amenity and the rural landscape in a manner consistent with orderly and proper planning.*
23. Under Schedule 1 of the Scheme, the proposed land use of 'Animal Establishment' is defined as follows:

*"animal establishment means a premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry – intensive or veterinary centre."*

24. With regard to the Scheme definition, it should be noted that the Applicant is proposing a Doggy Day Care only and is not proposing to board or breed the dogs on premises. The recommendation has been appropriately conditioned to ensure the aforementioned operation.

25. In accordance with Table 1 (Zoning Table) of the Scheme, the proposed land use of 'Animal Establishment' is an 'X' (Prohibited) use within the Special Rural zone.

26. The subject site currently operates a Poultry Farm, which is defined under Schedule 1 of the Scheme as follows:

*"animal husbandry – intensive means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production) rabbits (for either meat or fur production) and other livestock in feedlots."*

27. In accordance with Table 1 (Zoning Table) of the Scheme, the existing land use of 'Animal Husbandry – Intensive' is 'X' (Prohibited) use within the Special Rural zone. The landowner has however operated the activity for over 38 years and consequently, in accordance with Clause 4.10 of the Scheme, has non-conforming land use rights over the subject site.

28. Under Schedule 1 of the Scheme, a non-conforming use is defined as follows:

*"non-conforming use means a use of land which, though lawful immediately before the coming into operation of a planning scheme or amendment to a planning scheme, is not in conformity with a provision of that scheme."*

29. Under Clause 4.9.3 of the Scheme, where an application for a change of use from an existing non-conforming use ('Animal Husbandry – Intensive') to another non-conforming use ('Animal Establishment'), the local government can exercise discretion and approve the application if it is considered that the proposed use is less detrimental to the amenity of the locality and is, in the opinion of the local government, closer to the intended purpose of the zone.

## **ENGAGEMENT REQUIREMENTS**

### **Internal Referrals**

30. The proposal was assessed from an Environmental Health and Building perspective. Environmental Health reviewed the supporting Noise Report and Business Plan and concluded that the proposed development would not have an undue impact upon the surrounding landowners and occupiers. No other issues were raised in respect to the proposal.



## External Referrals

31. Having regard to Local Planning Policy P-DEV 45 (Public Notification of Planning Proposals), the application was advertised for a period of 14 days to landowners and occupiers within a 300m radius of the subject site.
32. A total of eight submissions were received, five of which were objections with the balance being non-objections.
33. Key concerns raised during the advertising period were as follows:
  - a) inconsistent with the future industrial zoning of the subject site and surrounds;
  - b) acoustic impacts; and
  - c) odour impacts.
34. A summary of the concerns raised by the submitters have been included in the attached Submitters Table (Attachment 4). Responses to the submissions have been included in the Officer Comment section of this report.

## FINANCIAL CONSIDERATIONS

35. Nil.

## STRATEGIC COMMUNITY PLAN

### Strategic Planning Alignment

36. *Kalamunda Advancing Strategic Community Plan to 2027*

#### **Priority 3: Kalamunda Develops**

**Objective 3.1** - To plan for sustainable population growth.

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

## SUSTAINABILITY

### Social Implications

37. Poultry farms are considered to impact surrounding landowners and occupiers, particularly in respect to odour and dust.
38. Should the Applicant obtain development approval to operate an 'Animal Establishment' on the subject site, the existing use of the site as a poultry farm will discontinue.
39. From a social perspective, it is considered that the proposed 'Animal Establishment' is less detrimental to the amenity of the locality than the existing 'Animal Husbandry – Intensive' for the following key reasons:
  - a) less likelihood of potential odour impacts;

- b) less likelihood of breeding fly issues;
- c) less likelihood of dust issues; and
- d) the proposal represents a more discrete use, only utilising one of the existing four sheds on the site.

### Economic Implications

40. Nil.

### Environmental Implications

41. The proposed development has been assessed from an Environmental Health perspective (ie, acoustic impacts and waste management) and is considered appropriate for the subject site and surrounding area.

### RISK MANAGEMENT CONSIDERATIONS

- 42.
- |  |                    |               |
|--|--------------------|---------------|
| <b>Risk:</b> Surrounding residents are affected by loss of amenity.  |                    |               |
| <b>Likelihood</b>  | <b>Consequence</b> | <b>Rating</b> |
| Possible   | Moderate           | Medium        |
| <b>Action/Strategy</b>   |                    |               |
| It has been demonstrated that the proposed development can be managed subject to appropriate conditions and management measures. |                    |               |
- 43.
- |  |                    |               |
|--|--------------------|---------------|
| <b>Risk:</b> The proposal is refused by Council and the proponent reverts back to the use of the site as a poultry farm.   |                    |               |
| <b>Likelihood</b>  | <b>Consequence</b> | <b>Rating</b> |
| Possible   | Moderate           | Medium        |
| <b>Action/Strategy</b>   |                    |               |
| Ensure Council is aware, from a planning and environmental health perspective, the proposed use is considered to be less detrimental to the amenity of the locality than the existing non-conforming use. Furthermore, the proposal is consistent with the strategic and statutory planning framework and may be considered in the envisaged future zone for the area. |                    |               |

### OFFICER COMMENT

44. It is important to note that, whilst the subject site is currently zoned Special Rural, future rezoning under the Scheme to a Light or General Industry zone will proceed at some stage in the future in accordance with the S.124 of the Act. The proposed land use of 'Animal Establishment' is a Discretionary use within the Light and General Industry zone within the Scheme.

45. To address the concerns raised during advertising, the following is noted:

**Acoustic Impacts**

The Development Application is supported by an Environmental Noise Assessment which concludes that the proposal will be compliant with the Environmental Protection (Noise) Regulations 1997, subject to the following two operational constraints (Attachment 2):

- a) the lower ventilation flaps along each side wall of the shed must be kept shut at all times, however the upper ventilation flaps can be left open; and
- b) the location of the outdoor play pen is to be as per the diagram below:



(Environmental Noise Assessment,  
Gabriels Hearne Farrell Pty Ltd, 2018)

The above recommendations have been considered in the recommended conditions.

46. **Odour Impacts**  
The Development Application is supported by a Business Plan and suite of operational Policies (i.e. Hygiene, Cleaning and Disinfection Policy) which are considered to mitigate any potential odour impact upon the surrounding area. Nonetheless, any odour emitted by the proposal is considered to be less detrimental to the amenity of the locality than the existing poultry farm.

47. **Inconsistent with the future industrial zoning of the subject site and surrounds.**  
The subject site is zoned Industrial under the MRS and Special Rural under the Scheme. The City is required to render the Scheme consistent with the MRS under S.124 of the Act and the subsequent rezoning will occur following a resolution of environmental investigations in relation to the interface of the area with Yule Brook. Whilst the proposed land use of 'Animal Establishment' is currently prohibited in the Special Rural zone, the future rezoning of the site to Light or General Industry will render the proposed land use a Discretionary use under the Scheme.

48. From a planning perspective, the proposed use ('Animal Establishment') is considered to be less detrimental to the amenity of the locality than the existing non-conforming use (poultry farm – 'Animal Husbandry – Intensive') and is closer to the intended purpose of the Special Rural zone. Furthermore, the proposal is consistent with the applicable strategic and statutory planning framework and is therefore considered to be consistent with orderly and property planning of the locality.
49. Having regard to the above, it is recommended that Council approves the application for a proposed 'Animal Establishment' subject to appropriate conditions.

<b>Voting Requirements: Simple Majority</b>
---

**RECOMMENDATION**

That Council:

1. NOTES that in accordance with Clause 4.9.3 of the Scheme, the proposed 'Animal Establishment' at Lot 64 (56) Brook Road, Wattle Grove is less detrimental to the amenity of the locality and is closer to the intended purpose of the Special Rural zone.
2. APPROVES the Development Application for a proposed 'Animal Establishment' at Lot 64 (56) Brook Road, Wattle Grove as submitted by Roxanne and Kevin Balchin, subject to the following conditions:
  - a) development must be carried out in accordance with the stamped approved plan(s)/drawing(s) and document(s) (including any recommendations made) listed below, stamped and returned to the Applicant with this decision notice, including any amendments to those plans as shown in red:

<b>Title</b>	<b>Date</b>	<b>Prepared by</b>
Site Plan 1	18 December 2017	Roxanne and Kevin Balchin
Site Plan 2	18 December 2017	Roxanne and Kevin Balchin
Floor Plan	18 December 2017	Roxanne and Kevin Balchin
Environmental Noise Assessment	1 February 2018	Gabriels Hearne Farrell P/L
Foxwood Farm Doggy Day Care Business Plan 2018	N/A	Roxanne and Kevin Balchin
Hygiene, Cleaning and Disinfection Policy	N/A	Roxanne and Kevin Balchin
Record Keeping Policy	N/A	Roxanne and Kevin Balchin
Veterinary Care Policy	N/A	Roxanne and Kevin Balchin
Security and Emergencies Policy	N/A	Roxanne and Kevin Balchin
Staff Responsibilities Policy	N/A	Roxanne and Kevin Balchin
Animal Health Care Policy	N/A	Roxanne and Kevin Balchin
Dog Acceptance Policy	N/A	Roxanne and Kevin Balchin
Access to Clients, Visitors/General Public Policy	N/A	Roxanne and Kevin Balchin
Health and Safety Policy	N/A	Roxanne and Kevin Balchin

- b) prior to the lodgement of a building permit, the outdoor play pen is to be amended in accordance with the recommendations made in the Environmental Noise Assessment prepared by Gabriels Hearne Farrell Pty Ltd dated 1 February 2018;
- c) this approval relates to the proposed change of use from 'Animal Husbandry – Intensive' to 'Animal Establishment' in the location highlighted on the plan dated 23 October 2018. This approval does not relate to any other development on the subject site;
- d) the poultry farm ('Animal Husbandry – Intensive') must cease operation prior to the commencement of the Doggy Day Care ('Animal Establishment');
- e) the hours of operation for the 'Animal Establishment' shall be limited to within the hours of 7:00am to 6:00pm, Monday through Friday inclusive. The 'Animal Establishment' is not permitted to operate weekends or public holidays;
- f) the 'Animal Establishment' is limited to a maximum of 40 dogs at any one time;
- g) all materials and/or equipment used in relation to the 'Animal Establishment' must be stored within Shed 1 and/or suitably screened from the neighbouring properties for the duration of the development to the satisfaction of the City of Kalamunda; and
- h) solid waste is to be contained, stored and collected using suitable waste receptacles and removed from the site using a licenced commercial waste contractor, to the satisfaction of the City of Kalamunda.

### 10.1.6 City of Kalamunda - Fire Hazard Assessment Plan: 2018/2019

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

*The Acting Coordinator Community Safety gave a presentation on this item. Questions asked by Councillors were clarified.*

Previous Items	Nil
Directorate	Development Services
Business Unit	Community Safety
File Reference	RA-BFC-002
Applicant	N/A
Owner	N/A
Attachments	<ol style="list-style-type: none"><li>1. Management Procedure - Fire Breaks and Notices <b>[10.1.6.1]</b></li><li>2. Fire Hazard Assessment Plan 2018/19 <b>[10.1.6.2]</b></li><li>3. Governemnt Gazette - Bush Fire Notice 2018/19 <b>[10.1.6.3]</b></li></ol>

#### **EXECUTIVE SUMMARY**

1. The purpose of this report is to advise Council of the City's revised approach to fire hazard management through the implementation of the "Fire Hazard Assessment Plan 2018-19 Season" (Plan).
2. The proposed Plan will replace City of Kalamunda (City) procedure "SM-DS01.2 – Enforcement Management Procedure – Fire Breaks and Notices", (Attachment 1) providing a risk based approach to fire hazard assessments, while increasing the City's engagement focus to build a more resilient community.
3. It is recommended that Council:
  - a) Notes the "Fire Hazard Assessment Plan 2018/19 Season" plan provided as Attachment 2.

#### **BACKGROUND**

4. The City of Kalamunda's "Fire Hazard Reduction Notice 2018/2019" notice was gazetted on 22 June 2018 (Attachment 3).
5. The City's procedure "SM-DS01.2 – Enforcement Management Procedure – Fire Breaks and Notices" (Procedure) (Attachment 1) does not represent Council's current position regarding the balance between community engagement and enforcement of the *Bush Fires Act 1954* (WA). For example, the Procedure establishes the process where the City will issue an infringement notice on the owners of premises other than for matters of minor non-compliance after 1 November. The procedure provides no guidance on what constitutes matters of minor non-compliance.

6. The proposed Plan utilises previous non-compliance, complaints and a comprehensive risk assessment to determine the priority of assessments. The purpose is to reduce the overall risk to profile to the City by ensuring all very high and extreme premises are assessed before moving onto lower risk properties.
7. The Plan also utilises a combination of community engagement to support the assessment program which is focused on empowering residents to be fire ready before the 1 November assessment program. The focus of the engagement strategy is to increase fire safe practices, asset preparedness and community resilience, while giving residents information on how to comply with the annual bushfire notice.

## **DETAILS**

8. The engagement program has already commenced with community workshops, social media infomercials, updated City website, static displays, variable message boards, letterbox drops of information booklets and the annual fire notice.
9. The City is using the Department of Fire and Emergency Service's (DFES) 'Bushfire Risk Management System', which is a digital database enabling DFES in collaboration with local government to log bushfire risks throughout Western Australia. The system will allow the City to capture a tenure blind and data specific risk rating for all assets within its district. The assets are divided into four categories, Cultural, Economic, Environmental and Human Settlement. Although the majority of assets will be one or the other, the system provides the ability to rate multiple risks against the one asset. Once all the risk data has been logged into the database, the system will automatically provide the high rating category, which the assessment program is based around.
10. The City Fire Control Officers will drive all fire breaks on the properties they assess. The purpose of driving the fire breaks is to ensure they comply with the 3m wide by 4m high clearance. This is a critical safety requirement to ensure our Volunteer Bush Fire Brigade can safely drive a fire appliance along a fire break in times of an emergency.
11. The City is encouraging residents whose physical characteristics of their property make it impossible to comply with the bushfire notice to submit an application for a variation before 1 November.

## STATUTORY AND LEGAL CONSIDERATIONS

12. Section 33 *Bush Fires Act 1954* (WA) **Local government may require occupier of land to plough or clear fire-break.**

- (1) *Subject to subsection (2) a local government at any time, and from time to time, may, and if so required by the Minister shall, as a measure for preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur, give notice in writing to an owner or occupier of land situate within the district of the local government or shall give notice to all owners or occupiers of land in its district by publishing a notice in the Government Gazette and in a newspaper circulating in the area requiring him or them as the case may be within a time specified in the notice to do or to commence to do at a time so specified all or any of the following things —*
- (a) *to plough, cultivate, scarify, burn or otherwise clear upon the land fire-breaks in such manner, at such places, of such dimensions, and to such number, and whether in parallel or otherwise, as the local government may and is hereby empowered to determine and as are specified in the notice, and thereafter to maintain the fire-breaks clear of inflammable matter;*
  - (b) *to act as and when specified in the notice with respect to anything which is upon the land, and which in the opinion of the local government or its duly authorised officer, is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire,*  
*and the notice may require the owner or occupier to do so —*
  - (c) *as a separate operation, or in co-ordination with any other person, carrying out a similar operation on adjoining or neighbouring land; and*
  - (d) *in any event, to the satisfaction of either the local government or its duly authorised officer, according to which of them is specified in the notice.*
- (2) *A notice in writing under subsection (1) may be given to an owner or occupier of land by posting it to him at his last postal address known to the local government and may be given to an owner of land by posting it to him at the address shown in the rate record kept by the local government pursuant to the Local Government Act 1995, as his address for the service of rate notices.*
- (2a) *The provisions of subsection (2) are in addition to and not in derogation of those of sections 75 and 76 of the Interpretation Act 1984 (WA).*
- (3) *The owner or occupier of land to whom a notice has been given under subsection (1) and who fails or neglects in any respect duly to comply with the requisitions of the notice is guilty of an offence.*



- (4) *Where an owner or occupier of land who has received notice under subsection (1) fails or neglects to comply with the requisitions of the notice within the time specified in the notice —*
- (a) *the local government may direct its bush fire control officer, or any other officer of the local government, to enter upon the land of the owner or occupier and to carry out the requisitions of the notice which have not been complied with; and*
  - (b) *the bush fire control officer or other officer may, in pursuance of the direction, enter upon the land of the owner or occupier with such servants, workmen, or contractors, and with such vehicles, machinery, and appliances as he deems fit, and may do such acts, matters and things as may be necessary to carry out the requisitions of the notice.*

13. Section 39 *Bush Fires Act 1954* (WA) ***Special powers of bush fire control officers:***

- (1) Subject to the provisions of this Act a bush fire control officer appointed under this Act by a local government may, in the exercise of his functions and the performance of his duties under this Act, do all or any of the following things —
- (a) *exercise any of the appropriate powers of the FES Commissioner under the Fire Brigades Act 1942, in so far as the same may be necessary or expedient, for extinguishing a bush fire or for preventing the spread or extension of the fire; and*
  - (b) *enter any land or building, whether private property or not; and*
  - (c) *pull down, cut, and remove fences on land, whether private property or not, if in his opinion it is necessary or expedient so to do for the purpose of taking effective measures for extinguishing a bush fire, or for preventing the spread or extension of the fire; and*
  - (d) *cause fire-breaks to be ploughed or cleared on land, whether private land or not, and take such other appropriate measures on the land as he may deem necessary for the purpose of controlling or extinguishing a bush fire or for preventing the spread or extension of the fire; and*
  - (e) *take and use water, other than that for use at a school or the domestic supply of an occupier contained in a tank at his dwelling-house, and other fire extinguishing material from any source whatever on land, whether private property or not; and*
  - (f) *any other thing which in his opinion is incidental to the exercise of any of the foregoing powers; and*
  - (g) *employ a person or use the voluntary services of a person to assist him, subject to his directions in the exercise of any of the foregoing powers; and*

- (h) *either alone or with others under his command or direction enter a building which he believes to be on fire and take such steps as he considers necessary to extinguish the fire or prevent it from spreading, but except as arranged with or requested by an officer in charge of a fire brigade under the Fire Brigades Act 1942, this power shall not be exercised in a townsite in an area which has been declared a fire district under that Act or in a townsite in which there is a fire brigade or volunteer fire brigade formed under the provisions of that Act.*

## **POLICY CONSIDERATIONS**

14. The Plan complies with the strategic direction provided in the City's Enforcement Policy.

## **COMMUNITY ENGAGEMENT REQUIREMENTS**

### **Internal Referrals**

15. The Plan was presented at the 30 August 2018 Local Emergency Management Committee meeting.

### **External Referrals**

16. The Department of Fire and Emergency Services was consulted in the preparation of the proposed Plan.

## **FINANCIAL CONSIDERATIONS**

17. Provision for the proposed Plan was costed in the 2018/19 operational budget. No additional funding is being requested as part of this report.

## **STRATEGIC COMMUNITY PLAN**

### **Strategic Planning Alignment**

18. *Kalamunda Advancing Strategic Community Plan to 2027*

#### **Priority 1: Kalamunda Cares and Interacts**

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

**Strategy - 1.2.1** Facilitate a safe community environment.

#### **Priority 2: Kalamunda Clean and Green**

**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.

**Strategy 2.1.3** - Community engagement and education in environmental management.

## SUSTAINABILITY

### Social Implications

19. The proposed Plan empowers the City's residents, recognising their autonomy to comply with the bushfire notice thereby building a more resilient community. The proposed Plan achieves this by providing residents with the information they need to not only comply with the bush fire notice before 1 November but to ensure they are bushfire ready.

### Economic Implications

20. Empowering our residents to become more resilient will reduce the economic impact during times of emergency.

### Environmental Implications

21. Compliance with the bush fire notice reduces the risk of fire spreading and increases the ability to contain and control fire, thereby increasing the level of protection to the local environment.

## RISK MANAGEMENT CONSIDERATIONS

22. **Risk:** There is a compliance risk if the City does not ensure the community is fire ready by 1 November 2018 and maintain this state of readiness until 31 March 2019.
- | Likelihood   | Consequence | Rating  |
|--|-------------|---------|
| Almost Certain   | Major       | Extreme |
| <b>Action/Strategy</b>   |             |         |
| The City of Kalamunda's "Fire Hazard Reduction Notice 2018/2019" notice was gazetted on 22 June 2018. The proposed plan will reduce this risk through increased education and a risk based assessment program. |             |         |
23. **Risk:** There is a reputational risk, if the City is impacted by a fire event resulting in loss of property and/or life.
- | Likelihood  | Consequence | Rating  |
|---|-------------|---------|
| Unlikely  | Critical    | Extreme |
| <b>Action/Strategy</b>  |             |         |
| The processes contained in the proposed plan, if followed correctly, will reduce the impact of incidents and will also assist with answering enquiries from external sources. |             |         |

24.

**Risk:** There is a Health and Safety risk if the City is impacted by a fire event resulting in loss of property and/or life.

<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Critical	Extreme

**Action/Strategy**

The proposed plan will increase community awareness and preparedness through a better approach to engaging with residents. This will assist to mitigate the risk by making residents fire ready and build the overall resilience of the community.

25.

**Risk:** There is an environmental risk if the City is impacted by a large fire which damages the local environment and/or asbestos cement clad/roofed buildings or other like structures.

<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Critical	Extreme

**Action/Strategy**

The proposed plan will reduce the impact of fire on the natural environment. The engagement aspects of the proposed plan will increase community awareness on the role of fire hazard reduction thereby reducing the risk of severe fires.

## OFFICER COMMENT

26.

The City Fire Control Officers will attempt to contact the resident before commencing an assessment of a premises. The City is using this as another opportunity to engage with the community and educate residents on how to prepare and protect their properties.

27.

The City also recognises that not all residents will be at home when they arrive to undertake an assessment. The City will leave a small fridge magnet advertising the "Are you Ready" Bushfire season message, so residents know we have attended their premise.

28.

The City will issue written work orders to home owners who are assessed as non-complaint. The City will only issue infringement notices to home owners after they have been given 14 days to complete the works identified in their respective work order.

## Voting Requirements: Simple Majority

## RECOMMENDATION

That Council:

1. NOTES the implementation of the "Fire Hazard Reduction Notice 2018/2019" as provided in Attachment 2.

## **10.2 Corporate Services Reports**

### **10.2.1 Proposed Permanent Closure of Portion of William Street/Sheffield Road, Wattle Grove**

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

*The Director Asset Services gave a presentation on this Item. Questions asked by Councillors were clarified.*

Previous Items	Nil
Directorate	Corporate Services
Business Unit	Economic, Land & Property Services
File Reference	WL-13/GEN; WL-13/002
Applicant	Dennis Hita and Karmen Whitehead
Owner	State of Western Australia
Attachments	1. Amended Plan - Lot 757 (No. 2) William Street, Wattle Grove <b>[10.2.1.1]</b> 2. Summary of Submissions Table <b>[10.2.1.2]</b>

#### **EXECUTIVE SUMMARY**

1. The purpose of this report is to consider a request to permanently close a portion of the William Street/Sheffield Road, Wattle Grove road reserve and amalgamate the closed road reserve with Lot 757 (2) William Street, Wattle Grove (Lot 757).
2. A resolution of Council is required to proceed with the proposed permanent road reserve closure.
3. It is recommended that Council support the request to permanently close a portion of the William Street/Sheffield Road, Wattle Grove road reserve, subject to conditions.

## BACKGROUND

### 4. Locality Plan:



5. Lot 757 is outlined in red on the locality plan above.

## DETAILS

6. On 8 December 2017, Dennis Hita and Karmen Whitehead (Applicant) lodged an application with the City of Kalamunda (City) for the permanent closure of a portion of the William Street/Sheffield Road, Wattle Grove road reserve.
7. On 28 December 2017, the Applicant provided the City with a plan showing the proposed road reserve closure area.
8. The City requested that the Applicant provide an amended plan showing the location of all services. An amended plan was provided to the City on 8 January 2018 (Attachment 1).

## STATUTORY AND LEGAL CONSIDERATIONS

9. The proposed road reserve closure must proceed in accordance with section 58 of the *Land Administration Act 1997* (WA).
10. Section 58(1)-(3) states as follows:

### **58. Closing roads**

- (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**

11. The City's Asset Management Policy C-AS-01 (Policy) provides *"a framework for undertaking long term strategic asset management of the Shire's asset portfolio, incorporating corporate leadership and reflecting a sustainable approach to service delivery to meet the current and future needs of the community."*
12. The Policy 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."*
13. A review of the portion of road reserve proposed to be closed indicates that it is surplus to the current and future requirements of the road network.

## **COMMUNITY ENGAGEMENT REQUIREMENTS**

### **Internal Referrals**

14. The City has no objection to the proposal from a statutory planning perspective and assumes the Applicant is looking to purchase the land in question and re-develop for an additional dwelling.
15. The City has no objection to the proposal from a strategic planning perspective and requires that the standard truncation parameters are put in place. It is noted that the plan for the proposal provides for a truncation.
16. The City has assessed the proposal from an asset management perspective and requires that the following conditions be imposed on any approval:
- a) the Applicant will need to arrange, at their cost, to relocate Western Power utilities; and
  - b) the Applicant will need to provide a contribution of \$500 (including GST) for the replacement of vegetation. The City will arrange replacement by providing street trees.
17. The proposal has been assessed by the City from an environmental health perspective and it is noted that the underground power supply runs through this area, and possible other services, which would require relocating as per the requirements of the respective service authorities.
18. The City does not have any objection to the proposal from an asset maintenance and community development perspective.

## External Referrals

19. The proposal was advertised in the Kalamunda Reporter on Tuesday 8 May 2018 and on the City's website. Comments closed at 5:00pm on Wednesday 13 June 2018.
20. The proposal was also referred to the service authorities for comment.
21. The submissions received by the City are summarised in the Summary of Submissions Table (Attachment 2).

## FINANCIAL CONSIDERATIONS

22. The costs of the proposal are as follows:
  - a) purchase price for portion of road reserve to be closed and amalgamated into Lot 757;
  - b) easements and service relocations;
  - c) Department of Planning, Lands & Heritage document preparation fees;
  - d) Landgate fees; and
  - e) survey costs.
23. The amount of each of these costs will be determined by the Department of Planning, Lands & Heritage, Landgate, the service authorities and any consultants engaged by the Department.
24. The proposal benefits the Applicant as it increases the area of their property. It is proposed that the Applicant be required to pay all costs of the proposal.

## STRATEGIC COMMUNITY PLAN

### Strategic Planning Alignment

25. *Kalamunda Advancing Strategic Community Plan to 2027*

#### **Priority 3: Kalamunda Develops**

**Objective 3.1** - To plan for sustainable population growth.

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

#### **Priority 3: Kalamunda Develops**

**Objective 3.2** - To connect community to quality amenities.

**Strategy 3.2.1** - Optimal management of all assets.

## SUSTAINABILITY

### Social Implications

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



**Economic Implications**

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

**Environmental Implications**

28. The City will arrange replacement of vegetation impacted by the proposal by providing street trees.

**RISK MANAGEMENT CONSIDERATIONS**

- 29.
- |  |                    |               |
|--|--------------------|---------------|
| <b>Risk:</b> The Applicant is unable to afford the cost of relocating services.  |                    |               |
| <b>Likelihood</b>  | <b>Consequence</b> | <b>Rating</b> |
| Possible   | Moderate           | Medium        |
| <b>Action/Strategy</b>   |                    |               |
| Ensure the Applicant is informed they are responsible for the cost of any service relocations. Ensure the City's approval to the road reserve closure is conditional on the Applicant paying for all costs of any service relocations. |                    |               |
- 30.
- |  |                    |               |
|--|--------------------|---------------|
| <b>Risk:</b> The Minister for Lands does not support the proposed permanent road reserve closure.  |                    |               |
| <b>Likelihood</b>  | <b>Consequence</b> | <b>Rating</b> |
| Possible   | Moderate           | Medium        |
| <b>Action/Strategy</b>   |                    |               |
| Ensure the Minister for Lands is advised that the road reserve closure area is surplus to the current and future requirements of the road network. |                    |               |

**OFFICER COMMENT**

31. The truncation at the site is far more onerous than the truncations at nearby properties at 1A, 3 and 5 William Street, Wattle Grove.
32. The plan for the proposal provides for a more 'standard' truncation. A standard truncation will still provide for adequate sight lines.
33. Provided that the Applicant pays for all costs of the proposal, there is no reason for the City to object to the proposal.
34. It is recommended that Council support the request to permanently close a portion of the William Street/Sheffield Road, Wattle Grove road reserve, subject to conditions.

<b>Voting Requirements: Simple Majority</b>
---

## **RECOMMENDATION**

That Council:

1. REQUESTS the Minister for Lands to permanently close that portion of the William Street/Sheffield Road, Wattle Grove road reserve shown delineated and marked as "Proposed Lot Extension" on the plan attached to this report as Attachment 1, pursuant to section 58 of the *Land Administration Act 1997* (WA), subject to the following conditions:
  - a) the Applicant must pay the purchase price for the portion of road reserve proposed to be closed and amalgamated into Lot 757 (No. 2) William Street, Wattle Grove;
  - b) the Applicant must pay all costs of and incidental to any easements and service relocations required by the service authorities in order for the proposal to proceed;
  - c) the Applicant must pay all Department of Planning, Lands & Heritage document preparation fees and Landgate fees in respect of the proposal;
  - d) the Applicant must pay all survey costs of the proposal;
  - e) the Applicant must pay any other costs of and incidental to the road closure and amalgamation; and
  - f) the Applicant must provide a contribution of \$500 (including GST) to the City for the replacement of vegetation.
2. CONFIRMS the City of Kalamunda has complied with section 58(3) of the *Land Administration Act 1997* (WA).
3. UNDERTAKES to comply with section 58(2) of the *Land Administration Act 1997* (WA).
4. NOTES the following:

### **ATCO Gas Infrastructure**

- a) ATCO Gas Australia has High Pressure gas mains (Pipeline 41) within the immediately adjacent road reserve of William Street. ATCO Gas **must** be notified of any works within 15 metres of High Pressure gas infrastructure before those works begin;
- b) construction, excavation and other activities are restricted in this zone. No pavements (including crossovers) are to be constructed over the pipeline without consent from ATCO Gas Australia. Various pipeline safety tests may apply. The Applicant is advised to contact ATCO on 9499 5272 in this regard and comply with the requirements of the ATCO Gas document NCN-WI008-RF01 Additional Information for Working Around Gas Infrastructure; and
- c) anyone proposing to carry out construction or excavation works must contact 'Dial Before You Dig' (Ph 1100) to determine the location of buried gas infrastructure.

**Water Corporation Infrastructure**

- a) there is an existing dn150mm cast iron water main that will be impacted by this proposed road reserve closure; and
- b) the Water Corporation requires that the main be relocated to the standard 2.1 metre alignment off the proposed boundary prior to the proposed land transfer. The Applicant will need to have a design submission done and lodged with the Water Corporation for the new main.

**Telstra Infrastructure**

- a) Telstra's plant records indicate that there are Telstra assets within the area of the proposal; and
- b) at this stage, Telstra has determined that the existing Telstra infrastructure in the existing road reserve will have to be relocated to the new road reserve.

**Western Power Infrastructure**

- a) Western Power infrastructure may need to be removed or relocated.

## **10.3 Office of the CEO Reports**

### **10.3.1 Proposal for Change of Name - Reserve 29873 - 39 Sanderson Road, Lesmurdie - Result of Public Consultation**

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

*The Manager Customer and Public Relations gave a presentation on this Item.*

Previous Items	OCM 109/2013; OCM 80/2018
Directorate	Office of the CEO
Business Unit	Chief Executive Officer
File Reference	SN-01/039
Applicant	N/A
Owner	N/A

Attachments	1. Barrie Oldfield Community Contribution History <b>[10.3.1.1]</b>
-------------	--

#### **EXECUTIVE SUMMARY**

1. The purpose of this report is to support a request for a portion of Reserve 29673 at 39 Sanderson Road, Lesmurdie currently named "Willoughby Park" to be renamed Barrie Oldfield Park.
2. In May 2018 (OCM 80/2018) the Council requested the Chief Executive Officer undertake community consultation on the change of name for Reserve 29673 at 39 Sanderson Road, Lesmurdie currently named "Willoughby Park" to be renamed Barrie Oldfield Park and report the outcome to Council.
3. It is recommended to support and initiate the renaming process for a portion of Reserve 29673 in accordance with Landgate's *Polices and Standards for Geographical Naming in Western Australia*.

#### **BACKGROUND**

4. Willoughby Park has an area of 2,732sqm and forms part of Reserve 29673. It is located on the corner of Sanderson and Willoughby Roads, Lesmurdie and abuts the Sanderson Road Shopping Centre. The reserve has 85 species of native plants that have been photographed and published in a book by Barrie Oldfield.
5. In August 2013 the City of Kalamunda (City) endorsed and requested approval of the name "Willoughby Park" to Landgate's Geographic Names Committee (OCM 109/2013). The Geographic Names Committee approved the name on the basis it had no objections to the park being named after the street on which it is located.

## DETAILS

6. A change of name was initially instigated by the Lesmurdie Residents Association. Barrie Oldfield was a long-time resident of the City of Kalamunda and was an active member of the Lesmurdie Residents Association.
7. To change the name of a portion of the Reserve from Willoughby Park to Barrie Oldfield Park, the name change must be forwarded to Landgate.
8. For the purposes of the Policies and Standards for Geographical Standards for Geographical Naming, a local park and recreational reserve is a uniquely and clearly defined administrative geographical extent. It may be freehold or crown land parcels which have been established for public purpose, such as recreational use and/or for the protection of local habitat areas. They may include public gardens, infrastructure such as shelters, ablutions, playground equipment, barbeques or other features such as ponds, lakes, bushland and walking trails.
9. As per the provisions in the *Land Administration Act 1997*, the Minister for Lands (Minister) has the authority for officially naming and un-naming all local parks and recreational reserves in Western Australia.
10. Selection of a local park or recreational reserve name must take into consideration the impact the name will have on the wider community.
11. There is no minimum or maximum size requirement for a named local park or recreational reserve.
12. Official local park or recreational reserve names are expected to be enduring. Landgate discourages any changes to official names without good reason, however such proposals will be considered on an individual basis, and the merits of each case will be carefully evaluated.

Reasons that may be considered in support of a name change are:

- a) changes made to bring official usage into agreement with well-established local usage;
  - b) proposals to eliminate naming issues such as derogatory names, duplication or those previously approved on the basis of incorrect information;
  - c) proposals previously made at the request of persons or organisations (public or private); and
  - d) for commemorative or other reasons important to the proposer.
13. Where a change to the name of a local park or recreational reserve is proposed, clear justification outlining sufficient reasons for consideration is required.

14. All local parks or recreational reserves within private, residential or commercial subdivisions must be named in accordance with Section 1: General policies and standards of the Policies and Standards for Geographical Standards for Geographical Naming. Support for the name is required for Landgate to consider the proposal.
15. The City had undertaken a district wide public consultation on the change of name. This consultation has resulted in the majority of respondents supporting the proposed name change.

## **STATUTORY AND LEGAL CONSIDERATIONS**

16. The name must adhere to the requirements of *Policies and Standards for Geographical Standards for Geographical Naming* in Western Australia.
17. *Land Administration Act 1997.*

## **POLICY CONSIDERATIONS**

18. The City does not have a policy for the naming of Reserves.

## **COMMUNITY ENGAGEMENT REQUIREMENTS**

### **Internal Referrals**

19. Not required.

### **External Referrals**

20. The City has undertaken public consultation to gauge the community's support of a name change.

## **FINANCIAL CONSIDERATIONS**

21. Landgate may charge the City if a name change is supported.

## **STRATEGIC COMMUNITY PLAN**

### **Strategic Planning Alignment**

22. *Kalamunda Advancing Strategic Community Plan to 2027*

#### **Priority 1: Kalamunda Cares and Interacts**

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

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

**SUSTAINABILITY****Social Implications**

23. Nil.

**Economic Implications**

24. Nil.

**Environmental Implications**

25. Nil.

**RISK MANAGEMENT CONSIDERATIONS**

26.	<b>Risk:</b> Landgate does not support the change of name from Willoughby Park to Barrie Oldfield Park.		
	<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
	Likely	Insignificant	Medium
	<b>Action/Strategy</b>		
	Expectation of name change happening to be managed within the Community.		

**OFFICER COMMENT**

27. Barrie Oldfield was an Honorary Freeman of the Municipality in 1998, Founding Member and Past President of Men of the Trees, Past President of the Lesmurdie Progress Association, Environmentalist, Councillor from 1978 - 1981, Community Builder, Film Maker and Author. Barrie Oldfield is recognised for his active citizenship in our community, and for the ongoing preservation and rehabilitation of our natural environment.
28. Barrie Oldfield was an active member of Lesmurdie Ratepayers Association for 51 years.
29. Barrie Oldfield moved to Lesmurdie in 1964 and is recognised for his direct involvement in a number of projects such as the building of the Lesmurdie Community Hall and the restoration of Falls Farm.
30. Barrie Oldfield was awarded the Order of Australia Medal, given a Centenary medal, and the John Tonkin Greening WA Award.
31. The City undertook Public Consultation for a period from 28 May to 2 July 2018. During this period 26 submissions were received. Of the submissions received, 20 were in favour and six were not.

32. One submission provided a comprehensive history of Barrie Oldfield's contribution to Willoughby Park and the community. This will be provided to Landgate as evidence of the signification contribution and is provided as Attachment 1.
33. The family of Barrie Oldfield have been consulted and are honoured and supportive of the City initiating the process to change the name of Willoughby Park to Barrie Oldfield Park.

<b>Voting Requirements: Simple Majority</b>
---

## **RECOMMENDATION**

That Council:

REQUEST the Chief Executive Officer to initiate the process to change a portion of Reserve 29673 at 39 Sanderson Road, Lesmurdie, currently named "Willoughby Park", to Barrie Oldfield Park in accordance with Landgate's *Policies and Standards for Geographical Naming in Western Australia*.



**11. Closure**

11.1 At the conclusion of the business listed in the Agenda, the Presiding Member closed the meeting to members of the public.

11.2 There being no further business, the Presiding Member declared the Meeting closed at 7:25pm.

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.