



City of Kalamunda  
Local Planning Scheme No. 3

Amendment No. 107

*Proposed Amendment to Schedule 4 – Special Use 20*

FORM 2A

Planning and Development Act 2005

RESOLUTION TO ADOPT AMENDMENT  
TO LOCAL PLANNING SCHEME

*Local Planning Scheme No.3  
Amendment 107*

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

- 1) Amending Schedule 4 – Special Use Zones to modify the conditions applicable to Special Use 20 in accordance with the below.

No	Description of Land	Special Use	Conditions
SU20	32 GAVOUR ROAD, WATTLE GROVE (LOT 500 ON DEPOSITED PLAN 57971)	<p>Integrated Aged Care Facility</p> <p>The objective of this particular zone is to achieve the development and operation of an integrated aged care facility that is designed to allow “ageing in place”. It will have a full range of accommodation designed for the aged including independent living units (Aged or Dependent Persons’ Dwellings) and a nursing home component (Aged Residential Care facility) as well as common use community facilities.</p> <p>It will be designed and implemented to maintain the rural character of the adjacent area whilst also maintaining flexibility to enable the facility’s integration with development on adjoining properties should</p>	<p>a) At least one occupant of any Aged or Dependent Persons’ Dwelling within this facility must have reached the age of 55 years.</p> <p>b) Development on the site shall be connected to the reticulated sewerage system or alternative waste water treatment system that complies with the requirements of the Government Sewerage Policy to the satisfaction of the Health Department of Western Australia and the local government on the advice of the Department of Water and Environmental Regulation. In the event onsite effluent disposal cannot be satisfactorily achieved the State would not be obligated to provide reticulated sewerage infrastructure specifically to service the proposed development ahead of any future capital works program.</p> <p>c) If development is approved without connection to the reticulated sewerage system, then: (i) prior to the approval of any development on Lot 500, an Urban Water Management Plan shall be prepared and approved by the Council on advice of the Department of Water and</p>

		<p>land use changes occur in the future.</p> <p>a) Within this zone, the following uses are discretionary ('D') in accordance with clause 4.3.2:</p> <ul style="list-style-type: none"> <li>• Aged Residential Care;</li> <li>• Aged or Dependent Persons' Dwellings;</li> <li>• Caretaker's Dwelling;</li> <li>• Consulting Rooms.</li> </ul> <p>b) Council may approve other ancillary or incidental uses on this site, provided that they are minor in nature, they form part of the operational business of an integrated aged care facility, they would not particularly attract patrons or users who are not resident or employed within the development to the facility, and they would complement or enhance the usual living standards and requirements of residents living in, and staff working at, a facility of this nature.</p> <p>c) All other uses not mentioned under clauses (a) and (b) of this special use zone are not permitted ('X') in accordance with clause 4.3.2</p>	<p>Environmental Regulation; and (ii) the approved alternative waste water disposal system shall be designed and implemented so that it is able to connect to the reticulated sewerage system if and when it is extended to within 200 metres of a boundary of Lot 500, then within 2 years of such occurrence, the owner or owners of Lot 500 shall connect all of the development on the lot to the reticulated sewerage system at the owner's cost.</p> <p>d) Subdivision and/or development proposals on the subject site shall be supported by a Wastewater Management Plan prepared in accordance with the requirements of the Government Sewerage Policy 2019 (as amended) (i.e. site and soil evaluation prepared in accordance with the relevant Australian Standards a noise, vibration and odour assessment etc) to the satisfaction of the City of Kalamunda and Department of Health.</p> <p>e) Development on Lot 500 shall be designed in the context of a local development plan prepared in accordance with deemed provisions in Schedule 2, Part 6 of the Planning and Development (Local Planning Schemes) Regulations 2015 which covers the entire lot. This will, amongst addressing other relevant planning and design matters, identify the location of the Aged Residential Care Facility, identify proposed staging, and the location of a possible future public road and servicing easement(s) with future implementation arrangements for these should land use changes occur on the properties adjoining Lot 500 in the future.</p> <p>f) The maximum number of Aged or Dependent Persons Dwellings that may be developed on Lot 500 shall not exceed 190.</p> <p>g) Not more than 70% of the Aged or Dependent Persons Dwellings allowed for by an approved Local Development Plan shall be developed on Lot 500 until the development of an Aged Residential Care Facility (nursing home component) has been constructed to practical completion.</p>
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			h) Clause 5.5 shall not apply to this special use zone.
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The Amendment is Standard under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reason (s):

- a. The Amendment is consistent with the objective of the Special Use Zone 20 to 'achieve the development and operation of an integrated aged care facility that is designed to allow 'ageing in place'.
- b. The Amendment is consistent with the City's Local Planning Strategy (2013) with a strategy being to 'provide housing for the ageing population'.
- c. The Amendment is consistent with the Local Development Plan that has been approved for the site.
- d. The land use of the site, which could be considered complex in the context of the region scheme and the surrounding land, was dealt with through the approval of Amendment 57. This Amendment makes no changes or further environmental, social, economic or governance impacts to the land use on site and the surrounding land.

Dated this \_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Chief Executive Officer

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## 1.0 Introduction

Dynamic Planning and Developments Pty Ltd (DPD) act on behalf of the registered proprietor of Lot 500 (No. 32) Gavour Road, Wattle Grove (herein referred to as the 'subject site'). DPD has prepared the following report in order to seek support from the City of Kalamunda to initiate an amendment to its Local Planning Scheme No. 3 (LPS 3) in order to modify the existing Special Use provisions applicable to the subject site. These changes will not modify the intended development outcome, rather they will seek to enable strata development at the subject site.

This report will address in detail various issues pertinent to the proposal, these being:

- The relevant site context;
- Background to the prior Amendment No. 57 which implemented the 'Special Use' zoning;
- An overview of the LPS amendment; and,
- Relevant justification in support of the proposed LPS amendment.

The proposed LPS amendment is considered to be 'standard' as defined under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* since the Amendment:

- a) *Is not a complex or basic amendment.*
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## 2.0 Site Details

### 2.1 Legal Description

The subject site comprises a total of one (1) freehold allotment being:

Address	Lot No	Deposited Plan	Area
32 Gavour Road, Wattle Grove	500	57971	15.1808Ha

A copy of the relevant Certificate of Title has been provided in **Appendix 1**.

### 2.2 Site Context

The subject site is located approximately 18 kilometres south east of the Perth CBD within the municipal locality of the City of Kalamunda and in the suburb of Wattle Grove. The subject site has frontage to both Welshpool Road and Gavour Road. The subject site is located within an area characterised as predominantly 'rural living' with the urban front approaching the area from the west, north and south.

Further beyond the immediate rural living area, the subject site is in close proximity to the proposed Roe Highway Logistics Park and the Maddington Kenwick Strategic Employment Area which will be developed for industrial purposes.

At a local level, the subject site is made up of one (1) freehold allotment which measures 15.1808 Ha in area. The subject site contains an existing residential property, Crystal Brook and transmission lines that traverse the site. Access to the site presently occurs from Gavour Road.

Figure 1 below depicts the site within its local context.

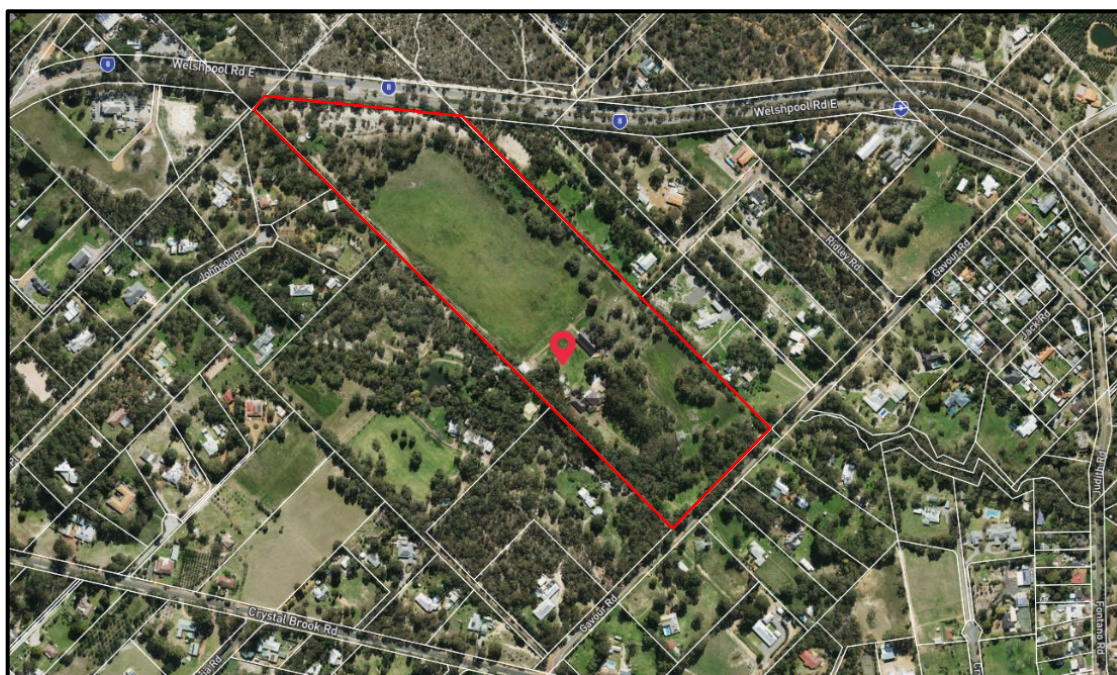


Figure 1 - Local Context (Source: Metromaps)

## 3.0 Background

### 3.1 Amendment 57

Amendment 57 to the then Shire of Kalamunda Local Planning Scheme No. 3 (LPS3) was the culmination of an arduous planning process that saw the adoption of a ‘Special Use’ zoning for the subject site which was intended to facilitate the development of an Integrated Aged Care Facility.

Originally the City, at its Special Council Meeting on the 26 August 2013 resolved to initiate Amendment 57 after the refusal of an earlier amendment (Amendment 18). Following an independent assessment of the proposed Amendment 57, it was presented to Council for adoption at another Special Council meeting on the 20 April 2015 where Council resolved to adopt the amendment subject to modifications.

Following assessment by the WAPC, the minister resolved to adopt Amendment 57 subject to some final modifications with it being gazetted on the 26 September 2017. The final amendment provisions have been provided below:

No	Description of Land	Special Use	Conditions
SU20	32 GAVOUR ROAD, WATTLE GROVE (LOT 500 ON DEPOSITED PLAN 57971)	<p>Integrated Aged Care Facility</p> <p>The objective of this particular zone is to achieve the development and operation of an integrated aged care facility that is designed to allow “ageing in place”. It will have a full range of accommodation designed for the aged including independent living units (Aged or Dependent Persons’ Dwellings) and a nursing home component (Aged Residential Care facility) as well as common use community facilities.</p> <p>It will be designed and implemented to maintain the rural character of the adjacent area whilst also maintaining flexibility to enable the facility’s integration with development on adjoining properties should land use changes occur in the</p>	<p>a) At least one occupant of any Aged or Dependent Persons’ Dwelling within this facility must have reached the age of 55 years.</p> <p>b) Development on the site shall be connected to the reticulated sewerage system or alternative waste water treatment system to the satisfaction of the Health Department of Western Australia and the local government on the advice of the Department of Water and Swan River Trust. In the event onsite effluent disposal cannot be satisfactorily achieved the State would not be obligated to provide reticulated sewerage infrastructure specifically to service the proposed development ahead of any future capital works program.</p> <p>c) If development is approved without connection to the reticulated sewerage system, then: (i) prior to the approval of any development on Lot 500, an Urban Water Management Plan shall be prepared and approved by the Council on advice of the Department of Water and the Swan River Trust; and (ii) the approved alternative waste water disposal system shall be designed and implemented so that it is able to connect to the reticulated sewerage</p>

		<p>future. It will remain in a single control and management arrangement to ensure it remains integrated and that it will be able to be maintained to a consistently high standard and kept up to date in response to the needs of its occupants.</p> <p>a) Within this zone, the following uses are discretionary ('D') in accordance with clause 4.3.2:</p> <ul style="list-style-type: none"> <li>• Aged Residential Care;</li> <li>• Aged or Dependent Persons' Dwellings;</li> <li>• Caretaker's Dwelling;</li> <li>• Consulting Rooms.</li> </ul> <p>b) Council may approve other ancillary or incidental uses on this site, provided that they are minor in nature, they form part of the operational business of an integrated aged care facility, they would not particularly attract patrons or users who are not resident or employed within the development to the facility, and they would complement or enhance the usual living standards and requirements of residents living in, and staff working at, a facility of this nature.</p> <p>c) All other uses not mentioned under clauses (a) and (b) of this special use zone are not permitted ('X') in accordance with clause 4.3.2.</p>	<p>system if and when it is extended to within 200 metres of a boundary of Lot 500, then within 2 years of such occurrence, the owner or owners of Lot 500 shall connect all of the development on the lot to the reticulated sewerage system at the owner's cost.</p> <p><b>d) An integrated aged care facility is a development that shall not be strata titled.</b></p> <p>e) Development on Lot 500 shall be designed in the context of a local development plan prepared in accordance with deemed provisions in Schedule 2, Part 6 of the Planning and Development (Local Planning Schemes) Regulations 2015 which covers the entire lot. This will, amongst addressing other relevant planning and design matters, identify the location of the Aged Residential Care Facility, identify proposed staging, and the location of a possible future public road and servicing easement(s) with future implementation arrangements for these should land use changes occur on the properties adjoining Lot 500 in the future.</p> <p>f) The maximum number of Aged or Dependent Persons Dwellings that may be developed on Lot 500 shall not exceed 190.</p> <p>g) Not more than 70% of the Aged or Dependent Persons Dwellings allowed for by an approved Local Development Plan shall be developed on Lot 500 until the development of an Aged Residential Care Facility (nursing home component) has been constructed to practical completion.</p> <p>h) Clause 5.5 shall not apply to this special use zone.</p>
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**Table 1 – Existing Special Use 20 Provisions**

Unfortunately condition d), highlighted above, has resulted in a considerable obstruction to development, as in order to develop the integrated aged care facility and particularly the retirement village component, there is a necessity to be able to provide or obtain a Certificates of Title for the lots and dwellings the developer will construct. Without the Certificates of Title there are significant constraints to financing the purchase of the dwellings.



As a consequence of the imposition of condition d), we are now seeking a subsequent amendment to the abovementioned Special Use 20 provisions in order to delete condition d) and facilitate strata titling of the proposed development. This is an approach that has previously been supported by the WAPC at the El Caballo Lifestyle Village in the Shire of Northam.

### **3.2 Local Development Plan**

Following the adoption of Amendment 57, a Local Development Plan (LDP) was prepared and approved in June of 2019 in accordance with Condition e) of the adopted Special Use 20 provision. The intent of the LDP is to provide a framework for subsequent development to be consistent with and details how the various constraints applicable to the site will be managed.

The proposed scheme amendment will not impact the approved LDP and any subsequent development will still comply with the relevant LDP provisions.

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## 4.0 Amendment Proposal

The proposed Scheme Amendment seeks approval to amend the existing conditions applicable to Special Use 20 in Schedule 4 of the City of Kalamunda Local Planning Scheme No. 3 by deleting Condition d). Specifically, the amendment seeks to:

1. Amend Schedule 4 – Special Use Zones in LPS No. 3 to modify the conditions applicable to Special Use 20. The modified provisions shall read in accordance with the below table:

No	Description of Land	Special Use	Conditions
SU20	32 GAVOUR ROAD, WATTLE GROVE (LOT 500 ON DEPOSITED PLAN 57971)	<p>Integrated Aged Care Facility</p> <p>The objective of this particular zone is to achieve the development and operation of an integrated aged care facility that is designed to allow “ageing in place”. It will have a full range of accommodation designed for the aged including independent living units (Aged or Dependent Persons’ Dwellings) and a nursing home component (Aged Residential Care facility) as well as common use community facilities.</p> <p>It will be designed and implemented to maintain the rural character of the adjacent area whilst also maintaining flexibility to enable the facility’s integration with development on adjoining properties should land use changes occur in the future. It will remain in a single control and management arrangement to ensure it remains integrated and that it will be able to be maintained to a consistently high standard and kept up to date in response to the needs of its occupants.</p>	<p>i) At least one occupant of any Aged or Dependent Persons’ Dwelling within this facility must have reached the age of 55 years.</p> <p>j) Development on the site shall be connected to the reticulated sewerage system or alternative waste water treatment system to the satisfaction of the Health Department of Western Australia and the local government on the advice of the Department of Water and Swan River Trust. In the event onsite effluent disposal cannot be satisfactorily achieved the State would not be obligated to provide reticulated sewerage infrastructure specifically to service the proposed development ahead of any future capital works program.</p> <p>k) If development is approved without connection to the reticulated sewerage system, then: (i) prior to the approval of any development on Lot 500, an Urban Water Management Plan shall be prepared and approved by the Council on advice of the Department of Water and the Swan River Trust; and (ii) the approved alternative waste water disposal system shall be designed and implemented so that it is able to connect to the reticulated sewerage system if and when it is extended to within 200 metres of a boundary of Lot 500, then within 2 years of such occurrence, the owner or owners of Lot 500 shall connect all of the development on the lot to the reticulated sewerage system at the owner’s cost.</p> <p>l) Development on Lot 500 shall be designed in the context of a local development plan prepared in</p>

		<p>d) Within this zone, the following uses are discretionary ('D') in accordance with clause 4.3.2:</p> <ul style="list-style-type: none"> <li>• Aged Residential Care;</li> <li>• Aged or Dependent Persons' Dwellings;</li> <li>• Caretaker's Dwelling;</li> <li>• Consulting Rooms.</li> </ul> <p>e) Council may approve other ancillary or incidental uses on this site, provided that they are minor in nature, they form part of the operational business of an integrated aged care facility, they would not particularly attract patrons or users who are not resident or employed within the development to the facility, and they would complement or enhance the usual living standards and requirements of residents living in, and staff working at, a facility of this nature.</p> <p>f) All other uses not mentioned under clauses (a) and (b) of this special use zone are not permitted ('X') in accordance with clause 4.3.2</p>	<p>accordance with deemed provisions in Schedule 2, Part 6 of the Planning and Development (Local Planning Schemes) Regulations 2015 which covers the entire lot. This will, amongst addressing other relevant planning and design matters, identify the location of the Aged Residential Care Facility, identify proposed staging, and the location of a possible future public road and servicing easement(s) with future implementation arrangements for these should land use changes occur on the properties adjoining Lot 500 in the future.</p> <p>m) The maximum number of Aged or Dependent Persons Dwellings that may be developed on Lot 500 shall not exceed 190.</p> <p>n) Not more than 70% of the Aged or Dependent Persons Dwellings allowed for by an approved Local Development Plan shall be developed on Lot 500 until the development of an Aged Residential Care Facility (nursing home component) has been constructed to practical completion.</p> <p>o) Clause 5.5 shall not apply to this special use zone.</p>
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**Table 2 – Proposed Special Use 20 Provisions**

## 5.0 Justification

This LPS Amendment has been prepared in response to a desire to strata title the proposed Integrated Aged Care Facility, something that is currently prohibited under the existing Special Use 20 provisions. Justification in support of the proposed amendment has been provided below:

1. The ability to strata title the proposed development will enable individual Certificates of Title to be obtained for each dwelling. This will enable prospective purchases to obtain finance for the dwellings constructed by the developer. Without the ability for strata titling, finance often isn't achievable and consequently the ultimate development outcome is unlikely to be capable of implementation.
2. The proposed amendment will not alter the ultimate development outcome at the site, with the existing approved Local Development Plan and other Special Use 20 provisions being retained. This means the applicable yield and requirement to construct the Aged Residential Care Facility will remain the same.
3. The proposed amendment to allow strata titling is not dissimilar to an amendment that was approved at the El Caballo Lifestyle Village (Amendment 5 to the Shire of Northam Local Planning Scheme No. 6). This amendment involved a change to the Special Use provisions within Schedule 4 of the Shire of Northam Local Planning Scheme No. 6 to permit the development of grouped dwellings and a residential aged care facility. The conditions associated with the Special Use zoning in relation to this amendment acknowledged the financing limitations and did not prohibit strata titling. A copy of the gazetted scheme provisions applicable to Amendment 5 are included in **Appendix 2**.

In light of the abovementioned points, it is evident that the proposed amendment is very minor in nature and will actually assist in facilitating development in accordance with the intended vision of the Special Use 20 provisions. With this in mind, the amendment warrants initiation and support from the City of Kalamunda.

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## 6.0 Conclusion

The proposed LPS amendment that seeks to amend the existing Special Use 20 provisions, as contained in Schedule 4 of the City of Kalamunda LPS No. 3 by permitting strata subdivision at the subject site, is considered appropriate for initiation and endorsement by the City of Kalamunda and the WAPC for the following reasons:

- The proposal is very minor in nature and will still facilitate development that is entirely consistent with the existing Special Use 20 provisions.
- Without the proposed amendment, the implementation of the Integrated Aged Care Facility will be compromised due to financing constraints.
- There is an established precedence to allow strata titling of this type of development with Amendment 5 to the Shire of Northam Local Planning Scheme No. 6 evidence of this.

In this regard we respectfully request that the City of Kalamunda and the WAPC resolve to support and approve the proposed amendment.

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**COUNCIL ADOPTION**

This Standard Amendment was adopted by resolution of the Council of the City of Kalamunda at the Ordinary Council Meeting of the Council held on the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

.....  
MAYOR

.....  
CHIEF EXECUTIVE OFFICER

**COUNCIL RESOLUTION TO ADVERTISE**

By resolution of the Council of the City of Kalamunda at the Ordinary Council Meeting of the Council held on the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_, proceed to advertise this Amendment.

.....  
MAYOR

.....  
CHIEF EXECUTIVE OFFICER

**COUNCIL RECOMMENDATION (date Council supported the amendment)**

This Amendment is recommended for support by resolution of the City of Kalamunda at the Ordinary Meeting of the Council held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and the Common Seal of the City of Kalamunda was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....  
MAYOR

.....  
CHIEF EXECUTIVE OFFICER



**WAPC ENDORSEMENT**

.....  
DELEGATED UNDER S.16 OF  
THE P&D ACT 2005

DATE.....

**APPROVAL GRANTED**

.....  
MINISTER FOR PLANNING

DATE.....

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