

File Number:	PG-LPS-003/107
Date:	17 August 2022
Officers:	Andrew Fowler-Tutt, Manager Approval Services Peter Varelis, Director Development Services

Report & Additional Information

Subject: Report on the Summary of Submissions made at the 16 August 2022 Special Submissions Meeting – Lot 500 (32) Gavour Road, Wattle Grove

Pursuant to Clause 8 of the City of Kalamunda Standing Orders for a Special Submissions Meeting, the City has prepared a Report for Council that summarises each deputation made at the meeting.

A full recoding of the Special Submissions Meeting, including questions and deputations, is available from the following URL: <https://www.youtube.com/watch?v=beGcDj5YGWg>

SUBMITTER DETAILS		SUMMARY OF SUBMISSION	OFFICER RESPONSE
1.	BEV DORNAN WATTLE GROVE	<p>SUBMISSION OF OBJECTION</p> <p>a) Amendment 107 has not followed due process.</p> <p>b) Any modifications made to the phrasing of Amendment 107 post advertising should be readvertised.</p> <p>c) Factual evidence should be sought from the City to corroborate the proponents claims re funding of the development.</p>	<p>a) Refer paragraph 55 of the Agenda.</p> <p>b) Pursuant to Regulation 51 of the Planning and Development (Local Planning Schemes) Regulations 2015, modifications made to the amendment in response to issues raised in submissions are only required to be advertised where the local government considers the change to be significant. The proposed changes are not considered to be significant.</p> <p>c) The Proponents finances are not a planning consideration. Nonetheless, the intent of Amendment 107 is to help ease the constraints on financing the development for landowners, including the future landowners of the independent living units. The City has no factual evidence to refute this claim by the proponent.</p>
2.	KIM MANSON WATTLE GROVE	<p>QUESTION</p> <p>a) Was the Peer Review paid for by the City?</p>	<p>a) The Peer Review undertaken by Altus Planning was paid for by the City of Kalamunda.</p>

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	<ul style="list-style-type: none"> b) <i>What was the cost?</i> c) <i>What was the cost of the Legal Advice?</i> d) <i>What the Legal Advice pertain to?</i> e) <i>Can a condition be added that requires secure boundary fencing to be installed.</i> 	<ul style="list-style-type: none"> b) <i>The cost of the Peer Review was \$4,500.</i> c) <i>The cost of the Legal Advice was \$2,500.</i> d) <i>The manner in which the Retirement Villagers Act 1992 applies to Amendment 107.</i> e) <i>This is a consideration which can be made at the development application phase of development.</i>
<p>3. CHARLES DORNAN WATTLE GROVE</p>	<p>SUBMISSION OF OBJECTION</p> <ul style="list-style-type: none"> a) <i>Amendment 107 has not followed due process.</i> b) <i>Any modifications made to the phrasing of Amendment 107 post advertising should be readvertised.</i> c) <i>Allowing the site to be strata titled will compromise the delivery of an integrated aged care facility.</i> d) <i>Concern for the subsequent development to be serviced by on-site effluent disposal.</i> e) <i>The Peer Review by Altus Planning corrects the incorrect claims made in the officer report regarding the MRS zoning of the subject site.</i> f) <i>Environmental impacts should the site be developed.</i> 	<ul style="list-style-type: none"> a) <i>Refer paragraph 55 of the Agenda.</i> b) <i>Pursuant to Regulation 51 of the Planning and Development (Local Planning Schemes) Regulations 2015, modifications made to the amendment in response to issues raised in submissions are only required to be advertised where the local government considers the change to be significant. The proposed changes are not considered to be significant.</i> c) <i>Refer paragraph 48 through 50 of the Agenda.</i> d) <i>The wastewater servicing of the subject site has already been considered (including comprehensive technical studies) and determined through Amendment 57 and its resultant SU20 and associated conditions. The City is satisfied the conditions of SU20 and the Government Sewerage Policy will ensure this issue is comprehensively considered at the development application phase of development.</i> e) <i>The City disagrees with this statement. Refer to paragraph 12 of the Agenda.</i> f) <i>Environmental considerations have already been made through Amendment 57 and will be further considered through subsequent phases of development (Development and Subdivision Applications).</i>
<p>4. PAUL MCQUEEN LAVAN LEGAL C/O PROPONENT</p>	<p>SUBMISSION OF SUPPORT <i>Refer Attachment 5.</i></p>	<p><i>Noted.</i></p>

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5.	ANDREA BALFE WATTLE GROVE	<i>SUBMISSION OF OBJECTION</i> <i>When making a decision the Councillors should note that the majority of submissions objected to Amendment 107.</i>	<i>The officer recommendation to Amendment 107 has been made in accordance with the relevant planning framework.</i>
6.	IRIS JONES LESMURDIE	<i>SUBMISSION OF SUPPORT</i>	<i>Noted.</i>
7.	ROB VLETTER WATTLE GROVE	<i>SUBMISSION OF OBJECTION</i> a) <i>Any modifications made to the phrasing of Amendment 107 post advertising should be readvertised.</i> b) <i>The titling of dwellings will allow for occupation of persons not of retirement age.</i>	a) <i>Pursuant to Regulation 51 of the Planning and Development (Local Planning Schemes) Regulations 2015, modifications made to the amendment in response to issues raised in submissions are only required to be advertised where the local government considers the change to be significant. The proposed changes are not considered to be significant.</i> b) <i>Refer to paragraph 58 through 59 of the Agenda.</i>

Additional Information Since Special Submissions Meeting:

Modifications Recommended to the Special Use 20 – Description

Administrative modifications recommended to Special Use 20 (SU20) description include deletion of the following phrase:

“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.”

The deletion has been recommended by the City after further consideration of the proposal having regard for the following:

- 1. Nature of modification proposed through removal of Condition d).*
- 2. The proposed aged care facility is to be located on a separate title.*
- 3. The proposed strata titling of the independent living units.*
- 4. The Western Australian Planning Commission have approved a green title subdivision (refer Attachment 6).*

Notwithstanding the deletion of the phrasing in the description, the nature of the broader development of Lot 500 will require areas of common property, wastewater management systems and other aspects that will require a centralised management body. This matter will be managed through the establishment of a strata body at the subdivision and development phase.

Over 55s Requirement to Occupy

Local Planning Scheme No.3 – Requirements

The conditions mandated under SU20 place a range of controls over the use and management of the site as an integrated aged care facility. In particular, Condition a) requires at least one person of the aged or dependent

dwellings to have reached the age of 55. This condition relates to the occupant only, and not the owner of the dwelling. It would therefore enable a person under the age of 55 to own and therefore sell the title of the land, however, the new occupant would still need to be over the age of 55 years.

State Planning Policy 7.3 - Residential Design Codes – Requirements

Under the deemed to comply provisions of State Planning Policy 7.3 - Residential Design Codes Vol 1, there are specific provisions which apply to the development of aged or dependent dwellings must comply with, these include under C2.4 the following:

*'At least one occupant is a disabled or physically **dependent person** or **aged person**, or is the surviving spouse of such a person, and the owner of the land, as a condition of **development** approval, lodging a section 70A notification, on the certificate of title binding the owner, their heirs and successors in title requiring that this occupancy restriction be maintained.'*

Retirement Villages Act 1992 – Requirements

Under the provisions of the Retirement Villages Act 1992 (RVA), a Retirement Village operates under Retirement Village Scheme established for retired persons or predominantly for retired persons.

A 'retired person' is defined under the RVA as:

'means a person who has attained the age of 55 years or retired from full-time employment or a person who is or was the spouse or de facto partner of such a person'

Should a Retirement Village Scheme be established, by virtue of the definition of a 'retired persons', those occupying the Retirement Village are required to have attained the aged of 55.