



# Special Council Meeting

AGENDA

Tuesday 19 May 2020

To limit the risk of infection due to COVID-19 meetings of Council will be isolated within the Council Chambers and the public gallery will be situated in the adjoining function centre limited as per Government COVID-19 requirements.

The **maximum allowable** attendance at to the meeting will be **20 members of the public**.

The meeting will be live streamed and available for viewing through the City's website at [www.kalamunda.wa.gov.au](http://www.kalamunda.wa.gov.au).

## NOTICE OF MEETING SPECIAL COUNCIL MEETING

Dear Councillors

Notice is hereby given that a Special Meeting of Council will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on **Tuesday 19 May 2020 at 6.30pm.**



Rhonda Hardy  
**Chief Executive Officer**  
14 May 2020



### Our Vision

**Connected Communities, Valuing Nature and Creating our Future Together**

#### Core Values

**Service** We deliver excellent service by actively engaging and listening to each other.

**Respect** We trust and respect each other by valuing our differences, communicating openly and showing integrity in all we do.

**Diversity** We challenge ourselves by keeping our minds open and looking for all possibilities and opportunities.

**Ethics** We provide honest, open, equitable and responsive leadership by demonstrating high standards of ethical behaviour.

#### Aspirational Values

**Creativity** We create and innovate to improve all we do.

**Courage** We make brave decisions and take calculated risks to lead us to a bold and bright future.

**Prosperity** We will ensure our District has a robust economy through a mixture of industrial, commercial, service and home based enterprises.

**Harmony** We will retain our natural assets in balance with our built environment.

**Our simple guiding principle will be to ensure everything we do will make Kalamunda socially, environmentally and economically sustainable**

[kalamunda.wa.gov.au](http://kalamunda.wa.gov.au)



## **INFORMATION FOR THE PUBLIC ATTENDING COUNCIL MEETINGS**

Welcome to this evening's meeting. The following information is provided on the meeting and matters which may affect members of the public.

If you have any queries related to procedural matters, please contact a member of staff.

### **Special Council Meetings – Procedures**

1. Council Meetings are open to the public, except for Confidential Items listed on the Agenda.
2. To limit the risk of infection due to COVID-19 meetings of Council will be isolated within the Council chambers and the public gallery will be situated in the adjoining function centre limited as per Government COVID-19 requirements.
3. The maximum allowable attendance at the meeting will be 20 members of the public.
4. The meeting will be live streamed and available for viewing through the City's website at [www.kalamunda.wa.gov.au](http://www.kalamunda.wa.gov.au).
5. Members of the public who are unfamiliar with meeting proceedings are invited to seek advice prior to the meeting from City Staff.
6. Members of the public are able to ask questions at a Special Council Meeting during Public Question Time on matters relating to the functions of this meeting. In addition, for members of the public who do not wish to attend in person questions will be accepted in writing and presented to the meeting. Questions can be emailed to [enquiries@kalamunda.wa.gov.au](mailto:enquiries@kalamunda.wa.gov.au).
7. To facilitate the smooth running of the meeting, silence is to be observed in the public gallery at all times, except for Public Question Time.
8. All other arrangements are in general accordance with Council's Standing Orders, the Policies and decision of the City or Council.

## **Acknowledgement of Traditional Owners**

We wish to acknowledge the traditional custodians of the land we are meeting on, the Whadjuk Noongar people. We wish to acknowledge their Elders' past, present and future and respect their continuing culture and the contribution they make to the life of this City and this Region.

## **Emergency Procedures**

**Please view the position of the Exits, Fire Extinguishers and Outdoor Assembly Area as displayed on the wall of Council Chambers.**

**In case of an emergency follow the instructions given by City Personnel.**

**We ask that you do not move your vehicle as this could potentially block access for emergency services vehicles.**

**Please remain at the assembly point until advised it is safe to leave.**

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- 1. Official Opening**
- 2. Attendance, Apologies and Leave of Absence Previously Approved**
- 3. Public Question Time**

*A period of not less than 15 minutes is provided to allow questions from the gallery on matters relating to the functions of this meeting. For the purposes of Minuting, these questions and answers will be summarised.*

- 4. Petitions/Deputations**

- 4.1 A deputation has been approved from Francesca Flynn of Evergreen Consultancy, representing the owner, Future Design Holdings Pty Ltd, regarding Item 8.1.1 Lot 3 (415) Mundaring Weir Road, Piesse Brook - Application to Increase Patron Numbers.

- 5. Announcements by the Member Presiding Without Discussion**

- 6. Matters for Which the Meeting may be Closed**

- 7. Disclosure of Interest**

- 7.1. Disclosure of Financial and Proximity Interests**

- a. Members must disclose the nature of their interest in matter to be discussed at the meeting. (Section 5.56 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Section 5.70 of the *Local Government Act 1995*.)

- 7.2. 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.

## 8. Reports to Council

### 8.1. Development Services Reports

#### 8.1.1. Lot 3 (415) Mundaring Weir Road, Piesse Brook - Application to Increase Patron Numbers

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

Previous Items	PS8/2010
Directorate	Development Services
Business Unit	Approval Services
File Reference	DA18/0405
Applicant	Future Design Holdings Pty Ltd Francesca Flynn – Evergreen Consultancy
Owner	Future Design Holdings Pty Ltd
Attachments	<ol style="list-style-type: none"><li>1. Site Plan [<b>8.1.1.1</b> - 1 page]</li><li>2. Department of Biodiversity, Conservation and Attractions (DBCA) Response 7 April 2020 [<b>8.1.1.2</b> - 3 pages]</li><li>3. Department of Health (DOH) Referral Comments [<b>8.1.1.3</b> - 2 pages]</li><li>4. Department of Water and Environmental Regulation (DWER) Response [<b>8.1.1.4</b> - 4 pages]</li><li>5. Department of Fire and Emergency Services (DFES) Response [<b>8.1.1.5</b> - 3 pages]</li><li>6. Smith Consulting Bushfire Attack Level (BAL) Report [<b>8.1.1.6</b> - 19 pages]</li><li>7. Bushfire Management Statement [<b>8.1.1.7</b> - 1 page]</li><li>8. Emergency Evacuation Plan for Chalet Rigi [<b>8.1.1.8</b> - 18 pages]</li><li>9. Evergreen Noise Management Plan [<b>8.1.1.9</b> - 9 pages]</li><li>10. Evergreen Water and Stormwater Management Report [<b>8.1.1.10</b> - 133 pages]</li><li>11. Shawmac Transport Impact Statement [<b>8.1.1.11</b> - 28 pages]</li><li>12. Chalet Rigi Operational Management Plan (OMP) [<b>8.1.1.12</b> - 40 pages]</li><li>13. Submissions List [<b>8.1.1.13</b> - 110 pages]</li><li>14. Advertising Map with 300m overlay [<b>8.1.1.14</b> - 1 page]</li></ol>

15. Applicant Response to Community Submissions and Department of Water Environment Regulation [8.1.1.15 - 12 pages]
16. Independent Peer Review [8.1.1.16 - 27 pages]
17. Plans of Existing Building [8.1.1.17 - 3 pages]
18. Cross Section and 3D Concept plans [8.1.1.18 - 3 pages]
19. Roof Plans [8.1.1.19 - 1 page]

## TYPE OF REPORT

- |                                     |             |  |
|-------------------------------------|-------------|--|
| <input checked="" type="checkbox"/> | Advocacy    | When Council is advocating on behalf of the community to another level of government/body/agency   |
| <input checked="" type="checkbox"/> | Executive   | When Council is undertaking its substantive role of direction setting and oversight (eg accepting tenders, adopting plans and budgets)   |
| <input checked="" type="checkbox"/> | Information | For Council to note  |
| <input checked="" type="checkbox"/> | Legislative | Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person's rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal |

## STRATEGIC PLANNING ALIGNMENT

*Kalamunda Advancing Strategic Community Plan to 2027*

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

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

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

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

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

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

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

## EXECUTIVE SUMMARY

1. The purpose of this report is to consider an application to amend an existing planning approval for a restaurant to increase the total number of patrons and staff from 80 to 480 per day at Lot 3 (415) Mundaring Weir Road, Piesse Brook (subject site).
2. The site has particular topographical features and is located within the Helena Pipehead Water Sub-catchment, which is a Priority 2 (P2) Public Drinking Water Source Area.
3. The application was advertised to landowners and occupiers within an 800 metre to 1 kilometre radius and included referral to four State Government agencies.
4. The responses during the consultation period identified concerns with the proposed increase in patrons. To ensure the technical considerations in relation to wastewater and potential impacts on the P2 Public Drinking Water Source Area are appropriately considered, the City has sought an independent peer review of documents provided by the applicant and submissions received from the Department of Water and Environmental Regulation (DWER) and Department of Health (DOH) as they relate to wastewater disposal.
5. It is recommended that Council approve the application, subject to conditions.

## BACKGROUND

### 6. Land Details:

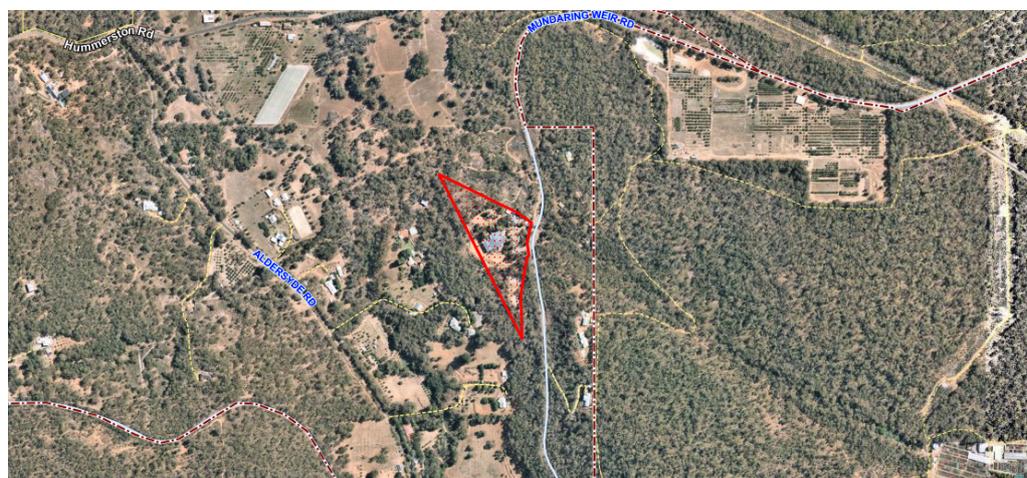
Land Area:	26,069m <sup>2</sup> (2.61ha)
Local Planning Scheme Zone:	Rural Landscape Interest
Metropolitan Regional Scheme Zone:	Rural

### 7. Summary of Previous Approvals

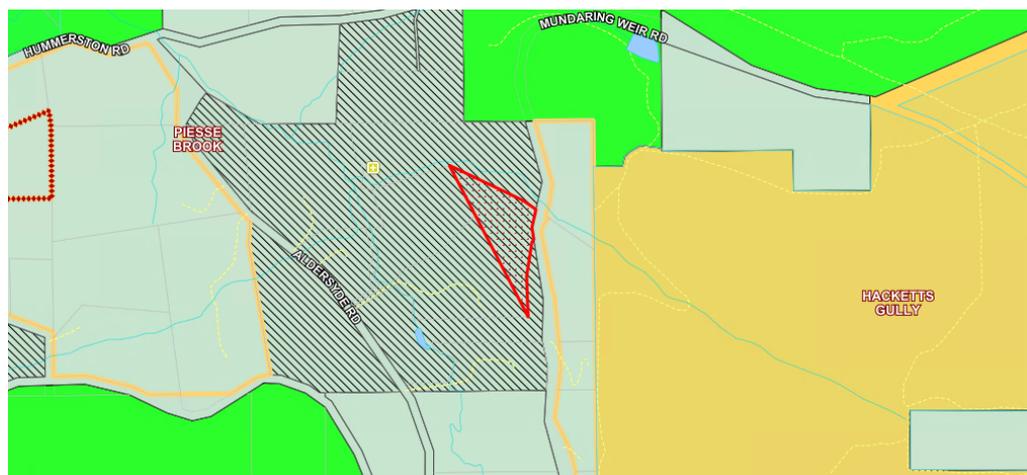
The application seeks to amend the planning approval issued on 24 November 2011 which approved 'additions to existing restaurant' with a condition restricting the number of patrons to 80 per day.

8. The number of 80 reflected the then advice from the DWER which recommended that 80 patrons was the maximum which would not cause risk to the environment and water catchment.
9. In support of the approval at 80 patrons per day, the applicant applied to the Department of Health, which approved an effluent disposal system which had the capacity for 350 patrons per day.
10. The restaurant, while not currently operational, has existed on the land in various iterations (and ownership) as far back as 1946.

11. **Locality Plan:**



12. **Local Planning Scheme Map:**



## DETAILS AND ANALYSIS

13. Existing Approvals

Planning approval was issued on 24 November 2011 which provided for 'additions to existing restaurant' with a condition restricting the number of patrons to 80 per day.

14. While the focus of this application is the change to the maximum number of 80 patrons, it is important to note that while the restriction was applied in 2011, the nature of the additions to the restaurant reflected the scale of a restaurant with the potential to accommodate a larger capacity.

15. With a valid planning approval, building permits followed, and the site works were substantially commenced.

16. Site Constraints

The subject site has a number of natural constraints.

17. The sloped topography of the site results in limited areas of flat land, which make it challenging to accommodate infrastructure such as car parking areas and wastewater irrigation areas. Flat areas of land have been constructed on the site, over a number of years.

18. The site has a small frontage to Mundaring Weir Road which limits safe access opportunities to the existing crossover area.

19. As the restaurant and ancillary buildings are set in location, the additional infrastructure required to support additional patrons is required to fit around those fixed features.

20. Wastewater

Due to the size of the lot and the fact that sections of undeveloped areas are not effective areas for wastewater irrigation, the proposed irrigation area has been designed to fit on two separate areas of the site which have the required soil permeability. It is a common occurrence for irrigation areas to be split-up across a property in order to maximise their efficiency and minimise environmental risks. As the minimum irrigation area has been met, and the irrigation areas have been verified through soil analysis as being sufficient and practically implementable, the analysis of wastewater can shift its focus to the site's location within a Priority 2 (P2) public drinking water source area.

21. The proposed development by virtue of its increase in intensity has the potential to increase risk to the public drinking water source area, which would not be consistent with the applicable planning framework. However, the City considers that it is through the detail of an application that risk minimisation can be achieved, rather than by providing an arbitrary land use exception or limited number of patrons.

22. Scale of the expansion  
As the built form of the facility has been established through existing approvals, the focus of this application is on elements of the site which are required to be modified in order to specifically accommodate the 480 patrons per day including staff.
23. In some ways, the fact that the built form of the restaurant already exists, is a mitigating factor on the issue of the scale of the development, as this application proposes to put in place the additional supporting infrastructure which did not form part of the 2011 planning approval. The result is that the number of patrons sought, as part of this application, matches the scale of the existing facility.

## **APPLICABLE LAW**

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

24. The assessment of planning applications is required to consider the 'matters to be considered' which can be found in Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* 'deemed provisions'. As required by planning legislation, the detailed planning assessment is attached to this report.
25. The associated recommendation is based on due regard being given to all relevant matters to be considered, with the level of due regard at the discretion of the decision maker.

### **City of Kalamunda Local Planning Scheme No.3**

26. Site Requirements  
Table 2 – Site Requirements of the Scheme sets out requirements for the siting and location of development on 'Rural Landscape Interest' zoned land.
27. The City notes that the site requirements in Table 2 typically apply to applications where new buildings are proposed. In this situation, the buildings are existing and are not subject to modifications. However, site works are proposed for wastewater irrigation tanks and parking. To consider the consistency of those works with Scheme provisions, an assessment table is provided below:

Element	Requirement	Proposed	Compliance Level
Front Setback	20m	112m	Compliant
Minor Street Setback	15m	N/A	N/A
Side Setback	15m	3m to irrigation tanks. 1.5m to irrigation area.	Not Compliant
Rear Setback	15m	60m	
Site Coverage	N/A		
Plot Ratio	N/A		
Landscaping	N/A		

*Note: The proposal does not involve new buildings, therefore boundary setbacks do not apply.*

28. Based on the low visual impact of car parking, fill and inward-facing works required to establish the wastewater irrigation areas of the site, the City considers the works associated with the restaurant expansion to be appropriately located on the site. While the carpark areas are visible from Mundaring Weir Road, the new works required to facilitate the proposed additional capacity are unlikely to adversely impact the amenity of the street or neighbours to an unacceptable extent. For a setback variation to have an impact on the amenity of the street or neighbours, the works within the setback would need to have an increased impact, by virtue of the reduced setback. In this case, the works components of the carpark and irrigation areas would have the same limited impact whether they were within the setback areas or were setback compliant.
  
29. Buildings, wide crossovers and retaining walls are forms of development which someone can reasonably expect to see in the 'Rural Landscape Interest' zone. The expectation of the Scheme is not that works for new facilities have no impact at all, instead the expectation is that the visual impact related to site setbacks have an acceptable impact. It is on that basis that the City considers the proposed development to meet the site

requirements of the Scheme, although they do not strictly apply as no new buildings are proposed.

30. Car Parking / Bicycle Facilities

Clause 5.7 of the Scheme requires car parking to be provided for development in accordance with Table 3 of the Scheme.

31. Table 3 requires one car parking bay for every 4 persons to be accommodated. Based on a maximum capacity of the site (including staff), of 480 persons, a total of 120 car parking bays are required to be provided on the site.

32. The proposed plans show 104 car parking bays in the southern section of the site, with parking for 47 cars shown in the northern section of the site, for a total of 151 car parking bays to be provided on-site.

33. The City's review of the site plan notes that some proposed bays may need to be redesigned in order to meet Australian Standards for car parking areas, this would result in the loss of some car parking bays.

34. Given the proposed development provides more car parking than the minimum Scheme requirements, the City considers car parking requirements of the Scheme to be met. Any modifications to meet standards will be able to be accommodated without reducing the parking below the Scheme requirements.

35. The City considers the provision of bicycle parking 'U-racks' as a relevant consideration given Mundaring Weir Road is popular with road-cyclists, and the proposed use is located in close proximity to popular mountain-biking trails. Specific requirements for bicycle related infrastructure are discussed in the State Planning Policy section of this assessment.

36. Rural Landscape Interest Zone Requirements

Clause 5.10.2 of the Scheme specifies land use and development requirements which apply specifically to all land included in the Rural Landscape Interest zone.

37. Provisions (a), (b), and (d) of Clause 5.10.2 are relevant to development proposals which involve agricultural style activities, and are not relevant to the capacity increase of the restaurant.

38. *(c) The clearing of natural vegetation will be permitted only in accordance with Clause 5.18 'Tree and Vegetation Preservation' of the Scheme.*

39. Part (c) of Clause 5.10.2 will be addressed at the Tree and Vegetation Preservation section of the report below. For the purpose of this zone requirement, the installation of the carpark and wastewater irrigation areas are the elements of the proposal which would result in vegetation being removed. If Council approves the application, it will be giving permission for vegetation to be removed in accordance with the proposed plans. As a result, that will mean compliance with Clause 5.18 of the Scheme.
40. *(e) Local Government shall have regard for clauses 2.1, 2.2, 2.3 and 2.4 relating to Planning Policies of the Scheme when considering any application for development within the zone.*
41. The above quoted clauses relate to the preparation of new planning policies and the required administrative procedure. All relevant planning policies are considered in this planning assessment.
42. *(f) The minimum setback for structures and buildings from lot boundaries in this zone shall be as per Table 2, unless otherwise approved by the local government.*
43. As discussed in the Site Requirements section of this assessment, the proposal does not involve new buildings, therefore boundary setbacks do not apply. The City notes that the wastewater system does require the installation of underground tanks. These are proposed three metres from the side boundary of the site. Given that they are installed underground, the City considers these works to have no amenity impact. As there is, generally, no amenity impact of underground works, the City considers the proposed development to be consistent with Clause 5.10.2(f) of the Scheme.
44. Overall the City considers the proposed development consistent with the specific Scheme requirements for the Rural Landscape Interest zone, for the following reasons:
1. Vegetation removal is related to the historical use of the site and topography; and
  2. Works within setback areas have an acceptable amenity impact.
45. Tree and Vegetation Preservation  
Clause 5.18 of the Scheme provides restrictions for the removal of vegetation, however if the application is approved, removal of vegetation to implement the approval will not require a clearing permit through DWER. It is likely that to install car parking areas and wastewater irrigation infrastructure required to facilitate the proposed development, vegetation will be required to be removed from the site. The irrigation area is

4,120m<sup>2</sup>, within which understorey vegetation will be removed to install irrigation lines. Significant stands of vegetation will be able to be retained. As stated earlier, if Council approves this application, the landowner will be able to remove vegetation required to implement their approval.

46. Middle Helena Catchment Area

Clause 6.6 of the Scheme includes specific requirements and assessment criteria for development proposed within the Middle Helena Catchment Area (MHCA). This section overlaps with the next part of the assessment, which is State Planning Policies. For the purposes of a consolidated analysis, the City will cover the assessment relating to the public drinking water source here, as the Scheme requirements provide more detail, and thus impact the recommendation on the proposed development.

47. Clause 6.6.2 provides objectives for the MHCA as follows:

- (a) *To ensure that the long-term quality of the Middle Helena catchment as a public drinking water source is not compromised;*
- (b) *reduce potential nutrient, contaminant and sediment export into the Helena River; and*
- (c) *provide a planning framework for land use decision-making for landowners and local and state government.*

48. Clause 6.6.4 of the Scheme states that the City 'may' refer development applications in this area to the Department of Water (now known as the Department of Water and Environmental Regulation – DWER). This provision specifically applies to land uses identified as being either:

- a) Compatible with conditions; or
- b) Incompatible.

With regard to the DWER's Water Quality Protection Note 25 (WQPN 25) which provides land use planning guidance, separate to the land use permissibility of the Scheme, effectively meaning that land use permissibility in the MHCA has two tests to pass, rather than just the Scheme.

49. It is important to note that WQPN's do not overrule any statutory obligation or government policy statement.

50. For a Priority 2 (P2) area, the aim is to maintain or improve the quality of the drinking water source with the objective of risk minimisation.

51. Table 2 of WQPN 25 lists 'Restaurant/Café' as an 'Incompatible' land use in a P2 area. However, Table 2 also denotes that Condition 35 applies, stating that land uses such as a restaurant are considered to be compatible with conditions in P2 areas, provided that 'proposals for onsite wastewater disposal should be consistent with the Government Sewerage Policy and will be assessed on an individual basis to consider site characteristics and management practices proposed'.
52. In relation to the permissibility of a restaurant in a P2 area, it can be considered, provided that:
- a) Onsite wastewater disposal is consistent with the Government Sewerage Policy; and
  - b) Site characteristics and management practices achieve the objective of 'risk minimisation'.
53. Clause 6.6.4 (a) of the Scheme provides an augmentation of the list of uses in the WQPN 25, by stating clearly that Restaurants 'shall be compatible with conditions' which is consistent with points (a) and (b) above.
54. Clause 6.6.5 of the Scheme states that incompatible land uses shall not be approved, but allows for the augmentation of Clause 6.6.4(a), which means 'Restaurant' can still be considered, subject to conditions.
55. Clause 6.6.7 of the Scheme provides the 'matters to be considered' when assessing a planning application. Regard is required to be given to:
- (a) *Any advice received from the Department of Water (now DWER)*
56. In this context, the City has considered the comments of DWER and have gone to the extent of having the applicant's information independently peer-reviewed and compared to the comments received from DWER in Attachment 16 to this report.
57. To avoid duplication, refer to the State Agency Comment section of this assessment for discussion on the comments of the DWER.
- (b) *The Department of Water's land use compatibility table in the water quality protection note, 'Land Use Compatibility in Public in Public Drinking Water Source Areas', incorporating the variations to that table specific to the Middle Helena catchment area (clause 6.6.5);*
58. The City has concluded that the 'Restaurant' land use is capable of being compatible, subject to conditions to enforce management and operations which are consistent with the P2 objective of minimising risk.

(c) *The recommendations of the Middle Helena Catchment Area Land Use and Water Management Strategy, particularly those specific to the relevant priority classification area.*

59. The Middle Helena Catchment Area Land Use and Water Management Strategy is a guiding document prepared by the Department of Planning (now Department of Planning, Lands and Heritage) on behalf of the Western Australian Planning Commission. The Strategy states that the potential water quality risks of restaurants are nutrients and pathogens from wastewater disposal, and sediment and hydrocarbons from car park run-off. The City agrees that these elements of the proposal pose the greatest risk and are also the key elements of physical works required in order to facilitate the additional restaurant capacity.
60. Key components of the management strategy are the implementation of a Special Control Area (which is a planning mechanisms to ensure key issues are addressed as part of planning proposals), and the requirement to refer development applications to DWER for comment.
61. The City considers the proposed development to match the Middle Helena Catchment Area Land Use and Water Management Strategy, with all relevant elements forming part of the assessment under the Scheme. The application has demonstrated that the development can be serviced with an appropriately sized wastewater irrigation area. On review of the application by the City from an Environmental Health perspective and on the recommendations within the peer review commissioned by the City, the proposal minimises risk to an acceptable level, this is further outlined in Table 12 of Attachment 10.
62. In addition to the measures outlined in Attachment 10, conditions of approval will be required to ensure the development continues to pose minimal risk to the PDWSA for the duration of its operation – should the restaurant expansion be approved.
63. Bushfire  
Clause 6.7 of the Scheme refers to the requirements of development which is proposed in a bushfire prone area. The subject site is within a bushfire prone area, and the provisions of State Planning Policy 3.7 – Planning in Bushfire Prone Areas applies. To avoid duplication, discussion regarding bushfire impacts for the development are included in the State Agency Comment section of this report.

## **APPLICABLE POLICY**

64. Local Planning Policy 11 – Public Notification of Planning Proposals
- Advertising was undertaken in accordance with LPP11. The proposal was considered to have a localised impact which did not trigger 'significant' level advertising measures.
65. Instead the advertising radius was expanded from 300 metres up to 1000 metres, and the consultation timeframe was extended from 14 days to 28 days.
66. Detail of the consultation process and responses received are discussed in the Stakeholder Engagement section of this report.

## **STAKEHOLDER ENGAGEMENT**

67. Overview
- Consultation has occurred in accordance with Scheme provisions and is consistent with Local Planning Policy guidance.
68. Since the application was lodged, numerous revisions have been made to technical documents. To ensure that the level of information provided would have meaning for the community, documents were referred to State Agencies in advance of consultation with the community. As a result of this processes, documents and the proposal were revised. The revised proposal and documents were then referred to the community seeking feedback.
69. After advertising, the applicant was provided with a schedule of community submissions, and a copy of each State Agency submission.
70. Internal Referrals
- Health*
- The City from an environmental health perspective, acknowledges that the application has undergone noteworthy modifications since the version which was subject to community consultation.
71. Further modifications are required to the Noise Management Plan as follows:
- a) Comparable values be added for noise sensitive premises;
  - b) Addition of Noise Contour Maps;

- c) Noise complaints to be dealt with by the 'shift manager', rather than the owner of the venue; and
- d) Identification of sources of external amplified music.

72. The irrigation areas are shown with a 1.5 metre setback, but this needs to be a minimum of 3 metres. This can be achieved with a modification to the site plan and Water Management Plan.

73. It is also noted that the amended design will require a new application and approval from the Department of Health.

74. *Engineering*

The City from an engineering perspective have noted that detailed design is required for car parking bays and crossover access.

75. It is common for applications to have limited engineering designs finalised at the planning application stage of development, as proposals are often subject to modifications.

76. In this instance, it has been demonstrated that the site has capacity to accommodate the required car parking and access.

77. Community

Landowners and occupiers within a 300 metre radius of the site were notified of the proposed development via letter, to meet the advertising requirements of LPP11. To ensure the City captured as many landowners and occupiers who may be affected by an amenity impact (noise, traffic), advertising extended beyond 300 metres across the valley, and between 800 metres to 1 kilometre along Mundaring Weir Road.

78. A total of 41 letters were sent. The technical documents were available to landowners, occupiers, and the general community on the City's website.

79. The advertising period was extended from 14 days to 28 days to provide additional time for the community to review the technical studies and provide comments.

80. At the conclusion of the advertising period, the City had received submissions from 67 different addresses and one petition objecting to the proposal with 82 signatures.

81.

Submission Comments	
Support	5
Object	56
Mixed	6
Total	67

82.

The key areas of concern are outlined and discussed further below:

- a) Traffic Impacts;
- b) Noise from the Restaurant;
- c) Bushfire;
- d) Water Contamination; and
- e) Scale not consistent with the locality.

83.

Traffic

The proposed development would increase the impact of traffic because of the increase in patronage and the fact that the restaurant would be a destination for visitors. Traffic can have impacts to safety, noise, and general rural amenity.

84.

To address concerns regarding traffic safety, the City requested the Applicant provide a Traffic Impact Assessment (TIA), a copy of the traffic impact statement is contained within Attachment 11. The TIA indicates that the current entry to the site would not be able to accommodate safe turning movements into the site. Part of the existing crossover which leads to the future southern car parking area was not approved by the City and the verge will be required to be reinstated.

85.

The City notes that improvements are required to the crossover and left turn movement into the site in order to safely accommodate the proposed development.

86.

However, if the upgrades to the crossover and left turn lane were implemented, the access to the site would be sufficient to accommodate the traffic generated by the restaurant.

87.

To address traffic concerns, the City recommends that conditions be added to the proposal to ensure the entry of the site is upgraded to a safe engineering standard and that the unapproved crossover is removed and reinstated to a verge standard.

88.

Noise

The proposed development would increase the noise generated by the restaurant. To address noise concerns, the City requested the applicant provide a Noise Management Plan (NMP) to demonstrate how noise from the restaurant could be managed to a level where noise from the

restaurant would have an acceptable noise impact on the locality. A copy of the NMP is contained in Attachment 9.

89. The City has reviewed the NMP and it sufficiently demonstrates that mechanisms can be put in place to ensure the development complies with the *Environmental Protection (Noise) Regulations 1997*, but some areas of the NMP require further detail.

The City recommends the following modifications to the NMP:

- a) Comparable values be added for noise sensitive premises
- b) Addition of Noise Contour Maps
- c) Noise complaints to be dealt with by the 'shift manager', rather than the owner of the venue.
- d) Identification of sources of external amplified music.

The City is satisfied that these modifications can be addressed through conditions of development approval.

90. The applicant has provided an Operational Management Plan demonstrating the day-to-day operations.

Operating hours are:

Sunday to Wednesday: 7.00am to 10.00pm

Thursday to Saturday: 7.00am to 12.00am

Public Holidays: 11.00am to 10.00pm

These times are reflective of the hours of a typical restaurant with the proposed capacity.

91. Citing the concerns of neighbouring residents, the applicant proposes the following management measures to manage noise levels:

1. The outdoor eating area will not be open to customers until 9.00am to ensure external noise is kept to a minimum during the breakfast shift (starting 7.00am)
2. The outdoor eating area will not be open to customers after 10.00pm to ensure external noise is kept to a minimum at night.
3. Once the restaurant ceases trading, it will remain open for an additional 30 minutes to allow the gradual exist of remaining patrons in a quiet manner rather than ejecting patrons all at once.

92. Bushfire  
The City has considered the risk to bushfire. As the restaurant and buildings already exist, the City's focus is on the implications of intensifying the occupation of the restaurant.
93. The applicant has provided a Bushfire Attack Level (BAL) assessment and assessment against the bushfire criteria in a Bushfire Management Statement (BMS). The BMS indicates that the site is able to meet the 'acceptable solutions'.
94. The applicant has also provided an Emergency Evacuation Plan to demonstrate how patrons can be managed in the event of an emergency. This is not a requirement of the planning process but is indicative to the City that the bushfire risk to visitors is able to be managed in practical ways.
95. Water Contamination  
The impact on the proposed development on the environment and groundwater is a consideration of the application. The Scheme is clear in its provisions regarding the drinking water source area, which is consistent with State Planning Policy.
96. To verify the consultant's proposal to address wastewater, the City had the documents independently peer-reviewed by a suitably qualified and experienced consultant. The review, contained in Attachment 16, confirmed that the proposed development provides sufficient protection from groundwater contamination subject to a number of recommendations.
97. The review also considered the comments of DWER, and the recommended restriction to 80 patrons. The review concluded that the measures proposed by the applicant to manage wastewater irrigation, which was modified since community consultation, was consistent with the objectives of the policies and water quality protection notes DWER used as guidance for its submission. While the City has given the comments of DWER particular regard, the City, on balance, is satisfied that the applicant has sufficiently demonstrated that risk can be managed and mitigated to facilitate an increase to 480 patrons.
98. Scale  
The City acknowledges that a restaurant of the proposed scale is not consistent with the intensity or scale of activities in the general area. The area is predominantly rural residential, with no notable land use activities which have an impact on the amenity of the area.

99. If the application was the conversion of an existing residence to a restaurant, it would be difficult to justify its compatibility with the surrounding environment. However, in this case, the restaurant, while not currently operational, has existed on the land in various iterations as far back as 1946. The fact that a restaurant has historically existed on the property, is a significant mitigating factor with regards to compatibility, as it suggests that commercial activity on the subject site has long been contemplated. Given mitigating historical factors, compatibility should come down to whether the site has sufficient capacity to manage the scale of its impacts. Technical information confirms that traffic, noise and wastewater can be managed on site to acceptable levels.
100. The applicant has provided technical reports which indicate many of the impacts of the proposed scale of the activity can be managed. Notwithstanding this and the historic matters outlined in Point 98, the scale of the restaurant in terms of the number of patrons does not correlate to that of the prevailing area.
101. In deciding this application, Council must consider whether the scale of the activity is appropriate, even though there are no 'like' activities nearby.
102. As noted earlier in this report, it is important to consider whether the proposed patron numbers are an accurate reflection of the existing approved restaurant, given that car parking requirements can be met, along with wastewater disposal.
103. External  
In accordance with the Scheme provisions, and in order to complete a thorough planning assessment, the City sought comment from the following State Government agencies:
- a) Department of Biodiversity, Conservation and Attractions;
  - b) Department of Fire and Emergency Services;
  - c) Department of Water and Environmental Regulation; and
  - d) Department of Health.
104. As the application has progressed, multiple versions of documents have been submitted, and referred to State Agencies for comment. To avoid confusion and given that it is only the current set of information that is subject to the State Agency comments, with the exception of the Bushfire Management Statement, this report only refers to the most up to date comments. Previous versions of comments are not relevant because they are based on different restaurant capacities and different wastewater system design.

105. Department of Biodiversity, Conservation and Attractions (DBCA)  
The DBCA advised on 7 April 2020 that it had no comment to make on the proposed expansion.
106. The City accepts that DBCA has no comment to make.
107. Department of Fire and Emergency Services (DFES)  
The DFES provided updated comments on 5 May 2020, advising that the information provided by the applicant was not sufficient and requires further modifications.
108. The DFES notes that the development has the potential to increase the threat of bushfire to people, property and infrastructure and based on that, DFES emphasises that the Council ensure that bushfire risk and hazard reduction/bushfire protection measures are established and understood before making a determination.
109. The City agrees that the proposed development, which is an expansion in the number of approved visitors to the site per-day, does have the potential to increase the threat of bushfire, given more people will be attending the site. The City notes that the proposal is not listed as a 'vulnerable' land use, nor is it defined as a 'high risk' land use. The City notes that the physical form of the buildings, and land use, have already been established through valid and existing planning and building approvals, which limits the capacity for the City to consider all the elements of State Planning Policy 3.7 and the associated guidelines.
110. The applicant has provided an assessment against the four elements of the bushfire protection criteria by a suitably qualified bushfire assessor, which concludes that the proposed development meets the acceptable solutions under the Guidelines for Planning in Bushfire Prone Areas.
111. Department of Water and Environmental Regulation (DWER)  
The DWER advised on 26 February 2020 that it was not supportive of the application.
112. The issue is the development's location in the Middle Helena Public Drinking Water Source Area (PDSWA) which is Priority 2 (P2). In accordance with the Middle Helena Catchment Area Land Use and Water Management Strategy (LUWMS), restaurants are recommended to have a maximum capacity of 50 people. DWER has previously approved in excesses of 50 to a maximum of 80 people for this site.
113. The reason is that the proposed increase in patron numbers is an intensification of land use which would pose an unacceptable contamination risk to water quality. The concern being that even best

management practices can fail, resulting in contaminants being released onsite and offsite.

114. The approximately 35 metre setback to Hacketts Gully, rather than the 100 metre setback recommended, is not supported by DWER. Notwithstanding DWER's position on the setback distance, the DOH approval requires only a 30m setback from local surface watercourses. Additionally, as a mitigation measure, recommended conditions of approval require irrigation areas to put measures in place to ensure they flow away from local surface watercourses.
115. The DWER also recommended that any proposal for a reduced setback of the effluent disposal field from Hacketts Gully be supported by a nutrient budget/balance (nutrient management plan). The nutrient management plan would need to demonstrate that the application/irrigation rate of effluent (particularly nitrogen) can be sufficiently removed via vegetation, before there is potential surface runoff or subsurface lateral runoff towards Hacketts Gully, or infiltration to the regional groundwater. This information has not been provided by the applicant.
116. In relation to the reduced setback, the City is satisfied that it can be implemented with mitigating measures that ensure any water run-off is directed away from the watercourse. Furthermore, the City has recommended a condition to prepare a Nutrient Management Plan which includes water monitoring to ensure that the mitigating measures are achieving the intended objectives of risk minimisation.
117. The DWER's final concern was stormwater management for the large carpark area, stating insufficient information had been provided.
118. Given the contrast between the applicant's consultant reporting, DOH's approval of the wastewater disposal, and the DWER's lack of support for the proposal - even though the applicant made significant modifications to the design of the effluent disposal elements of the proposal, the City engaged a suitably qualified and experienced consultant to undertake an independent review of the consultant reports provided by the applicant, and the comments made by the DWER.
119. The independent peer-review of the proposed development from the perspective of wastewater is contained in Attachment 16 of the report.
120. The conclusion of the review was that the applicant's proposed approach to wastewater management was acceptable. Key conclusions were:
- a) Sufficient information provided to satisfy wastewater disposal of 480 persons per day.

- b) Documents provided by Evergreen Consultancy WA Pty Ltd adequately addressed all issues suggested by the DWER, with the exception of stormwater from hardstand areas.
- c) Contour plan and concept terrace for wastewater disposal would assist the design and construction of the wastewater disposal area.

These are addressed in Section 9.4 and 9.5 of Attachment 10.

- 121. Based on the recommendations of the peer review, the City recommends conditions of approval be added regarding a contour and terrace plan being provided prior to installation of the irrigation area, should the application be approved.
- 122. Department of Health (DOH)  
The DOH provided general comment on the proposed development on 20 March 2020. There was no indication of support, or objection, to the proposal.
- 123. While only general comment was provided on the planning application, the City notes that the DOH has already approved an earlier version of the effluent disposal system, with the same size irrigation area, which would facilitate 480 patrons, including staff. The City has had regard to the existing DOH approval for 480 patrons in its planning assessment.
- 124. However, the DOH noted that a new application would be required for the on-site wastewater disposal system conforming with the parameters specified in the Ministerial exemption (60-17042 dated 20 June 2019). A new application is required due to the changes to the location of the irrigation areas since the planning application was initially submitted.
- 125. The Ministerial exemption occurred separately and is not a part of the planning process, as it does not fall under planning legislation. Notwithstanding this, the approval is relevant to the City's assessment as an indicator that the site is capable of achieving approval for a wastewater system which accommodates 480 persons including staff.
- 126. The City considers the amended wastewater plan to be a noticeable improvement on the previous version approved by the DOH and given that improvement, it is considered likely that DOH will, again, be supportive of the amended wastewater plan.

127. The DOH also noted that with regard to issues related to nutrient retention and setback distances to drinking water source protection areas, they are a matter for the DWER. In the City's view, the DOH should have conferred with DWER in providing advice and approval to the wastewater system to ensure consistency between the agencies.
128. The City acknowledges the comments of DOH and confirm that further comment has been sought from the DWER on the proposed development.

## **FINANCIAL CONSIDERATIONS**

129. Nil.

## **SUSTAINABILITY**

### **Social Implications**

130. An expanded restaurant would provide a meeting space for local residents, as well as visitors to the City.
131. The proposal has the potential to impact the surrounding community. Having regard for this impact, a noteworthy number of conditions and management plans are required.

### **Economic Implications**

132. Additional patrons to a restaurant will likely have flow on effects to additional staff and supplies required to run a larger restaurant. There are general economic benefits of a larger facility, however the City has not been furnished with any information regarding the likely demand for the increased facility.
133. The provision of tourism uses within the City is consistent with the City's adopted Tourism Strategy.

### **Environmental Implications**

134. As discussed in the stakeholder engagement section of this report, the location of the development in a public drinking water source area means that environmental risk is a consideration.
135. On balance, the City considers that subject to strict compliance with the management and mitigation measures which can be applied to the proposal, the proposed development is shown to have minimal environmental implications.

**RISK MANAGEMENT**

136.

<b>Risk:</b> The intensification of the restaurant land use will have an impact on water quality and water courses within the public drinking water source area.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Significant	Possible	High
<b>Action/Strategy</b>		
Through implementation of the Water and Stormwater Management Report (specifically Part 9.4), coupled with conditions of approval requiring monitoring, ensure that the restaurant will be subject to stringent ongoing management measures that will ensure risk is minimised. This includes a commitment to post-development surface water monitoring and a conditional requirement for monitoring to occur, at minimum, every two years in perpetuity.		

137.

<b>Risk:</b> Mechanical failure of the system contaminates the environment.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Significant	Possible	High
<b>Action/Strategy</b>		
As outlined in Table 12 of Attachment 10, the proposed system includes a in-built emergency storage capacity of over 24 hours (18,000 L) to ensure problems can be rectified before overflow. An alarm system (red flashing light and siren) is provided to warn of high-water level in the ATU. Should an alarm be activated, or an overflow be suspected, the approved maintenance provider will be contacted immediately. The approved provider is in the Perth region and less than 30 minutes travel distance from the site.		

138.

<b>Risk:</b> Power failure leads to the wastewater system not functioning.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Significant	Possible	High
<b>Action/Strategy</b>		
Recommend conditions requiring modification to the Operational Management Plan to ensure back-up power is provided on site and is readily available to ensure the wastewater system is operational.		

139.

<b>Risk:</b> Noise impacts on the amenity of the locality.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Significant	Possible	High
<b>Action/Strategy</b>		
Through conditions of approval and implementation of the Noise Management Plan, ensure that the restaurant will be subject to stringent ongoing management measures that will ensure noise is managed to acceptable levels.		

140.

<b>Risk:</b> The scale of the development sets a precedent for the size of tourism development in the City's hills areas.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Significant	Possible	High
<b>Action/Strategy</b>		
Council have regard for the fact that significant management plans are to be put in place and have regard for the fact that the site has been a restaurant development historically and the proposed use is an evolution of this use.		

**CONCLUSION**

141. The City's assessment has identified valid planning concerns in the areas of amenity, noise, traffic, and water contamination.
142. The City's assessment has given regard to the historical use of the site for commercial purposes, including a restaurant, and the scale of the existing building and supporting facilities which have been approved through previous planning and building applications. The City considers the proposed additional patrons to be a reasonable extension which appropriately reflects the scale of existing buildings.
143. Noting the planning concerns, through the application of planning conditions and information provided by the applicant, the planning concerns are able to be managed and mitigated to a level which is consistent with the planning framework. As the proposal is considered to be consistent with the planning framework, the application is capable of being supported.

<b>Voting Requirements: Simple Majority</b>
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**RECOMMENDATION:**

That Council APPROVE the application for the proposed Amendment to existing Restaurant (Increase in Patrons) at Lot 3 (415) Mundaring Weir Road, Piesse Brook subject to the following:

**1) Planning Conditions**

- a) The restaurant is restricted to a maximum of 480 patrons and staff, per day. A record is to be kept of patron and staff numbers for each service day and this record must be made available to City upon request.
- b) Prior to occupation of the restaurant, a Basic Left-Turn treatment must be constructed at the site crossover to Mundaring Weir Road with a minimum width of 3 metres and length of 10 metres from the southern edge of the upgraded driveway truncation to the specifications and satisfaction of the City of Kalamunda.
- c) Prior to occupation of the restaurant, the existing crossover to Mundaring Weir Road must be upgraded to the specifications and satisfaction of the City of Kalamunda.
- d) Prior to occupation of the restaurant, the existing unformed second access point to Mundaring Weir Road must be removed and reinstated with grass or landscaping to the satisfaction of the City of Kalamunda.
- e) Prior to occupation of the restaurant, a Stormwater Management Strategy must be submitted in accordance with the Stormwater Management Manual for Western Australia and the City of Kalamunda's Stormwater Design Guidelines for Subdivisional and Property Development, to the satisfaction of the City of Kalamunda. The Strategy, once accepted by the City of Kalamunda, is to be implemented in its entirety.
- f) Stormwater drainage including management of drainage for the car park areas must be designed and constructed in accordance with the Stormwater Management Strategy to the satisfaction of the City of Kalamunda.
- g) Prior to occupation of the restaurant, an Erosion Management Plan shall be prepared, detailing how the risk of erosion and sedimentation impacts into nearby water bodies and adjacent properties will be

controlled during and after construction, to the satisfaction of the City of Kalamunda.

- h) Drainage easements and reserves will be required, in accordance with any approved Stormwater Management Strategy, by the local government for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that local government under Sections 152 and 167 of *the Planning and Development Act 2005*.
- i) An On-Site Effluent Disposal System Construction Plan to the satisfaction of the City of Kalamunda and the Western Australian Department of Health is to be submitted prior to the commencement of works of the on-site effluent disposal system. This plan, upon approval, is to be implemented and maintained in its entirety. The plan is to include the following:
  - i) 600mm free draining soil under the irrigation area, granite outcrops are to be avoided;
  - ii) Details of how and when the Secondary Infiltrative Area is to be used;
  - iii) A contour plan with concept staging prepared by the installer to ensure that terracing is implemented in accordance with the Code of Practice for the Design, Manufacture, Installation and Operation of ATU's Serving Single Dwellings to ensure even and sequential distribution of the wastewater in the Primary Irrigation Area;
  - iv) Irrigation areas are to be designed such that wastewater will drain South and West, away from the nearby ephemeral creek, Hackett's Gully;
  - v) Bunding or an impermeable barrier is to be installed to prevent wastewater from the irrigation area and Aerobic Treatment Unit travelling toward Hackett's Gully;
  - vi) A suitably sized grease trap is to be installed and maintained such that grease is prevented from entering into the Aerobic Treatment Unit; and
  - vii) The irrigation lines are to be installed with a maximum of 1000mm separation as per the Australian/New Zealand Standard On-Site Domestic Wastewater Management (AS/NZS 1547:2012).
- j) Prior to occupation, a Nutrient Management Plan must be submitted, including a water quality monitoring schedule, to the satisfaction of the City of Kalamunda on the advice of the Department of Water and Environmental Regulation. The implementation of the water quality monitoring schedule will be at a minimum twice a year when both Hackett's Gully and Piesse Brook are flowing to ensure that water

quality and water runoff is not being impacted by the disposal of wastewater.

- k) A Construction Management Plan must be submitted to the satisfaction of the City of Kalamunda prior to the commencement of works. The Construction Management Plan must detail how the construction of the development will be maintained including the following:
- i) Public safety and site security;
  - ii) Hours of construction;
  - iii) Noise and vibration controls;
  - iv) Air and dust management;
  - v) Stormwater, groundwater and sediment control;
  - vi) Waste and material disposal;
  - vii) Traffic management plans for various phases of the construction, including any proposed road closures;
  - viii) The parking arrangements for contractors and sub-contractors;
  - ix) Workers toilets;
  - x) Fauna relocation;
  - xi) On-site delivery times and access arrangements;
  - xii) The storage of materials and equipment on site (no storage of materials on the verge will be permitted);
  - xiii) Complaint management procedure; and
  - xiv) Any other matters likely to impact upon the surrounding properties or road reserve.
- l) The approved Construction Management Plan must be implemented prior to and during development works to the satisfaction of the City of Kalamunda.
- m) The site plans must be modified prior to installation of the irrigation system to achieve a 3 metre setback from all property boundaries.
- n) Prior to occupation of the restaurant, the Noise Management Plan must be amended, to the satisfaction of the City of Kalamunda, to identify all potential noise sources likely to impact nearby noise sensitive premises and provide management strategies to ensure noise levels complies with the *Environmental Protection (Noise) Regulations 1997*. Once approved the noise management plan must be implemented for the duration of the development.
- o) Prior to occupation of the restaurant, the Operational Management Plan must be amended to the satisfaction of the City of Kalamunda, to include arrangements for backup power to be available at all times to ensure the restaurant's wastewater system is operational.

Once approved, the Operational Management Plan must be implemented for the duration of the development.

- p) Prior to occupation of the restaurant, the Bushfire Attack Level Assessment must be amended to the satisfaction of the City of Kalamunda, to include amendments recommended by the Department of Fire and Emergency Services.
- q) Prior to occupation of the restaurant, a Waste Management Plan must be prepared by the landowner and approved by the City of Kalamunda. The Waste Management Plan must include the following detail to the satisfaction of the City of Kalamunda:
  - i) The location of the bin storage areas and bin collection areas (all storage areas shall be screened from Mundaring Weir Road);
  - ii) The number, volume and type of bins, and the type of waste to be placed in the bins;
  - iii) Management of the bins and the bin storage areas, including cleaning rotation and moving bins to and from the bin collection areas; and
  - iv) Frequency of bin collections.
- r) Prior to the occupation of the restaurant, the facility must be connected to a suitable on-site effluent disposal system to the satisfaction of the City of Kalamunda and the Western Australian Department of Health.
- s) Prior to occupation of the development, all car parking areas must meet the following requirements:
  - i) Provide a minimum of 120 car parking spaces, which are designed, constructed, sealed, kerbed, drained, and marked in accordance with Australian Standard AS2890.0;
  - ii) Provide a minimum of 2 car parking spaces dedicated to people with disability, which are designed, constructed, sealed kerbed, drained and marked in accordance with Australian Standard AS2890.0;
  - iii) All car parking dimensions, manoeuvring areas, crossovers and driveways shall comply with Australian Standard AS2890.1 (as amended); and
  - iv) Loading bays, car parking bays and manoeuvring areas are to be constructed, sealed, kerbed, drained, clearly marked and maintained in accordance with AS2890.1 (as amended).

The car park must be maintained with the above requirements for the duration of the development to the satisfaction of the City of Kalamunda.

- t) Fill used in creating the proposed carpark must meet the following requirements:
  - i) The existing fill material is to be levelled and be comprised exclusively of “road base-like material”,
  - ii) The existing fill material is to be covered with a minimum of 300mm of clean, suitable fill and compacted.
  
- u) All car parking dimensions, manoeuvring areas, crossovers and driveways shall comply with Australian Standard AS2890.1 and Loading bays, car parking bays and manoeuvring areas are to be constructed, sealed, kerbed, drained, clearly marked and maintained in accordance with AS2890.1.
  
- v) Prior to the occupation of the development, external lighting shall be installed and maintained within the site boundary for all car parking areas, outdoor activity areas, and along all on-site pedestrian pathways, at no cost to the City of Kalamunda. The design and construction of the external lighting must:
  - i) Meet minimum requirements of category P11b & P12 (for disabled bays) in accordance with Australian Standard AS/NZS 1158.3.1:2005.
  - ii) Be maintained for the duration of development.
  - iii) Lighting within car parking areas having a greater height than the pedestrian area lighting, and be focused downwards.
  - iv) Lighting must not cause nuisance to adjoining residents or the travelling public and must comply at all times with the requirements stipulated under the Australian Standard 4282-1997.
  
- w) Prior to occupation of the restaurant, short-term bicycle facilities shall be provided in accordance with Australian Standard AS 2890.3 to the satisfaction of the City of Kalamunda. The facilities must be maintained for the duration of the development.
  
- x) Prior to occupation of the restaurant, a Loading, Delivery and Servicing Delivery Management Plan must be prepared to the satisfaction of the City of Kalamunda.

**2) Advice Notes**

- a) This approval does not relate to any signage, with a separate application to be lodged and approved by the City of Kalamunda.
- b) In respect of the drainage easements, these will be required for discharging stormwater within private property.
- c) The applicant is advised that the food premises must comply with the *Food Act 2008* and Food Standards Code. Further advice on these requirements is available from the City of Kalamunda.
- d) The applicant is advised to submit floor plans and elevations of the kitchen and bar areas detailing all fixtures, fittings and finishes to the City of Kalamunda so that assessment may be made against the requirements of the Food Standards Code and advice can be provided before commencing construction. Such advice will aid in preventing expense and delays caused by the possible need to rectify structural non-compliances at the time of completion.
- e) The applicant is required to submit an Application for Registration of a Food Business accompanied with the appropriate registration fee a minimum of two weeks prior to commencing operation.
- f) The applicant must book a food premises inspection with the City of Kalamunda prior to commencing operations. The premise must meet all requirements and pass the inspection without requiring any corrective actions before it will be allowed to trade.
- g) The applicant is advised that if the proposed premises or part thereof will be available for hire then an application for a Certificate of Approval under the *Health (Public Buildings) Regulations 1992* must be submitted to the City of Kalamunda and approved prior to use of the building.
- h) A new effluent disposal system that complies with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulation 1974* must be installed.
- i) Clearances are to be maintained from the waste water disposal system(s) to new buildings and boundaries in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.

- j) The applicant is advised that the Department of Health are to be contacted regarding variation to the approved "Application to Construct or Install an Apparatus for the Treatment of Sewage".
- k) The applicant is advised that under the Fly Eradication Regulations pursuant to the *Health (Miscellaneous Provisions) Act 1911*, it is an offence to place, throw or leave or permit or cause to be placed thrown or left on the land or premises any waste food, manure, refuse, garbage, waste matter or other matter whatsoever, which is likely to attract or be a breeding place for flies, unless that food waste, manure, refuse, garbage, waste matter or other matter is covered, protected, treated or dealt with in such a manner as to effectively prevent it attracting or being a breeding place for flies.
- l) The applicant is advised that sanitary facilities must comply with the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971*.

**9. Meeting Closed to the Public**

**10. Closure**