

Development & Infrastructure Services Committee Meeting

Minutes for Monday 8 July 2013

CONFIRMED



**shire of
kalamunda**

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MINUTES

1.0 OFFICIAL OPENING

The Chairman opened the meeting at 6.30pm, and welcomed Councillors, Staff and Members of the Public Gallery.

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Councillors

Sue Bilich	(Shire President) North Ward
Margaret Thomas	(Chairman) North Ward
Simon Di Rosso (6.31pm)	North Ward
Allan Morton	South West Ward
Noreen Townsend	South West Ward
Justin Whitten	South West Ward
Geoff Stallard	South East Ward
John Giardina	South East Ward
Frank Lindsey	South East Ward
Martyn Cresswell	North West Ward
Dylan O'Connor	North West Ward
Bob Emery	North West Ward

Members of Staff

Clayton Higham	Acting Chief Executive Officer
Rhonda Hardy	Director Corporate & Community Services
Darrell Forrest	Manager Governance
Davina Sandhu	Manager Human Resources & Organisational Development
Nina Lytton	Acting Manager Development Services
Warwick Carter	Manager Commercial Services
Sam Assaad	Manager Infrastructure Operations
Nicole O'Neil	Coordinator Public Relations
Kristy McGuire	Procurement Officer
Michelle Clark	Executive Assistant to the CEO
Meri Comber	Governance Officer

Members of the Public 4

Members of the Press 0

2.2 Apologies

Councillors

Nil.

2.3 Leave of Absence Previously Approved

Nil.

3.0 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 Committee. For the purposes of Minuting, these questions and answers are summarised.

3.1 Development & Infrastructure Services Committee Meeting 10 June 2013

Q. Regarding Item 35, Request to Initiate an Amendment to the Metropolitan Region Scheme Forrestfield/High Wycombe Industrial Area – Stage 3, Mr English and Mr George asked if the rates would change for the existing residents or if this would rest on the owner to change the status of the property. The Acting Chief Executive Officer took this on notice.

A. The rate in the dollar charged for a property is based on the Land Use of the property. The Zoning of the property does NOT determine the Rate in the dollar for annual Shire Rates.

By way of example a property may be Zoned 'Industry GRV' but may still be used as a private residence. The Land use of that property would be set as 'SINGLE - RESIDENTIAL' (General GRV) for the purpose of determining the Rate in the dollar.

Only if the use of the property changed to industrial would it be changed.

4.0 PETITIONS/DEPUTATIONS

4.1 Nil.

Cr Simon Di Rosso entered the Chambers at 6.31pm and was present for all votes.

5.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 That the Minutes of the Development & Infrastructure Services Committee Meeting held on 10 June 2013 are confirmed as a true and accurate record of the proceedings.

Moved: **Cr Bob Emery**

Seconded: **Cr Frank Lindsey**

Vote: **CARRIED UNANIMOUSLY (12/0)**

6.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

6.1 Nil.

7.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

7.1 Nil.

8.0 DISCLOSURE OF INTERESTS

8.1 Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 5.65 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the *Local Government Act 1995*.)

8.1.1 Nil.

8.2 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.

8.2.1 Nil.

9.0 REPORTS TO COUNCIL

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

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

41. Application To Keep More Than Two Dogs – Lot 105 (47) Oxford Court, Maida Vale

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Health & Ranger Services
File Reference	RA-ANC-011: ICS-55952
Applicant	TK Porges
Owner	BR & TK Porges

PURPOSE

1. To consider an application for an exemption under Section 26(3) of the *Dog Act 1976* to keep more than two dogs.

BACKGROUND

2. The applicant at Lot 105 (47) Oxford Court, Maida Vale has recently applied to Council requesting permission to keep more than two dogs on the property.

DETAILS

3. The applicant is requesting the approval to keep the following dogs at the above property.

	Breed	Sex	Sterilised	Colour	Name	Registration Number	Age	Local Authority
1.	Rottweiler	F	Yes	Black/Tan	Izzy	13-3784	4	Kalamunda
2.	Husky	M	No	White/Grey	Benji	13-3794	1	Kalamunda
3.	Labrador	M	No	Brown	Milo	13-3783	2.5	Kalamunda

4. In considering the merit of the application, an inspection was undertaken by Ranger Services to ensure the premises are appropriately sized to be capable of effectively and comfortably housing three dogs and to confirm that the fences and gates are compliant with the *Dog Act 1976*.

STATUTORY AND LEGAL CONSIDERATIONS

5. The property at Lot 105 (47) Oxford Court Maida Vale is 9,104sqm and is zoned Special Rural.
6. The application for exemption to the Shire's Dogs Local Law 2010 is made under Section 26(3) of the *Dog Act 1976*.

7. Clause 3.2 of the Local Law reads:
"3.2 Limitation on the number of dogs
1. This clause does not apply to premises which have been –
(a) licensed under part 4 as an approved kennel establishment; or
(b) granted an exemption under Section 26(3) of the Dog Act, 2 dogs over the age of 3 months and the young of those dogs under that age."
8. If Council refuses to permit three dogs on this property, the applicant has the right to appeal the decision through the State Administrative Tribunal within 28 days of notification in writing by the Shire.

POLICY CONSIDERATIONS

9. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

10. When applications are received by the Shire to keep more than two dogs, a Ranger will attend the properties immediately adjoining the applicant's property to ascertain if they have any objections. This process is undertaken by interview or, if the resident is not home at the time, a standard letter is left in their letterbox advising of the application.
11. There are eight adjoining properties within the vicinity of the applicant's property that may be directly affected as shown in the Location Map below. The occupants of these properties have been contacted by the attending Ranger, three properties have supported the application and five have not responded.

Location Map



FINANCIAL CONSIDERATION

13. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

14. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 1.5 To provide a safe environment for the entire community to enjoy.

Strategy 1.5.1 Provide support for community safety through education, awareness raising programs and a responsive Ranger service.

SUSTAINABILITY

Social Implications

15. Council needs to consider that having more than two dogs may create excessive dog barking noise that can interfere with the peace, comfort or convenience of neighbours within the immediate vicinity of the property concerned.

Economic Implications

16. Nil.

Environmental Implications

17. Nil.

RISK MANAGEMENT CONSIDERATIONS

18. It is the opinion of the inspecting Ranger that the property is appropriately sized and capable of effectively and comfortably housing three dogs. The Ranger can also confirm that the fences and gates are compliant with the *Dog Act 1976*.
19. It is, therefore, considered there is minimal risk associated with the approval of this application.

OFFICER COMMENT

20. In considering this application for exemption, the following two options are available:
- a. Council may grant an exemption pursuant to Section 26(3) of the *Dog Act 1976* subject to conditions, or
 - b. Council may refuse permission to keep more than two dogs.

21. As part of the assessment process, officers have recorded that no formal complaints have been received against this property or these dogs.
22. It is recommended that the application to keep more than two dogs is supported and is noted that this approval may be varied or revoked should any dog complaints be received which are considered reasonable.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 41/2013)

That Council:

1. Pursuant to Clause 3.2 of the Shire of Kalamunda Dogs Local Law 2010 made under Section 26(3) of the *Dog Act 1976*, grant the exemption to the application of Lot 105 (47) Oxford Court, Maida Vale to keep three dogs on this property.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Bob Emery**

Vote: **CARRIED UNANIMOUSLY (12/0)**

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

42. Proposed Pedestrian Access Way Closure – Bongiovanni Court and Pruiti Crescent, Lesmurdie

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	BN-07/GEN
Applicant	J Marelich
Owner	Nil
Attachment 1	Photograph of the Pedestrian Access Way from Bongiovanni Court
Attachment 2	Submission Table

PURPOSE

1. To consider a request to close the pedestrian access way ("PAW") abutting Lots 30 (7) and 31 (6) Bongiovanni Court, Lot 43 (331) Lesmurdie Road, Lot 42 (21) Rootes Road and Lot 195 (45) Pruiti Crescent, Lesmurdie. Refer to (Attachment 1).

BACKGROUND

2. Land Details:

Land Area:	254sqm
Local Planning Scheme Zone:	Residential R5
Metropolitan Region Scheme Zone:	Urban

Locality Plan

3.



4. The PAW contains a Shire drainage main, is situated at the end of the Bongiovanni Court cul-de-sac and leads to private property.
5. In December 1998, Council supported a request to close the PAW, and requested the then Department of Land Administration ("DOLA") identify costs payable for the closure.
6. The costs were provided by DOLA however as some of the landowners whose property abutted the PAW did not want to pay all of the associated costs in the closure of the PAW, the closure did not proceed.

DETAILS

7. The PAW between Bongiovanni Court and Pruiti Crescent, Lesmurdie was created primarily to accommodate drainage.
8. It was intended that upon subdivision of Lot 195 (45) Pruiti Crescent, at the northern end, the PAW would be extended. However Lot 195 has not been subdivided and thus the PAW terminated at its southern boundary.

STATUTORY AND LEGAL IMPLICATIONS

9. PAW closure requests are dealt with in accordance with the *Land Administration Act 1997*, supplemented by the *Land Administration Regulations 1998* and ultimately the request will be determined by the Department of Planning.

POLICY IMPLICATIONS

Designing Out Crime Strategy

10. The Designing Out Crime Strategy is a crime prevention strategy which aims to reduce opportunities for crime through the design and management of the built environment.
11. The PAW does not allow for pedestrian movement between areas because it is a dead end, it is not lit at night and therefore there is the potential for anti-social behaviour to occur.

COMMUNITY ENGAGEMENT REQUIREMENTS

12. The proposed closure was advertised to the adjoining landowners and referred to the utility providers, a sign was also placed at the Bongiovanni Court end of the PAW.
13. During the advertising period two objections which provided comments, and 14 non-objections were received. Refer to the Submission Table (Attachment 2).
14. Four non-objections were also received from the utility providers.

FINANCIAL CONSIDERATION

15. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

16. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 4.3 - To ensure the Shire's development is in accord with the Shire's statutory and legislative obligations and accepted urban design planning standards.

Strategy 4.3.5 Incorporate best practice principles for designing out crime and encourage private developers and owners to do the same.

SUSTAINABILITY

Social Implications

17. Closing the PAW would reduce the potential for anti-social behaviour to occur along the PAW.

Economic Implications

18. Nil.

Environmental Implications

19. Closure of the PAW would not result in a substantial increase in the usage of private vehicles due to another PAW between Mario Court and Rootes Road.

RISK MANAGEMENT CONSIDERATIONS

20. Nil.

OFFICER COMMENT

21. The PAW does not connect through to Pruitt Crescent and therefore serves no purpose in providing pedestrian access to nearby bus routes.
22. To access or egress the PAW from the northern end (Pruitt Crescent) requires access over private land, otherwise it would have no function effectively terminating at the boundary of Lot 195 Pruitt Crescent. Having a PAW which can only function by using private land for access and egress is not ideal, albeit this has clearly been the case for many years.

23. Closure of the PAW would not result in a substantial increase in the usage of private vehicles, or increase in the walking distance to nearby public open space and bus stops, due to another PAW between Mario Court and Rootes Road.
24. If the PAW was closed and the land amalgamated with adjoining properties, an easement would be created over the existing drainage main which goes through it.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 42/2013)

That Council:

1. Recommends to the Department of Planning that the request to close the Pedestrian Access Way abutting Lots 30 (7) and 31 (6) Bongiovanni Court, Lot 43 (331) Lesmurdie Road, Lot 42 (21) Rootes Road and Lot 195 (45) Pruitt Crescent, Lesmurdie, be supported as it is not considered to be of importance in the local pedestrian/cyclist network.

Moved: **Cr John Giardina**

Seconded: **Cr Geoff Stallard**

Vote: **CARRIED UNANIMOUSLY (12/0)**

Attachment 1

Proposed Pedestrian Access Way Closure

Bongiovanni Court and Pruitt Crescent, Lesmurdie

Photograph of the Pedestrian Access Way from Bongiovanni Court



Attachment 2

Proposed Pedestrian Access Way Closure
Bongiovanni Court and Pruiti Crescent, Lesmurdie
Submission Table

Submission		Details	Comments
1.	C Torney 1 Mario Court LESMURDIE WA 6076	Object to the proposal a) Kids might need access b) People taking pets for walk	a) Noted, however the pedestrian access way does not provide any access. b) Noted.
2.	P Rowland 31 LESMURDIE Rd LESMURDIE WA 6076	Objection: Although we rarely use the footpath now because it is overgrown, we would prefer that it remain open.	Noted.
3.	H Bishop 14 Rootes Road, LESMURDIE WA 6076	No Objection	Noted.
4.	W Plumb 1 Bongiovanni Crt LESMURDIE WA 6076	No Objection That would bring more privacy for residents.	Noted.

5.	B Baker 33 Pruitt Crescent LESMURDIE WA 6076	No Objection To my knowledge, the north end of the footpath is on private land. It has never been used as a right way and therefore closing it should not adversely affect anyone.	Noted.
6.	J Harapeet 4 Bongiovanni Crt LESMURDIE WA 6076	No Objection a) During their 13 years residents on that area, that laneway hasn't been open. As a result of dirt and not proper fencing. It has never been maintained by council in this area. b) Once neighbours could use part of the lane to access the rear of their block which they are improving.	a) Noted. b) Noted.
7.	P Campbell 35 Pruitt Crescent LESMURDIE WA 6076	No Objection	Noted.
8.	E Arnold 8 Rootes Road LESMURDIE WA 6076	No Objection	Noted.
9.	A Matters 2 Mario Court LESMURDIE WA 6076	No Objection	Noted.

10	B Bradley 7 Rootes Road LESMURDIE WA 6076	No Objection	Noted.
11	Trevor Graham Thiel 13 Rootes Rd LESMURDIE WA 6076	No Objection	Noted.
12	S Andro 6 Rootes Rd LESMURDIE WA 6076	No Objection	Noted.
13	K Gunter 5 Bongiovanni Crt LESMURDIE WA 6076	No Objection	Noted.
14	T Whitsed 20 Rootes Rd LESMURDIE WA 6076	No Objection	Noted.
15	P Pruili 327 LESMURDIE Rd LESMURDIE WA 6076	No Objection A Footpath to nowhere.	Noted.
16	M Lewis 12 Rootes Rd LESMURDIE WA 6076	No Objection a) No access for the last 6 years. b) They have been applying to close the pedestrian access way in the past as they feel they have very little privacy on their block as there is no fence.	a) Noted. b) Noted.

		c) There is another PAW less than 100m away that connects Mario Court to Rootes Rd.	c) Noted.
17	Water Corporation PO Box 100 LEEDERVILLE WA 6902	No Objection	Noted.
18	Telstra Corporation Forecasting & Area Planning Locked Bag 2525 PERTH WA 6001	No Objection	Noted.
19	WA Gas Networks Pty Ltd Land Management Coordinator PO Box W2030 PERTH WA 6846	No Objection	Noted.
20	Western Power Western Power Locked Bag 2520 PERTH WA 6001	No Objection	Noted.

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

43. Local Planning Scheme No. 3 Amendment - Rezone from Public Purpose to Special Rural and Additional Uses – Lot 7 (25) and Lot 4255 (29) Lewis Road, Wattle Grove

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	PG-LPS-003
Applicant	Nil
Owner	Shire of Kalamunda
Attachment 1	Local Planning Strategy Key Elements Plan

PURPOSE

1. To consider an amendment to Local Planning Scheme No. 3 ("Scheme") to rezone Lot 7 (25) Lewis Road to grant additional uses of Community Purposes and Place of Worship and rezone Lot 4255 (29) Lewis Road, Wattle Grove, from Public Purpose (Hall/Community Centre) to Special Rural, and allow for the additional uses Community Purpose and Place of Worship.

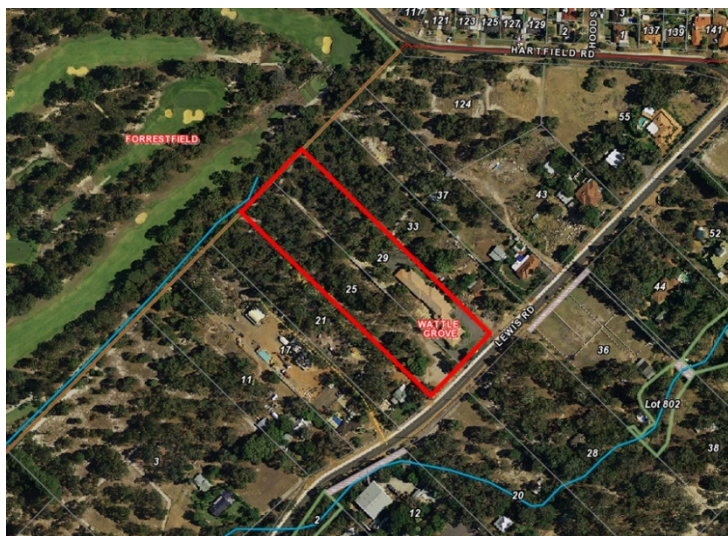
BACKGROUND

2. Land Details:

Land Area:	1.02ha (each lot)
Local Planning Scheme Zone:	Local Reserve – Public Purpose (Hall/Community Centre)(Lot 4255) Special Rural (Lot 7)
Metropolitan Regional Scheme Zone:	Rural

Locality Plan

3.



4. Lot 7 is vacant land.
5. Lot 4255 contains a community hall and associated car parking, which has been previously occupied by Swan TAFE.
6. Surrounding properties contain single dwellings and associated outbuildings. It should be noted that the Shire also owns the properties which abut the south west and north west boundaries.
7. Nearby properties are zoned Special Rural under the Scheme.
8. If the amendment is approved by the Minister for Planning the property will have no subdivision potential because it is less than 2 hectares in area.
9. The surrounding properties, with the exception of the property at the rear, have been identified in the Shire's Local Planning Strategy ("the Strategy") as being a Foothills Investigation Area with the intention of being rezoned to Residential Bushland. Refer to the Local Planning Strategy Key Elements Plan (Attachment 1).
10. The proposed Residential Bushland zoning would allow for minimum lots size ranging from approximately 2,000sqm to 4,000sqm in area.

DETAILS

11. It is proposed to rezone Lot 4255 from Public Purpose (Hall/Community Centre) to Special Rural.
12. Approval is also being sought to allow for the uses Community Purpose and Place of Worship to be considered on the subject properties, in addition to those already able to be considered in the Special Rural zone.

STATUTORY AND LEGAL IMPLICATIONS

13. The *Town Planning Regulations 1967* and *Planning and Development Act 2005* establish procedures relating to amendments to local planning schemes. If Council resolves to adopt the proposed amendment, then ultimately the amendment will be determined by the Minister for Planning.
14. If the amendment is approved by the Minister, applications for land uses such as Community Purpose and Place of Worship could be considered, subject to planning approval being obtained from the Shire.
15. Clause 4.2.2 (Objectives of the Zones – Special Rural) of the Scheme stipulates that an objective of the Special Rural zone is to retain the amenity in a manner consistent with orderly and proper planning.

16. Clause 4.5 (Additional Uses) of the Scheme stipulates that *“despite anything contained in the Zoning Table, the land specified in Schedule 2 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land”*.

POLICY IMPLICATIONS

17. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

18. If the amendment was initiated by Council, the Amendment would be formally advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967* and *Planning and Development Act 2005*.
19. The amendment would be required to be advertised in the form of a notice being published in a district newspaper. A sign advertising the proposal would also be required to be erected on the subject property.

FINANCIAL CONSIDERATION

20. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

21. *Kalamunda Advancing: Strategic Community Plan to 2023*
- OBJECTIVE 5.2 – To deliver alternative funding strategies through property development to fund future investments.
- Strategy 5.2.3 Assess and preserve land reserved for Public Purpose where it provides a benefit to the broader community.

SUSTAINABILITY

Social Implications

22. Nil.

Economic Implications

23. If approved, the proposed land uses will potentially create more employment opportunities for local residents.

Environmental Implications

24. Nil.

RISK MANAGEMENT CONSIDERATIONS

25. Nil.

OFFICER COMMENT

26. The proposed zoning is considered appropriate as it is the same zoning as nearby properties.
27. The proposed additional uses are considered acceptable as they will not have an impact on the amenity of the area.
28. Considering the above, it is recommended that Council initiates the amendment.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 43/2013)

That Council:

1. Initiates the amendment to Local Planning Scheme No. 3, in accordance with the following:

PLANNING AND DEVELOPMENT ACT 2005
RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME
SHIRE OF KALAMUNDA
LOCAL PLANNING SCHEME NO. 3
AMENDMENT NO.

Resolved that the Council in pursuance of Part 5 of the *Planning and Development Act 2005* amend the above Local Planning Scheme by:

1. Rezoning Lot 4255 (29) Lewis Road, Wattle Grove, from Public Purpose (Hall/Community Centre) to Special Rural.
2. Inserting the following into Schedule 2 (Additional Uses) of the Scheme:

No.	Description of Land	Additional Use	Conditions
A 49	Lot 7(25) and Lot 4255 (29) Lewis Road, Wattle Grove	Community Purpose and Place of Worship.	Uses are not permitted unless approval is granted by Council ("D").

The amendment documents being adopted by Council and the Amendment being formally advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*, without reference to the Western Australian Planning Commission.

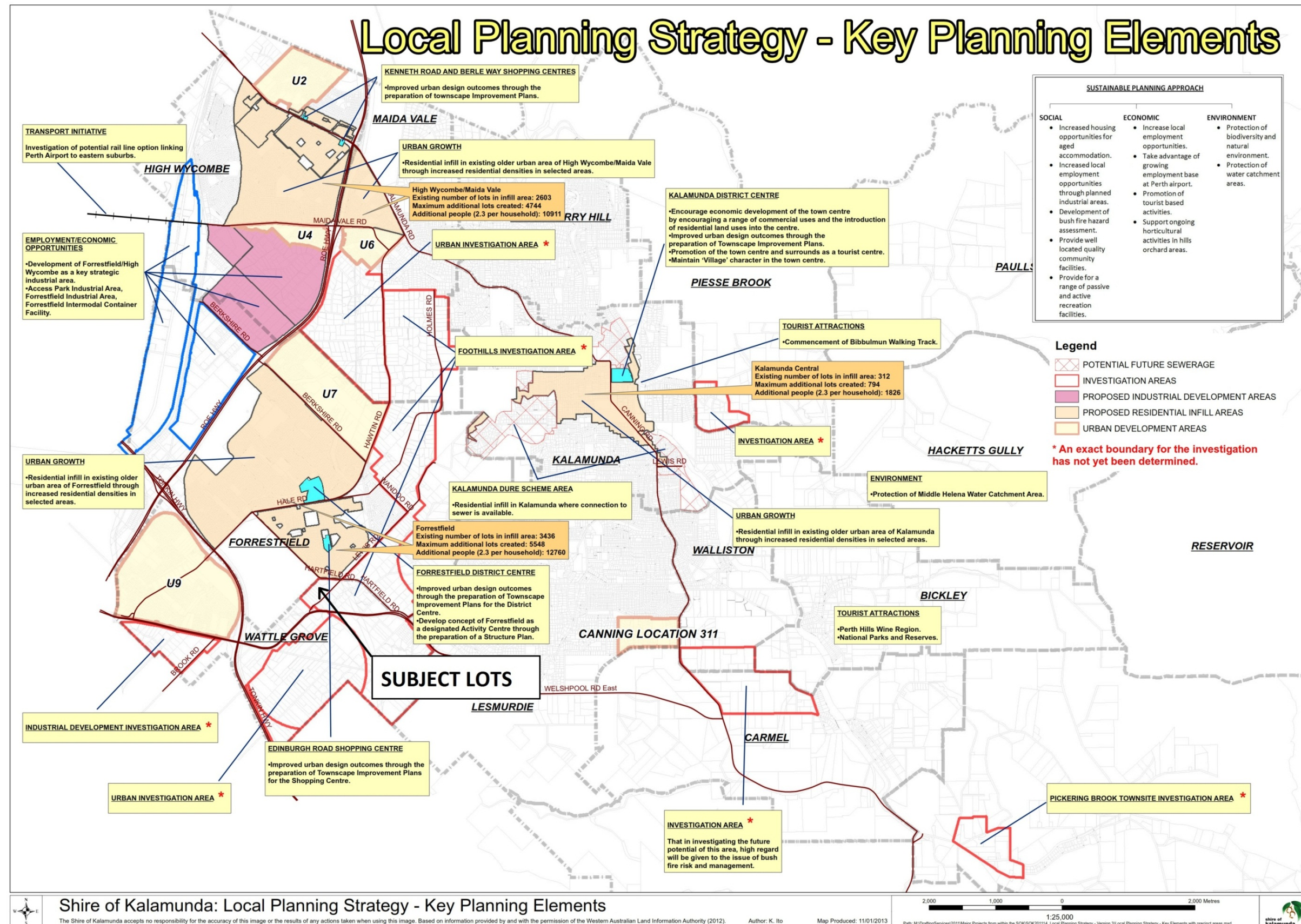
Moved: **Cr Noreen Townsend**

Seconded: **Cr Justin Whitten**

Vote: **CARRIED UNANIMOUSLY (12/0)**

Attachment 01

Local Planning Scheme No. 3 Amendment - Rezone from Public Purpose to Special Rural and Additional Uses – Lot 5 (33) and 4255 (29) Lewis Road, Wattle Grove
Local Planning Strategy Key Elements Plan



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

44. Hills Orchard Study Review (2013)

Previous Items	Nil
Responsible Officer	Development & Infrastructure Services
Service Area	Development Services
File Reference	PG-STU-003
Applicant	Shire of Kalamunda
Owner	Various
Attachment 1	Map of the Study Area
Attachment 2	Local Planning Scheme No 3 Zoning Map
Attachment 3	Draft Hills Orchard Study Review (2013)
Attachment 4	Draft Hills Orchard Review (2013) Appendices

PURPOSE

1. To endorse the Hills Orchard Study Review (2013) for public consultation purpose.

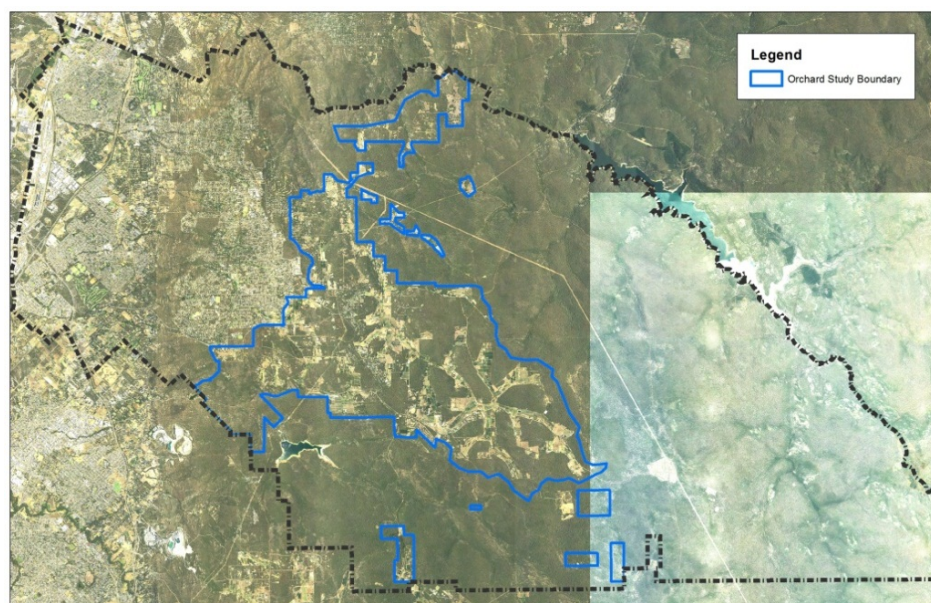
BACKGROUND

2. **Land Details:**

Aggregate Land Area:	2,326 hectares
Local Planning Scheme Zone:	Rural Agriculture, Rural Landscape Interest, Rural Conservation, Special Rural
Metropolitan Regional Scheme Zone:	Rural and Parks and Recreation

Locality Plan

- 3.



The subject land is zoned "Rural" under the MRS and "Rural Agriculture", "Rural Landscape Interest", "Rural Conservation" and "Special Rural" under

the Shire's Local Planning Scheme No 3 ("LPS No 3") (Refer Attachment 2). There is an area within the study boundaries zoned "Urban" under the MRS and "Residential Bushland" under the LPS No 3 that has not been considered under this review.

4. The subject land covers an area of approximately 2,320 hectares of the localities of Bickley, Carmel, Pickering Brook Canning Mills, Hacketts Gully, Pauls Valley and Piesse Brook. This is the same area covered by the original Hills Orchard Study plus additional properties with relevant rural zoning. Small parts of Kalamunda, Lesmurdie and Walliston are also part of the Study Area.
5. The Hills Orchard Study, completed in 1987, evaluated some of physical, social and economic factors affecting the land contained within rural areas of the Shire. Study recommendations were incorporated into District Planning Scheme No 2 and later in the current Local Planning Scheme No 3.
6. Local Planning Strategy, adopted by the WA Planning Commission in February 2013, makes recommendation for a review of the original Hills Orchard Study and consideration of the potential for further subdivision, development and opportunities for tourism in the area.

DETAILS

7. For a number of years, there has been a steady flow of requests for changes from the landowners in the area. Both the growers, as well as the landowners whose land is not under production have identified issues caused by the perceived lack of flexibility of land use and the inability to subdivide their land.
8. Based on the findings of the community workshops in December 2007, the Local Planning Strategy recommended a review of the original Hills Orchard Study. The purpose of this review was to understand the current land use and trends in the area. Also to consider the existing strategies, policies, statutory requirements and other regulations that govern the land use and the lot sizes in the study area.
9. Shire officers commenced the review in late 2011. A working group was formed, consisting of the growers and community member's representatives, Councillors and staff. A number of meetings were held during which the picture of the issues facing local growers became clearer.
10. The main issues that growers have been facing for a number of years are:
 - The availability of water has been steadily reduced and it is known that the trend will continue.
 - The loss of markets - most growers are not big enough to sell to the large food providers, local markets are too small to accommodate all the growers and the international market has become too competitive because of the inclusion of countries with cheaper labour costs.
 - Younger generations have largely chose to work in other industries which has resulted in a growing number of ageing growers who are struggling to cope with the demands of horticultural work on their own.

- The inability to subdivide large rural landholdings results in the fragmentation of the traditional horticultural family units as young people are forced to move out of the area in order to be able to purchase their own property.
 - Some pest controlling chemicals are being banned from use, making pest control management considerably harder and less cost effective.
11. Representatives from the WA Planning Commission, the Department of Agriculture and Food and the Department of Water were included in the working group meetings on regular basis. Each State Department was a major stakeholder in this process and it was crucial to have their input throughout. Equally, it was important for them to understand and recognise the issues that people in the area were facing.
12. Following the initial review of the original study, the discussions and the research of the available literature and information on comparable cases in Western Australia, Australia and overseas, the following were defined as the main objectives of this review:
- To allow traditional growers more flexibility in land uses.
 - To encourage additional land uses ancillary to the primary horticultural production.
 - To consider a potential for future subdivision in the area.
 - To review the current zoning in the area.
 - To create incentives and support horticultural production in the area.
 - To protect rural character of the area through landscape protection and
 - To protect the quality of water.
13. In considering the potential for future changes in the area, a number of State policies have to be taken into consideration:

State Planning Policy 2.5 - Agricultural and Rural Land Use Planning

14. Under this Policy the Hills Orcharding Area is listed as a Priority Agriculture Zone. The Policy applies to all the land zoned Rural under the Metropolitan Regional Scheme and the fundamental principles of this policy are:

The State's priority agricultural land resource should be protected from development that might lead to the alienation or diminished productivity, any tourist uses should be incidental to the primary agricultural use and any proposal to rezone, subdivide or develop for any beneficial non-agricultural use should be done by means of an Agricultural Impact Assessment.

State Planning Policy 2.7 - Public Drinking Water Source Policy

15. The objective of this Policy is to ensure that the land use and development within the Public Drinking Water Source Areas is compatible with the long term management of water resources for public water supply.

Development Control Policy 3.4 - Subdivision of Rural Land

16. This operational Policy guides the subdivision of rural land to achieve the four key objectives of State Planning Policy 2.5 to protect agricultural land, plan for rural settlement, minimise land use conflict and manage natural resources.

Middle Helena Catchment Area Land Use and Water Management Strategy

17. This Strategy provides the framework for land use planning and water management in the catchment area. The strategy faces pressures from development for housing, reduction and degradation of agricultural production and an increasing need for tourism opportunities.

Recommendations of the Review

18. The following are the recommendations of the Review of the Hills Orchard Study Review (2013):
- Review current zoning in the Study area to identify where changes in zoning can be proposed based on the predominant land use, land capability, and trends observed in the areas.
 - Establish a Priority Agriculture zone with potential for future subdivision. Within the new Priority Agriculture zone, allow for consideration of creation of Priority Agriculture Ancillary lots to allow for land uses such as agri-tourism and single dwellings.
 - Facilitate the direction for the future of the area by defining and clarifying the vision, guided and supported by an overarching Economic Development Strategy.
 - Address the agriculture protection objectives for the area by acknowledging the importance of a collaborative approach between all the relevant State Agencies, particularly the Department of Water, Water Corporation, Department of Agriculture and Food WA, Tourism WA, Department of Planning, and the local government.

STATUTORY AND LEGAL CONSIDERATIONS

19. Nil.

POLICY CONSIDERATIONS

20. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

21. In the course of the preparation of the review document, all the potentially affected landowners have been contacted with an extensive questionnaire. The aim of this initial consultation was to get a broader picture of the opportunities and constraints as perceived by the landowners. The response rate was 37% and has shown a general support for change both in terms of subdivision as well as an interest in the increase of tourism activities.

22. Following the adoption of the draft Hills Orchard Study Review (2013) the next phase is the formal public consultation process.

FINANCIAL CONSIDERATION

23. Although the majority of work on the review has been done in-house, a land capability consultant was engaged at the final stage of the drafting of the document. Consultant's fees were paid through the budgetary allocation for this project.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

24. *Kalamunda Advancing: Strategic Community Plan to 2023*
- Strategy 4.2.3 Engage with stakeholders to determine the most appropriate land use strategy for the future of the Hills Orchard Region.
- Strategy 5.4.2 Ensure tourism development is integrated into planning in regards to the Perth Hills.

SUSTAINABILITY

Social Implications

25. An ageing population of landowners within the orcharding area and inability to encourage younger the generation to continue in the industry.
26. The fragmentation of the traditional orcharding families being one of the most important factors in the decline of the agriculture in the area.
27. One of the objectives of the review is seeking to find the way to encourage young families to stay in the area and to stay connected to the agricultural land in some fashion.

Economic Implications

28. Economic viability of orcharding in the Kalamunda Hills have been severely diminished in the years since the original Hills Orchard Study was published.
29. There has been a significant loss of international market, due to competition from the countries that have the advantage of cheaper labour and operational costs.
30. Most of the hills growers are too small to supply the large supermarket chains and the local markets are too small to accommodate all the local growers.
31. A number of the orchards are of marginal economic viability but producers remain in the industry as they feel they have no other choice due to a difficulty in selling larger properties or because of family history and commitment to orcharding.

Environmental Implications

- 32. Most of the Study area is within the Middle Helena Catchment Area. Water resource protection objectives are strongly reinforced in the planning system by SPP 2.7 (2003) Public Drinking Water Source Policy and SPP 2.9 (2006) Water Resources. Almost all rural zoned land within the Kalamunda Hills Orchard Study is currently Priority 2 classification.
- 33. Because the proclaimed surface water catchment area is in close proximity to a rapidly growing capital city and in the part significantly affected by the declining rainfall, it is suggested that the policy objectives relating to public drinking water source protection will be important in determining future possible changes in the area.
- 34. The Shire of Kalamunda is currently in the process of compiling the Bushfire Management Strategy and bushfire danger zone mapping, and when completed, the Strategy will have implications on the potential for further rezoning and the subdivision in areas of extreme bushfire risk.

RISK MANAGEMENT CONSIDERATIONS

- 35. Should the recommendations of this review be implemented through the amendments to the Local Planning Scheme No 3 and further subdivision facilitated through the Study area, there is a potential for further loss of agricultural land. Considering that the trend has been for reduction of agricultural land, despite the statutory instruments currently in place, it is fair to conclude that the decline in agricultural production will continue anyway, if nothing is changed.
- 36. Therefore, the risk associated with the proposed changes is considered minor, in comparison with the potential benefits the changes might facilitate.

OFFICER COMMENT

- 37. The orchard industry in Kalamunda is characterised by family run businesses that have historically depended on the extended family labour, particularly during the times of the economic stress. Considering current economic viability of orcharding in the area, high establishment costs and long return periods for new orchards, it is unlikely there will be any substantial expansion of areas under crop within the Study Area. Therefore, the objective of this review should be to provide means for retention of current agricultural uses by assisting orchard businesses to continue operating as traditional lower cost family run enterprises.
- 38. Lot size restrictions aimed at land resource protection (current 12 ha minimum with the possibility for 6 ha minimum, subject to conditions in "Rural Agriculture" zone) have been in place since the first Hills Orchard Study was completed in 1988, during which time there has been a 22% reduction in the area under the crop. It is quite clear that the lot size controls alone have not been a sufficient tool in ensuring the retention of orcharding industry in the Kalamunda Hills area.

39. Although supportive in principle of strategic agricultural land resource protection objectives, the long term retention of Hills Orchard Area will need a whole government approach. The pressures the orchardists are facing are predominantly related to markets, produce prices and water availability and those factors are outside the Shire's control.
40. Until such time that a whole of government approach is developed and implemented to assist the survival of the predominantly small, family run enterprises within the Hills Orchard area, the Shire seeks to assist by responding to the orchardists requests for planning and lot size flexibility. In doing this, it has to be emphasised that the Shire is not encouraging fragmentation of existing areas under crop. It will continue to support the minimum lot sizes recommended by the Department of Water and the WA Planning Commission for protection of water quality within the Public Drinking Water Source Areas that encompass most of the Hills Orchard Area.
41. This review has brought together all the major stakeholders in the Study Area and is an important step in progression towards a constructive solution for the area.

A Mover and Seconder were received and Councillors went into debate. Those in favour of the Recommendation indicated they considered there was sufficient time in the 60 day consultation period for all parties to review the document.

The Councillor who spoke against the Recommendation indicated that he would like, with other Ward Councillors, to take the document to the Community Working Group for comment. If they had changes that could be accepted, these could be incorporated into the document prior to the public consultation period. A Councillor also asked for a Councillor Forum or Workshop to refine any requested changes and asked for confirmation that there would be time for this if the report was delayed for a month.

The Acting Chief Executive Officer considered that the Officer's Recommendations in the document are unlikely to change unless significant new information is received.

The vote was taken and the Officer's Recommendation was lost.

The Presiding Person asked the Councillor who spoke against the Recommendation if he had a new Motion; this was then put and carried.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 44/2013)

That Council:

1. Endorses the draft Hills Orchard Study Review (2013) (Attachment 3) and draft Hills Orchard Study Review (2013) Appendices (Attachment 4) for a 60 day public consultation period.
2. Notes that to assist in the public consultation process an Information Brochure will be prepared to summarise the Hills Orchard Study Review (2013).

Moved: **Cr Noreen Townsend**

Seconded: **Cr Margaret Thomas**

Vote: **For**
Cr Allan Morton
Cr Noreen Townsend
Cr Margaret Thomas

Against
Cr John Giardina
Cr Frank Lindsey
Cr Geoff Stallard
Cr Justin Whitten
Cr Martyn Cresswell
Cr Bob Emery
Cr Dylan O'Connor
Cr Sue Bilich
Cr Simon Di Rosso

LOST (3/9)

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 44/2013)

1. That this Report lay on the table for one month to enable Councillors to consult with members of the community regarding any possible amendments to the Report.

Moved: **Cr John Giardina**

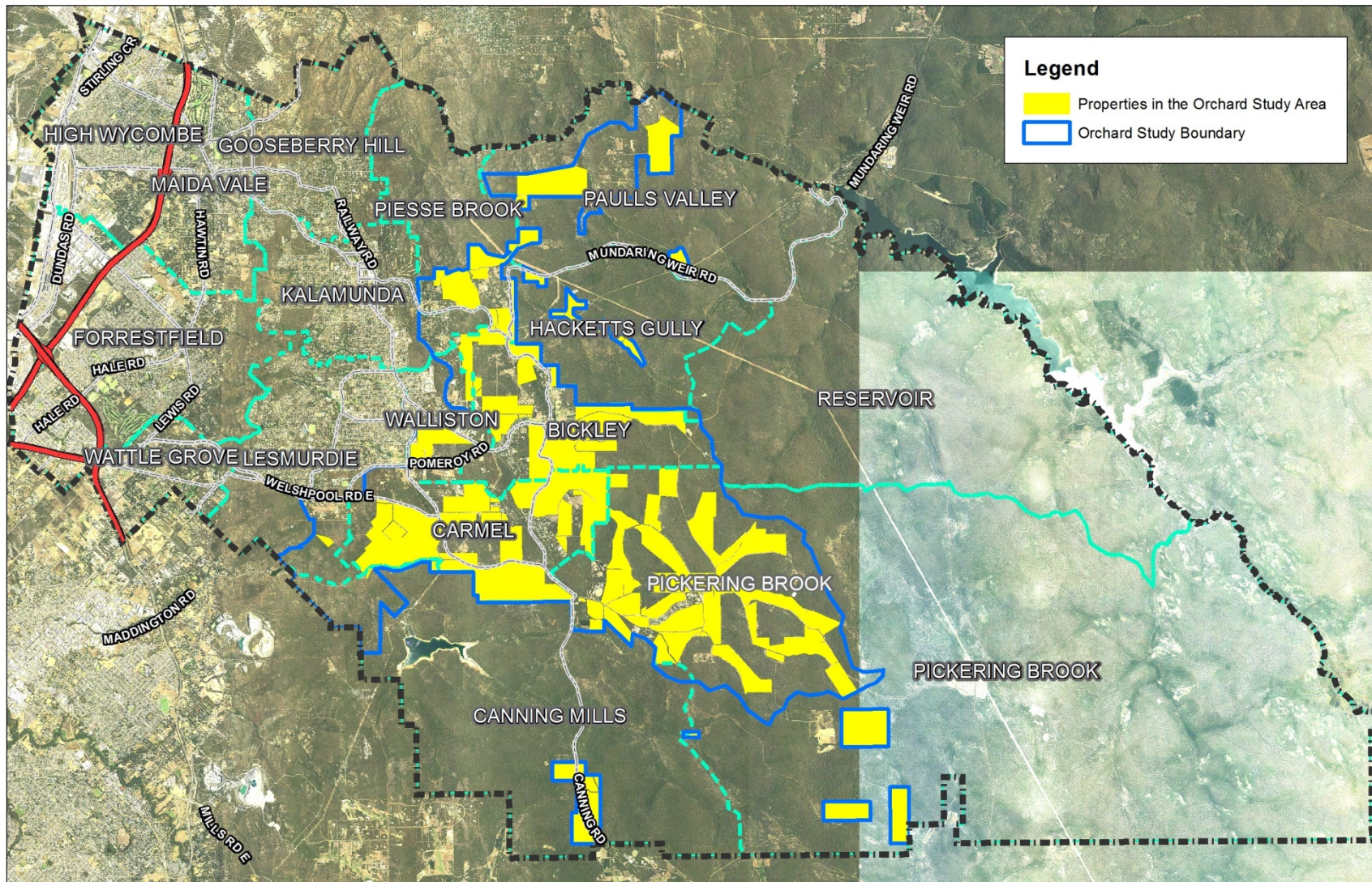
Seconded: **Cr Frank Lindsey**

Vote: **For**
Cr John Giardina
Cr Frank Lindsey
Cr Geoff Stallard
Cr Allan Morton
Cr Justin Whitten
Cr Martyn Cresswell
Cr Bob Emery
Cr Dylan O'Connor
Cr Sue Bilich
Cr Simon Di Rosso

Against
Cr Noreen Townsend
Cr Margaret Thomas

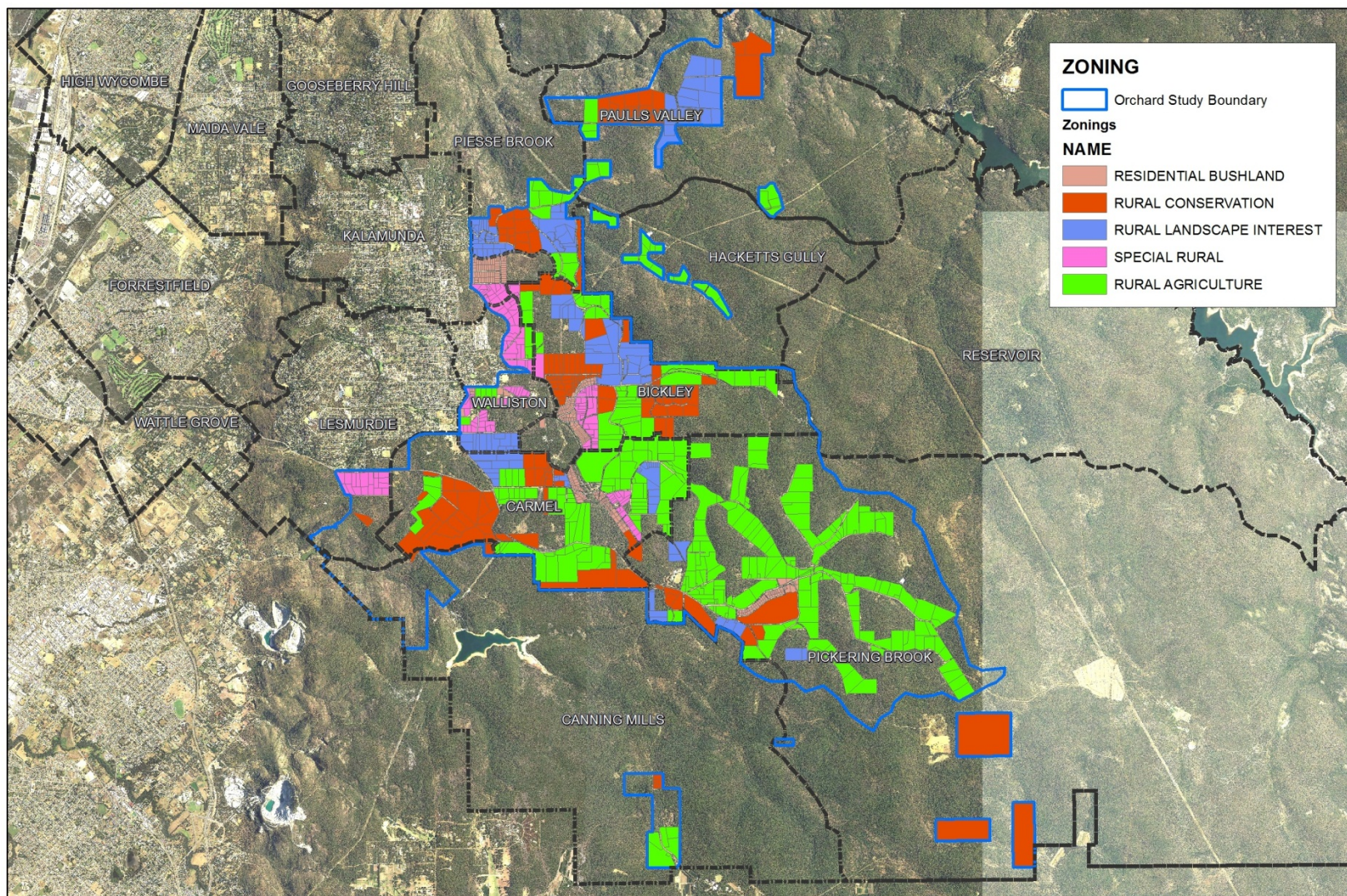
CARRIED (10/2)

Attachment 1



HILLS ORCHARD STUDY REVIEW- MAP OF THE STUDY AREA
Aerial Photo Map

Attachment 2



HILLS ORCHARD STUDY REVIEW- LOCAL PLANNING SCHEME NO 3 ZONING MAP
Zoning Map

Attachment 3

Hills Orchard Study Review (2013)

[Click **HERE** to go directly to the document](#)

Attachment 4

Draft Hills Orchard Study Review (2013)
Appendices

[Click **HERE** to go directly to the document](#)

10.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 Nil.

11.0 QUESTIONS BY MEMBERS WITHOUT NOTICE

11.1 Cr Dylan O'Connor – Request for update on Jacaranda Tree on the Verge of 13 Richards Road, High Wycombe

Q. When is this tree scheduled for removal?

A. The Manager Infrastructure Operations indicated that quotes have been requested with responses are expected this week. It is anticipated the tree will be taken down in the week commencing 15 July 2013.

11.2 Cr Noreen Townsend – Inclusion of Development Applications Determined Under Delegated Authority in the D&I Agenda

Q. Could the Development Applications Determined Under Delegated Authority be included in the Development & Infrastructure Services Agenda again?

A. The Acting Chief Executive Officer confirmed that these would be supplied to Councillors in the future.

12.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

12.1 Nil.

13.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

13.1 *A memo had been circulated to Councillors with sensitive information regarding the context of this item and therefore the Presiding Person approved its inclusion.*

45. Request to Modify Conditions – The Parking of One Commercial Vehicle - Lot 57 (5B) Goodall Street, Lesmurdie

Previous Items	OCM 70/2013
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	GD-03/005
Applicant	W Barnes
Owner	P and S Arasi
Attachment 1	Site Plan
Attachment 2	Photograph of the Commercial Vehicle

PURPOSE

1. To consider whether to modify conditions of the approval for the parking of one commercial vehicle (a bus) at Lot 57 (5B) Goodall Street, Lesmurdie. Refer to (Attachments 1 and 2).

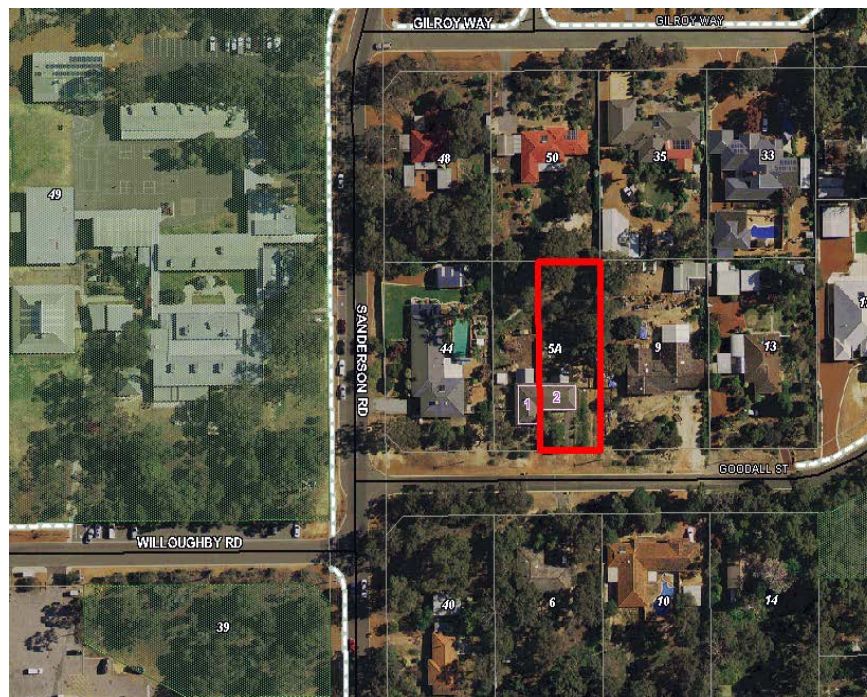
BACKGROUND

2. **Land Details:**

Aggregate Land Area:	2,269sqm
Local Planning Scheme Zone:	Residential R5
Metropolitan Region Scheme Zone:	Urban

Locality Plan

- 3.



4. In June 2013, Council resolved (Resolution OCM 70/2013) to approve a retrospective planning application to continue to park a commercial vehicle on the property. The following conditions were included in the approval:

- “h. Screening being erected on the subject lot adjacent to the dividing fence adjoining Lot 57 (9) Goodall Street, Lesmurdie to the Shire’s satisfaction. The screening is to be erected within 14 days of the date of approval and is to be maintained thereafter by the landowner.*
- “i. Should the screening set out above in Clause h. not be erected within 14 days of the approval to Council’s satisfaction then after 14 further days this approval will lapse.”*

5. These were included by Council to address concerns from the neighbour regarding the visual impact the commercial vehicle was having on their amenity.
6. The deadline by when the screening is to be installed to its satisfaction by is Tuesday 9 July 2013.
7. Since the approval was issued one of the landowners of 5B Goodall Street has advised the Shire that they may not be able to meet Council's deadline due to personal circumstances, details of which will not be disclosed in this report.

DETAILS

8. Council is requested to consider modify condition 'h' and 'i' of its approval as follows:
 - “h. Screening being erected on the subject lot adjacent to the dividing fence adjoining Lot 57 (9) Goodall Street, Lesmurdie to the Shire's satisfaction. The screening is to be erected within **28** days of the date of approval and is to be maintained thereafter by the landowner.*
 - i. Should the screening set out above in Clause h not be erected within **28** days of the approval to Council's satisfaction then this approval will lapse.”*
9. If Council were to approve this modification the screening would be required to be installed by 23 July 2013.
10. It should be noted that the landowners have not requested that the conditions be modified.

STATUTORY AND LEGAL IMPLICATIONS

11. Clause 8.3 (Amending or Revoking a Planning Approval) of Local Planning Scheme No. 3 ("Scheme") allows for a planning approval to be amended by the decision maker.
12. If Council decides not to modify the condition, or imposes conditions that are not acceptable to the applicant, there is a Right of Review (appeal) to the State Administrative Tribunal.

POLICY IMPLICATIONS

13. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

14. Nil.

FINANCIAL CONSIDERATION

15. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

16. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 4.1 - To ensure the Shire's development is in accord with the Shire's statutory and legislative obligations and accepted urban design planning standards.

Strategy 4.3.1 Provide efficient building and development approval services to the community.

SUSTAINABILITY

Social Implications

17. Nil.

Economic Implications

18. Nil.

Environmental Implications

19. Nil.

RISK MANAGEMENT CONSIDERATIONS

20. Nil.

OFFICER COMMENT

21. It is noted when the proposal was advertised prior to Council's decision, some landowners had expressed strong opposition to the proposal to park a commercial vehicle on the property primarily on amenity grounds.
22. Considering the landowner's personal circumstances, a 28 day period to install the screening from the date of Council's original date of approval is deemed to be an appropriate amount of time to do so.

Councillors asked for clarity on a number of points regarding the extension of time. A Councillor commented that as this would be a decision made at a Standing Committee, rather than full Council, it could not overturn the original decision of Council. The Acting Chief Executive Officer stated that as it was a decision being progressed by Council he would take that as sufficient to ensure no action was taken to enforce the original deadline.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COMMITTEE (D&I 45/2013)

That Council:

1. Modifies condition 'h' and 'i' of its approval for one commercial vehicle, a Bedford Bus (registration number 1CPU 256), to continue to park at Lot 57 (5B) Goodall Street, Lesmurdie, to the following:
 - h. Screening being erected on the subject lot adjacent to the dividing fence adjoining Lot 57 (9) Goodall Street, Lesmurdie to the Shire's satisfaction. The screening is to be erected within **28** days of the date of approval and is to be maintained thereafter by the landowner.
 - i. Should the screening set out above in Clause h not be erected within **28** days of the approval to Council's satisfaction then this approval will lapse.
2. Advises the landowners of Lot 57 (5B) Goodall Street, Lesmurdie that no further extensions to the 28 day deadline will be granted by Council.

Moved: **Cr John Giardina**

Seconded: **Cr Sue Bilich**

Vote: **CARRIED UNANIMOUSLY (12/0)**

14.0 MEETING CLOSED TO THE PUBLIC

14.1 Nil.

15.0 CLOSURE

15.1 There being no further business the Chairman declared the meeting closed at 6.50pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed: _____
Chairman

Dated this _____ day of _____ 2013