



# Public Agenda Briefing Forum

Notes

9 November 2021



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**1. Official Opening**

The Presiding Member opened the meeting at 6:31 am and welcomed Councillors, Staff and Members of the Public Gallery. The Presiding Member also acknowledged the Traditional Owners of the land on which we meet the Whadjuk Noongar people.

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

**Councillors**

**South East Ward**

Janelle Sewell (Presiding Member)

Geoff Stallard

**South West Ward**

Mary Cannon

Kellie Miskiewicz

Brooke O'Donnell

**North West Ward**

Sue Bilich

Lisa Cooper

Dylan O'Connor

**North Ward**

Andrew Osenton

Kathy Ritchie

Margaret Thomas JP (Mayor)

**Members of Staff**

**Chief Executive Officer**

Rhonda Hardy

**Executive Team**

Gary Ticehurst - Director Corporate Services

Brett Jackson - Director Asset Services

Peter Varelis - Director Development Services

**Management Team**

Andrew Fowler-Tutt - Manager Approval Services

Chris Thompson - Manager Asset & Waste Operations

**Administration Support**

Darrell Forrest - Governance Advisor

Donna McPherson - Executive Assistant to the CEO

**Members of the Public** 23

**Members of the Press** Nil.

**Apologies**

Cr John Giardina

**Leave of Absence Previously Approved Nil.**

**3. Declarations of Interest**

**3.1. Disclosure of Financial and Proximity Interests**

- a. Members must disclose the nature of their interest in 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*.)

3.1.1 Nil.

**3.2. Disclosure of Interest Affecting Impartiality**

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

3.2.1 Nil.

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

4.1 EMRC Statement - Cr Stallard

The Presiding Member invited Cr Stallard to make a brief statement.

On Tuesday, 19<sup>th</sup> of October, at the Special council meeting,

I made a statement about the EMRC Executive's decision making.

I would like to formally withdraw those comments, and apologise to the EMRC executive, and others for any angst that was caused.

**5. Public Question Time**

5.1 Questions from the public are invited following the presentation of reports from the City.

**6. Public Statement Time**

6.1 Statements from the public are invited following the presentation of reports from the City.

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**7. Public Submissions Received in Writing**

7.1 Nil.

**8. Petitions Received**

8.1 Nil.

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

9.1 Item 10.2.1. Award of RFT 2102 - Provision of Traffic Management Services  
– Confidential Attachment - Tender Evaluation Report RFT 2102

*Reason for Confidentiality: Local Government Act 1995 (WA) Section 5.23 (2) (c) - "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting."*

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**10. Reports to Council**

**10.1. Development Services Reports**

**10.1.1. Revocation of Local Planning Policy No.14 - Car Parking**

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

The Manager Approval Services provided a presentation on this report.

Council sought clarification on aspects of the effect of the revocation of the policy. The Manager Approval Services provided additional information and clarification.

Previous Items	Nil
Directorate	Development Services
Business Unit	Approval Services
File Reference	3.009297
Applicant	Nil
Owner	Nil

Attachments	1. Attachment 1 - Local Planning Policy 14 - Car Parking [ <b>10.1.1.1</b> - 2 pages]
	2. Attachment 2 - Part 9 A Deemed Provisions [ <b>10.1.1.2</b> - 14 pages]

**TYPE OF REPORT**

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
Executive	When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans and budgets)
Information	For Council to note
 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 2031*

**Priority 4: Kalamunda Leads**

**Objective 4.1** - To provide leadership through transparent governance.

**Strategy 4.1.2** - Build an effective and efficient service based organisation.

**EXECUTIVE SUMMARY**

1. The purpose of this report is for Council to consider the revocation of Local Planning Policy 14 – Car Parking (Policy) and amending Delegation PLN1- (CEO) Planning Matters.
2. The Policy has since been superseded by changes to the 'Deemed Provisions' of the *Planning and Development (Local Planning Schemes) Regulations 2015* which are automatically read into all planning schemes, rendering the Policy superfluous. The City's policy framework is required to not duplicate or contradict that of the State Government.
3. While it is appropriate for Council to consider revoking the Policy, it is also important to ensure sufficient oversight is provided when significant car parking variations are proposed. Amending the PLN1 Delegation to provide a limit of 50% reduction will, from the City's perspective, provide the appropriate balance between facilitating the timely determination of development applications and the necessary Council oversight in situations of significant variation.
4. Given the 'Deemed Provisions' provide a consistent framework for planning applicants and all local governments within the metropolitan region, the Policy is no longer required and is recommended to be revoked.

**BACKGROUND**

5. The City periodically reviews, revokes, and adds new policies to its register as changes to the wider planning framework take effect.
6. In this instance, changes to the planning framework at a State Government level have triggered a review of the City's Policy. The *Planning and Development (Local Planning Schemes) Regulations 2015* have recently been subject to review as part of the State Government's focus on planning reform.

7. The first stage of the planning reform included a broader range of exemptions for small home projects such as patios, water tanks, and cubby houses.
8. Part 9A was added to the Deemed Provisions, having effect from 1 July 2021. The Department of Planning, Lands and Heritage (DPLH) describes the key changes as introducing parking exemptions for certain types of development and providing a consistent approach (across local governments) to car parking variations, waivers, cash in lieu and shared parking.
9. The table below indicates nearby Local Government approaches to car parking via planning policies.

Local Government	Car Parking Policy	Content similar to Kalamunda	Consistent with Part 9A	Last Review
Mundaring	No	N/A	N/A	N/A
Swan	Yes	Yes	No	March 2021
Gosnells	No	N/A	N/A	N/A
Serpentine-Jarrahdale	Yes	Cash-in-lieu only	No	July 2018

**DETAILS AND ANALYSIS**

10. The City’s Policy covers similar considerations as Part 9A of the deemed provisions; however, Part 9A provides additional detail to assist with the implementation of alternative parking arrangements in situations where car parking variations meet the requirements of Part 9A. The intent of Part 9A is to provide flexibility for local government when assessing car parking shortfall requirements and to streamline the planning approval process.
11. Part 9A facilitates consideration of variations to car parking provisions in a consistent manner, across all local governments covered by the Metropolitan Region Scheme.
12. The table below compares the topics covered by the City’s Policy, and those covered by Part 9A of the deemed provisions.

<b>Topic</b>	<b>Kalamunda</b>	<b>Part 9A</b>
Allows variations to minimum parking requirements	Yes (subject to Council approval)	Yes
Provides criteria to consider a variation	Yes	Yes
Exemptions to meeting parking requirements	No	Yes
Details Cash-in-lieu requirements	No	Yes
Details shared parking requirements	No	Yes
Details parking plan requirements	No	Yes

13. The City's Policy references specific matters to be considered prior to car parking variations being approved. Matters include safety, amenity, shared arrangements, and demand. These matters are also referenced in Part 9A of the deemed provisions.
14. As the deemed provisions now cover matters which the City relied on the Policy to provide guidance for, the Policy no longer serves a planning purpose.
15. In the context of the guidance now provided for by Part 9A of the deemed provisions, the appropriate method for ensuring consideration of development applications which propose variations to the parking requirements of the Scheme is to amend Delegation PLN1 – (CEO) Planning Matters.
16. It is proposed to allow variations up to a 50% reduction of Scheme requirements to be determined by the Manager Approval Services and Director Development Services. Variations above 50% would need to be determined by Council, unless the application is being determined through the Development Assessment Panel process.
17. Amending the Delegation achieves an appropriate balance of streamlining the consideration of development applications which can demonstrate consistency with the detailed requirements of the deemed provisions, but also facilitates Council consideration in circumstances of considerable variation to the Scheme.

18. Furthermore, the City has undertaken a review of recently approved developments with car parking variations and the proposed delegated variation limit of 50% accords with those approvals:

Address (Development)	Variation
27 Nardine Close, High Wycombe (Warehouse)	25 bay reduction (36%) Delegated (space on-site to provide the two bays to meet 30% state of emergency delegation)
17-21 Ashby Close, Forrestfield (Light Industry)	84 bay reduction (29%) JDAP
Lot 16 Coldwell, Lot 18 Courtney Place, Wattle Grove (Warehouse)	4 bay reduction (3%) Delegated
Lots 38-40 & Lot 9001 Abernethy Road (Industrial)	25 bay reduction (27%) JDAP

**APPLICABLE LAW**

19. *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2, Part 3 Clause 6.

Clause 6(b) states that a planning policy can be revoked by a notice of revocation prepared by the local government and published by the local government in accordance with clause 87.

20. City of Kalamunda Local Planning Scheme No.3 Part 2, Clause 2.3. Clause 2.3.1 of the Scheme states that if a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.

Clause 2.3.2 states that a Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval, but for due regard. These provisions explain that the deemed provisions which are automatically part of all town planning schemes prevail over the provisions of local planning policies.

**APPLICABLE POLICY**

21. Nil.

**STAKEHOLDER ENGAGEMENT**

22. Revoking the Policy is a technical matter which does not require consultation. The City’s review of the Policy is based on changes to the state planning framework which have been subject to consultation by the

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State Government. Should Council support repealing the Policy notice will be provided in accordance with clause 87 of the deemed provisions.

**FINANCIAL CONSIDERATIONS**

23. Nil.

**SUSTAINABILITY**

24. Nil.

**RISK MANAGEMENT**

25.

<b>Risk:</b> The policy is retained with the City’s planning framework conflicting with the state’s framework, establishing mixed requirements and guidance for the community when preparing development applications, and the City when assessing proposals.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Moderate	Possible	Medium
<b>Action/Strategy</b>		
Revoke LPP14 – Car Parking		

26.

<b>Risk:</b> The policy is rescinded, but there is less oversight on developments which propose significant parking variations.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Moderate	Possible	Medium
<b>Action/Strategy</b>		
Amend Delegation CEO PLN1 – (CEO) Planning Matters to allow variations up to 50% reduction of Scheme requirements to be determined by the Manager Approval Services and Director Development Services, but variations over 50% would need Council Determination.		

**CONCLUSION**

27. The City’s Policy has provided the necessary guidance to the assessment of development applications which propose variations to car parking requirements of the Scheme.

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28. Notwithstanding, updates to the state planning framework have the same effect of the City's Policy, and in some areas a greater effect, effectively superseding the City's Policy.
29. While it is appropriate for Council to consider revoking the Policy, it is also important to ensure sufficient oversight is provided when significant car parking variations are proposed. Amending the PLN1 Delegation to provide a limit of 50% reduction will, from the City's perspective, provide the appropriate balance between facilitating the timely determination of development applications and the necessary Council oversight in situations of significant variation.
30. It is recommended Council revoke Local Planning Policy 14 – Car Parking and amend Delegation PLN1.

**Voting Requirements: Absolute Majority**

**RECOMMENDATION**

That Council:

1. REVOKE Local Planning Policy 14 – Car Parking pursuant to Schedule 2, Part 3, Clause 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
2. PUBLISH notice of Local Planning Policy 14 – Car Parking being revoked pursuant to Schedule 2, Part 3, Clause 6(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. AMEND Delegation PLN1 – (CEO) Planning Matters to allow variations up to 50% reduction of Scheme car parking requirements to be determined by the Manager Approval Services and Director Development Services, but variations over 50% would need Council Determination.

**10.1.2. Lot 500 (32) Gavour Road, Wattle Grove - Proposed Scheme Amendment No.107**

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

The Manager Approval Services provided a presentation on this report.

Ms Bev Dornan asked questions of the City in relation to the report. The questions were taken on notice by the City. The Director Development Services advised some of the issues raised may be answered by the representative of the applicant during their presentation.

Mr Paul McQueen and Mr Neil Teo, representing the applicant presented a deputation to the meeting in relation to the application presented. Council queried aspects of the application. These matters were clarified and responded to by the representative of the applicant.

Council sought clarification in relation to land tenure. The applicant’s representatives provided responses.

Clarification on the reason for the inclusion, and subsequent removal, of approval conditions were raised by Council. The applicant’s representatives provided an opinion on this matter.

Previous Items	SCM 37/2015
Directorate	Development Services
Business Unit	Statutory Planning
File Reference	GV-01/032 / PG-LPS-003/057 / PG-LPS-003/107
Applicant	Dynamic Planning and Developments Pty Ltd
Owner	R. Leighton & P. Leighton

Attachments	1. Local Planning Scheme Amendment [ <b>10.1.2.1</b> - 29 pages]
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**TYPE OF REPORT**

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Executive	When Council is undertaking its substantive role of direction setting and oversight (eg accepting tenders, adopting plans and budgets)
Information	For Council to note
 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

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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 2031*

### Priority 3: Kalamunda Develops

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

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

### Priority 4: Kalamunda Leads

**Objective 4.1** - To provide leadership through transparent governance.

**Strategy 4.1.1** - Provide good governance.

## EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider adopting Local Planning Scheme Amendment 107 for the purpose of public advertising.
2. Amendment 57 was gazetted in September 2017 to incorporate Special Use Zone 20 into the City of Kalamunda (the City) Local Planning Scheme No. 3 (LPS3) to facilitate the development of an Integrated Aged Care Facility.
3. Amendment 107 proposes to delete Condition d) of Special Use 20 which currently prevents strata titling of the development, which is seen as a constraint on financing the development.
4. It is recommended Council adopt Amendment 107 as a Standard amendment for the purpose of public advertising.

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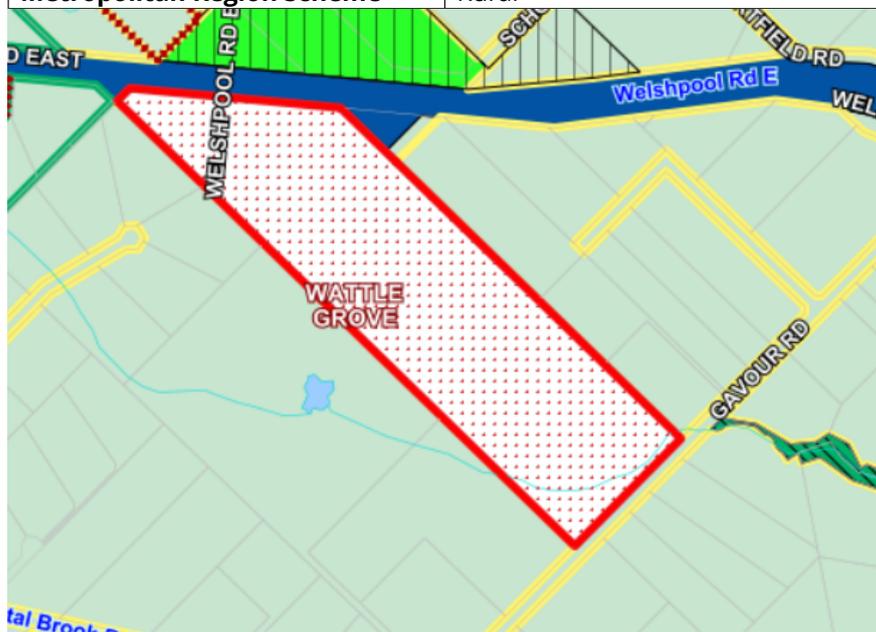
**BACKGROUND**

5. **Location:** Lot 500 (32) Gavour Road, Wattle Grove



6. **Zoning**

Local Planning Scheme No.3	Special Use 20
Metropolitan Region Scheme	Rural



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7. The site's Special Use zoning is a result of Amendment 57 to the then Shire of Kalamunda Local Planning Scheme No. 3 (LPS3) which was intended to facilitate the development of an Integrated Aged Care Facility.
8. Amendment 57 was adopted by Council at the 20 April 2015 Special Council Meeting.
9. Following assessment by the WAPC, the Minister resolved to adopt Amendment 57 subject to some final modifications with it being gazetted on the 26 September 2017.
10. Following the adoption of Amendment 57, a Local Development Plan (LDP) was prepared and approved in June of 2019 in accordance with Condition e) of the adopted Special Use 20 provisions. The intent of the LDP is to provide a framework for subsequent development to be consistent with and details how the various constraints applicable to the site will be managed.

#### **DETAILS AND ANALYSIS**

11. Dynamic Planning and Design (DPD) have submitted a Scheme Amendment (Amendment 107), proposing to delete condition d) of Special Use 20.
12. Condition d) reads as follows:  
*An integrated aged care facility is a development that shall not be strata titled.*
13. The applicant's reason for deleting the condition is because the condition has resulted in a considerable obstruction to development, as in order to develop the integrated aged care facility and particularly the retirement village component, there is a necessity to be able to provide or obtain a Certificates of Title for the lots and dwellings the developer will construct. Without the Certificates of Title there are significant constraints to financing the purchase of the dwellings.
14. Removal of the condition will facilitate strata titling of the proposed development.
15. DPD argues the proposed amendment will not alter the ultimate development outcome at the site, with the existing approved Local Development Plan and other Special Use 20 provisions being retained. This means the applicable yield and requirement to construct the Aged Residential Care Facility will remain the same.

16. Condition d) was included in the provisions of Special Use 20 through Amendment 57 to provide security that the developer would not just deliver the all the aged or dependent persons dwellings component of the development and sell them off without providing the Aged Residential Care Facility (nursing home component).
17. Condition f) was also included in the provisions of Special Use 20 through Amendment 57 to provide greater certainty the Care Facility will be delivered.
- Condition f) reads as follows:  
*Not more than 70% of the Aged or Dependent Persons Dwellings allowed for by an approved Local Development Plan shall be developed on Lot 500 until the development of an Aged Residential Care Facility (nursing home component) has been constructed to practical completion.*
18. Condition e) requires the preparation of a LDP (approved June 2019).
- Condition e) reads as follows:  
*Development on Lot 500 shall be designed in the context of a local development plan prepared in accordance with deemed provisions in Schedule 2, Part 6 of the Planning and Development (Local Planning Schemes) Regulations 2015 which covers the entire lot. This will, amongst addressing other relevant planning and design matters, identify the location of the Aged Residential Care Facility, identify proposed staging, and the location of a possible future public road and servicing easement(s) with future implementation arrangements for these should land use changes occur on the properties adjoining Lot 500 in the future.*
19. The LDP includes a staging plan which ensures the Care Facility is not the last component of the development delivered (Stage 5 of 7).
20. The City is of the opinion that Conditions e) and f) provide enough security for the delivery of the Care Facility without the need for retaining Condition d).
21. The removal of Condition d) will help ease the constraints on financing the development and subsequently the Care Facility.

**APPLICABLE LAW**

22. *Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations)*  
 Regulation 34 – terms used to describe a Basic, Standard or Complex amendment. Amendment 107 is considered Standard because it is:

- a) An amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
  - b) An amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the commission;
  - c) An amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area, other than an amendment that is a basic amendment;
  - d) An amendment to the scheme map that is consistent with a structure plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme does not currently include zones of all the types that are outlined in the plan;
  - e) An amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
  - f) An amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
  - g) Any other amendment that is not a complex or basic amendment.
23. In accordance with Regulation 47 the period for making submissions on a standard amendment to a local planning scheme is —
- a) The period of 42 days after the day on which the notice is first published under sub-regulation (2)(a)(i); or
  - b) A longer period approved by the Commission.

**APPLICABLE POLICY**

24. The City's Aged Accommodation Strategy notes the significant shortfall of residential care in the community.

**STAKEHOLDER ENGAGEMENT**

25. Should Council resolve to adopt the Amendment for public advertising, the Amendment will be advertised for a period of 42 days in accordance with the Regulations and the City's Local Planning Policy 11 – Public Notification of Planning Proposals.

**FINANCIAL CONSIDERATIONS**

26. The applicant is charged for the assessment of the Amendment in accordance with the City's Schedule of Fees and Charges.

**SUSTAINABILITY**

27. The Amendment will reduce financing constraints for the development of the integrated aged care facility.

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28. Other sustainability matters are not impacted by the proposed Amendment and remain the same as considered by Amendment 57.

**RISK MANAGEMENT**

29.

<b>Risk:</b> Financing constraints due to inability to strata title the development prevent development of the aged care facility.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Significant	Possible	High
<b>Action/Strategy</b>		
Adopt the Amendment for the purposes of Public Advertising.		

30.

<b>Risk:</b> The developer only develops the aged or dependent dwellings and not the aged residential care facility.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Significant	Unlikely	Medium
<b>Action/Strategy</b>		
Retain Condition f) of Special Use 20 and Adopt the Amendment for the purposes of Public Advertising.		

**CONCLUSION**

31. Amendment 107 proposes to delete Condition d) of Special Use 20 which currently prevents strata titling of the development, which is seen as a constraint on financing the development.
32. Condition d) was included in the provisions of Special Use 20 through Amendment 57 to provide security that the developer would not just deliver the all the aged or dependent persons dwellings component of the development and sell them off without providing the Aged Residential Care Facility (nursing home component).
33. Conditions e) which has resulted in the approval of a LDP which ensures the development is staged, and Condition f) which restricts the number of aged or dependent dwellings being developed before an Aged Residential Care Facility is provided were also included to Amendment 57 to provide greater certainty the Care Facility will be delivered.

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34. The City is of the opinion that Conditions e) and f) of Special Use 20 provides enough security for the delivery of the Care Facility without the need for retaining Condition d) and the removal of Condition d) will help ease the constraints on financing the development and subsequently the Care Facility.
35. The City is also of the opinion the Amendment is considered to meet the criteria for being Standard for the following reasons:
- a) The Amendment is consistent with the objective of the Special Use Zone 20 to 'achieve the development and operation of an integrated aged care facility that is designed to allow 'ageing in place'.
  - b) The Amendment is consistent with the City's Local Planning Strategy (2013) with a strategy being to 'provide housing for the ageing population'.
  - c) The Amendment is consistent with the Local Development Plan that has been approved for the site.
  - d) The land use of the site, which could be considered complex in the context of the region scheme and the surrounding land, was dealt with through the approval of Amendment 57. This Amendment makes no changes or further environmental, social, economic or governance impacts to the land use on site and the surrounding land.

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

That Council:

1. ADOPT proposed Local Planning Scheme Amendment No.107 to Local Planning Scheme No.3 – Lot 500 (32) Gavour Road, Wattle Grove) in accordance with Attachment 1, pursuant to Section 75 of the Planning and Development Act 2005 for the purposes of public advertising.
2. ADVERTISE proposed Scheme Amendment No.107 to Local Planning Scheme No.3 for a period of 42 days pursuant to Regulation 47 (Standard) of the Planning and Development (Local Planning Schemes) Regulations 2015, Local Planning Policy 11 – Public Notification of Planning Proposals and sec 81 an 82 of the Planning and Development Act 2005.
3. Pursuant to Regulation 34 of the Planning and Development (Local Planning Schemes) Regulations 2015, CONSIDER Amendment 107 to Local Planning Scheme No. 3 a standard amendment for the following reasons:

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

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### **10.1.3. Lot 150 (720) Welshpool Road East, Wattle Grove - Proposed Garden Centre and Caretakers Dwelling**

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

The Manager Approval Services provided a presentation on this report.

Questions from the public were invited. Questions were asked by:

Ms Theresa Miller (Jnr), Wattle Grove  
Mrs Theresa Miller (Snr), Wattle Grove  
Mr James Miller, Wattle Grove  
Ms Amelia Miller, Wattle Grove  
Ms Mary Johnston, Wattle Grove

Clarification on matters raised was provided by the Director Development Services and the Director Asset Services. It was also noted further clarification would be provided by the representatives of the applicant through their deputation to the meeting.

Ms Bev Dornan, Wattle Grove, presented a statement. It was necessary for the presiding member to request Ms Dornan to keep the statement to matters within the report as presented.

Mr David Mairorana, Harley Dykstra, and Mr Enzo Biagioni-Froudish, Peitas Group, represented the applicant and provided a presentation to the meeting. During the presentation the representative of the applicant provided clarification on various matters raised by the public and councillors.

Council sought clarification in relation to traffic movements.

Council sought information on environmental protections from nutrient run off on the site.

Council sought information in relation to due diligence taken in relation to significant indigenous sites. The Director Development Services provided information on the processes undertaken in relation to indigenous sites.

The meeting adjourned at 8:02pm and recommenced at 8:07pm all members of council, staff and public gallery returned.

Mr Harry Mazza made a statement in relation to the development.

Council sought clarification as to how the grade separation of Tonkin Highway/Welshpool Road East would impact on this development. Clarification was provided by the Director Asset Services.

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Ms Gayle Evans, Swan Animal Haven, presented a statement in relation to this report.

Mr Patrick Miller, Wattle Grove, asked a question in relation to traffic flow.

Previous Items	N/A
Directorate	Development Services
Business Unit	Approval Services
File Reference	WL-01/720
Applicant	Harley Dykstra
Owner	CAN 605 759 995 Pty Ltd
Attachments	<ol style="list-style-type: none"> <li>1. Development Plans [<b>10.1.3.1</b> - 5 pages]</li> <li>2. Transport Impact Statement [<b>10.1.3.2</b> - 36 pages]</li> <li>3. Road Safety Audit [<b>10.1.3.3</b> - 22 pages]</li> <li>4. Acoustic Assessment [<b>10.1.3.4</b> - 21 pages]</li> <li>5. Bushfire Management Plan [<b>10.1.3.5</b> - 28 pages]</li> <li>6. Submission Table [<b>10.1.3.6</b> - 52 pages]</li> </ol>

#### TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
Executive	When Council is undertaking its substantive role of direction setting and oversight (eg accepting tenders, adopting plans and budgets)
Information	For Council to note
 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 2031*

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

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

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

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**EXECUTIVE SUMMARY**

1. The applicant is seeking approval for the development of a Garden Centre and Caretakers Dwelling on Lot 150 (720) Welshpool Road Eats, Wattle Grove (subject site).
2. The proposed Garden Centre is consistent with the objectives of the 'Rural Composite' zone and, with the exception of Net Lettable Area (NLA) variation, complies with all the relevant sections of the statutory planning framework.
3. A total of 13 objections have been received to the proposal. The concerns raised have been addressed or are not relevant planning considerations.
4. It is recommended that the proposal for the Garden Centre and Caretakers Dwelling be approved subject to conditions and advice notes.

**BACKGROUND**

5. **Land Details:**

Land Area	3.91 ha
Local Planning Scheme zone	Rural Composite
Metropolitan Region Scheme Zone	Rural

6. The subject site comprises a land area of 3.91 ha and contains an existing dwelling and associated outbuildings. A small section of Yule Brook traverses the northwest portion of the Subject Site.

7. **Locality Plan (Aerial):**



8. The surrounding area is characterised by a mix of semi-rural lifestyle properties and commercial land uses, notably dog kennels, garden centre, rural stock-feeders and tourism related activities. To the immediate north of the site, the land is reserved for "Parks and Recreation" and has a Bush Forever designation.
9. The property contains an existing vehicle crossover to Welshpool Road East which is designated under the MRS as an 'Other Regional Road' (ORR) which requires referral to the DPLH in accordance with the instrument of delegation under the Planning and Development Act 2005 (the Act).

#### **DETAILS AND ANALYSIS**

10. The applicant is seeking approval for a Garden Centre and Caretakers Dwelling repurposing existing buildings on site for the display and retail sale of a range of landscaping supplies, garden products, ornaments and implements on the subject site (Attachment 1).
11. In support of the proposal the applicant provided the following technical reports:
  - a) Development Plans (Attachment 1
  - b) Transport Impact Statement (Attachment 2).
  - c) Road Safety Audit (Attachment 3).
  - d) Acoustic Assessment (Attachment 4).
  - e) Bushfire Management Plan (Attachment 5).
  - f) Submission Table (Attachment 6)
12. The proposal comprises the following key elements:
  - a) The proposed operating hours of Monday to Saturday 7am to 5pm and Sundays and Public Holidays 8pm to 5pm.
  - b) A total of 6 to 8 Staff will be employed at the Garden Centre.
  - c) A car parking area comprising a total of 50 bays within the setback area, fronting Welshpool Road East and associated landscaping,
  - d) An additional 10 car parking bays are proposed within the development itself for staff.
  - e) A grassed overflow car parking area at the rear of the proposed Garden Centre development in the event additional car parking is required on occasion.
  - f) Open air display areas of 475m<sup>2</sup> and 236m<sup>2</sup> (approximately) for garden ornaments, pots and water features.
  - g) Rehabilitation plantings/landscaping adjacent to Yule Brook where it traverses the north -western of Monday part of the site.
  - h) A drainage basin adjacent to Welshpool Road East incorporating rain garden component.

- i) An open-air display area (500m<sup>2</sup>) for limestone blocks, slabs and other concrete products.
- j) Bagged Products Sales area (435m<sup>2</sup>).
- k) A pot and water feature display within the existing stable building.
- l) Bulk landscaping supplies within storage bins.
- m) Trailer parking (providing trailers for use by customers) adjoins the internal carpark.
- n) A checkout office.
- o) Storage shed within an existing outbuilding.
- p) Access/egress via a new full movement cross-over onto Welshpool Road East.
- q) The existing dwelling shall be retained for use by an onsite caretaker.

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

- 13. Under the provisions of the Local Planning Scheme No.3 (LPS3) pertaining to the Rural Composite zone, clause 5.13 states:  
*"In this zone it is recognised that there is a mix of semi-rural and commercial land uses which the local government seeks to maintain as a balance in a rural setting. Commercial land uses within the zone will only be considered for approval when it has been demonstrated that the use is appropriate to the area and that the commercial activity will not have a detrimental impact on the surrounding area."*
- 14. The objective of the Rural Composite Zone states:  
*"To provide for small semi-rural lots that can accommodate a limited range of rural and low scale commercial land uses in a manner that will not adversely affect the landscape and environmental qualities of the land are appropriate to the area."*
- 15. With respect to land use permissibility under the Scheme, a Garden Centre is classified as an 'A' use which means the use is not permitted unless the local government has exercised discretion through the advertising of the proposal to approve the use.
- 16. A Garden Centre is defined as:  
*"means a business, used for the propagation, rearing of plants, and the storage and sale of products associated with horticulture and gardens."*
- 17. The use 'Caretakers Dwelling' is a 'D' discretionary land use under the Scheme LPS 3 meaning it is not permitted unless the local government has exercised discretion by granting approval for the use.

- 18. A Caretakers Dwelling is defined as:  
*“means a dwelling on the same site as a building, operation or plant used for industry, and occupied by a supervisor of that building, operation or plant”*
- 19. The proposed uses are permissible under the Scheme and consistent with clause 4.21 (Objectives of the Zones – Rural Composite) given they represent low scale commercial development that is, based on the information provided, unlikely to have an adverse impact on the surrounding land uses and environmental qualities of the site, including Yule Brook. Moreover, the proposed land uses are consistent with the character of the area which provides for a range of low scale commercial land uses.
- 20. With the exception of the NLA, the proposal complies with the commercial development standards identified under clause 5.14 and car parking standards identified under Table 3 of the Scheme.

Development Standard	Scheme Requirement	Proposed by Applicant	Variation to Scheme
NLA	300m <sup>2</sup>	450m <sup>2</sup>	150m <sup>2</sup>

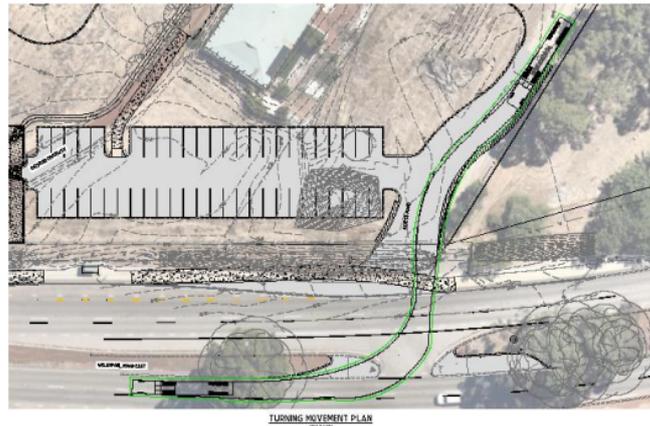
- 21. Whilst the proposed variation represents a 50% increase to the Scheme requirement, the increase should be considered in the context of the nature of the goods the proposed variation represents. In this regard, the existing stables will be repurposed to accommodate the display of pots and water features. The nature of the goods is not considered to represent the types of more intensive commercial and retail goods you would likely find in a commercial centre and as such, the NLA variation is unlikely to have an impact on these centres.
- 22. **Traffic and Access**  
The issue of traffic and access represents a key element of the proposal. In this regard, the applicant has submitted a Traffic Impact Statement (TIS) and Road Safety Audit (RSA) in support of the proposal.
- 23. The proposal is expected to generate approximately 35 truck vehicle movements per day comprising 20 single axle rigid trucks 12.5m in length for customer delivery's and 15 larger rigid trucks 19m in length for stock deliveries. In addition, it anticipated that business would receive up to 100 customers per day.

- 24. As part of the proposal, the existing crossover from Welshpool Road East will be removed and a new full turning movement crossover will be constructed to accommodate the 19m length vehicles. The proposed crossover will be located opposite the existing median break along Welshpool Road East.
- 25. In response to the request of the DPLH and the City, the proposal will incorporate a short right turn pocket on Welshpool Road East heading West at the crossover. The length of the proposed right turn pocket would be able accommodate one car and trailer combination within the pocket and would not interfere with the existing trees in the median island.



- 27. The existing bus embayment on Welshpool Road East is proposed to be extended and designed to enable 19m length vehicles to only access the subject site travelling eastbound via a left turn movement only.
- 28. The RSA provides recommendations to upgrade the existing median island to include an auxiliary right-hand turn pocket and a left in deceleration lane, to ensure vehicles can safely enter the site and to minimise the risk of rear end crashes. The City has recommended a condition requiring works to be undertaken in accordance with the recommendations set out in the RSA.

29. Turning path analysis undertaken by the applicant’s traffic consultant demonstrates the suitability of the geometry of the of the proposed Welshpool Road East crossover and the proposed changes to the existing median break to accommodate a right turn movement for 19m length vehicles westbound along Welshpool Road East (refer to diagram below).



30. The sightlines assessment and TIS show that 19m vehicles cannot stop in the median island, however a full right hand turning movement is safe. The City’s engineers assessed the TIS and sightlines assessment and are satisfied that 19m vehicles can exit the site safely travelling both east and westbound onto Welshpool Road East.
31. The cost of modifying the crossover and associated road layout to accommodate the development will be at the expense of the applicant.
32. **Bushfire Planning**  
The site is designated as bushfire prone under the Office of Bushfire Risk Management mapping system. State Planning Policy 3.7 (SPP 3.7) guides the implementation of effective risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.
33. The proponent has prepared a Bushfire Management Plan (BMP) in support of the application that adequately addresses the four elements stipulated under the Guidelines (Attachment 5).
34. The BMP indicates the proposal can achieve a low-risk rating of BAL 12.5 through establishing an Asset Protection Zone (APZ) around the development. A condition has been imposed requiring the APZ to be implemented and maintained by the landowner in accordance with the Guidelines.

**APPLICABLE LAW**

- 35. *Planning and Development (Local Planning Schemes) Regulations 2015*  
*Metropolitan Region Scheme*  
*Local Planning Scheme No.3*

**APPLICABLE POLICY**

- 36. State Planning Policy 3.7 Planning in Bushfire Prone Areas  
Local Planning Policy 11 – Public Notification of Planning Proposals (LPP11)

**STAKEHOLDER ENGAGEMENT**

- 37. The proposal was advertised in accordance with the provisions of LPP 11, notably:
  - a) Public Notification of Planning Proposals for a period of four weeks from 16 December 2020, concluding 13 January 2021. Residents directly affected by the proposal were notified in writing.
  - b) Acknowledging the community interest in the proposal, the proposal was re-advertising landowners within a 300m radius of the site commencing on 24 March and concluding on 14 April 2021. Letters were sent to all effected landowners within the 300m radius seeking comment to the proposal and including notification of the planned Community Information Session. Details of the Community Information Session have also been included on the Kalamunda Engage web page.
  - c) A community information session was held on 8 April 2021 at the City’s administration centre.
  - d) The proposal was forwarded to the Department of Planning Lands and Heritage and Main Roads WA for comment due to the proposed site access/egress and traffic management modifications.
  
- 38. In response to the advertising period, a total of 13 submissions were received, all objecting to the proposal. The City’s response to the concerns raised are discussed below:

<b>Submission</b>	<b>Officer Comment</b>
Traffic safety concerns Welshpool Road East has a high number of crashes, there tends to be a lot of congestion east bound during peak periods.	The proponent has prepared a Transport Impact Statement that includes a sightline assessment, the median island shall be modified to include a right turning pocket to allow for safe access to the site. The City’s Engineers have reviewed the TIS and are satisfied

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	<p>the development would not cause road safety issues and would not impact on the efficient functioning surrounding road network.</p>
<p>Land use permissibility – allowing commercial uses within a rural area.</p>	<p>The Scheme allows for the uses to be considered and for an application to be taken on its merits. The proposal is compliant with the scheme with the exception of a NLA variation which is considered appropriate given the nature of goods proposed for sale. The proposal is consistent with the objectives of the zone that allows for commercial uses to be considered.</p>
<p>Environmental concerns – the proposal will impact on the local biodiversity and will result in clearing of native vegetation. The proposal is located within proximity to the Yule Brook.</p>	<p>The proposal was referred to DWER for their comment, DWER provided a non-objection to the proposal. There is no clearing proposed as part of this application and a condition will be imposed on the approval to ensure vegetation is not removed from the site. The buildings are setback compliant from the Yule Brook to ensure there will be no adverse impacts on the watercourse. The City has imposed a condition requiring the rear portion of the site abutting the Yule Brook to be revegetated and rehabilitated. The City will liaise with DWER in regard to appropriate species.</p>
<p>Bushfire concerns</p>	<p>The applicant has provided a BMP and BAL assessment that was prepared by an accredited bushfire practitioner. The BAL report indicates the proposal achieves a BAL -12.5 rating and this is consistent with the SPP 3.7 and associated Guidelines.</p>

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Department	Comment	Officer Comment
DWER	Non-objection	Noted
DPLH	Non- Objection but recommends the following: <ol style="list-style-type: none"> <li>1. Swept path analysis required and turning movements for RAV 4 vehicles.</li> <li>2. Right hand turning pocket is recommended westbound to reduce the risk of rear end crashes.</li> <li>3. Comments to be sought from Main Roads as the site is in proximity to the WRE/Tonkin intersection upgrades.</li> </ol>	<ol style="list-style-type: none"> <li>1. The proponent submitted a revised Transport Impact Statement that includes a sightlines assessment revised safety audit and swept paths and turning movements.</li> <li>2. The plans have been amended to modify the median island to allow for a right-hand turning pocket to alleviate the concern for rear end crashes for vehicles travelling westbound entering the site. A condition will be imposed requiring the construction of the right-hand turning pocket.</li> <li>3. Noted, the application has been referred to MRWA.</li> </ol>
MRWA	Objection <ol style="list-style-type: none"> <li>1. Driveway next to the median island is unsafe.</li> <li>2. The application does not include a right-hand turning lane.</li> <li>3. The left deceleration lane is substandard and does not comply with</li> </ol>	<ol style="list-style-type: none"> <li>1. Crossover location remains unchanged the City's engineers and DPLH have raised no objections to the location.</li> <li>2. Engineering have reviewed the revised Transport Impact Statement and are satisfied the</li> </ol>

	<p>the Austroads standards.</p>	<p>modifications made ensure compliance with the Austroads Standards.</p> <p>3. In accordance with the instrument of delegation under the P&amp;D Act a referral to MRWA is not mandatory.</p>
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39. The proposal was assessed by the City from an Engineering and Environmental Health perspective. The City is satisfied that all traffic, stormwater and dust related issues have been addressed.

**FINANCIAL CONSIDERATIONS**

40. Nil

**SUSTAINABILITY**

41. **Social Implications**  
 The proposal may impact on the amenity of the surrounding lifestyle properties by virtue of the proposed activities to be conducted from the site. Conditions of approval will be imposed to ensure those impacts are appropriately managed.
42. **Economic Implications**  
 The proposed garden centre will help to stimulate the local economy and generate employment opportunities.
43. **Environmental Implications**  
 Yule brook traverses the northwest portion of the site. The proposal includes the rehabilitation along this section of the creek as a condition of approval.

**RISK MANAGEMENT**

44.	<b>Risk:</b> The proposal may impact on the amenity of surrounding lifestyle properties.		
	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	Moderate	Unlikely	Low
	<b>Action/Strategy</b>		
	The City to provide appropriate conditions of planning approval to ensure potential amenity impacts are managed and adhered to.		

**CONCLUSION**

- 45. The proposed Garden Centre is consistent with the objectives of the 'Rural Composite' zone and, with the exception of NLA variation, complies with all the relevant sections of the statutory planning framework.
- 46. The City is satisfied all traffic related matters pertaining to vehicle access have been addressed through the revised TIS and that the proposal can be supported subject to appropriate conditions and advice.
- 47. Notwithstanding the objections raised to the proposal, the City is satisfied that all the concerns raised have been addressed.
- 48. It is recommended that the proposed Garden Centre and Caretakers Dwelling be approved subject to appropriate conditions.

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

That Council APPROVE the application for a Garden Centre and Caretakers Dwelling on Lot 150 (720) Welshpool Road East, Wattle Grove subject to the following conditions:

- 1. The development must be carried out in accordance with the stamped approved plan(s)/drawing(s) and document(s) (including any recommendations made) listed below, stamped and returned to the applicant with this decision notice, including any amendments to those plans as shown in red.

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2.

Plan No.	Title	Revision	Date	Prepared by
20843-01	Site Plan	K	30/06/2021	Harley Dykstra
20843-01	Part Site Plan	K	30/06/2021	Harley Dykstra
20843-01	Elevations & Floor Plan	D	28/01/2021	Harley Dykstra
n/a	Transport Impact Statement	R01e	13/07/2021	Transcore
20PER-18016	Bushfire Management Plan	V2	3/03/2021	Eco Logical Australia
16191	Acoustic Assessment	n/a	28/09/16	Herring Storer Acoustics
20843-03	Landscape Plan	D	30/06/2021	Harley Dykstra

3. A Dust Management Plan is required to be submitted to the City of Kalamunda for approval prior to the issuance of the building permit. Once approved the plan is to be implemented in perpetuity.
4. The applicant is required to submit a Site and Soil Evaluation in accordance with AS/NZS 1547 On-Site Domestic Wastewater Management. The Site and Soil Evaluation is to be conducted during the wettest time of the year and provide guidance on the most suitable placement and sizing of the effluent disposal land application area for the development.
4. A Noise Management Plan must be submitted to and approved by the City of Kalamunda prior to issuance of the building permit.
5. The garden centre is permitted to operate Monday to Saturday 7am until 5pm and Sundays and Public Holidays 8am until 5pm.
6. The Asset Protection Zone (APZ) shall be implemented and maintained in perpetuity in accordance with the APZ standards set out under Element 2 Siting and Design in the Guidelines for Planning in Bushfire Prone Areas Appendices Version 1.3.
7. The garden centre must be constructed with the finished floor level matching the approved plans. Any additional proposed cut and fill to the site does not form part of this development approval and if required, amended plans must be submitted to the City of Kalamunda for approval.
8. For the duration of the development, all stormwater drainage from roofed and paved areas is to be disposed of on site in accordance with the approved Stormwater Management Plan.

9. Prior to issuance of the occupancy permit, all car parking areas must meet the following requirements:
  - i. The provision and maintenance of a minimum of 60 car parking spaces, shall be designed, constructed sealed, kerbed, drained and line marked in accordance with the Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking Facilities, Part 1: Off street carparking.
  - ii. The provision and maintenance of two accessible car parking spaces, that are designed, constructed, sealed, kerbed, drained and line marked that are dedicated to people with disabilities that are designed in accordance with the Australian/New Zealand Standard AS/NZ 2890.6:2009, Parking Facilities Part 6 off street parking.
  - iii. Vehicle parking, manoeuvring and circulation areas are to be suitable constructed, sealed, kerbed, drained and line marked to the specification and satisfaction of the City of Kalamunda and Australian Standard AS AS2890.
10. Car parking areas must always be available for their intended purpose and must not be used for any alternative purpose at any time.
11. The Transport Impact Statement must be implemented to the satisfaction of the City of Kalamunda prior to issuance of the occupancy permit.
12. The applicant/landowner must submit detailed drawings of the deceleration lane and modifications to the existing median island with an auxiliary right turn pocket to the satisfaction of the City of Kalamunda in consultation with Department of Planning Lands and Heritage prior to issuance of the building permit.
13. Construction of approved works outlined in condition 12 are to be carried out and completed at the applicant/landowners cost prior to issuance of the occupancy permit.
14. All crossovers must be designed and constructed to the specification and satisfaction of the City of Kalamunda prior to issuance of the occupancy permit.
15. The approval does not permit vehicles entering and exiting the site that exceed 19m in length.
16. The submitted landscape plan shall be approved by the City of Kalamunda prior to issuance of the building permit. All the landscaping noted in the approved landscape plan must be planted prior to occupation of the development and maintained thereafter, to

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the satisfaction of the City of Kalamunda. Any species which fail to establish within the first two planting seasons following implementation must be replaced at the landowners cost to the satisfaction of the City of Kalamunda.

17. A Revegetation and Rehabilitation Landscape Plan for the rear portion of the site abutting the Yule Brook water course, must be submitted to and approved by the City of Kalamunda in consultation with Department of Water and Environmental Regulation and implemented prior to issuance of the building permit.
18. This development approval does not authorise the removal of any vegetation other than any marked for removal on the approved plan(s). The vegetation identified on the plans for retention shall be protected in accordance with AS 4970-2009 prior to works commencing on site.

**Advice Notes**

- a) This application qualifies for an exemption from the substantial commencement period, in that a new timeframe can be substituted being the original deadline plus an additional two (2) years. These periods are calculated from the date the approval was granted. This is available under 'Clause 78H Notice of Exemption from planning requirements during State of Emergency', issued by the Minister for Planning on 8 April 2020.
- b) All development must comply with the provisions of Council's Local Planning Scheme No 3 (unless otherwise approved), Health Regulations, Building Code of Australia, and all other relevant Acts, Regulations and Local Laws.
- c) Prior to construction on site, the applicant is required to obtain a building permit from the City's Building Services.
- d) Any trees requiring protection from development works should be in accordance with AS4970-2009 "Protection of Trees on Development Sites".
- e) The applicant is required to obtain a demolition permit for the existing structures on site from the City of Kalamunda.
- f) The applicant is reminded of their obligations to comply with the "Land development sites and impacts on air quality: a guideline for the prevention of dust and smoke pollution from land development sites in Western Australia", prepared by the Department of Water and Environmental Regulation.

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- g) In regard to condition 3, temporary toilets or other suitable temporary measures as agreed by the City of Kalamunda may be installed as in interim measure until such time as a suitable effluent disposal system identified by the Site and Soil Evaluation is installed.
- h) The applicant is advised that under the Fly Eradication Regulations pursuant to the Health 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.
- i) The applicant is advised that the proposed development is within a Sewage Sensitive Area as defined in the Government Sewerage Policy 2019 and as such will require a Secondary Treatment System with nutrient removal for disposal of effluent.
- j) 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.
- k) The applicant is advised that a separate planning application is required to be submitted and approved for all signage.

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## 10.2. Asset Services Reports

### 10.2.1. Award of RFT 2102 - Provision of Traffic Management Services

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

The Manager Asset & Waste Operations provided a presentation on this report.

Council queried aspects of the confidential attachments. This would be discussed at the conclusion of the public meeting.

Previous Items	OCM 86/2016; 204/2016
Directorate	Asset Services
Business Unit	Asset Waste & Operations
File Reference	AD-TEN-005
Applicant	N/A
Owner	N/A
Attachments	Nil
Confidential Attachment	<u>Reason for Confidentiality:</u> <i>Local Government Act 1995 s5.23 (c)</i> <i>"a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."</i>

#### TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
 Executive	When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans and budgets)
Information	For Council to note
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

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## STRATEGIC PLANNING ALIGNMENT

*Kalamunda Advancing Strategic Community Plan to 2027*

### Priority 3: Kalamunda Develops

**Objective 3.2** - To connect community to key centres of activity, employment and quality amenities.

**Strategy 3.2.1** - Ensure existing assets are maintained to meet community expectations.

**Strategy 3.2.3** - Provide and advocate for improved transport solutions and better connectivity through integrated transport planning.

## EXECUTIVE SUMMARY

1. The purpose of this report is to consider the award of tender RFT 2102 to provide traffic management services.
2. It is recommended that the Council accept the tender from Carrington's (WA) Pty Ltd, ACN 104 744 103 as per the Schedule of Rates set out in the Confidential Attachment 1 to this report. The estimated expenditure within this contract is \$700,000 (ex GST) per annum with an initial term commencing on the 1<sup>st</sup> January 2022 of three years and two further one year extensions at the City's discretion.

## BACKGROUND

3. The City of Kalamunda (the City) sought to engage a suitable and experienced contractor for the provision of traffic management services complementary to maintenance and minor capital works projects being conducted on or near roads.
4. The services proposed primarily require prepare traffic management plans (TMPs), provide traffic controllers (TCs), vehicles, signages, equipment and have the resources and ability to implement simple and complex traffic management onsite.
5. Provision of suitable traffic management services in place during these works is a necessary workplace safety requirement.

## DETAILS AND ANALYSIS

6. The City often undertakes maintenance or minor capital works in and around roads. Examples of these tasks may be drainage pit replacements, kerb replacements, minor road crack or pothole repairs, footpath repairs and the like.

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7. Workplace safety considerations require that the City undertakes suitable measures to protect workers from potential of vehicle collisions in a pragmatic manner. This results in the need for suitable traffic management services to be implemented for these works.
8. The ad hoc nature and multiple concurrent need at various sites of these services, along with the specialist training and equipment to be procured has been determined to be cost ineffective for the City to maintain in house staff and resources. It is more effective to engage external contractors for this service.
9. It is noted that where the City has engaged contractors for services such as major roadworks, powerline vegetation clearing or verge management, traffic management services are included in these contracts.
10. The current contract expires on 31<sup>st</sup> December 2021, therefore the City issued RFT 2102 through its E-Tendering Portal and an advertisement in the West Australian newspaper on Wednesday 11 August 2021. Receipt of Tender submissions closed at 2.00pm AWST Thursday 9 September 2021.
11. Tender submissions were received from (in alphabetical order):
  - a) Advanced Traffic Management Pty Ltd
  - b) Altus Traffic Pty Ltd
  - c) Carrington's WA Pty Ltd
  - d) Contraflow Pty Ltd
  - e) Drainflow Services Pty Ltd
  - f) QTM Pty Ltd
  - g) WCP Civil Pty Ltd
12. An Evaluation Panel was convened of suitably qualified City Officers to assess the tenders received.
13. Tenders were assessed in a staged process of firstly checking for compliance to matters set out in the tender invitation. Compliant tenders were then assessed against qualitative criteria (again, these were set out in the tender invitation).

14. The Qualitative Criteria and weighting were determined as follows:

Qualitative Criteria	Weighting
Relevant Experience	35%
Key Personnel Skills & Experience	30%
Tenderer's Resources	30%
Local Benefits	5%

15. All tender submissions met the compliance criteria and then were assessed against the qualitative criteria.

16. The seven tender submissions were ranked as follows regarding the qualitative criteria:

Company Name	Qualitative Total Score (Weighted @ 100%)	Rank
Advanced Traffic Management Pty Ltd	80%	1
Contraflow Pty Ltd	73%	2
Quality Traffic Management (QTM)	73%	2
Carrington's WA Pty Ltd	66.5%	4
Altus Traffic Pty Ltd	54%	5
Drainflow Services Pty Ltd	47.5%	6
WCP Civil Pty Ltd	44%	7

17. The Tender Assessment Panel determined that a Qualitative Pass Mark (QPM) of 60% would be set for the tender of this nature.

18. Of the seven tender submissions, only four met the required QPM of 60% or above were progressed into the next stage. These tenderers were, Advanced Traffic Management Pty Ltd, Contraflow Pty Ltd, Quality Traffic Management (QTM) and Carrington's WA Pty Ltd.

19. A price assessment was then undertaken to determine the best value for money outcome for the City.

20. The Tender Evaluation Report is provided as Confidential Attachment 1 to this report.

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21. The recommended tenderer submission best satisfied the City's requirements by:
- a) meeting or exceeding the qualitative assessment benchmark;
  - b) proven capacity and capability to prepare traffic management plans, provide traffic controllers, vehicles, signages, equipment and implement simple to complex traffic management onsite for City's maintenance and capital work and other activity carried out by the City's various departments;
  - c) have the skills and experience to carry out all aspect of traffic management services requested in this contract;
  - d) available 24/7 for emergency works; and
  - e) providing the best value for money outcome.
22. Of the four qualifying and compliant qualitative tender responses, Carrington's (WA) Pty Ltd provided the lowest total value for the required services.
23. The Tender Assessment Panel has recommended that the contract for RFT 2102 - Provision of Traffic Management Services be awarded to Carrington's (WA) Pty Ltd.

#### **APPLICABLE LAW**

24. Section 3.57 of *Local Government Act 1995*. Part 4 of the *Local Government (Functions and General) Regulations 1996*.

#### **APPLICABLE POLICY**

25. Policy C-PP01 – Purchasing has been followed and complied with.

#### **FINANCIAL CONSIDERATIONS**

26. The use of traffic management services under this contract will form part of approved annual budgets in Infrastructure Services and capital works projects.

**RISK MANAGEMENT**

27.

<b>Risk:</b> The Contractor fails to provide skilled and experienced traffic controllers, traffic planners, signage and equipment to fulfil the requirements of the contract (in terms of time or quality) leading to increased safety risk to City staff and general public.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Significant	Possible	High
<b>Action/Strategy</b>		
<ul style="list-style-type: none"> <li>a) at the start up meeting outline City's safety expectation and ask the Contractor for safety process whilst implementing traffic management.</li> <li>b) in the event of an incident/accident happens, ask the Contractor for a full investigation and control measures put in place.</li> <li>c) ask the Contractor to supply the same traffic management crew for the full duration of a project, that gives them the time to familiarise themselves with the surrounding environment.</li> <li>d) monitor traffic controller's performance and quality of signage and equipment used onsite.</li> <li>e) organise a meeting with the Contractor should there be any safety concern and ask them to correct it immediately.</li> </ul>		

28.

<b>Risk:</b> The City fails to implement suitable traffic management during works which provides increased safety risk to City staff and general public.		
<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
Critical	Likely	Extreme
<b>Action/Strategy</b>		
<ul style="list-style-type: none"> <li>a) City engages suitable contractors to provide this service. This is the recommended action.</li> <li>b) City develops in house resources to undertake these works This is not recommended due to the costs and relative inefficiency of this option.</li> </ul>		

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## **CONCLUSION**

29. The delivery of Tender RFT 2102 - Provision of Traffic Management Services will allow the City to carry out road and drainage maintenance work and capital works projects by various departments throughout the City. The City is satisfied that the recommended tenderer has the capability, capacity, along with experienced traffic planners and traffic controllers to provide the City with the required traffic management services.

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

That Council ACCEPT the tender RFT 2102 - Provision of Traffic Management Services to prepare traffic management plans, provide traffic controllers, vehicles and equipment required to implement simple to complex traffic management for maintenance and capital work projects and other activity carried out by the City of Kalamunda's various departments from Carrington's (WA) Pty Ltd, ACN 104 744 103 for the itemised prices as per the Schedule of Rates set out in the Confidential Attachment 1 commencing on the 1<sup>st</sup> January 2022 for the initial three-year contract with two further one-year extensions at the sole discretion of the City of Kalamunda.

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**10.3. Corporate Services Reports**

**No reports presented.**

**10.4. Office of the CEO Reports**

**10.4.1. Contestable Electricity Supply Contract**

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

The Director Asset Services provided a presentation on this report.

Council sought clarification on various matters contained within the report. Information was provided by the Director Asset Services.

Mr Peter Forrest, Kalamunda, asked a question in relation to the generation plants. The Director Asset Services provided a response.

Previous Items	N/A
Directorate	Asset Services
Business Unit	Asset Services
File Reference	2.00587
Applicant	N/A
Owner	N/A
Attachments	Nil

**TYPE OF REPORT**

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
 Executive	When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans and budgets)
Information	For Council to note
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

*Kalamunda Advancing Strategic Community Plan to 2031***Priority 2: Kalamunda Clean and Green**

**Objective 2.2** - To achieve environmental sustainability through effective natural resource management.

**Strategy 2.2.2** - Work towards a Carbon Neutral Footprint of City-operated areas.

**Priority 4: Kalamunda Leads**

**Objective 4.1** - To provide leadership through transparent governance.

**Strategy 4.1.1** - Provide good governance.

**EXECUTIVE SUMMARY**

1. The purpose of this report is to seek Council approval to participate in a contestable electricity supply contract and to determine the level of renewable energy that the City is prepared to procure as part of this contract.
2. The Western Australian Local Government Association (WALGA) has negotiated a contract with Synergy on behalf of member councils who have expressed an interest in the project.
3. The proposed contract will have demonstratable cost savings to the City and depending on the appetite of Council, implement meaningful steps towards a carbon neutral position within reasonable cost increases.
4. It is recommended that the City of Kalamunda (City) enter into a contract with Electricity Generation and Retail Corporation trading as Synergy ABN 58 673 830 106 for the Bundled Energy Offer and Natural Power Offer as determined by Council for a period from 1 July 2022 to 31 March 2025.

**BACKGROUND**

5. Within the current Western Australian regulated electricity market, consumers are entitled to seek and enter into contracts for electricity from any registered Retailer if the relevant load exceeds 160 MWh per annum ("contestable sites"), otherwise their electricity prices are bound to the published tariffs and with Synergy.

6. The City has eight sites that are contestable. The current contract for these contestable sites rests with Synergy after previous quotation processes to ascertain the best offer for the City. The current contract expires 30 June 2022.
7. WALGA has engaged with Member Councils to engage with the electricity market on a long-term plan to use the overall member council electricity demand to drive sector wide improvements both from a financial and carbon neutral perspective.
8. The first phase of this project is a bulk purchase contestable supply contract and renewable energy option on offer.

#### **DETAILS AND ANALYSIS**

9. WALGA, in recognising the desire of many members to address climate change and improve cost efficiencies developed a project plan for an Energy Sustainability. This long-term plan has the following objectives:
  - a) Enhance access to and development of renewable energy for Western Australian Local Government therefore driving positive climate change outcomes.
  - b) Diversify supply options and application of new technology.
  - c) Leverage the best price outcomes for Local Government supply.
10. The project has the following phases:
  - 1) Contestable energy supply and Renewable Energy Options.
  - 2) Load shifting and cost minimisation in preparation for long term Purchase Price Agreement (PPA).
  - 3) Carbon management, offsets and integrated technologies.
  - 4) Long Term PPA.
  - 5) Sustainable Fleet Transition and Sustainable Infrastructure Technologies.
  - 6) Large scale Local Government Sustainability projects.

This report deals with Phase 1 of the project.
11. The City's current contestable contract rests with Synergy and expires on 30 June 2022. It is a bundled contract covering the costs of generation, distribution, metering, regulatory and administrative costs. It has three cost components:
  - a) Peak (8am to 10pm, Monday to Friday) - \$0.338 per kWh.
  - b) Off Peak (all other times) - \$0.1179 per kWh.
  - c) Daily supply charge per site - \$3.072.

The annual cost for these eight sites is \$201,570. We would anticipate that for any new contract post 30 June 2022 there would be at least a CPI

increase in generation and administration fees with regulatory approved (CPI +) increases in the other cost components.

12. The same bundled offer from Synergy (via WALGA) commencing 1 July 2022 and expiring 31 March 2025 is:
  - a) Peak (8am to 10pm, Monday to Friday) - \$0.2763 per kWh.
  - b) Off Peak (all other times) - \$0.1450 per kWh.
  - c) Daily supply charge per site - \$2.51.
13. It is to be noted that this contract will not be subject to annual CPI increases with only 'pass through' of regulated fee increases.
14. The anticipated cost using these new tariffs is \$177,600 pa which results in a \$23,970 (12%) pa saving over the current contract (before any price rises under old contract rates apply).
15. The new contract also provides an opt in flat rate (\$ /kWh) to have Natural Power (i.e.100% renewable), which can be tailored in selected proportions of total energy being procured (25%, 50%, 75%, 100%). This can be adjusted annually.
16. With our current contestable sites the amount of carbon emissions generated to provide the electricity used is 549 tonnes pa.
17. The additional rate for Natural Energy is:

1 Jun 22 – 31 Mar 23	1 Apr 23 – 31 Mar 24	1 Apr 24 – 31 Mar 25
\$ 0.03 per kWh	\$ 0.026 / kWh	\$ 0.023 / kWh

18. For the first year\* of the contract for example, the following table reflects the costs and carbon reduction benefits of various increments of Natural Power:

Scenario	Annual Additional Cost above new contract	Reduction in Carbon Emitted to Generate Electricity demand (Tonnes of CO <sub>2</sub> pa)
Base Case	\$ 0	0
25% Natural Power	\$ 6,056	137
50% Natural Power	\$ 12,111	274

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75% Natural Power	\$ 18,167	412
100% Natural Power	\$ 24,223	549

\*(1 June 22 to 31 July 23, using current electricity usage)

19. In simple terms, the City can negate 100% of its carbon footprint for electricity generated for its contestable electricity sites for essentially what it costs the City now.
20. It is recognised that the City has in train the Solar Farm project and it would be natural to consider whether or not this Energy project should be supported or not given the potential of the Solar Farm.
21. It is felt that a decision to commit to this energy contract will not compromise a subsequent decision to commit to a Solar Farm given the relatively short nature of this contract and the longer lead time to have the Solar Farm up and operating. Further, the Solar Farm in itself may be a valuable component of Phase 6 of the WALGA project “Large scale Local Government Sustainability projects”.
22. In August 2021, the Australian Competition and Consumer Commission (ACCC) gave WALGA authorisation to proceed to enable local governments to collaborate on a pooled demand for electricity. They have given a 15 year approval period, covering the set-up of the initial three year term and potential further 10 year agreement to expire by 30 September 2036.
23. The City is also preparing its Climate Change Action Plan. Adoption of some or all of the Natural Power options will be a demonstrable progress towards Carbon Neutral objectives and will be an ‘early win’ in setting any proposed actions within the Climate Change Action Plan.

**APPLICABLE LAW**

24. This proposed contract procurement has been undertaken in compliance of Regulation 11 (2)(b) of the *Local Government (Functions and General) Regulations 1996*.

**APPLICABLE POLICY**

25. CEO Instruction CEOI07 Purchasing has been complied with.

**STAKEHOLDER ENGAGEMENT**

26. The nature of this contract does not require stakeholder engagement.

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**FINANCIAL CONSIDERATIONS**

- 27. Adoption of this contract will inform the upcoming operational budgets for the next three financial years.

**SUSTAINABILITY**

- 28. Adoption of Natural Power options will reduce the City's carbon footprint due to electricity emissions between x and y tonnes of CO<sub>2</sub> emitted pa.

**RISK MANAGEMENT**

29.	<b>Risk:</b> That the City foregoes potential savings by directly engaging the market for contestable electricity contracts over the next three years.		
	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	Significant	Unlikely	Medium
	<b>Action/Strategy</b>		
	It is evident that WALGA, through aggregating the electricity demand for participating councils would be able to negotiate bulk supply pricing unavailable to the City if it went independently.		

**CONCLUSION**

- 30. The contestable electricity contract proposed affords the City demonstrable savings over the next three financial years. Adoption of Natural Power offsets at a small additional cost provides the City with real reductions in its carbon footprint due to electricity usage.

**Voting Requirements: Simple Majority**

**RECOMMENDATION**

That Council:

- 1. APPROVE the award of a Bundled Electricity contract for Contestable Electricity with Electricity Generation and Retail Corporation trading as Synergy ABN 58 673 830 106 for a period from 1 July 2022 to 31 March 2025.
- 2. INCLUDE 100% of this electricity consumption to come from Natural Power sources over the term of the contract.

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**11. Closure**

There being no further business, the Presiding Member declared the Meeting closed at 9:07pm.

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

Signed: \_\_\_\_\_  
Presiding Member

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2021.