



Peer-Review Report
Proposed Scheme Amendment No. 107
City of Kalamunda
Local Planning Scheme No. 3
July 2022

TOWN PLANNING | MEDIATION | ADVOCACY

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1.0 Introduction

1.1 Purpose

Altus Planning has been commissioned by the City of Kalamunda (**City**) to provide a peer-review assessment of proposed Scheme Amendment No. 107 ('the Amendment') to the City's *Local Planning Scheme No. 3 (LPS3 or the Scheme)*.

The Amendment pertains to Lot 500 (No. 32) Gavour Road, Wattle Grove (the **subject site or site**) and has been lodged in order to modify the existing Special Use provisions applicable to the subject site, specifically, condition d) which currently prevents strata titling of the development.

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

- a) The Amendment is consistent with the objective of the Special Use 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 *Metropolitan Regional Scheme (MRS)* and the surrounding land, was dealt with through the gazettal of Amendment 57 in September 2017. This Amendment makes no changes or further environmental, social, economic or governance impacts to the land use on site and the surrounding land.

In order for the City to provide an informed recommendation to Council, Altus Planning have been engaged to prepare a peer-review assessment of the proposed Amendment. The review will focus on the following matters:

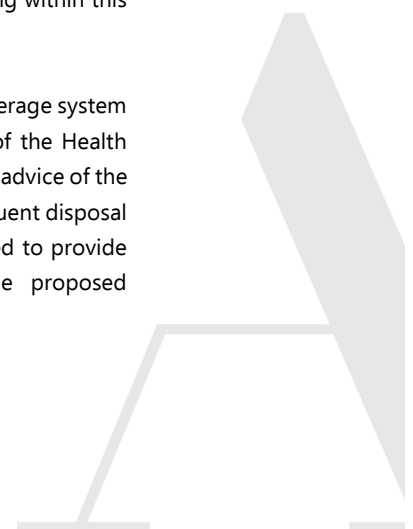
- Review of all the background information pertaining to the scheme amendment;
- Review of the applicable planning framework;
- Review of all submissions received to the formal advertising of the amendment;
- Review of the *Retirement Villages Act* as to whether there is any impediment to the strata titling of the independent living units and therefore implications for the amendment; and
- Subsequent advice, recommendations, and summary of the proposed Amendment.

1.2 Background

The site's Special Use zoning is a result of Amendment 57 to the (then) Shire of Kalamunda LPS3 which was intended to facilitate the development of an Integrated Aged Care Facility. Amendment 57 was gazetted in September 2017 to incorporate Special Use 20 into the City's LPS3. Amendment 57 was adopted by Council at the 20 April 2015 Special Council Meeting.

The final amendment provisions under Special Use 20 were as follows:

- a) At least one occupant of any Aged or Dependent Persons' Dwelling within this facility must have reached the age of 55 years.
- b) Development on the site shall be connected to the reticulated sewerage system or alternative waste water treatment system to the satisfaction of the Health Department of Western Australia and the local government on the advice of the Department of Water and Swan River Trust. In the event onsite effluent disposal cannot be satisfactorily achieved the State would not be obligated to provide reticulated sewerage infrastructure specifically to service the proposed development ahead of any future capital works program.



- c) If development is approved without connection to the reticulated sewerage system, then: (i) prior to the approval of any development on Lot 500, an Urban Water Management Plan shall be prepared and approved by the Council on advice of the Department of Water and the Swan River Trust; and (ii) the approved alternative waste water disposal system shall be designed and implemented so that it is able to connect to the reticulated sewerage system if and when it is extended to within 200 metres of a boundary of Lot 500, then within 2 years of such occurrence, the owner or owners of Lot 500 shall connect all of the development on the lot to the reticulated sewerage system at the owner's cost.
- d) An integrated aged care facility is a development that shall not be strata titled.
- e) Development on Lot 500 shall be designed in the context of a local development plan prepared in accordance with deemed provisions in Schedule 2, Part 6 of the Planning and Development (Local Planning Schemes) Regulations 2015 which covers the entire lot. This will, amongst addressing other relevant planning and design matters, identify the location of the Aged Residential Care Facility, identify proposed staging, and the location of a possible future public road and servicing easement(s) with future implementation arrangements for these should land use changes occur on the properties adjoining Lot 500 in the future.
- f) The maximum number of Aged or Dependent Persons Dwellings that may be developed on Lot 500 shall not exceed 190.

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.

Condition d) was purportedly included in the provisions of Special Use 20 through Amendment 57 to provide security that the developer would not just deliver all the aged or dependent persons dwellings component of the development and sell them without providing the Aged Residential Care Facility (nursing home component).

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In addition, the minutes of the 20 April 2015 Special Council meeting reveal that another concern that led to imposition of condition d) was that proposed integrated aged care use would constitute an urban use in the MRS 'Rural' zone and would set an undesirable precedent for development in the locality. In response to this concern the minutes indicate the following:

The question of inconsistency with the MRS Rural zone could be considered in the context of land tenure. An aged care development that remains in single ownership and managed as a single integrated aged care facility is characteristic of an institutional use rather than a residential development which would be the case if the site was allowed to be strata titled or subdivided. The risk has been mitigated by recommending conditions that require the development to remain on one lot without strata titling.

Amendment 107 proposes to delete Condition d) of Special Use 20 which currently prevents strata titling of the development.

The Applicant considers Condition d) to be a significant constraint on financing the development and has allegedly resulted in considerable obstruction in doing so. The Applicant's reasoning and justification for the proposed Amendment is that to develop the integrated aged care facility and particularly the retirement village component, there is a necessity to be able to provide or obtain individual titles for the allotments and dwellings the developer will construct. As such, it is claimed that without individual titles there are significant constraints to financing the purchase of the dwellings.

1.3 Property Description

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

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

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

An aerial image of the subject land and immediate surrounds with cadastral overlay is provided in Figure 1.

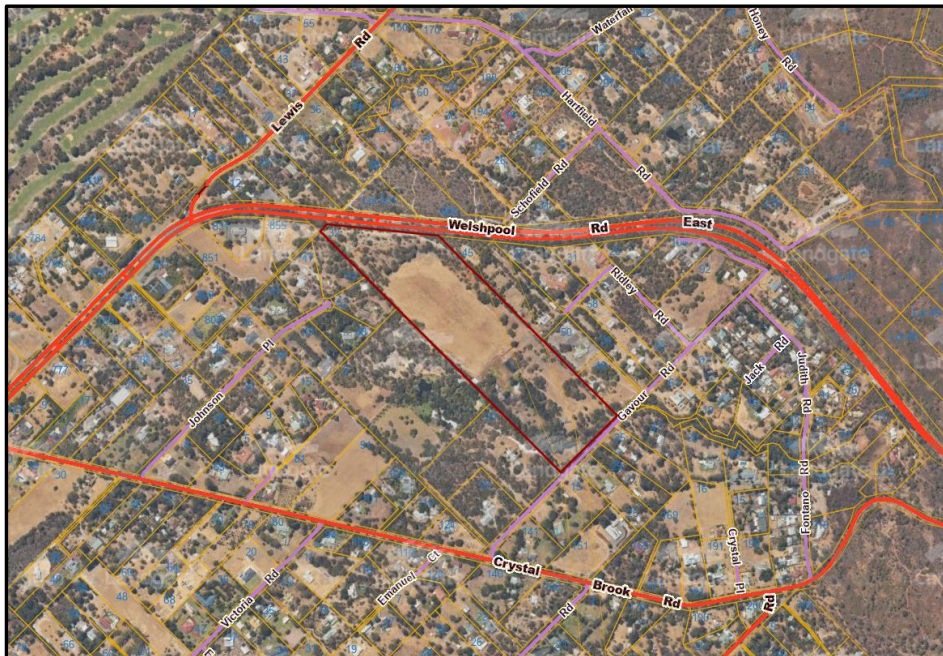


Figure 1: Aerial with cadastral overlay of subject land (highlighted in red) and surrounds (Source: Landgate Mapviewer Plus (2020)).

2.0 Planning Framework

2.1 Metropolitan Region Scheme

The subject land is zoned 'Rural' under the MRS, with a portion of land along the northern boundary being contained within an 'Other Regional Road' Reservation for Welshpool Road East.

The Amendment does not impact the existing MRS zoning and reservations that apply to the land.

2.2 City of Kalamunda Local Planning Scheme No. 3

Pursuant to the City's LPS3, the subject land is zoned 'Special Use' and more specifically subject to the provisions of 'Special Use Zone No. 20' for 'Integrated Aged Care Facility', with conditions a) to h) which are outlined in Schedule 4 – Special Use Zones.

It is again noted that the Amendment specifically seeks to remove condition d) which states:

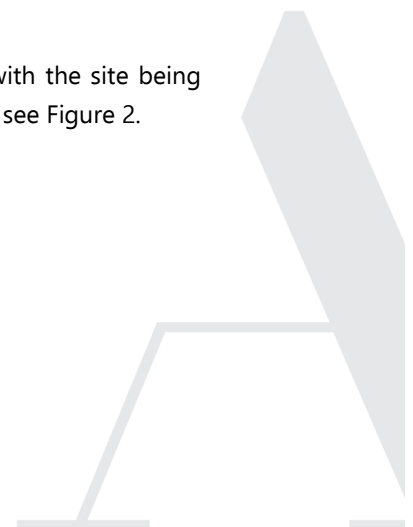
An integrated aged care facility is a development that shall not be strata titled.

There are otherwise no changes proposed to the existing Special Use 20 zoning.

2.3 North-East Sub-Regional Planning Framework

The North-East Sub-Regional Planning Framework (**Sub-Regional Framework**) which is the WAPC's strategic planning guide for the consideration of future urban development was released in draft form in May 2015. It is understood that the subject site was not included within the Urban Expansion/Investigation designation – it was instead bordered by the proposed Urban Expansion area. This is relevant insofar as the draft Sub-Regional Framework was in circulation at the time Amendment 57 was being considered.

In March 2018, the final Sub-Regional Framework was released, with the site being included in the Urban Expansion / Urban Investigation designation, see Figure 2.



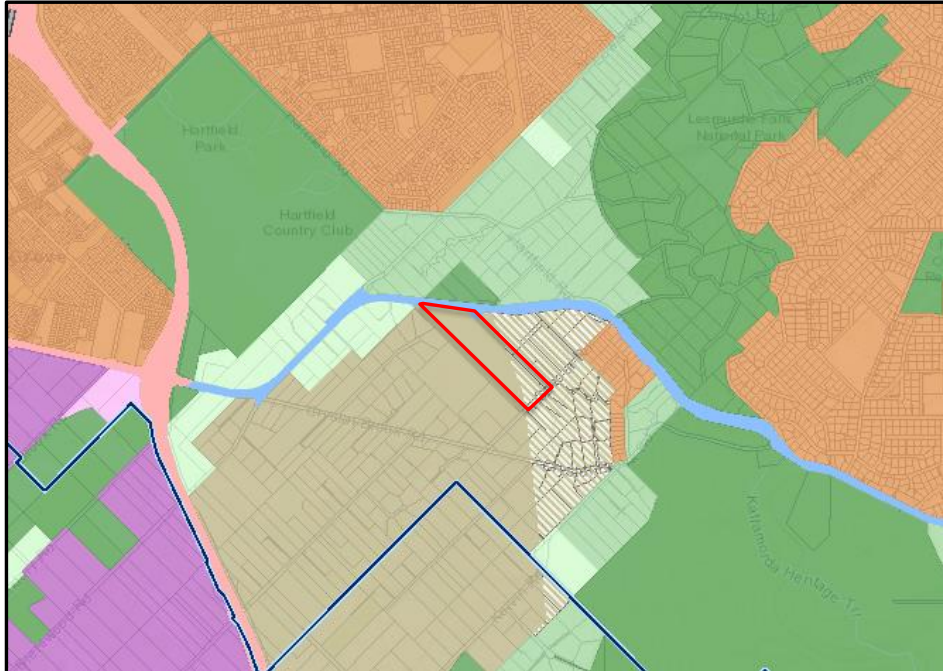


Figure 2: North-East Sub-Regional Planning Framework Map (Source: WAPC's PlanWA 2022). A majority of the site is 'Urban Expansion' (tan colour) whilst a portion of the rear is 'Urban Investigation' (lighter shaded tan colour.)

In relation to the above, the Sub-Regional Framework states as follows:

The proposed Urban Expansion areas for residential development include land at Bullsbrook, Henley Brook, Dayton/West Swan, Aveley, North Bennett Springs, Bellevue, Hazelmere, Helena Valley, Maida Vale and Wattle Grove. These proposals, with the exception of Bullsbrook which constitutes a townsite expansion, represent a consolidation and 'rounding off' of existing urban areas...

Urban Investigation areas are proposed at West Ellenbrook, North Ellenbrook, Helena Valley, Wattle Grove, Parkerville, Mount Helena and Sawyers Valley.

Further detailed planning is required for Urban Expansion/Investigation areas prior to consideration for any rezoning under the MRS and before development can occur including, but not limited to, investigations regarding protection of significant environmental attributes, basic raw materials, water resources, bushfire risk, servicing, community and social infrastructure, movement networks and employment. These

areas may contain significant environmental attributes and further planning for these sites will need to prioritise avoidance and/or protection of the environmental values. Minor refinement of expansion or investigation area boundaries may be required to accommodate more detailed future planning.

The classification of Urban Investigation areas is not to be construed as a commitment by the WAPC to support any rezoning as this will depend upon the outcome of further planning investigations.

The specific matters that need to be addressed for these areas include, but are not limited to, those in Table 2.

Table 2 Sub-Regional Framework outlines the following key considerations for Wattle Grove:

- Geotechnical analysis/land suitability to provide connections to reticulated wastewater services
- Bushfire risk
- Protection of significant environmental attributes

As the Amendment is simply seeking to delete one of the conditions under the existing Special Use zone that applies to the site, the above considerations are considered to be of little relevance to the proposal. Notwithstanding, the broader relevance of the of the Sub-Regional Framework will be discussed further in the discussion section of this report.

3. Retirement Villages Act 1992

3.1 Review

The City has requested a review the *Retirement Villages Act (RVA)* so that it can be ascertained if there is any impediment to the strata titling of the independent living units and therefore implications for the amendment.

Such a questions is a matter for legal advice as the RVA is not a legislation directly related to urban and regional planning in this state. However, from a planning perspective, the following sections are considered relevant in respect to strata titling.

Part 3 of the RVA provides detail on the rights and obligations of residents, owners and administering bodies in relation to Retirement Villages. Of relevance to proposed Amendment 107 is clauses 15 and 16, which provide for the following subclauses:

1. Owners to deliver memorial

...

- 3) Subject to subsection (6), where land is, or is proposed to be, used for the purposes of a retirement village, a memorial in the form approved by the Registrar of Titles containing such information as is prescribed shall be lodged with the Registrar of Titles.

...

- 6) A resident who has an interest in land in a retirement village either as a tenant in common or as an owner of a lot under the Community Titles Act 2018 or the Strata Titles Act 1985 is not required to lodge a memorial under subsection (3) so long as —

(a) the interest of the resident is related only to the place in the retirement village occupied by the resident; and

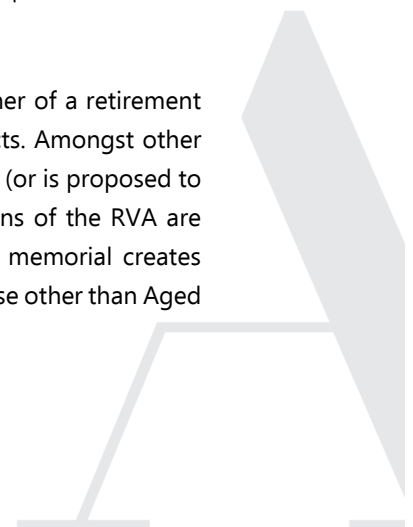
(b) the interest of the resident is not offered as security, or the resident does not enter into a contract for the sale of that interest.

2. Occupation right not to be created unless memorial is lodged

...

- 2) An owner shall not enter into a contract which has or would have the effect of creating or giving rise to a right to occupy residential premises in a retirement village in respect of which a memorial is required to be lodged under section 15 and has not been so lodged.

The effect of the above provisions is that the RVA require the owner of a retirement village to lodge a memorial before entering into residence contracts. Amongst other things, an RVA memorial notifies the public at large, that the land is (or is proposed to be) used for the purpose of a retirement village, and the provisions of the RVA are relevant. The effect of all these provisions is that once lodged, a memorial creates considerable difficulty in using the land for any broader residential use other than Aged or Dependent Persons' Dwellings.



Part 4 of the RVA deals with the 'Resolution of Disputes' and Sections 54, 54A and 54B respectively indicate that under this Act, there is no jurisdiction to deal with any questions as to the title of land and furthermore, it does derogate from the jurisdiction of the *Community Title Act 2018* and the *Strata Titles Act 1985*.

Part 5 also provides detail on the rescission of a residence contract that has been entered under section 16 as mentioned above. Specifically, clause 75 states:

75. Rescission of Contract

...

7. A rescission of a residence contract under section 14 or 16 shall have effect notwithstanding that the residence contract may also be subject to the provisions of the Community Titles Act 2018 or the Strata Titles Act 1985 and nothing in this section shall derogate from the rights of a buyer under those Acts.

The above are the extent of references to strata titling in the RVA.

3.2 Discussion

The RVA has no provisions that deal expressly with the promotion or a prohibition on the division of tenure or the strata titling of a retirement village through the *Strata Titles Act 1985* which has its own protections for the purchasers of strata units.

The ability of the site to be subdivided simply provides an alternative pathway for the development of the independent dwelling sites, and also a different option to those residents seeking to purchase their dwellings in a more straight-forward manner. This is distinct to the sometimes more onerous regulatory compliance requirements surrounding a lease or a licence of their accommodation by entering into a 'residence contract' under the RVA.

It is submitted that Amendment 107 is not in conflict with provisions of RVA. However, it is reiterated that any further analysis of RVA should be the subject of legal advice.

4.0 Review of Submissions

At the City's Ordinary Council Meeting dated 23 November 2021, Council resolved to advertise the proposed Amendment for a period of 42 days pursuant to Regulation 47 (Standard) of the LPS Regulations, *Local Planning Policy 11 - Public Notification of Planning Proposals* and Sections 81 and 82 of the *Planning and Development Act 2005 (PD Act)*.

Following conclusion of the advertising period, which ran from 14 February 2022 until 28 March 2022, a total of 32 submissions were received, of which 30 submissions objected to the proposal, one (1) wrote in support, and one (1) with a neutral stance providing comment only. The below table provides a review of the submissions received and responding comments where appropriate.

Assess No.	Comment	City Comment
1 A207173	<ol style="list-style-type: none"> Do not support. I support the view of a previous Council who voted to support the proposal for an integrated aged care facility on this site, recognising that that there was a real risk of the proponents not fulfilling the requirement to build the nursing home component, and therefore addressed this risk by setting a condition that said; 'The risk has been mitigated by recommending conditions that require the development to remain on one lot without strata titling'. 	<ol style="list-style-type: none"> Noted. The removal of condition d) will not prevent the City from refusing any future development application at the site which does not include the proposal for a nursing home in the location and as per the staging set out within the adopted LDP. If condition d) is retained and the amendment is rejected, there may also be a chance that the site remains wholly undeveloped.
2 A168121	<ol style="list-style-type: none"> Do not support. As residents of Wattle Grove who are concerned about the provision of aged care within the City of Kalamunda, we wish to register our strong objections to the Local Planning Scheme No 3 with respect to proposed 	<ol style="list-style-type: none"> Noted. Reference to specific clause(s) within both the LPS Regulations and the PD Act are not provided to confirm whether this reasoning is justified. It is submitted that the proposed Amendment is not unlawful or

		Amendment 107 pertaining to Lot 500 Gavour Road Wattle Grove. In our view, the proposed Amendment is entirely misconceived and arguably unlawful in terms of the Planning and Development Act 2005 and its associated Regulations.	in conflict with either the PD Act or LPS Regulations.
3	A27080	<ol style="list-style-type: none"> 1. Support. 2. No objection to amendment. 	<ol style="list-style-type: none"> 1. All comments noted.
4	A22585	<ol style="list-style-type: none"> 1. Do not support. 2. Strata Title Retirement Villages are regulated under both the Strata Titles Act AND the Retirement Villages Act in WA. Allowing amendment 107 would have the effect of adding a whole extra level of legal complexity and confusion especially when the rules of each can differ or conflict with one another and have different dispute resolution mechanisms. These can and will be misunderstood and a concern most folk would not have had to deal with previously. I am not in favour of Amendment 107 and support the previous Council decision that sought to protect our Elderly from this unnecessary administrative concern at this time in their lives when most will not be able to deal with the complexity. Our Elderly should NOT have to be subjected to the extra stress of unnecessary and frustrating decisions when they are NOT in the best position to do so. The current Retirement Villages Act has a heavy consumer protection focus which is what the elderly and often more vulnerable members of society require in terms of financial certainty and 	<ol style="list-style-type: none"> 1. Noted. 2. It is submitted that the proposed amendment will not change the purpose and the intended form and layout of the proposed development, as identified in the remaining Special Use 20 provisions and the adopted LDP. In addition, the ability of the site to be subdivided simply provides an alternative pathway for the development of the independent dwelling sites, and also a different option to those residents seeking to purchase their dwellings in a more straight-forward manner. This is distinct to the often more onerous regulatory compliance requirements under the RVA. It is submitted that there is not conflict between the Strata Titles Act and the RVA. 3. Condition c) of the Special Use 20 contemplates a scenario whereby an alternative waste water disposal system must be implemented in the absence of a connection to a reticulated sewerage system. Management of any on site waste system will remain one of many obligations of the Strata or the Administering Body.

		<p>transparency. In these circumstances it is generally comforting for the elderly resident and their families to know that site management decisions will be made in their best interests by a registered management organisation monitored by governmental oversight with sanctioning power. Residents will be more vulnerable to exploitation if their residences are strata titled, unless they actively involve themselves in decision-making forums which many older residents would find onerous.</p> <p>3. Additionally, as this property is not connected to reticulated sewerage, a common sewerage treatment plant will need to be constructed and maintained and managed which is an onerous and unusual management complexity for elderly persons to have to manage themselves under Strata Title arrangements. Permission for this development should NOT have been granted in the first place. It is totally unsuitable. Please do NOT permit this Amendment</p>	
5	A82866	<p>1. Do not support.</p> <p>2. As this property is not connected to reticulated sewerage, a common sewerage treatment will need to be constructed and maintained and managed, which is an onerous and unusual management complexity for elderly persons to have to manage themselves under Strata Title arrangements. I oppose Amendment 107. As an elector of the City of Kalamunda I believe I</p>	<p>1. Noted.</p> <p>2. Condition c) of the Special Use 20 contemplates a scenario whereby an alternative waste water disposal system must be implemented in the absence of a connection to a reticulated sewerage system. Management of any on site waste system will remain one of many obligations of the Strata or the Administering Body.</p>

		have the right to express my view on this matter irrespective of my property address.	
6	A8155	<ol style="list-style-type: none"> 1. Do not support. 2. Councillors, when are you going to represent residents and the rate payers of Wattle Grove South, instead of the wishes of one property developer? You have been told over many years that the owners of Lot 500 (32 Gavour Road, Wattle Grove) would never develop a retirement village with High Care provisions. But you blindly support anything that the owners of Lot 500 submit to the council. It certainly has a stink about it. After many years on presenting council and its officers with the many reasons for not supporting amendment 57, including amongst other: <ol style="list-style-type: none"> a) No reticulated sewerage b) No public transport within easy access c) No medical facilities within easy access d) No retail facilities within easy access e) Substantially increased traffic to Gavour Road 3. The owners claim that they cannot finance the proposed development, what if any finance of applications have been made to financial institutions- I will bet none. 4. If the proponent cannot proceed with the development Lot 500 should revert back to a rural of special rural zoning. 5. As residents of Wattle Grove who are concerned about the provision of aged care within the City of Kalamunda, we wish to 	<ol style="list-style-type: none"> 1. Noted. 2. The concerns were investigated during Amendment No.57 and the current amendment does not alter these considerations. <ol style="list-style-type: none"> a. Reticulated sewerage is not mandatory if it can be demonstrated that a suitable onsite ATU/effluent disposal system can be constructed in accordance with the Government Sewerage Policy 2019 without detriment to the immediate environmental values consistent with Condition c) of the Special Use 20. b. Bus stops are located on Welshpool Road approximately 600m from the site and on Crystal Brook Road approximately 450m from the site. c. Wattle Grove Medical Centre located 3km from subject site; Forrestfield Medical Centre located 2km from subject site; Lesmurdie Medical Centre located 2.7km from subject site. d. Forrestfield Shopping Plaza is located 2.3km from the subject site and provides a Woolworths and Coles as well as numerous other amenities such as cafes, a service station, restaurants and other similar

		<p>register our strong objections to the Local Planning Scheme No 3 with respect to proposed Amendment 107 pertaining to Lot 500 Gavour Road Wattle Grove.</p> <p>6. As every resident in Wattle Grove South would be affected, council must circulate the proposed amendment to all residents of Wattle Grove South not just those that adjoin Lot 500.</p> <p>7. Stop being puppets to this development or resign. There are rules that councillors have to abide by (standing orders etc.) we object to amendment 107 in the strongest possible terms.</p>	<p>commercial offerings. Other nearby retail offerings exist at Lesmurdie Village Shopping Centre and the Wattle Grove Shopping Centre, located 2.3km and 3km from the subject site respectively.</p> <p>e. As per the existing LDP pertaining to the subject site, access is to be provided from Welshpool Road only. The impacts of any additional traffic onto Gavour or other local roads was considered acceptable through Amendment 57.</p> <p>3. The City can only accept at face value the Applicant's claim that removal of Condition d) will help ease the constraints on financing the development of the Independent Living Sites.</p> <p>4. Even if the City formed a view that the site should revert back to a Special Rural zoning it would now likely be at odds with the Sub-Regional Framework.</p> <p>5. Noted.</p> <p>6. The proposed Amendment has been advertised on the City's website and as such advertising is not restricted to only those which neighbour the subject site.</p> <p>7. Noted, however the City and Councillors are required to consider the merits of the proposed Amendment.</p>
7	A8141	1. Do not support.	1. Noted.

		<p>2. Amendment 107 does not:</p> <ul style="list-style-type: none"> a. act to safeguard the original intention of a previous Council to construct an integrated retirement village which includes a nursing home on this site for the benefit of the elderly in our community. It does not clarify whether residents themselves would have to manage any part of this nursing home facility under Strata Title conditions. b. Nor does Amendment 107 clarify whether strata titling of units would allow the units to be sold, rented or sublet to persons not of retirement age. I therefore oppose the Amendment. 	<p>2. See below</p> <ul style="list-style-type: none"> a. The removal of condition d) will not prevent the City from refusing any future development application at the site which does not include the proposal for a nursing home in the location and as per the staging set out within the adopted LDP. In addition, Conditions e) and f) of Special Use 20 remain and provide enough security for the delivery of the Care Facility without the need for retaining Condition d). b. The proposed amendment does not impact on the age restriction that remains as per condition (a) of Special Use 20.
8	A189852	<ul style="list-style-type: none"> 1. Do not support. 2. Why does the council continue to not support the majority and support one property developer and greedy grab for money. It makes absolutely no practical or logical sense to replace the long-held desire of the City for an integrated aged care facility under single ownership with a fragmented ownership model. I 	<ul style="list-style-type: none"> 1. Noted. 2. It is submitted that the proposed amendment will not change the purpose and the intended form and layout of the Integrated Aged Care Facility, as identified in the remaining Special Use 20 provisions and the adopted LDP.

		strongly oppose Amendment 107.	
9	A166834	<p>1. Do not support.</p> <p>2. Reference Amendment 107</p> <p>Affected due to:</p> <ul style="list-style-type: none"> a. Loss of rural landscape. b. Loss of native flora and fauna c. Increased traffic d. Lack of adequate sewerage system to accommodate large scale property development. e. Distinct change of character to the original approval. 	<p>1. Noted.</p> <p>2. These concerns were investigated during Amendment 57 and the current amendment does not alter these considerations.</p> <ul style="list-style-type: none"> a. While zoned 'Rural' under the Metropolitan Region Scheme, the subject site is earmarked for potential future urban development as per the provisions of the Sub-Regional Framework. b. Any future development application which is submitted will be required to submit an environmental report which demonstrates that the development will not result in an adverse impact upon flora and fauna that exist at the site. c. As per the existing LDP pertaining to the subject site, access is to be provided from Welshpool Road only. As per the adopted LDP, The secondary vehicle access way to Gavour Road is for emergency access only and can be used by construction vehicles during staged development. d. A suitable onsite ATU/effluent disposal system would be required to be approved and constructed in accordance with the Government Sewerage Policy 2019 without

			<p>detriment to the immediate environmental values.</p> <p>e. The removal of condition d) allowing for the strata titling of the Independent Living Sites is not expected to significantly alter the character of the development as per the approved LDP.</p>
1	A222410	<ol style="list-style-type: none"> 1. Do not support. 2. We strongly oppose Amendment 107 as any access or egress from this site onto Welshpool Road East, at a particularly dangerous point in this major road, will potentially cause more accidents at an already very dangerous stretch of road. Particularly if the access is near the Lewis Road intersection. There are weekly accidents at this intersection, some have been very serious and/or fatal. As an aside, we also strongly object on the grounds that we perceive that strata titling of the approved integrated aged care facility on this site is not in the best interests of older residents due to the complexities of this site, including the absence of reticulated sewerage. 	<ol style="list-style-type: none"> 1. Noted. 2. Traffic concerns were considered during Amendment 57 and the proposed and the current amendment does not alter this aspect of the intended development on the land.
1	A82884	<ol style="list-style-type: none"> 1. Do not support. 2. This development will not only destroy habitat for our local wildlife it will bring additional traffic and people to an area that is special because it is quiet, and everyone knows one another. The sad thing is that if this development is approved it will be the death of our perfect little area which will end up just like the already developed side of Wattle Grove. What a shame for the 	<ol style="list-style-type: none"> 1. Noted. 2. Environmental concerns were considered during Amendment 57 and the proposed amendment does not alter this aspect of the intended development on the land.

		community, the environment, the wildlife and the people. We moved to this area for the community, the environment, the wildlife and the people, not to see it all destroyed.	
1	A8187	<ol style="list-style-type: none"> 1. Do not support. 2. As long-term residents of the beautiful Wattle Grove, I beseech you all to count the numbers, hear the message and block this amendment absolutely. Your community, our community, does not want what you have proposed, and there are many reasons why not. 3. Your Amendment 107 does not specify the type of Strata Title to be used and as you know there are several types. 4. This lack of attention to detail leaves the intention open to interpretation and I think it best it remains as is; that is, as it was written by a previous Council who sought to protect the end use of land in favour of our elderly. 5. I therefore, strongly object to the Local Planning Scheme No 3 with respect to proposed Amendment 107 pertaining to Lot 500 Gavour Rd. 	<ol style="list-style-type: none"> 1. Noted. 2. Noted. 3. Strata titles can be built or survey strata subdivision. 4. Noted. 5. Noted.
1	A147422	<ol style="list-style-type: none"> 1. Do not support. 2. We understand that that proposed Amendment 107 is designed to speed up and make it easier for the landowner/developers to advance his/their intentions. 	<ol style="list-style-type: none"> 1. Noted. 2. Noted. 3. Noted. 4. Noted. 5. Special Use 20, adopted through Amendment 57, contemplates an Integrated Age Care Facility on the land.

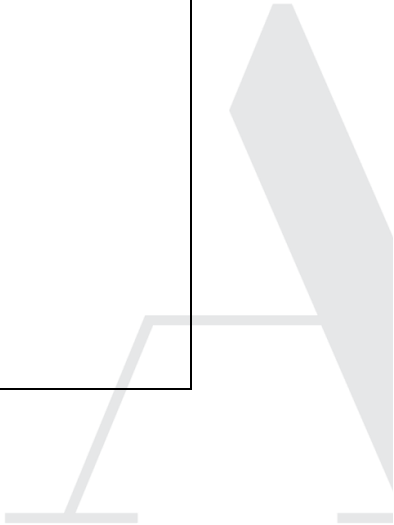
	<p>3. We have been involved since circ. 2007 in objecting to the proposed land use concept.</p> <p>4. Attached is an earlier submission relating to health issues in embarking on such a development. (see from comment 10)</p> <p>5. We believed then and still consider the whole concept of a retirement village in the lower echelons of Welshpool Rd to be absolutely in the wrong place at the wrong time.</p> <p>6. As near neighbours to the proposed retirement village we are constantly impacted by the traffic noise from motorcycles through to heavy diesel road trains on Welshpool Road at all hours of the day and night.</p> <p>7. The land in questions is also traversed by high voltage power lines which will additionally have a deleterious effect on health on residents.</p> <p>8. Amendment 107 does not act to safeguard the original intention of a previous Council to construct an integrated retirement village which includes a nursing home on this site for the benefit of the elderly in our community. It does not clarify whether residents themselves would have to manage any part of this nursing home facility under Strata Title conditions.</p> <p>9. As such we strongly oppose Amendment 107 and would humbly ask that this is not given credence.</p> <p>10. See Appendix 1</p>	<p>6. Traffic concerns were considered during Amendment 57.</p> <p>7. As above, not a concern that relates the proposed amendment.</p> <p>8. The proposed amendment will not change the purpose and the intended form and layout of the proposed development, as identified in the remaining Special Use 20 provisions and the adopted LDP. There is no basis as to why, under a strata title arrangement, residents of the Independent Living Sites would need to manage the Aged Residential Care Facility (nursing home component).</p> <p>9. Noted.</p> <p>10. Noted.</p>	
1	A82866	1. Do not support.	1. Noted.

		<p>2. Our property is in close proximity to 500 Gavour Road but any elector in the City of Kalamunda has a right to express a view on this matter irrespective of their property location. Especially as it is concerning an aged care facility which would be of interest to most residents.</p> <p>3. I support the view of a previous Council who voted to support the proposal for an integrated aged care facility on this site in 2015 when they recognised that there was a real risk of the proponents not fulfilling the requirement to build the nursing home component and addressed this risk by setting a condition (condition d) that said</p> <p>"The risk has been mitigated by recommending conditions that require the development to remain on one lot without strata titling".</p> <p>I therefore oppose Amendment 107.</p>	<p>2. Noted.</p> <p>3. It is maintained that the remaining conditions, in particular conditions e) and f), provide enough security for the delivery of the Care Facility without the need for retaining condition d). Further, it is noted that the intent of the approved LDP is to provide a framework for subsequent development to be consistent with and details how the various constraints applicable to the site will be managed. The proposed scheme amendment will not impact on any of these requirements. The 'risk' referred to in the consideration of Amendment 57 was in reference to the possibility of subdivision under the Rural zoning of the land under the MRS and that has now diminished with the Sub-Regional Framework</p>
1	A126755	<p>1. Do not support.</p> <p>2. I support the view of a previous Council who voted to support the proposal for an integrated aged care facility on this site in 2015 when they recognised that there was a real risk of the proponents not fulfilling the requirement to build the nursing home component and addressed this risk by setting a condition (condition d) that said</p>	<p>1. Noted.</p> <p>4. It is maintained that the remaining conditions, in particular conditions e) and f), provide enough security for the delivery of the Integrated Aged Care Facility without the need for retaining condition d). Further, it is noted that the intent of the approved LDP is to provide a framework for subsequent development to be consistent with and details how the various constraints</p>

		<p>"The risk has been mitigated by recommending conditions that require the development to remain on one lot without strata titling".</p> <p>I therefore oppose Amendment 107.</p>	<p>applicable to the site will be managed. The proposed scheme amendment will not impact on any of these requirements. The 'risk' referred to in the consideration of Amendment 57 was in reference to the possibility of subdivision under the Rural zoning of the land under the MRS and that has now diminished with the Sub-Regional Framework.</p>
1	A244931	<ol style="list-style-type: none"> 1. Do not support. 2. I am a resident of Wattle Grove. 3. I wish to register a firm and unequivocal OBJECTION to the proposed Amendment 107, related to Lot 500 Gavour Road, Wattle Grove. 4. I believe this contravenes previous agreements and approvals and, regardless, will further damage amenities in the area. 	<ol style="list-style-type: none"> 1. All comments noted; however, it is reiterated that the gazettal of Amendment 57 has already considered the appropriateness of the proposed use in broad terms.
1	A50154	<ol style="list-style-type: none"> 1. Do not support. 2. We oppose Amendment 107 on the following grounds: <ol style="list-style-type: none"> a. This property is not connected to reticulated sewerage b. Strata titling of units would allow the units to be sold, rented or sublet to persons not of retirement age c. Residents may be more vulnerable to exploitation if their residences are strata titled, unless they actively involve themselves in decision-making forums which many older 	<ol style="list-style-type: none"> 1. Noted. 2. See below: <ol style="list-style-type: none"> a. This is dealt with condition c) of Special Use 20 which remains unchanged. b. Incorrect. Condition a) provides that at least one occupant must have reached the age of 55 years. c. The Strata Titles Acts has its own protections for the purchasers of strata units.

		residents would find onerous.	
1	A50037	<ol style="list-style-type: none"> Do not support. It makes absolutely no practical or logical sense to replace the long-held desire for the City of Kalamunda to support an integrated aged care facility under single ownership and/or a fragmented ownership model. We strongly oppose Amendment 107. 	<ol style="list-style-type: none"> Noted. Noted.
1	A242220	<ol style="list-style-type: none"> Do not support. I object to this amendment as it is another attempt to bypass the conditions that were placed on the proponent to develop the property as he proposed it to the community. Those who supported the proposal were desperate to have the integrated aged care facility built as a matter of urgency. I recall the proponents law firm making a deposition at a Council meeting stating that these conditions were a guarantee that the integrated aged care facility would be built. The 75% build condition on independent living units does not guarantee it, a large profit can still be made from 70% build. Let's not forget the majority of the surrounding properties objected to the proposal, because it was seen as a means of urban use in a rural zone. 	<ol style="list-style-type: none"> Noted. Noted. The Sub-Regional Framework earmarks the site as an 'Urban Expansion/Investigation' zone. It is reasonable to suggest that the site may, in time, be rezoned to 'Urban' under the MRS subject to further investigations.
2	A82947	<ol style="list-style-type: none"> Do not support. As residents of Wattle Grove who are concerned about the provision of aged care within the City of Kalamunda, we wish to register our strong objections to 	<ol style="list-style-type: none"> Noted. Noted. It is not known what provisions of the PD Act or the LPS Regulations will render the

	<p>the Local Planning Scheme No 3 with respect to proposed Amendment 107 pertaining to Lot 500 Gavour Road Wattle Grove.</p> <p>3. In our view, the proposed Amendment is entirely misconceived and arguably unlawful in terms of the Planning and Development Act 2005 and its associated Regulations.</p> <p>4. The current Retirement Villages Act has a heavy consumer protection focus which is what the elderly and often more vulnerable members of society require in terms of financial certainty and transparency. In these circumstances it is generally comforting for the elderly resident and their families to know that site management decisions will be made in their best interests by a registered management organization monitored by government oversight with sanctioning power. Residents may be more vulnerable to exploitation if their residences are strata titled, unless they actively involve themselves in decision-making forums which many older residents would find onerous.</p> <p>5. This property is also not connected to sewerage and elderly people having to manage an onsite sewerage system themselves at their late stage of life is completely unfair. Plus, Covid is not going away any time soon and adds another extra element of risk to any onsite sewerage system.</p>	<p>proposed amendment as unlawful.</p> <p>4. Noted.</p> <p>5. Management of any on site waste system will remain one of many obligations of the Strata or the Administering Body.</p> <p>6. Noted.</p>
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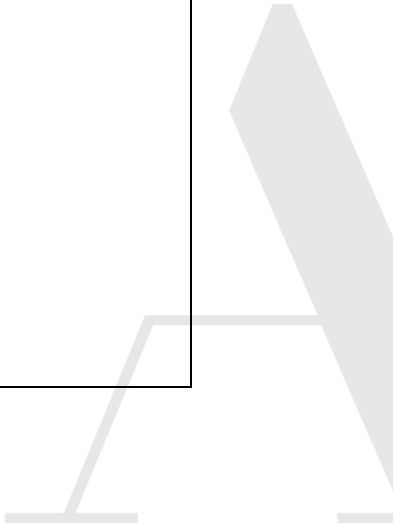
		6. I do not support Amendment 107.	
2	A147387	<ol style="list-style-type: none"> 1. Do not support. 2. Well then here we go again after all the promises all the work all the fighting that has gone on for years over this development, it seems that it's going to finally turn into a lifestyle village. This was always the concerned of people living in the area people that enjoy the special rural lifestyle, development by stealth, like a Trojan horse using the promise of an integrated aged care facility with a high care nursing home for the residents of Kalamunda. Now it seems all our seniors who had pinned so much hope into this development to assure themselves of somewhere to live in the area will be wondering what next. 	<ol style="list-style-type: none"> 1. Noted. 2. Noted.
2	A27107	<ol style="list-style-type: none"> 1. Thank you for the letter sent to my address regarding the above-mentioned Amendment. I wish to register my objection to the change deletion of condition D. 2. Amendment 107 does not clarify what type Strata Title is to be obtained and such an open-ended amendment could prevent any aged care being provided 3. Amendment 107 does not clarify whether the titling would allow the units to be sold, rented or sublet to persons not of retirement age – changing the whole reason for the special purpose zoning 4. No financial costings on the project – no data to provide clear proof that the amendment will ensure age care component will be achieved – given that the 	<ol style="list-style-type: none"> 1. Noted. 2. Strata titles can be built or survey strata subdivision. All other requirements of Special Use 20 remain. 3. Condition a) of Special Use 20, approved via Amendment 57, requires at least one occupant of a dwelling to be at least 55 years of age. 4. Financial costings are not an consideration for planning process to review. It is agreed, that there is always a risk that part or even the entire development of the Integrated Age Care Facility may not proceed, irrespective of planning requirements. 5. As per 4 above. 6. Noted.

	<p>property owner has an additional mortgage to a third party on the property there is a risk that aged care will never be obtained regardless of the zoning or conditions</p> <p>5. There is no financial modelling that shows the likely profitability of strata units vis a vis the costs of construction of a high care facility or any guarantees that the profits earned from possible sale of the 133 over 55s units will be allocated towards the cost of construction of the Nursing home. Only been given a vague assurance that jettisoning the single ownership accommodation model may somehow move this stagnant project along</p> <p>6. Change to the conditions of the special zoning puts at risk that local community's safety and amenity</p> <p>7. The property is not connected to reticulated sewage – there is no documentation or legal framework included to prove that this will not endanger residents or contaminate groundwater which residents rely on</p> <p>8. Removing the special condition goes against the Planning and Development Act by having more fragmented land ownership and places extra burden on elderly people who may purchase.</p> <p>9. It is not the City's or ratepayers' responsibility to have special allowances made to development because the owner needs to obtain finance – if the owner is not financially able</p>	<p>7. This is dealt with condition c) of Special Use 20 which remains unchanged.</p> <p>8. It is unclear what part of the PD Act restricts fragmented land ownership.</p> <p>9. Noted. However, it is not clear how the amendment risks the retirement funds of the elderly or investors.</p> <p>10. Clause 57 of the LPS Regulations provides that the duration of an LDP approval is valid for a period of 10 years commencing on the day on which the responsible authority approves the plan. There is no clause which provides detail on the shortening of this period and furthermore, no guidance in the planning framework more broadly which suggests that previous zones should be reinstated where development does not proceed.</p> <p>11. The existing LDP remains unchanged and was prepared as a requirement of Amendment 57 in order to provide guidance for development at the site. The proposed Amendment 107 does not alter any of these requirements.</p> <p>12. Not an issue for planning process to resolve.</p> <p>13. Environmental concerns were considered during Amendment 57 and the proposed amendment does not alter this aspect of the intended development on the land. Noted. Not an issue for planning process to resolve.</p>
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	<p>to undertake the development, they should not risk the retirement funds of the elderly or investors to do so.</p> <p>10. The City should seek legal advice to place a time limit within the development plan for the owners to commence substantial and if the proponents prove unable to comply with the time limit, then, the City should give notice that it intends to take all necessary steps to remove the Special Purpose zoning of the land. The option is then available to the proponents is to sell the property to a new owner who has the capacity and funds to fulfil the City's requirement for this property or alternatively develop it in accordance with the Special Rural Zoning</p> <p>11. There has been no modelling on what changes would be made to the development if that condition is removed – lots sizes, pricing, development stages, water access, sewage, road network, disturbance to neighbours, environment. This is not a small change to the plan it is a large change which should include of this information.</p> <p>12. What happens to people that have been promised a home in this development, or have paid money already and now may face this becoming a financial burden or not having the age care development?</p> <p>13. Environment – given that removing this condition may lead to one of many different strata titles there is a risk to the surrounding environment – what</p>	<p>14. The planning framework provides no guidance on how a proponent can be asked for surety that a development must proceed.</p> <p>15. It is not understood what costs will be passed on nearby residents.</p> <p>16. Strata titles can be built or survey strata subdivision.</p> <p>17. As above.</p>
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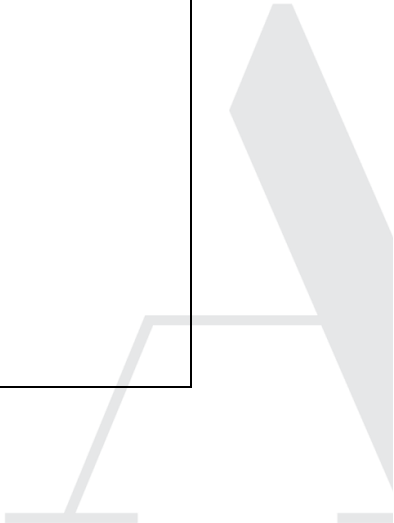
		<p>environmental protection will be left in place, if any, for this property and surrounding wildlife corridors and adjoining properties</p> <p>14. If the proponent is serious about building the aged care facility then a surety should be taken from the council otherwise, they will be a risk of another Hales Slattery situation again</p> <p>15. Will development cost be passed on to the nearby residents with the condition being removed?</p> <p>16. WHAT STRATA TITLE IS THE OWNER WANTING PLACED ON THE PROPERTY</p> <p>17. NO ONE CAN MAKE AN INFORMED DECISION – ESPECIALLY COUNCILLORS – WITHOUT KNOW WHAT STRATA TITLE IS REQUESTED AND TO NOT MAKE IT PUBLIC IS TO MISLEAD THE RATEPAYERS AND THE COUNCIL STAFF AND COUNCILLORS</p>	
2	A26399	<p>1. Do not support.</p> <p>2. The Scheme amendment was to provide for an Integrated Aged Care Facility within a Special Rural Zoning with difficult access to existing roads, public transport and no reticulated sewerage. The fact it has been on the books for many years without development reflects a poor decision at the time. To now allow the property to be Strata Titled without a published legal opinion of its effect on the risk of achieving the aims of the original amendment should be unconscionable to members of Council. Strata Titles</p>	<p>1. Noted.</p> <p>2. Noted, a local government cannot force a proponent to construct a development once approval has been obtained.</p>

		<p>represent a totally different set of risk for the stated aim of the amendment which was to provide an integrated aged care facility. The residents would be required to take on a whole new complexity of responsibility, the Strata could be terminated without the building of a high care facility and degrade into to a subdivision of small unsewered lots within the Special Rural Zone.</p>	
2	A234146	<ol style="list-style-type: none"> 1. Comment only. 2. The church has no comments on the proposed Scheme amendment no. 107 Although not directly related to the proposed amendment, the church would like to take this opportunity to raise some related concerns about the proposed access to/from the proposed retirement village. We have no objections to the proposed retirement village. Since the approval of the original Amendment 57 in 2017, St Peter’s Church located at 831 Welshpool Rd East, in Aug 2018, constructed the eastbound and westbound slip lanes and modified the median break to facilitate a safe U-turn traffic to the church facility. The proposed facility is understood to be constructing a new crossover at the same U-turn median break to provide the main access to the facility. It is unclear if the existing traffic to the church has been considered in the traffic assessments. We believe there would be some traffic impact which should be considered and approved. It should be noted that 	<ol style="list-style-type: none"> 1. Noted. 2. Traffic concerns were considered during Amendment 57. 3. The appropriateness of any vegetation removal can be considered at development stage.



		<p>all the costs related to the construction of the slip lanes were borne by the church and therefore we expect the city would facilitate sharing of some of these costs by the developer of the proposed facility.</p> <p>3. Also, we would like to know how many trees are going to be cut as part of the development. Thank You.</p>	
2	A8204	<p>I object to Amendment 107 for the following reasons:</p> <ol style="list-style-type: none"> 1. Strata title retirement villages are regulated under both the Strata Titles Act AND the Retirement Villages Act in WA. Allowing amendment 107 would have the effect of adding a whole extra level of legal complexity and confusion especially when the rules of each can differ or conflict with one another and have different dispute resolution mechanisms. I am not in favour of Amendment 107 and support the previous Council decision that sought to protect our elderly from unnecessary administrative concern at this time in their lives. 2. The current Retirement Villages Act has a heavy consumer protection focus which is what the elderly and often more vulnerable members of society require in terms of financial certainty and transparency. In these circumstances it is generally comforting for the elderly resident and their families to know that site management decisions will be made in their best interests by a registered 	<ol style="list-style-type: none"> 1. Noted. 2. Noted. The Strata Titles Act has its own protections for the purchasers of strata units. 3. It is maintained that the remaining conditions, in particular conditions e) and f), provide enough security for the delivery of the Integrated Aged Care Facility without the need for retaining condition d). Further, it is noted that the intent of the approved LDP is to provide a framework for subsequent development to be consistent with and details how the various constraints applicable to the site will be managed. The proposed scheme amendment will not impact on any of these requirements. The 'risk' referred to in the consideration of Amendment 57 was in reference to the possibility of subdivision under the Rural zoning of the land under the MRS and that has now

	<p>management organisation monitored by government oversight with sanctioning power. Residents may be more vulnerable to exploitation if their residences are strata titled, unless they actively involve themselves in decision-making forums which many older residents would find onerous.</p> <p>3. I support the view of a previous Council who voted to support the proposal for an integrated aged care facility on this site in 2015 when they recognised that there was a real risk of the proponents not fulfilling the requirement to build the nursing home component and addressed this risk by setting a condition (condition d) that said</p> <p><i>'The risk has been mitigated by recommending conditions that require the development to remain on one lot without strata titling'.</i></p> <p>4. As this property is not connected to reticulated sewerage, a common sewerage treatment plant will need to be constructed and maintained and managed which is an onerous and unusual management complexity for elderly persons to have to manage themselves under Strata Title arrangements -</p> <p>5. Amendment 107 as does not specify the type of Strata Title to be used... and there are several types. Such an open-ended amendment could potentially prevent the</p>	<p>diminished with the Sub-Regional Framework.</p> <p>4. This is dealt with condition c) of Special Use 20 which remains unchanged.</p> <p>5. As per the response in 2) above.</p> <p>6. There is no basis as to why, under a strata title arrangement, residents of the Independent Living Sites would need to manage the Aged Residential Care Facility (nursing home component).</p> <p>7. Incorrect. Condition a) provides that at least one occupant must have reached the age of 55 years.</p>
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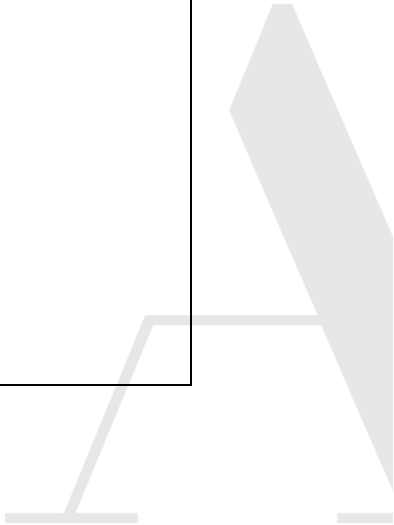


		<p>retirement village coming under the Retirement Villages Act. This would be detrimental to residents in the retirement village and would reduce the legal protections available to residents.</p> <p>6. Amendment 107 does not act to safeguard the original intention of a previous Council to construct an integrated retirement village which includes a nursing home on this site for the benefit of the elderly in our community. It does not clarify whether residents themselves would have to manage any part of this nursing home facility under Strata Title conditions.</p> <p>7. Amendment 107 does not clarify whether strata titling of units would allow the units to be sold, rented or sublet to persons not of retirement age.</p>	
2	A8204	<p>1. The Very Brief History. The only reason Amendment 57 to the Kalamunda’s town planning scheme was approved in 2017 was to facilitate the construction of an integrated aged care facility with the primary purpose of fulfilling the perceived need for high care accommodation in the City. To facilitate the construction of a nursing home on Special Rural zoned land the council ignored the overwhelming 85% public opinion against the proposal all justified by the dire need for a 100-bed nursing home. The are</p>	<p>1. Noted. 2. Noted. 3. Noted. 4. Noted. 5. Noted. 6. See below: a) Noted. b) 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</p>

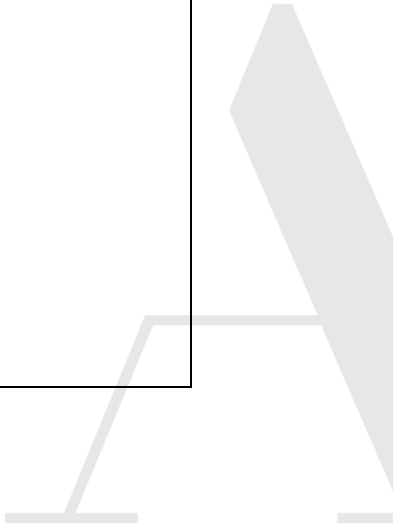
	<p>many reasons why the rezoning of lot 500 should never have been approved which have been detailed over the past 9 years prior to approval, apart from the proponent apparently not being able to fund the development 5 years after approval without another amendment. Importantly the usual requirement that the development be serviced by reticulated sewerage was ignored due to the dire need for a 100 bed nursing home, in fact the council planning department alluded at numerous meetings that the proposed development could be serviced by reticulated sewerage whenever questioned on the matter. The council soon approved amendment 57 seemingly because of the dire need for the potential 100 bed nursing home, as local residents always knew they would, with the sewerage being disposed of onsite ignoring the numerous documented failures of ATU's locally and worldwide.</p> <p>2. The council has spent \$10s and \$10s of thousands of dollars in money (which it asserted the proponent would repay some of upon approval which I don't believe he has) and time fighting local residents to approve the inappropriate development in a rural paddock because of the trojan horse of a proposed 100 bed nursing home. The council approved amendment 57 which allowed the developer to build 133 villa units for over 55s (the officers/consultant's recommendation and the</p>	<p>construct the Aged Residential Care Facility (nursing home component) will remain the same.</p> <p>c) It is maintained that the remaining conditions, in particular conditions e) and f), provide enough security for the delivery of the Integrated Aged Care Facility without the need for retaining condition d). Further, it is noted that the intent of the approved LDP is to provide a framework for subsequent development to be consistent with and details how the various constraints applicable to the site will be managed. The proposed scheme amendment will not impact on any of these requirements. The 'risk' referred to in the consideration of Amendment 57 was in reference to the possibility of subdivision under the Rural zoning of the land under the MRS and that has now diminished with the Sub-Regional Framework.</p> <p>d) Noted. Refer condition a) of Special Use 20 which requires that at least one occupant must be over the age of 55 years.</p> <p>e) Noted, however not an issue for planning process to resolve.</p>
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	<p>Amendment documents indicated that the developer could only build 60 units prior to commencement of the 100 bed nursing home however that was amended to 133 at the request of the proponent the night the amendment was approved). The developer claimed in the original Amendment documents that <i>"The land will <u>not</u> be subdivided as the residential units will be developed on a "lease for life basis" which along with the provision that units could not be strata titled provided some security that the 133 units would not merely be built, strata titled and sold. Approval of Amendment 57 was always deemed as urgent because the proponent was eager to get going on the development as they had the will, capacity and the aged care experience to get the development going. There was a claim in the media that the Minister for planning at the time was unfairly holding the development up by taking the advice of his department that the development was inappropriate and by not permitting the development. As things turned out he could have waited another 6 years as there is still nothing on site little owe a 100-bed nursing home.</i></p> <p>3. Just an aside, In 2009 the residents of Wattle Grove introduced the MD of St Ives to the Shire President and the CEO of Kalamunda to explore the possibility of a joint venture with the State providing the land on a</p>	<p>f) Incorrect, there will still be the requirement for a Strata body.</p> <p>g) Noted. The Strata Titles Acts has its own protections for the purchasers of strata units.</p> <p>h) Noted.</p> <p>i) Noted.</p> <p>j) This is dealt with condition c) of Special Use 20 which remains unchanged.</p> <p>k) There is no basis as to why, under a strata title arrangement, residents of the Independent Living Sites would need to manage the Aged Residential Care Facility (nursing home component).</p> <p>l) Noted.</p> <p>m) Noted.</p> <p>n) Noted.</p> <p>o) Noted.</p>
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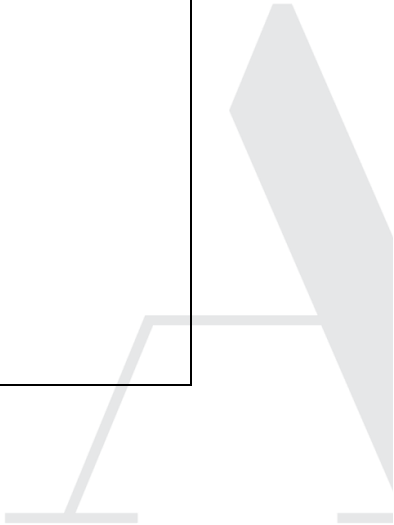
	<p>lease to ST Ives and St Ives constructing and building the aged care facility on a site in Wilkins Road or any of the other land which had been identified by the residents of Wattle Grove and pointed out to the council. The council did not even follow up after the meeting on invitation from St Ives to discuss the matter further. Now, the City and state representatives are all smiling and grabbing front page headlines espousing what a great idea a joint venture or subsidising the land for developers is as if they thought of it, some 13 years after the residents of Wattle Grove proposed the exact same concept.</p> <p>4. The rest is history as there was a change in State Government and a potential joint venture on Wilkins Road was halted and the rezoning of the site withdrawn on environmental grounds justified or not. Now the council and local members are advocating developments on Cambridge Reserve Forrestfield and land used as a park on the Corner of Canning and Pomeroy Road.</p> <p>5. The council and its planners should hang their heads in shame. 18 years since Amendment 18, 57, 107 and although the council has given out accolades to Aged Care advocates and made numerous announcements concerning aged care it has produced very little high care aged accommodation.</p> <p>6. Amendment 107 Amendment 107 should be rejected for the following reasons:</p>	
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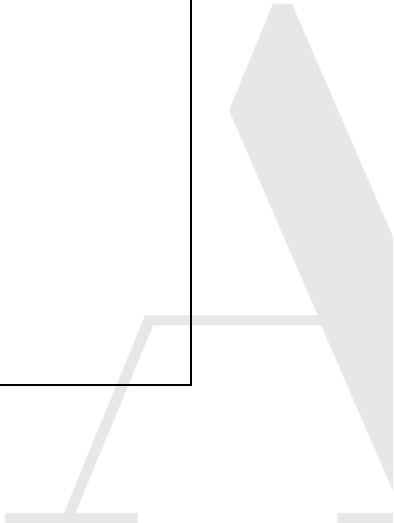
		<p>a) Amendment 107 is only guaranteed to produce 180 over 55 villas on an unsewered paddock in a Special Rural zoned locality.</p> <p>b) There is no incentive for the developer to build the unprofitable and expensive 100 high care component after the 133 Strata units are sold. The reason for the addition of Condition d) of Special use 20 was the explicit aim of preventing the building of 133 strata units selling them on and walking away.</p> <p>c) Council voted to support Amendment 57 for an integrated aged care facility on this site in 2015 when they recognised that that there was a real risk of the proponents not fulfilling the requirement to build the nursing home component and addressed this risk by setting a condition (condition d) that said</p> <p>'The risk has been mitigated by recommending conditions that require the development to remain on one lot without strata titling'.</p> <p>d) There is nothing in Amendment 107 to prevent the units once strata titled being sold to investors who will merely rent the units to over 55's (whether the occupants are over 55 is not verified anyway)</p> <p>e) There are no constraints in Amendment 107 documents which would prevent Investors</p>	
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		<p>buying a multitude of units thereby enabling the strata company to be loaded.</p> <p>f) Strata Titling and therefore fragmented ownership will take away central control and responsibility for the whole development.</p> <p>g) Amendment 107 does not include the Strata conditions under the Strata Titles Act that will be in place. Such an open-ended amendment could potentially prevent the retirement village coming under the Retirement Villages Act. This would be detrimental to residents in the retirement village and would reduce the legal protections available to residents.</p> <p>h) Strata title retirement villages are regulated under both the Strata Titles Act AND the Retirement Villages Act in WA. Allowing amendment 107 would have the effect of adding a whole extra level of legal complexity and confusion especially when the rules of each can differ or conflict with one another and have different dispute resolution mechanisms.</p> <p>i) The current Retirement Villages Act has a heavy consumer protection focus which is what the elderly and often more vulnerable members of society require in terms of financial certainty and transparency. In these circumstances it is generally comforting for the elderly resident and their families to</p>	
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		<p>know that site management decisions will be made in their best interests by a registered management organisation monitored by government oversight with sanctioning power. Residents may be more vulnerable to exploitation if their residences are strata titled, unless they actively involve themselves in decision-making forums which many older residents would find onerous.</p> <p>j) As this property is not connected to reticulated sewerage, a common sewerage treatment plant will need to be constructed and maintained and managed which is an onerous and unusual management complexity for elderly persons to have to manage themselves under Strata Title arrangements .</p> <p>k) Amendment 107 does not act to safeguard the original intention of a previous Council to construct an integrated retirement village which includes a nursing home on this site for the benefit of the elderly in our community. It does not clarify whether residents themselves would have to manage any part of this nursing home facility under Strata Title conditions</p> <p>l) It makes absolutely no practical or logical sense to replace the long held desire of the City for an integrated aged care facility under single ownership with a fragmented</p>	
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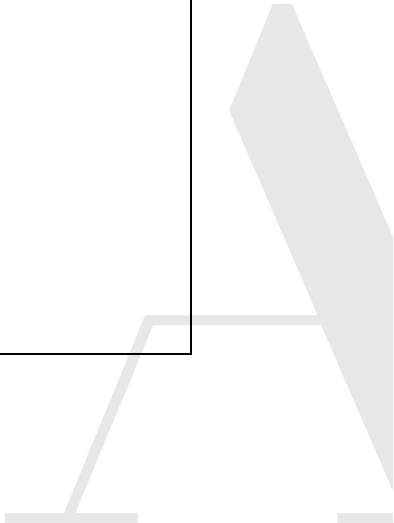


		<p>ownership model. I strongly oppose Amendment 107.</p> <p>m) Planning decisions and approvals should not be altered simply based on a developer's ability to obtain financial support for a proposition endorsed by the City which the developer's instigated.</p> <p>n) That Amendment 107 has been allowed for advertising by the City of Kalamunda and recommended by the City planner without any constraints and guarantee of the 100-bed facility being built is an embarrassment. There is absolutely no reason to support Amendment 107 which as it stands would be basically permit urban development in a Special Rural zoned location without any guarantee or incentive that the 100 bed high care facility would be built.</p> <p>o) Amendment 107 shows once again the propensity of Councillors and city staff to favour the interests of a developer against the known interests of the public they are supposed to serve.....corroding public trust once again</p>	
2	NRPG	<p>1. This submission is on behalf of Nature Reserves Preservation Group (NRPG) Inc. and is the latest of several made by NRPG on Lot 500 proposals since 2014 LPS Amendment 57).</p>	<p>1. Noted. 2. Noted. 3. Noted. 4. Noted. 5. Noted. 6. See below:</p>

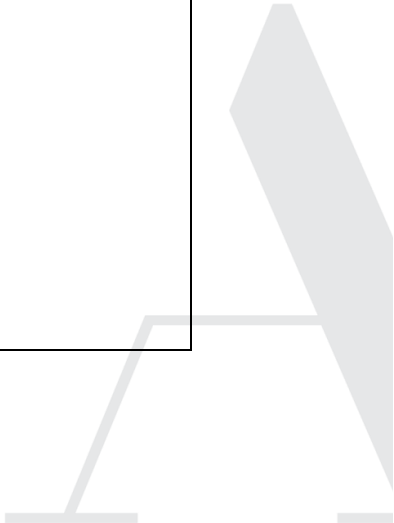
	<p>2. Amendment 107 is one of several amendments since 2014, each relaxing the original <i>'Special Use 20'</i> conditions stipulated by Kalamunda Shire/City. NRPG submissions opposing the relaxations had no effect, all variations being accepted by Council.</p> <p>3. NRPG submissions have expressed concerns over numerous aspects of these proposals. Whilst the present variation to the <i>'Conditions'</i> have been supported by Council, this submission seeks to highlight the questionable nature of the proponent's case and urges Council to reconsider its stand.</p> <p>4. Amendment 107 is intended to make it easier for the proponent to sell individual lots. Stating that such lots, under individual titles would more easily attract finance, that <i>"without the ability for strata titling, finance often is not achievable..."</i> the inference being that, without the strata titling, the provision of a <i>'Nursing Home Component'</i> will be delayed.</p> <p>5. The SOLE support for this statement comes from citing, at length, the Shire of Northam Local Planning Scheme 6 amendment 5, in which El Caballo Lifestyle Village (ECLV) requested the development be strata titled, enabling <i>"individual certificates of title to be obtained for each dwelling"</i>. The Northam proponent stating <i>"... the financial lending institution does not provide lending facilities for such types of assets."</i> Note the singular <i>"financial lending</i></p>	<p>i) The City can only accept at face value the Applicant's claim that removal of Condition d) will help ease the constraints on financing the development of the Independent Living Sites.</p> <p>ii) Noted.</p> <p>7. Noted.</p> <p>8. Noted.</p> <p>9. Noted.</p> <p>10. Condition f) of Special Use 20 remains unchanged from the form adopted in Amendment 57.</p> <p>11. As above.</p> <p>12. Noted.</p> <p>13. Environmental concerns were considered during Amendment 57 and the proposed amendment does not alter this aspect of the intended development on the land.</p> <p>14. Noted.</p>
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	<p><i>institution</i>". The Northam Amendment 5 was approved by Minister for Planning 23 August 2017, in the September 2017 Government Gazette.</p> <p>6. Dynamic Planning and Developments use of the El Caballo Lifestyle Village (ECLV) amendment. The following elements of the Justification (Section 5.0) are open to challenge:</p> <p>a. Justification 1. The proponent states that <i>"without the ability for strata titling, finance often is not achievable..."</i>. This broad statement is not supported by the information found on the current 'Simply retirement' website, <i>"About 10-12% of retirement village units are owned on a strata title basis."</i> Given that more than 80% of ownership is NOT on strata title, the suggested degree of financing difficulties may warrant further examination.</p> <p>b. Justification 3. The Gavour Road amendment <i>"is not dissimilar to"</i> the Northam amendment. This 'justification' is dubious. An examination of the two sites reveals the opposite – making the amendments themselves vastly dissimilar. The characteristics of the Gavour Road site and surroundings are well known to the City and need not be listed. Having accepted the proposition however, the</p>	
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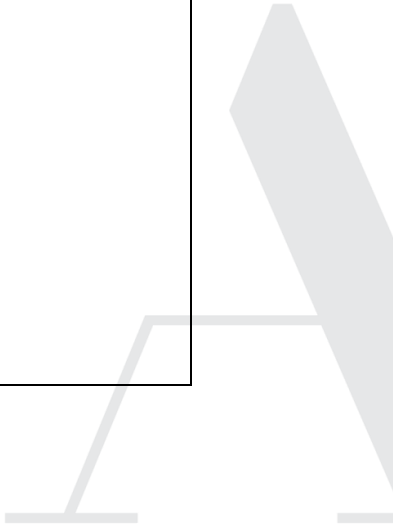
		<p>City may like to be reminded of details of the Shire of Northam site, the El Caballo Lifestyle Village (ECLV). That site is: On the Great Eastern Highway, subject to heavy traffic noise. A drive of 70 kms from Perth CBD and approximately 20 kms from Northam. Close enough to the Linley Valley abattoir for this fact to be noted in the amendment conditions.</p> <p><i>"This Park Home is situated in the vicinity of an abattoir and as such may be affected by potential nuisances relating to odour, noise, dust and the like."</i> Encumbered by the partly neglected remnants of the El Caballo Blanco Hotel and function venue. The above points confirm that justification 3 cannot be sustained.</p> <p>7. Note that, <i>"In April 2020, El Caballo Blanco Resort and Lifestyle Village was sold to Aboriginal Housing Foundation (AHF) and will be repurposed to become a social housing facility for indigenous Australians."</i> (Business News website).</p> <p>8. Following this sale, residents of the original gated community of ECLV were "left in limbo." At that point, ECLV had 34 houses with 58 residents. Given that the ECLV contained <i>"181 park homes and associated facilities..."</i>; approving strata titled lots has done little to <i>"ensure the vitality and longevity of the ECLV for the existing community."</i> (Northam</p>	
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	<p>amendment 5, Section 4.0 Conclusion).</p> <p>9. LPS amendment No. 107 Lot 500 Gavour Road. This is the latest in a string of amendments, each one relaxing the original conditions stipulated by Kalamunda Shire and City, as shown below: At the Special Council Meeting 20 April 2015, the following conditions were deleted or modified: No more than 60 Aged or Dependent Persons dwellings be developed until Nursing Home Component is substantially commenced. No more than 120 Aged or Dependent Persons dwellings... until the development of an Aged Residential Care Facility ... has been completed and is operational on Lot 500."</p> <p>10. These were watered down to: <i>"Not more than 133 of the 190 Aged or Dependent Persons dwellings ... shall be developed until the development of an Aged Residential Care Facility (Nursing Home Component) has been constructed to practical completion."</i> This resulted in an increase in the 'trigger' number of Aged or Dependent Persons dwellings related to the Aged Residential Care Facility (Nursing Home Component), together with a vague description of the Nursing Home Component stage required. No longer must it be "completed and operational", merely "constructed to practical completion." This phrase is open to interpretation by the proponent.</p>	
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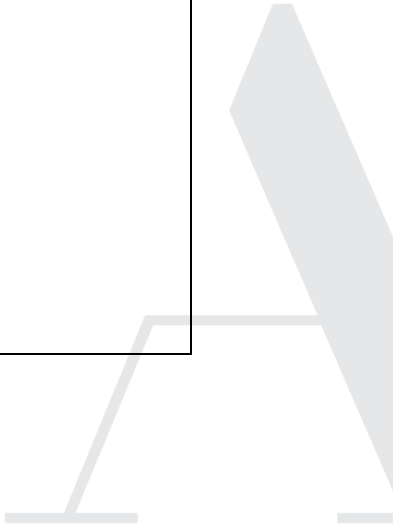


	<p>11. The potential end result could be a Nursing Home Component almost completed, yet far from fully operational and ready to receive residents. In the meantime, individual strata title lots would continue to be sold off, well beyond the 133 figure, with the Aged Residential Care Facility still not operating.</p> <p>12. As with previous Gavour Road proponent submissions, we see traces of the 'snow-job' technique. In this example, the whole thirteen pages of the Government Gazette, containing the Northam amendment, are included in this submission. Of these, only one full page has any relevance to the proponent's request. The NRPG 2014 submission on the LPS 3 amendment 57, criticised this technique, designed presumably, to numb City councillors and staff into acquiescence. Whereas the ECLV proponents made considerable efforts to promote sales of lots before requesting the strata titles amendment, little effort appears to have been expended on promoting sales of the Gavour Road sites.</p> <p>13. We welcome the opportunity to have input to this proposal and, having highlighted the weakness in the proponent's case, request support for amendment 107 be withdrawn. We are concerned over the eventual fate of the remaining native vegetation and riparian area, (as stated in prior NRPG submissions) following its development yet recognise the need for genuine aged care to be</p>	
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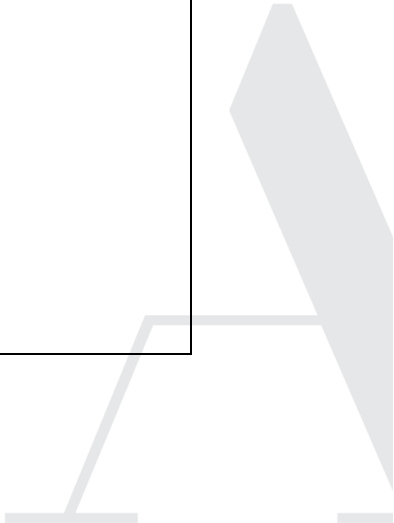
		<p>provided within the City. We are also concerned that while this aged care development continues to be delayed there remains increased pressure for the City to clear other environmental areas for further aged care facilities. We find it highly questionable, however, to accept the proponent's argument that: <i>"Without the proposed amendment, the implementation of the Integrated Aged Care Facility will be compromised due to financing constraints."</i></p> <p>14. We therefore request the City of Kalamunda re-examine the amendment and withdraw its support from the proposal.</p>	
2	DWER	<p>1. No Objections.</p> <p>2. The Department of Water and Environmental Regulation has no objections to the proposal but advises that the proposed development has the potential to impact on Crystal Brook from on-site wastewater management and disposal. As previously advised (copy attached) the Local Water Management Strategy (LWMS) that supported this development is now considered outdated, having been developed and endorsed in 2014. The proposed development has also substantially increased from that previously proposed in the LWMS and the now in place Government Sewerage Policy (DPLH 2019) may significantly restrict the development of this site. The Department therefore again recommends that the LWMS is revised to accurately reflect the</p>	<p>1. Noted.</p> <p>2. Noted. The amendment does not alter this aspect of the proposal and a LWMS can be revised at development stage(s).</p> <p>3. Noted.</p> <p>4. Noted.</p> <p>5. Noted. Future updated LWMS to be submitted and referred to DWER.</p> <p>6. Noted.</p> <p>7. Noted.</p>

	<p>current proposal for the site and how it can meet the requirements of the Government Sewerage Policy.</p> <ol style="list-style-type: none"> 3. DWER Advice The DWER has previously provided comments and approved a Local Water Management Strategy (LWMS) for the proposed development of the site. 4. However, it is noted from the plans provided that the proposed Local Development Plan shows more extensive development of the site than previously accounted for. Due to the further development of the site, including development of the previously proposed effluent disposal area, the DWER requires the LWMS is updated to reflect the changes to the development of the site. 5. The updated LWMS should be referred to the DWER for comment, prior to approval of the plan. 6. Water Resource Advice Only. The Department of Water has recently merged with the Department of Environment Regulation and Office of the Environmental Protection Authority to create the new agency Department of Water and Environmental Regulation. 7. The former agencies are in the process of amalgamating their functions. Until this fully occurs, please note that the advice in this correspondence pertains only to water resource matters previously dealt with by the Department of Water. 	
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2	Water Corporation	<ol style="list-style-type: none"> 1. No Objections. 2. The text amendment is minor in nature and the Water Corporation therefore has no objections or concerns. 3. It should be noted that introduction of strata titling over the subject land may change the manner in which the site is serviced with water and the required size of the water meter. This will need to be addressed by the proponent's hydraulic consultant at the building stage and if necessary, an application made to the Water Corporation's Building Services for a larger water service. 	<ol style="list-style-type: none"> 1. Noted. 2. Noted. 3. Noted.
3	DFES	<ol style="list-style-type: none"> 1. It is unclear from the documentation provided if the City of Kalamunda (City) has applied <i>State Planning Policy 3.7 – Planning in Bushfire Prone Areas</i> (SPP 3.7) to this proposal. 2. Given the proposal seeks to remove a condition relating to the prevention of strata titling of the development as per your correspondence, which may not be considered an intensification of land use, the application of <i>State Planning Policy 3.7 Planning in Bushfire Prone Areas</i> (SPP 3.7) may not be required, in this instance. 3. Please note that the application of SPP 3.7 is ultimately at the discretion of the decision maker. 4. Thank you for providing us with the opportunity to make a submission, DFES has no further comments. 	<ol style="list-style-type: none"> 1. Noted. 2. The amendment has no impact on SPP3.7 and 7. A Bushfire Management Plan is to be submitted with each development application for the relevant stage(s) as per condition 7 of the LDP. 3. Noted. 4. Noted.
3	DoH	<ol style="list-style-type: none"> 1. The DOH provides the following comment: 1. Water Supply and 	<ol style="list-style-type: none"> 1. Noted. See below: <ol style="list-style-type: none"> a) Noted.

	<p>Wastewater Disposal. Potable water must be of the quality as specified under the <i>Australian Drinking Water Quality Guidelines 2011</i>. In relation to the management of wastewater, the DOH has concerns as to the area required for effluent disposal. The DOH does not support this proposal unless the following can be demonstrated or clarified:</p> <ul style="list-style-type: none"> a. The land is observed to have a water course running through the South Eastern part of the lot and will require the wastewater system to be designed accordingly, with a 100-metre setback from environmentally sensitive areas. b. A specific site and soil evaluation (SSE) report is required for the above proposal, to be undertaken by a qualified consultant that is conducted during the wettest seasonal time of the year only (July/August), as per AS/NZS 1547:2012 requirements and the disposal area is required to be adequately sized based on the permeability of the SSE report findings; c. although the wastewater treatment system was shown on a plan, there were no detailed plans relating to the location of the disposal area/s. A plan detailing the proposed building envelopes, land application area/s and exclusion zones are required for the proposal; 	<ul style="list-style-type: none"> b) Noted. c) On-site waste water disposal can be address at development stage(s). d) As above. e) As above. <p>2. Noted.</p>
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		<p>d. The wastewater treatment plant is located too close (approximately 20m) to sensitive land users (dwellings) or residents. The DOH recommends a minimum 100m setback from the treatment plant to prevent nuisances such as odours, noise and vibration. In addition, a noise, vibration and odour assessment will be required by qualified consultants;</p> <p>e. The volume proposed for the onsite wastewater treatment plant needs to accommodate the number of patrons and personnel based on the current health sewage legislative requirements. This is to include all residents, staff, visitors and other persons that will be on site.</p> <p>2. The land is located within the estuary catchment of the Swan Coastal Plan, an engineer Certified secondary treatment system will be required. Public Health Impacts Proximity to powerlines – so that the City is better informed, please refer to the following information regarding this development. https://www.arpana.gov.au/understanding-radiation/radiation-sources/moreradiation-sources/electricity</p>	
3	Main Roads	2. In response to your correspondence dated 16 February 2022, Main Roads has no objections to the proposed amendment.	1. Noted

5.0 Advice and Recommendations

Amendment 107 proposes to delete Condition d) of Special Use 20 which currently prevents strata titling of the development, which the Applicant has submitted is a constraint on financing the development. Condition d) was included as one of the mechanisms in the provisions of Special Use 20 (adopted through Amendment 57) to provide security that the developer would not just deliver all the Independent Living Sites of the development and sell them off without providing the Aged Care Facility (nursing home component).

In addition, condition d) was seen as necessary so that any subdivision of the site was potentially seen as inconsistent with the MRS 'Rural' zone.

The advertising submissions

The concerns raised in the submissions received during the advertising of Amendment 107 can be summarised as follows:

- the risk of the proponents not fulfilling the requirement to build the nursing home with high care provisions;
- the amendment is unlawful in terms of the *Planning and Development Act 2005* and its associated LPS Regulations;
- the amendment conflicts with the requirements of the *Strata Titles Act* and the *Retirement Villages Act*;
- the property is not connected to reticulated sewer which will make a strata scheme responsible for a shared on-site disposal system;
- no clarity as to whether residents themselves would have to manage any part of this nursing home facility under strata title conditions; and
- the amendment 107 does not clarify what type strata title is to be obtained.

These considerations were all addressed in the individual responses to each submission.

As a starting point, and in respect to the first (and main) concern raised in the submissions, it is recommended that the City focus their consideration on the provisions of Special Use 20 which remain and the intention of those provisions.

Provision (e) of Special Use 20

Condition e) requires the preparation of an LDP and 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.

Such an LDP was approved by the City in June 2019 and it clearly demarcates an 'Aged Care Facility' (nursing home) in addition to the 'Independent Living Sites'. Amendment 107 does impact on the purpose, layout, staging or any other detail shown on the LDP. It is acknowledged that pursuant clause 56(1) of Schedule 2 of the LPS Regulations the local government must have due regard to, but it is not bound to an LDP. However, LDP must be understood in the context of all the Special Use 20 provisions.

Provision (f) of Special Use 20

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.

The LDP includes a staging plan which ensures the Care Facility is not the last component of the development delivered (Stage 5 of 7). Amendment 107 does not remove or change this requirement in any way.

North-East Sub-Regional Planning Framework

When the City considered Amendment 57, the Sub-Regional Framework was still in draft form. Since that time, the site is now definitively identified as Urban Expansion / Urban Investigation designation. As noted, these classifications, particularly that of Urban Investigation areas, are not to be construed as a commitment by the WAPC to support any rezoning as this will depend upon the outcome of further planning investigations. In addition, it currently does not change the underlying Rural zoning under the MRS.

The true genesis on condition d) of Special Use 20 would appear to be that it was to ensure consistency with the MRS Rural zone so that development on the land would not be perceived as a fragmented residential enclave. Altus Planning is of the view that such a perception is misplaced given the advent of the LDP and particularly, the other control which remain under Special Use 20. Furthermore, the Sub-Regional Framework brings the site and the locality one step closer to potentially being urbanised in the future, diminishing the prospect that the surrounding locality will remain Rural indefinitely.

Retirement Villages Act

Amendment 107 is not in conflict with any known provisions of the RVA. The effect of the relevant provisions is that the RVA require the owner of a retirement village to lodge a memorial before entering into residence contracts. As a result, once lodged, a memorial creates considerable difficulty in using the land for any broader residential use other than a retirement village.

Furthermore, any development under the Strata Titles Act has its own protections for the purchasers of strata units. In some instances, there may in fact be advantages for those residents seeking to purchase their Independent Living Sites in a more straightforward manner without the complexities of a lease or a licence under the RVA.

It is again reiterated that any further analysis of RV Act or the Strata Titles Act should be the subject of legal advice.

Finally, the proposed amendment is not in conflict with the PD Act or any other relevant legislation.

LPS Regulations

Altus Planning also agrees with the City's interpretation of the Amendment being considered as a 'Standard' Amendment as identified in the report to Council in November 2021 Minutes. It is considered to meet the criteria for a 'Standard' Amendment for the following reasons:

- a) The Amendment is consistent with the objective of the Special Use 20 Zone 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 Amendment is consistent with the provisions of the City's Aged Accommodation Strategy which notes the significant shortfall of residential aged care in the community.
- e) 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.

Conclusion

Altus Planning shares the view of the City in that Conditions e) and f) of Special Use 20 provide enough security for the delivery of the Care Facility without the need for retaining Condition d). The City can only accept at face value the Applicant's claim that

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removal of Condition d) will help ease the constraints on financing the development of the Independent Living Sites. There is no factual basis for this to be refuted.

Whilst the viability of development projects is ordinarily not a planning consideration, if the Applicant is correct, this will allow development on the site to commence as per the staging plan of the LDP. If Amendment 107 is otherwise rejected, it may result in a protracted period of no development whatsoever on the site. Planning to date would suggest there is a need and community benefit associated with aged care accommodation within the City.

Accordingly, it is submitted that the proposed amendment will not change the intended form, function and layout of the Integrated Aged Care Facility, as identified in the remaining Special Use 20 provisions and the adopted LDP.

