

Development & Infrastructure Services Committee Meeting

Minutes for Monday 9 September 2013

CONFIRMED



**shire of
kalamunda**

INDEX

1.0	OFFICIAL OPENING	3
2.0	ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED.....	3
3.0	PUBLIC QUESTION TIME.....	4
4.0	PETITIONS/DEPUTATIONS	4
5.0	CONFIRMATION OF MINUTES OF PREVIOUS MEETING.....	4
6.0	ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION.....	4
7.0	MATTERS FOR WHICH MEETING MAY BE CLOSED	4
8.0	DISCLOSURE OF INTERESTS.....	4
9.0	REPORTS TO COUNCIL	5
	56. APPLICATION TO KEEP MORE THAN TWO DOGS – LOT 17 (13) ARALIA WAY FORRESTFIELD	6
	57. APPLICATION TO KEEP MORE THAN TWO DOGS – LOT 100 (50) REEDS ROAD, CARMEL.....	10
	58. APPLICATION TO KEEP MORE THAN TWO DOGS – LOT 51 (211) GLENISLA ROAD, CARMEL	14
	59. APPLICATION TO KEEP MORE THAN TWO DOGS – LOT 1008 (10) MANDON STREET, FORRESTFIELD	18
	60. ENDORSEMENT OF THE LOCAL EMERGENCY MANAGEMENT ARRANGEMENTS.....	22
	61. PROPOSED MODIFIED LOCAL PLANNING POLICY DEV 22 – PARKING OF COMMERCIAL VEHICLES ON PRIVATE PROPERTY	26
	62. AMENDMENT TO LOCAL PLANNING SCHEME NO. 3 – ADDITIONAL USE (PLACE OF WORSHIP) – LOT 36 (831) WELSHPOOL ROAD EAST, WATTLE GROVE.....	36
	63. TWELVE MULTIPLE DWELLINGS – LOT 21 (12) HEATH ROAD, KALAMUNDA.....	43
	64. THE PARKING OF ONE COMMERCIAL VEHICLE – LOT 57 (5B) GOODALL STREET, LESMURDIE	65
	65. PLACE OF WORSHIP – LOT 411 (5) Rooth Road, Lesmurdie	80
	66. STORAGE OF INERT MATERIALS – LOT 1 (251), 20 (259) AND 21 (257) BERKSHIRE ROAD, FORRESTFIELD.....	97
	67. PETITION TO RESTORE WATER FLOW TO YULE BROOK, FORRESTFIELD	112
	68. PROPOSED DEVELOPER CONTRIBUTION INSTALMENT PLAN FOR AN APPROVED LIGHT INDUSTRY - LOT 219 (122) SULTANA ROAD WEST, FORRESTFIELD.....	122
10.0	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	139
11.0	QUESTIONS BY MEMBERS WITHOUT NOTICE.....	139
12.0	QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN.....	139
13.0	URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION.....	139
14.0	MEETING CLOSED TO THE PUBLIC.....	140
15.0	CLOSURE	140

MINUTES

1.0 OFFICIAL OPENING

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

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Councillors

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

Members of Staff

Rhonda Hardy	Chief Executive Officer
Clayton Higham	Director Development & Infrastructure Services
Darrell Forrest	Manager Governance
Andrew Fowler-Tutt	Manager Development Services
Warwick Carter	Manager Commercial Services
Sam Assaad	Manager Infrastructure Operations
Jonathan Smith	Manager Health and Ranger Services
Nicole O'Neil	Coordinator Public Relations
Meri Comber	Governance Officer

Members of the Public 22

Members of the Press 0

2.2 Apologies

Councillors

Nil.

2.3 Leave of Absence Previously Approved

Bob Emery	North West Ward
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3.0 PUBLIC QUESTION TIME

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

3.1 Nil.

4.0 PETITIONS/DEPUTATIONS

4.1 A Petition with 25 signatures received from Mr Graham Rankin, 21 Sadler Drive, Maida Vale requesting a footpath be installed along Sadler Drive, (if this is not feasible he requests that speed humps be considered), was noted.

5.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 That the Minutes of the Development & Infrastructure Services Committee Meeting held on 12 August 2013 are confirmed as a true and accurate record of the proceedings.

Moved: **Cr John Giardina**

Seconded: **Cr Geoff Stallard**

Vote: **CARRIED UNANIMOUSLY (11/0)**

6.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

6.1 Nominations for the local government election to be held on 19 October 2013 close on Thursday 12 September 2013 at 4.00pm. The draw for positions on the ballot paper will commence at 5.00pm in the Function Room at the Shire Offices, all Councillors are invited to attend. Any nominee unopposed will automatically become a Councillor.

7.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

7.1 Nil.

8.0 DISCLOSURE OF INTERESTS

8.1 Disclosure of Financial and Proximity Interests

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

8.1.1 Nil.

8.2 **Disclosure of Interest Affecting Impartiality**

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

8.2.1 Nil.

9.0 REPORTS TO COUNCIL

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

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

56. Application to Keep More Than Two Dogs – Lot 17 (13) Aralia Way Forrestfield

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Health & Ranger Services
File Reference	RA-ANC-011: ICS-58020
Applicant	K Walling
Owner	SK and TH Walling

PURPOSE

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

BACKGROUND

2. The applicant at Lot 17 (13) Aralia Way Forrestfield has recently applied to Council requesting permission to keep more than two dogs on the property.

DETAILS

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

	Breed	Sex	Sterilised	Colour	Name	Registration Number	Age	Local Authority
1.	German Shepherd	F	Yes	Brown/Black	Kota	15-2544	3	Kalamunda
2.	Border Collie	M	Yes	Black/White	Sam	15-0966	3	Kalamunda
3.	Greyhound X	M	Yes	White/Black spots	Angus	15-2092	2.5	Kalamunda

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

STATUTORY AND LEGAL CONSIDERATIONS

5. The property at Lot 17 (13) Aralia Way Forrestfield is 703 sqm and is zoned Residential.
6. The application for exemption to the Shire's Dogs Local Law 2010 is made under Section 26(3) of the *Dog Act 1976*.

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

POLICY CONSIDERATIONS

9. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

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

Location Map

- 12.



FINANCIAL CONSIDERATION

13. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

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

SUSTAINABILITY

Social Implications

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

Economic Implications

16. Nil.

Environmental Implications

17. Nil.

RISK MANAGEMENT CONSIDERATIONS

- 18.

Risk	Likelihood	Consequence	Action/Strategy
Council may resolve not to approve application resulting in an appeal to SAT	Low	Medium	Report details all relevant information on application and is supported by the Officer.
Nuisance complaints, such as barking, may be received due to number of dogs	Low	Medium	Officer assessment considers nuisance aspects and dog history. Approval may be withdrawn or varied if substantiated complaints received.

OFFICER COMMENT

19. In considering this application for exemption, the following two options are available:
- a. Council may grant an exemption pursuant to Section 26(3) of the *Dog Act 1976* subject to conditions, or
 - b. Council may refuse permission to keep more than two dogs.
20. As part of the assessment process, officers have recorded that no formal complaints have been received against this property or these dogs.
21. It is recommended that the application to keep more than two dogs is supported and is noted that this approval may be varied or revoked should any dog complaints be received which are considered reasonable.

Councillors debated the Officer's Recommendation. A Councillor stated that until he is provided with information from a body such as the RSPCA or Dog Breeders Association stating what a required amount of open space is for these dogs he is reluctant to approve an application like this.

The Manager Health and Ranger Services indicated that no block size was stipulated in the regulations, the Ranger makes an assessment when they visit the property. Should a problem arise the decision can be reviewed or revoked. The Manager Governance confirmed that any decision made by Council would require a decision by Council to change or revoke.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 56/2013)

That Council:

1. Pursuant to Clause 3.2 of the Shire of Kalamunda Dogs Local Law 2010 made under Section 26(3) of the *Dog Act 1976*, grant exemption to the applicant at Lot 17 (13) Aralia Way, Forrestfield to keep three dogs on this property.

Moved: **Cr Allan Morton**

Seconded: **Cr Dylan O'Connor**

Vote:

<u>For</u> Cr John Giardina Cr Frank Lindsey Cr Geoff Stallard Cr Justin Whitten Cr Martyn Cresswell Cr Dylan O'Connor Cr Sue Bilich Cr Margaret Thomas Cr Allan Morton	<u>Against</u> Cr Noreen Townsend Cr Simon Di Rosso
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CARRIED (9/2)

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

57. Application to Keep More Than Two Dogs – Lot 100 (50) Reeds Road, Carmel

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Health & Ranger Services
File Reference	RA-ANC-011: ICS-59580
Applicant	S Steenson and R Robson
Owner	SE Steenson

PURPOSE

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

BACKGROUND

2. The applicant at Lot 100 (50) Reeds Road, Carmel has recently applied to Council requesting permission to keep more than two dogs on the property.

DETAILS

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

	Breed	Sex	Sterilised	Colour	Name	Registration Number	Age	Local Authority
1.	Rottweiler/ Ridgeback	M	Yes	Red/Brown	Cougar	15-0553	8	Kalamunda
2.	Heeler/Staffy	F	Yes	White with flecks	Missy	15-2335	3	Kalamunda
3.	Mastiff/ Great Dane	M	Yes	Cream	Duke	13-4026	1.5	Kalamunda

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

STATUTORY AND LEGAL CONSIDERATIONS

5. The property at Lot 100 (50) Reeds Road Carmel is 73,701sqm and is zoned Rural Conservation.
6. The application for exemption to the Shire's Dogs Local Law 2010 is made under Section 26(3) of the *Dog Act 1976*.

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

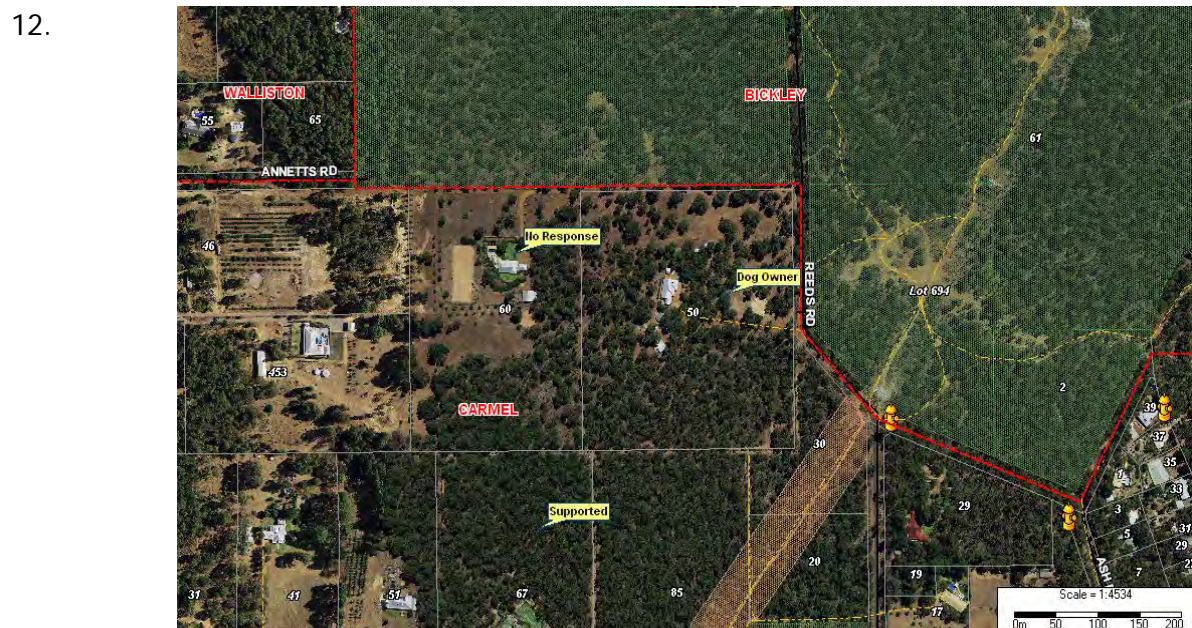
POLICY CONSIDERATIONS

9. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

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

Location Map



FINANCIAL CONSIDERATION

13. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

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

SUSTAINABILITY

Social Implications

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

Economic Implications

16. Nil.

Environmental Implications

17. Nil.

RISK MANAGEMENT CONSIDERATIONS

18.

Risk	Likelihood	Consequence	Action/Strategy
Council may resolve not to approve application resulting in an appeal to SAT	Low	Medium	Report details all relevant information on application and is supported by the Officer.
Nuisance complaints, such as barking, may be received due to number of dogs	Low	Medium	Officer assessment considers nuisance aspects and dog history. Approval may be withdrawn or varied if substantiated complaints received.

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

58. Application to Keep More Than Two Dogs – Lot 51 (211) Glenisla Road, Carmel

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Health & Ranger Services
File Reference	RA-ANC-011: ICS-59220
Applicant	S Kendall
Owner	Australian Conference Assn Ltd

PURPOSE

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

BACKGROUND

2. The applicant at Lot 51 (211) Glenisla Road, Carmel has recently applied to Council requesting permission to keep more than two dogs on the property.

DETAILS

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

	Breed	Sex	Sterilised	Colour	Name	Registration Number	Age	Local Authority
1.	Mastiff	F	No	Brindle	Abbi	13-4074	7	Kalamunda
2.	Mastiff	F	Yes	Apricot	Elle	13-4073	7	Kalamunda
3.	Mastiff	M	Yes	Brindle	Bruce	13-4072	6	Kalamunda
4.	Mastiff	F	No	Apricot	Lizzie	13-4071	5	Kalamunda
5.	Mastiff	F	No	Fawn	Poh	13-4070	4	Kalamunda
6.	Mastiff	F	No	Apricot	Gerrie	13-4069	1	Kalamunda

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

STATUTORY AND LEGAL CONSIDERATIONS

5. The property at Lot 51 (211) Glenisla Road, Carmel is 34,357sqm and is zoned Rural Agriculture.
6. The application for exemption to the Shire's Dogs Local Law 2010 is made under Section 26(3) of the *Dog Act 1976*.

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

POLICY CONSIDERATIONS

9. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

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

Location Map



FINANCIAL CONSIDERATION

13. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

14. *Kalamunda Advancing: Strategic Community Plan to 2023*
- OBJECTIVE 1.5 - To provide a safe environment for the entire community to enjoy.
- Strategy 1.5.1 Provide support for community safety through education, awareness raising programs and a responsive Ranger service.

SUSTAINABILITY

Social Implications

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

Economic Implications

16. Nil.

Environmental Implications

17. Nil.

RISK MANAGEMENT CONSIDERATIONS

- 18.
- | Risk | Likelihood | Consequence | Action/Strategy |
|--|------------|-------------|---|
| Council may resolve not to approve application resulting in an appeal to SAT | Low | Medium | Report details all relevant information on application and is supported by the Officer. |
| Nuisance complaints, such as barking, may be received due to number of dogs | Low | Medium | Officer assessment considers nuisance aspects and dog history.
Approval may be withdrawn or varied if substantiated complaints received. |

OFFICER COMMENT

19. In considering this application for exemption, the following two options are available:
- a. Council may grant an exemption pursuant to Section 26(3) of the *Dog Act 1976* subject to conditions, or
 - b. Council may refuse permission to keep more than two dogs.
20. As part of the assessment process, officers have recorded that a formal complaint has been received against these dogs that was not substantiated however, all dogs have been infringed for being unregistered.
21. It is recommended that the application to keep more than two dogs is supported and is noted that this approval may be varied or revoked should any dog complaints be received which are considered reasonable.

A Councillor asked if this had been investigated as a pseudo kennel activity as the request is for six dogs. Manager Health and Rangers noted that under the Act approval may be given for up to six dogs.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 58/2013)

That Council:

1. Pursuant to Clause 3.2 of the Shire of Kalamunda Dogs Local Law 2010 made under Section 26(3) of the *Dog Act 1976*, grant exemption to the applicant at Lot 51 (211) Glenisla Road Carmel to keep six dogs on this property.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Martyn Cresswell**

Vote:

<u>For</u>	<u>Against</u>
Cr Frank Lindsey	Cr John Giardina
Cr Allan Morton	Cr Geoff Stallard
Cr Justin Whitten	Cr Noreen Townsend
Cr Martyn Cresswell	
Cr Dylan O'Connor	
Cr Sue Bilich	
Cr Simon Di Rosso	
Cr Margaret Thomas	

CARRIED (8/3)

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

59. Application to Keep More Than Two Dogs – Lot 1008 (10) Mandon Street, Forrestfield

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Health & Ranger Services
File Reference	RA-ANC-011: ICS-59850
Applicant	S Sutton
Owner	S & CM Sutton

PURPOSE

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

BACKGROUND

2. The applicant at Lot 1008 (10) Mandon Street, Forrestfield has recently applied to Council requesting permission to keep more than two dogs on the property.

DETAILS

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

	Breed	Sex	Sterilised	Colour	Name	Registration Number	Age	Local Authority
1.	Maltese X	F	Yes	Black/White	Milly	1304012	10	Kalamunda
2.	Maltese X	M	Yes	Black/White	Tank	1304009	9	Kalamunda
3.	Standard Poodle	F	No	Black	Sophie	1304011	4	Kalamunda
4.	Standard Poodle	F	No	Chocolate	Brandi	1304010	2	Kalamunda

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

STATUTORY AND LEGAL CONSIDERATIONS

5. The property at Lot 1008 (10) Mandon Street, Forrestfield is 584sqm and is zoned Urban Development.
6. The application for exemption to the Shire's Dogs Local Law 2010 is made under Section 26(3) of the *Dog Act 1976*.

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

POLICY CONSIDERATIONS

9. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

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

Location Map



FINANCIAL CONSIDERATION

13. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

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

SUSTAINABILITY

Social Implications

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

Economic Implications

16. Nil.

Environmental Implications

17. Nil.

RISK MANAGEMENT CONSIDERATIONS

18.

Risk	Likelihood	Consequence	Action/Strategy
Council may resolve not to approve application resulting in an appeal to SAT	Low	Medium	Report details all relevant information on application and is supported by the Officer.
Nuisance complaints, such as barking, may be received due to number of dogs	Low	Medium	Officer assessment considers nuisance aspects and dog history. Approval may be withdrawn or varied if substantiated complaints received.

OFFICER COMMENT

19. In considering this application for exemption, the following two options are available:
 - a. Council may grant an exemption pursuant to Section 26(3) of the *Dog Act 1976* subject to conditions, or
 - b. Council may refuse permission to keep more than two dogs.
20. As part of the assessment process, officers have recorded that one unsubstantiated barking dog complaint has been received regarding these dogs.
21. The resident who did not support the application stated that the dogs bark when the owners are not home and as both work all day the barking is constant. No formal complaint has been lodged.
22. One resident declined the invitation to provide comment.
23. It is recommended that the application to keep more than two dogs is supported and is noted that this approval may be varied or revoked should any dog complaints be received which are considered reasonable.

Councillors debated the Officer's Recommendation. A Councillor stated that until he is provided with information from a body such as the RSPCA or Dog Breeders Association stating what a required amount of open space is for these dogs he is reluctant to approve an application like this and stated a personal belief that any decision should not be made on the basis that it might or might not proceed to SAT (State Administrative Tribunal).

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 59/2013)

That Council:

1. Pursuant to Clause 3.2 of the Shire of Kalamunda Dogs Local Law 2010 made under Section 26(3) of the *Dog Act 1976*, grant exemption to the applicant at Lot 1008 (10) Mandon Street, Forrestfield to keep four dogs on this property.

Moved: **Cr Martyn Cresswell**

Seconded: **Cr Justin Whitten**

Vote:

<p><u>For</u> Cr John Giardina Cr Frank Lindsey Cr Geoff Stallard Cr Allan Morton Cr Justin Whitten Cr Martyn Cresswell Cr Dylan O'Connor Cr Sue Bilich Cr Margaret Thomas</p>	<p><u>Against</u> Cr Noreen Townsend Cr Simon Di Rosso</p>
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CARRIED (9/2)

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

60. Endorsement of the Local Emergency Management Arrangements

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Health & Ranger Services
File Reference	CO-EMS-002
Applicant	N/A
Owner	N/A
Attachment 1:	
Part 1	Local Emergency Management Arrangements
Part 2	Risk Register and Treatment Schedule
Part 3	Local Recovery Plan
Part 4	Emergency Animal Welfare Plan
Part 5 Confidential Under separate cover	Contact Directory <i>Reason for confidentiality Emergency Management Act 2005 S.95 "A person who has been engaged in the performance of functions under this Act, must not, directly or indirectly, record, disclose or make use of information in the course of duty"</i>
Part 6 Confidential Under separate cover	Resource and Asset Register <i>Reason for confidentiality Emergency Management Act 2005 S.95 "A person who has been engaged in the performance of functions under this Act, must not, directly or indirectly, record, disclose or make use of information in the course of duty"</i>
Part 7 Confidential Under separate cover	Emergency Welfare Centre Register <i>Reason for confidentiality Emergency Management Act 2005 S.95 "A person who has been engaged in the performance of functions under this Act, must not, directly or indirectly, record, disclose or make use of information in the course of duty"</i>

PURPOSE

1. To endorse the Shire of Kalamunda Local Emergency Management Arrangements ("LEMA") ([Attachment 1](#)).

BACKGROUND

2. The LEMA documents the emergency management arrangements to ensure full understanding of roles and responsibilities between agencies and stakeholders involved in managing emergencies within the Shire of Kalamunda.
3. Previous Emergency Management Arrangements were endorsed by Council. The *Emergency Management Act 2005* and the State Emergency Management Policy 2.5 does not specifically require Council endorsement however it is recommended by the State and District Emergency Management Committee on principal of best practice.

DETAILS

4. The Shire of Kalamunda is required under the *Emergency Management Act 2005* to prepare a LEMA for its district.
5. These Arrangements were endorsed by the Shire of Kalamunda Local Emergency Management Committee on 28 May 2013.

STATUTORY AND LEGAL CONSIDERATIONS

6. The Shire of Kalamunda is required in accordance with *Emergency Management Act 2005 Part 3 Division 1 S. 36 (a)* "to ensure that effective local emergency management arrangements are prepared and maintained for this district"

POLICY CONSIDERATIONS

7. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

8. Consultation with the community was undertaken through community workshops located throughout the Shire. A survey is also being undertaken to validate the Community Emergency Risk Management (ie Risk Register & Treatment Schedule 2012).

FINANCIAL CONSIDERATION

9. Minimal impact on current and long term budget, current maintenance and operation of LEMA and meetings are catered for within current operational expenditure.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

10. *Kalamunda Advancing: Strategic Community Plan to 2023*
OBJECTIVE 1.4 – To ensure the community has the resilience to respond and protect itself from danger and disasters.
Strategy 1.4.1 The Shire is well prepared and has plans and resources ready to respond to any disaster or danger that may confront its community.

SUSTAINABILITY

Social Implications

11. The LEMA address recovery aspects of an emergency with the aim of returning community life back to normal as soon as practical.

Economic Implications

12. Any incident that occurs requiring activation of the LEMA will have direct economic implications for the community as a whole to varying degrees.

Environmental Implications

13. The most likely event that would occur within the Shire is a bushfire which would have serious impacts on the natural and built environments.

RISK MANAGEMENT CONSIDERATIONS

14. The LEMA is an integral tool for risk management considerations for the whole of the Shire of Kalamunda district. Specific risk management criteria and assessment is detailed in (Part 2 of Attachment 1).

OFFICER COMMENT

15. The LEMA requires review every three years. The Local Emergency Management Committee has reviewed the 2010 LEMA and produced and approved the 2013 LEMA. The document has been vetted by the State Emergency Management Committee ("LEMC"). LEMC now seek Council endorsement of the LEMA. Following endorsement a copy will be provided to the District Emergency Management Committee and the State Emergency Management Committee.

A Councillor congratulated all involved in the production of this document; but asked why the presence of a canteen is not recorded for all schools that have one, for example Lesmurdie Senior High School, as this might be an important consideration for use in emergency situations. The Chief Executive Officer took this question on notice.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 60/2013)

That Council:

1. Endorses the Shire of Kalamunda Local Emergency Management Arrangements 2013 ([Attachment 1](#)).

Moved: **Cr Geoff Stallard**

Seconded: **Cr Sue Bilich**

Vote: **CARRIED UNANIMOUSLY (11/0)**

Attachment 1:

- Part 1 [Local Emergency Management Arrangements](#)
- Part 2 [Risk Register and Treatment Schedule](#)
- Part 3 [Local Recovery Plan](#)
- Part 4 [Emergency Animal Welfare Plan](#)

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

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

61. Proposed Modified Local Planning Policy DEV 22 – Parking of Commercial Vehicles on Private Property

Previous Items	OCM 67/2013
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	OR-CMA-16
Applicant	N/A
Owner	N/A
Attachment 1	Existing Local Planning Policy DEV 22 – Parking of Commercial Vehicles on Private Property
Attachment 2	Draft Modified Local Planning Policy DEV 22 – Parking of Commercial Vehicles on Private Property

PURPOSE

1. To consider the adoption of the proposed modifications to Local Planning Policy DEV 22 – Parking of Commercial Vehicles on Private Property (“Policy”) (Attachments 1 and 2).

BACKGROUND

2. Local Planning Scheme No. 3 (“the Scheme”) foreshadows the development of policies to guide decision-making.
3. The Shire’s Policy Register is being reviewed and, where considered necessary, modifications are being made to policies and are being presented for Council consideration.
4. In response to matters relating to approval and compliance issues with commercial vehicle parking due to ambiguities and contradictions between policy and Scheme definitions and requirements, legal advice was sought to assist with the review of both instruments. These are summarised as follows:
 - The permitted number of commercial vehicles in various zonings.
 - The ability to capture commercial vehicles less than 3.5 tonnes which still have amenity impacts.
 - Making a distinction between the parking of commercial vehicles in residential and rural areas.
 - What constitutes as being a commercial vehicle in residential and rural areas; as distinct from a transport depot.
 - The ability to consider the parking of commercial vehicles in residential areas of R20 or higher.

-
5. In August 2012, legal advice was received detailing recommended changes to the Scheme and Policy. A separate report has been prepared on proposed amendments to the Scheme on the requirements and definitions regarding commercial vehicle parking that align with this proposed Policy.
 6. In June 2013, Council resolved (Resolution OCM 67/2013) to endorse the Policy for the purpose of advertising in accordance with clause 2.4 the Scheme.

DETAILS

7. The modified Policy which is to be considered for adoption is shown as (Attachment 2), Draft Modified Local Planning Policy DEV 22 – Parking of Commercial Vehicles on Private Property.
8. The following modifications are proposed to be made to the Policy:
 - Removal of definitions and other terms that are contained or proposed to be contained in the Scheme.
 - Removal of the zones in which Commercial Vehicles may be parked as this is contained in the Scheme. Each application to park a commercial vehicle(s) will be assessed on its individual merit, having due regard to the matters stipulated in the Scheme in terms of, amongst other, the impact on the amenity of the area, the compatibility of the use within its setting, and whether adequate provision has been made for the manoeuvring and parking of the commercial vehicle(s).
 - Removal of the number of Commercial Vehicles permitted to be parked on private property as this is contained in the Scheme.
 - Removal of the provision prohibiting the parking of Commercial Vehicles if other Commercial Vehicles are being parked on nearby properties as this is considered arbitrary and would not result in a significant impact on an area's amenity and pedestrian and/or other road user's safety.
 - Updating references to the current Scheme.

STATUTORY AND LEGAL IMPLICATIONS

9. The Shire may prepare a Local Planning Policy in respect to any matter related to the planning and development of the Scheme area. Policies may apply to a particular class or matter and throughout the Scheme relate to one or more parts of the Scheme area.
10. A Local Planning Policy is not part of the Scheme and does not bind the Council in its decision making, however, Council is to have due regard to the Policy when making a decision.

-
11. Schedule 1 Part 1 (General Definitions) and Part 2 (Land Use Definitions) of the Scheme are proposed to be modified to provide certainty on what is deemed to be the land use Commercial Vehicle Parking, and how many can be parked on private property.

POLICY IMPLICATIONS

12. If Council adopts the modified Policy it will be included in the Shire's Policy Register.

COMMUNITY ENGAGEMENT REQUIREMENTS

13. Clause 2.4 (Procedure for Making or Amending a Local Planning Policy) of the Scheme prescribes the procedure for advertising a Local Planning Policy.
14. The Policy was advertised once a week for two consecutive weeks in a newspaper circulating the District for a submission period of 21 days. The Policy was also on display at the Administration office.
15. During the formal advertising period no submissions were received.

FINANCIAL CONSIDERATION

16. There will be a cost involved in advertising the proposed modified Policy, this is however, covered in the Development Services budget.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

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

SUSTAINABILITY

Social Implications

18. Nil.

Economic Implications

19. Nil.

Environmental Implications

20. Nil.

RISK MANAGEMENT CONSIDERATIONS

21.

Risk	Likelihood	Consequence	Action/Strategy
If the Local Planning Policy is not supported by Council, ambiguities and contradiction between the policy and scheme definitions will continue.	Low	High	Ensure Council is fully aware of the rationale for the policy changes.

OFFICER COMMENT

22. The intent of Commercial Vehicle Parking was to allow for an "owner/operator" to use private property to store the vehicle as an ancillary activity to living there. Issues have arisen where the parking of vehicles have become less ancillary to the property and fundamentally a commercial land use in its own right. A clear distinction has also been made between Commercial Vehicle Parking and Transport Depot.

23. The Shire has obtained legal advice which recommended changes to the Policy. This will provide clarity for officers and will assist in the procedural and governance aspects of the Shire's development control responsibilities.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION TO COUNCIL (D&I 61/2013)

That Council:

1. Adopts the draft modified Local Planning Policy DEV 22 – Parking of Commercial Vehicles on Private Property and a notice to this effect be placed in a newspaper circulating the District in accordance with clause 2.4 of Local Planning Scheme No. 3 (Attachment 2).

Moved: **Cr Noreen Townsend**

Seconded: **Cr John Giardina**

Vote: **CARRIED UNANIMOUSLY (11/0)**

Attachment 1



POLICY REGISTER

Title:	Parking of Commercial Vehicles on Private Property		
Policy No.:	DEV22		
Date Adopted:	16 August 2004	Date Last Reviewed:	unknown

Objective:	To provide guidelines for the assessment of applications for the parking of a commercial vehicles on private property.
<p>This Policy relates to the Keeping or Parking of Commercial Vehicles on private property in the Shire of Kalamunda. The subject of Commercial Vehicles on road reserves (ie. footpath area, verge, pavement area) is not covered by this Policy; verge or pavement parking is controlled by either Council's Parking local laws or the Road Traffic Act, and would be dealt with accordingly, with the exception of point e(xiii) of this policy document.</p> <p>"Commercial Vehicle" means a vehicle whether licensed or not and shall include motor propelled caravans, trailers, semi-trailers, earth moving machines whether self propelled or not, motor wagons, buses and tractors and their attachments but shall not include any, motor car or any vehicle whatsoever the weight of which is less than 3.5 tonnes.</p> <p>The "keeping" or "parking of a Commercial Vehicle" means the parking of a Commercial Vehicle for more than 2 consecutive hours or for a longer period than is necessary to load and unload, or for a longer period than is necessary to complete a related service being rendered to the property.</p> <p>A "residential lot" means a lot predominantly used for residential purposes, as decided by Council.</p> <p>"Affected landowners" means those landowners considered to be affected by a proposal to park a Commercial Vehicle, as decided by Council.</p> <p>a. For the purpose of this Policy, any vehicle, the tare weight of which is less than 3.5 tonnes, is not considered to be a "Commercial Vehicle".</p> <p>b. In all Industrial zones, the Rural Agriculture, Rural Conservation, Rural Landscape Interest, Rural Living and Rural zones, the keeping of Commercial Vehicles is permitted, without the need for approval if the use is in respect of approved industrial or Agricultural/Horticultural operations</p> <p>If the vehicle is not associated with the approved activity as outlined above, an application for the parking of commercial vehicles in the abovementioned zones shall be required.</p> <p>c. In the following zones: Residential R2.5, Residential R5, Residential R10, Residential R12.5, Residential R15, Residential R17.5, Special Rural*, Special Residential, Urban Development, Residential Bushland, Service Station, Private Clubs and Institutions and Special Purpose, the keeping of a Commercial Vehicle is not permitted, unless consent is granted by Council.</p> <p>d. The keeping of a Commercial Vehicle in zones other than those referred to in B and C above (ie. Residential R20, Residential R25, Residential R30 Shopping, Office, Mixed Use, and District Centre zones), is prohibited.</p> <p>e. An application to Council for permission to keep a Commercial Vehicle in the zones referred to in B & C above, will only be considered if the following conditions can be complied with:</p> <p>i) The Commercial Vehicle to be parked on the lot shall not exceed (rigid type) 11 metres in length, 2.5 metres in width and 4.3 metres in height (either laden or unladen), or (articulated type) 17.5m in length, 2.5m in width and 4.3m in height,. (All dimensions to comply with VSR 1977). Council shall require the submission of a photograph of the vehicle, to accompany the</p>	

application.

- ii) Only one Commercial Vehicle will be permitted on any lot in the zones referred to at B & C above, except in the case of Urban Development, Rural Agriculture, Rural Conservation, Rural Landscape Interest, Rural Living, Rural and Special Rural zones. In these zones, the following shall apply:
 - a) Lawfully established Agricultural/Horticultural operations - refer to point B above.
 - b) Lawfully established other businesses - Council will consider applications for a maximum of two Commercial Vehicles where the existence of the business may generate the need for more than one Commercial Vehicle; in these cases applications will be dealt with on their merits.
 - c) In the case of the Urban Development zone, a composite land use strategy has been agreed to by the Council, in accordance with an outline development plan.
- iii) Within Rural Agricultural zoned land where the parking of commercial vehicles is associated with a use other than a lawfully established Agricultural/Horticultural operations, Council will consider applications for commercial vehicles and in these cases applications will be dealt with on their merits having regard to matters to be considered when Council exercises its discretion. Therefore the provisions of this policy will not apply to such applications.
- iv) The Commercial Vehicle shall be parked entirely on the lot behind the alignment of the front of the house and preferably behind the rear alignment of the residence or building. If the vehicle is parked alongside the residence or building then gates/fencing of a minimum of 1.8m in height shall be erected to satisfactorily screen the vehicle from the street. It shall be screened from view of the street and from neighbours to Council's satisfaction.
- v) The Commercial Vehicle must be parked on the lot so that it does not interfere with the normal access and egress of other vehicles and does not cause damage to the road, kerb or footpath. Where possible, vehicles shall be parked such that they do not need to be reversed out.
- vi) Spray-painting, panel-beating and major servicing on the Commercial Vehicle will not be permitted on the lot. Maintenance limited to oil and grease changes and changes of wheels (but not repair of tyres) and other minor maintenance as *approved by Council*.
- vii) Washing of the Commercial Vehicle on the lot is to be limited to the use of water and mild detergent, and excludes the use of any solvents, degreasing substances, steam-cleaning and any other processes.
- viii) The Commercial Vehicle shall only be started or manoeuvred on the lot in such manner and at such times as *approved by Council, being is* consistent with the provisions of the *Environmental Protection (Noise) Regulations. Standard vehicle movement and start up times of between 7.00am and 7.00pm Monday to Saturday and 9.00am to 5.00pm on Sundays and public holidays shall apply, unless otherwise approved by Council.* The idling times for start up and cool down on the property shall be restricted to 5 minutes unless otherwise approved by Council.
- ix) Maintenance and cleaning of the Commercial Vehicle on a residential lot to be permitted only between the hours of 8am and 7pm Monday to Saturday and 9am to 6pm Sunday.
- x) A single unit Commercial Vehicle and, or trailer, which is or has been used to transport livestock or hazardous material, shall not be parked on a residential lot.
- xi) A refrigeration unit fitted to a Commercial Vehicle parked on or abutting a residential lot may not be operated whilst the vehicle is on the lot.
- xii) In respect of the Residential zones, the provisions of Clause 6.9 of Kalamunda District Planning Scheme No 2 must also be complied with.
- xiii) *If approval is granted to park a commercial vehicle on a property, the vehicle shall be parked*

on the property in accordance with the approval and shall not be parked on the verge abutting or adjacent to that property at any time.

- g. Council will give consideration to the weight of the Commercial Vehicle in terms of the design capabilities of the affected road surface, kerb, footpath or crossover.
- h. Where a Commercial Vehicle owner who has been granted Council approval to park a vehicle on a lot damages a road, kerb and/or footpath when entering or leaving the lot, the vehicle owner shall be held responsible by Council for the cost of repair.
- i.
 - i) Council will seek opinions from affected landowners before any decision on the application is made. All applications will be considered in the light of any potential impact the proposal is likely to have on residential amenity, in terms of the neighbourhood in general or nearby lots in particular.
 - ii) In respect of an application in a situation where complaints or objections have been received by Council, such application will be referred to Planning Services Committee and Council for determination.
- j. If a Commercial Vehicle owner, who has been granted Council approval to park a vehicle on a lot, wishes to replace the vehicle with another Commercial Vehicle, a further application to Council is required, except where the vehicle is of the equivalent tare weight or less, providing all conditions on the previous approval are complied with. In such cases, only notification and submission of a photograph of the new Commercial Vehicle to Council is required by the owner.
- k. Approval to park a commercial vehicle on a lot shall apply to the applicant only on the lot the subject of the application and shall not be transferred to any other person.
- l. Council reserves the right to amend the conditions of an approval or to revoke an approval (i) as a result of a justified complaint received, or (ii) due to changes (or potential changes) of the zoning of the subject or nearby land.
- m. In issuing an approval or a refusal for the keeping or parking of a Commercial Vehicle on private property, the applicant's attention shall be drawn to the separate matter of parking on the road verge and the road carriageway, and the need for compliance with the Council's Parking local laws and the Road Traffic Act.
- n. Confirmation of Council's approval for any application will be dependent upon the applicant signifying in writing that he/she will comply with all conditions as laid down by Council in respect of the particular proposal."
- o. A non-refundable application fee of \$150.00, to cover processing costs will be payable to Council on application. Approvals shall be issued for a period of 12 months only with a fee of \$50.00 applicable to applications up for renewal.
- p. Approval will not be granted to the parking of a commercial vehicle in a Residential zone if the parking of another commercial vehicle is being undertaken on any lot directly adjoining the subject lot or any of the 3 lots directly opposite the subject lot, or where a lot will be surrounded by 2 commercial vehicles as a result of an approval.

CROSS REFERENCES (If any):

Management Practice No.:		Delegation No.:	
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LEGAL REFERENCES

Legislation:	
Local Law:	

Attachment 2

POLICY REGISTER



Title:	Parking of Commercial Vehicles on Private Property		
Policy No.:	DEV 22		
Date Adopted:		Date Last Reviewed:	16 August 2004

Rationale	<p>To provide opportunities for the parking of commercial vehicles in a manner that does not detrimentally impact on the amenity of the surrounding area.</p> <p>To provide criteria that will assist in the consideration of applications for commercial vehicle parking.</p>
Policy	<p>1. APPLICATION OF POLICY</p> <p>1.1 This Policy applies to all applications for parking of commercial vehicles on privately owned land in the Shire.</p> <p>1.2 The Policy applies to commercial vehicles parked on a property that are intended to be parked on the lot on a regular or routine basis.</p> <p>1.3 This Policy does not apply to the parking of commercial vehicles on land that are solely used within the property or in connection with an approved activity conducted on the subject lot.</p> <p>1.4 This Policy recognises that previously approved commercial vehicle parking activities and non-conforming uses that involve commercial vehicles continue to be carried out within the district. Nothing in this Policy modifies the terms and conditions of approved activities or recognised non-conforming uses. The Policy will however guide the Shire in determining any proposal to amend the terms and conditions applicable to these activities and to new commercial vehicle parking proposals.</p> <p>2. ACCOMPANYING INFORMATION</p> <p>Applications for approval of commercial vehicle parking must be lodged in the form of a Development Application and be accompanied by the following information:</p> <p>a) Completed application form.</p> <p>b) A plan to a scale of not less than 1:500 showing lot boundaries and the location of the dwelling, outbuildings, driveway, proposed parking location and intended vehicle screening measures.</p> <p>c) Completed Commercial Vehicle Details Form.</p> <p>d) A photograph showing the location where the vehicle is proposed to be parked.</p> <p>e) Photographs of the front, side and rear of the vehicle/s to be parked on the property.</p> <p>f) An indication of the typical frequency and times that the vehicle will be driven to and from the subject property and a description of the main functions of the vehicle.</p> <p>g) A copy of the driver's licence of each person that will drive the commercial vehicle/s, clearly identifying their registered residential address.</p>

- h) Payment of the required application fee.

3. ASSESSMENT CRITERIA

Applications for commercial vehicle parking will be determined in accordance with the following provisions:

- (a) The commercial vehicle to be parked on the property shall not exceed:
- (i) Rigid type - 11 metres in length, 2.5 metres in width and 4.3 metres in height (either laden or unladen).
 - (ii) Articulated type – 17.5m in length, 2.5m in width and 4.3m in height (laden or unladen).
- (b) The commercial vehicle shall be parked entirely on the lot behind the front alignment of the dwelling, and preferably behind the rear realignment of the dwelling. If the vehicle is parked alongside the dwelling then gates and/or fencing of a minimum height of 1.8m shall be erected to satisfactorily screen the vehicle from the public realm.
- (c) The commercial vehicle must be parked on the lot so that it does not interfere with the access and/or egress of other vehicles.
- (d) The commercial vehicle(s) must enter and leave the property in forward gear, unless otherwise approved.
- (e) Spray painting, panel beating and major servicing on the commercial vehicle will not be permitted on the lot. Maintenance is limited to oil and grease changes, changes of tyres (not repair of tyres), and other minor maintenance as approved.
- (f) Washing of the commercial vehicle on the lot is limited to the use of water and mild detergent, and excludes the use of any solvents, degreasing substances, steam cleaning and any other processes.
- (g) The commercial vehicle shall only be started and/or manoeuvred on the lot in such manner and at such times approved by Council, being consistent with the provisions of the Environmental Protection (Noise) Regulations. Standard vehicle movement and start up times of between 7.00am and 7.00pm Monday to Saturday, and 9.00am to 5.00pm on Sundays and public holidays shall apply, unless otherwise approved.
- (h) The idling times for start up and cool down on the property shall be restricted to 5 minutes per day unless otherwise approved.
- (i) Maintenance and cleaning of the commercial vehicle on a residential lot to be permitted only between 8.00am and 7.00pm Monday to Saturday, and 9.00am and 6.00pm Sunday, unless otherwise approved.
- (j) A refrigeration unit fitted to a commercial vehicle parked on or abutting a residential lot may not be operated whilst the vehicle is parked on the lot.
- (k) If a commercial vehicle owner, who has been granted approval to park a commercial vehicle on a lot, wishes to replace the vehicle with another commercial vehicle, a further application is required.
- (l) Council reserves the right to amend the conditions of an approval or to revoke an approval:

	<p>(i) as a result of a justified complaint being received; and/or</p> <p>(ii) due to changes (or potential changes) of the lot's zoning.</p> <p>(m) The local government may give notice of an application for approval to park a commercial vehicle or require the applicant to give notice of the application in respect of any such notice, clauses 9.4.3 to 9.4.6 of Local Planning Scheme No. 3 apply.</p>
Related Local Law	
Related Policy	
Management Practice	
Legislation	Local Planning Scheme No. 3
Conditions	

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

62. Amendment to Local Planning Scheme No. 3 – Additional Use (Place of Worship) – Lot 36 (831) Welshpool Road East, Wattle Grove

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	PG-LPS-003
Applicant	Gray and Lewis Land Use Planners
Owner	S Jones
Attachment 1	Preliminary Site Plan
Attachment 2	Local Planning Strategy Key Elements Plan

PURPOSE

1. To consider whether to initiate an amendment to Local Planning Scheme No. 3 (“the Scheme”) to include the Additional Use of Place of Worship on Lot 36 (831) Welshpool Road East, Wattle Grove. Refer to (Attachment 1).

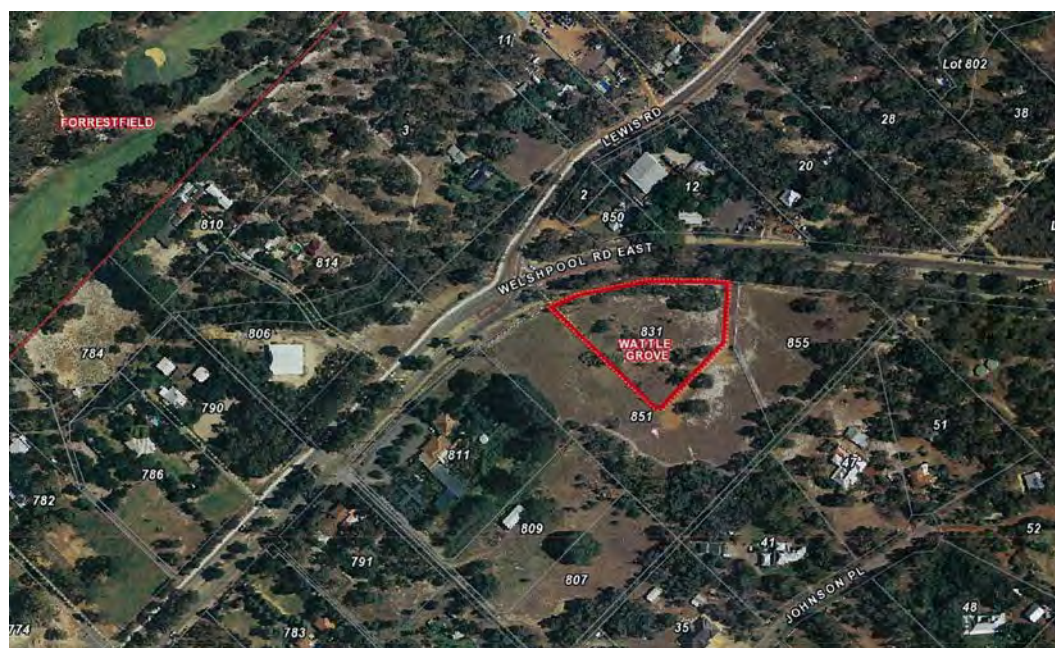
BACKGROUND

2. Land Details:

Land Area:	1.04ha
Local Planning Scheme Zone:	Rural Composite
Metropolitan Region Scheme Zone:	Rural

Locality Plan

- 3.



4. The property is currently vacant and has access from Welshpool Road East via a shared driveway with Lot 34 (841) and 38 (855) Welshpool Road East.
5. The surrounding properties have been identified in the Shire's Local Planning Strategy ("Strategy") as being a Foothills Investigation Area with the potential of being rezoned to Residential Bushland. Refer to the Local Planning Strategy Key Elements Plan (Attachment 2).
6. The proposed Residential Bushland zoning would allow for minimum lots size ranging from approximately 2,000sqm to 4,000sqm in area.

DETAILS

7. It is proposed that the use Place of Worship be included under Schedule 2 (Additional Uses) of the Scheme.
8. If the amendment is approved by the Minister for Planning, the applicant will be required to obtain planning consent for the place of worship on the subject land from the Shire prior to the use commencing.
9. In support of the proposed amendment, the applicant has advised the following:

"The Rural Composite zoning allows for "low scale commercial land uses" and the proposed Place of Worship will not adversely affect the landscape or environmental qualities of the land.

A preliminary site plan of the proposed development has been prepared (Attachment 1) and shows the location of the churchy/hall towards the eastern boundary, with the associated car parking area along the northern boundary.

Existing trees on the site will be retained where possible.

It should be noted that the site plan is indicative only and will be refined at the development application stage."

STATUTORY AND LEGAL IMPLICATIONS

Local Planning Scheme No. 3

10. The *Town Planning Regulations 1967* establish procedures relating to amendments to local planning schemes. If Council decides to initiate the proposed amendment, then ultimately the amendment will be determined by the Minister for Planning.
11. If Council does not initiate the amendment, the process ceases and there is no Right of Review (appeal) to the State Administrative Tribunal. If the proposal progresses to the Minister's determination, irrespective of the Minister's decision, there is no Right of Review.

-
12. The use Place of Worship is defined under Schedule 1 (Land Use Definitions) of the Scheme as being:

“Premises used for religious activities such as a church, chapel, mosque, synagogue and temple.”

13. Under Table 1 (Zoning Table) of the Scheme the use Place of Worship is listed as an ‘X’ use in the Rural Composite zone, meaning the use is not permitted.
14. Clause 4.2.2 (Objectives of the Zones – Rural Composite) of the Scheme stipulates that the objective of the Rural Composite zone is to provide for small semi-rural lots that can accommodate a limited range of rural and low scale commercial land uses in a manner that will not adversely affect the landscape and environmental qualities of the land and are appropriate to the area.

POLICY IMPLICATIONS

15. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

16. If the amendment is initiated by Council, it would be formally advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*.
17. The amendment would be required to be advertised in the form of a notice being published in a district newspaper, advertised to nearby landowners and referred to government agencies for comment. The applicant would also be requested to arrange for a sign advertising the proposal to be erected on the subject property.
18. The amendment would also be referred to the Department of Planning for comment because the portion of Welshpool Road East which the property abuts is an Other Regional Road Reserve (a blue road) under the Metropolitan Region Scheme.

FINANCIAL CONSIDERATION

19. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

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

SUSTAINABILITY

Social Implications

21. If the amendment, and subsequently the proposed use is approved, it may provide employment opportunities for the local population.

Economic Implications

22. Nil.

Environmental Implications

23. Nil.

RISK MANAGEMENT CONSIDERATIONS

24.

Risk	Likelihood	Consequence	Action/Strategy
Minister for Planning may decide not to support the amendment.	Low	High	Ensure that Council is aware that matters relating to potential impacts the future uses may have on the amenity of the area will be dealt with at the development application stage if the amendment is approved.

OFFICER COMMENT

25. Whilst places of worship are typically located in residential areas, the commercial nature of the Rural Composite zone suggests that the proposed use would also be appropriate under the zone.
26. The issue of where the use Place of Worship should be permitted requires broader considerations including appropriate design and locational criteria as part of a local planning policy.
27. If the amendment is approved, it would still be necessary for the applicant to seek planning consent prior to the use being undertaken.
28. Matters regarding car parking, landscaping, traffic safety, and the hours of operation, amongst others, will be taken into consideration at the development application stage if the amendment is approved.
29. Considering the above it is recommended that Council initiates the amendment.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 62/2013)

That Council:

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

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

Resolved that Council, in pursuance of Part 5 of the *Planning and Development Act 2005*, amends the above Local Planning Scheme as follows:

- (a) Amending Schedule 2 (Additional Uses) by including the following provision:

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
50.	Lot 36 (831) Welshpool Road East, Wattle Grove	Place of Worship	The uses are not permitted unless approval is granted by the Local Government ("D")

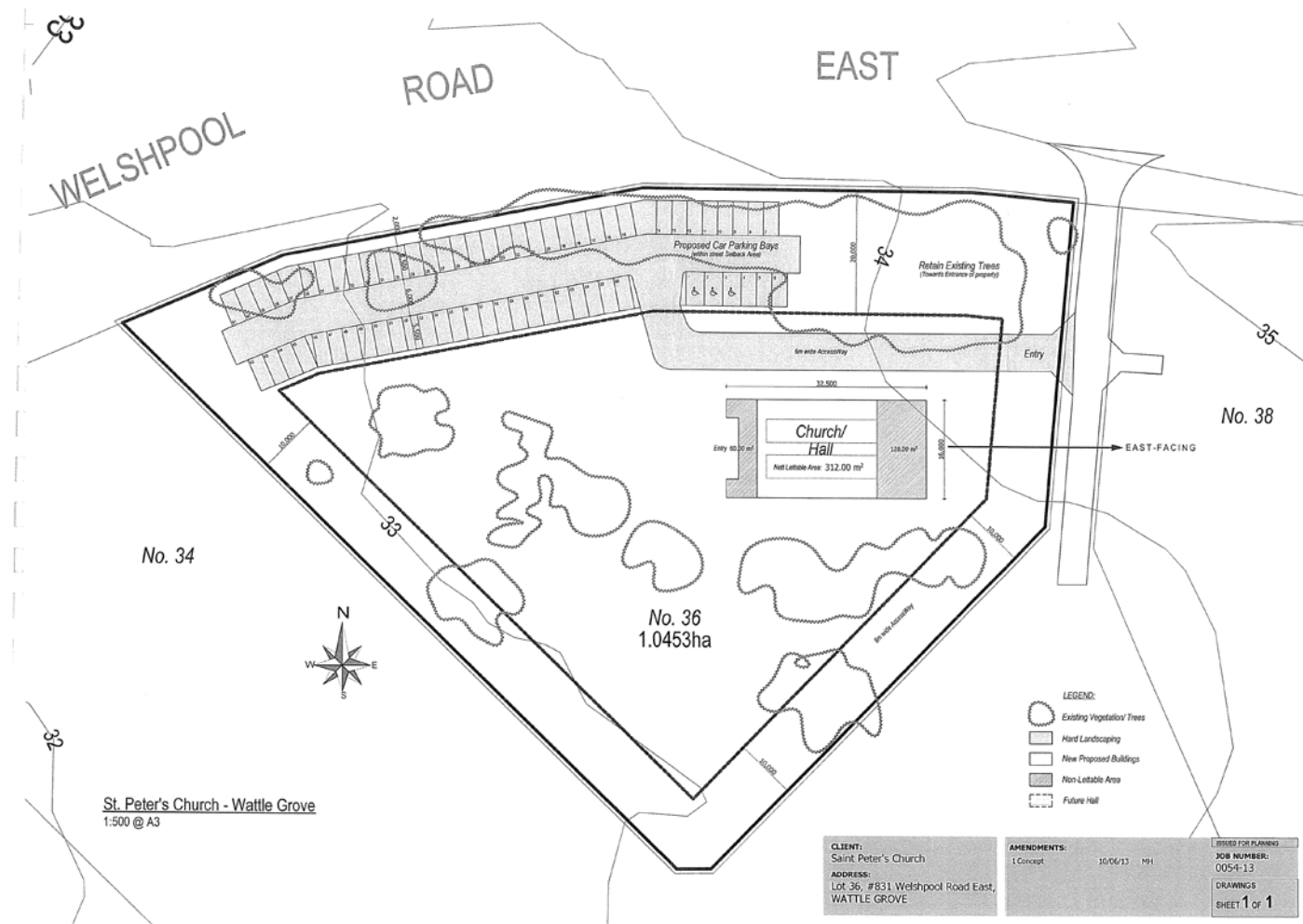
The documents being adopted by Council and the Amendment being formally advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*, without reference to the Western Australian Planning Commission.

Moved: **Cr Noreen Townsend**

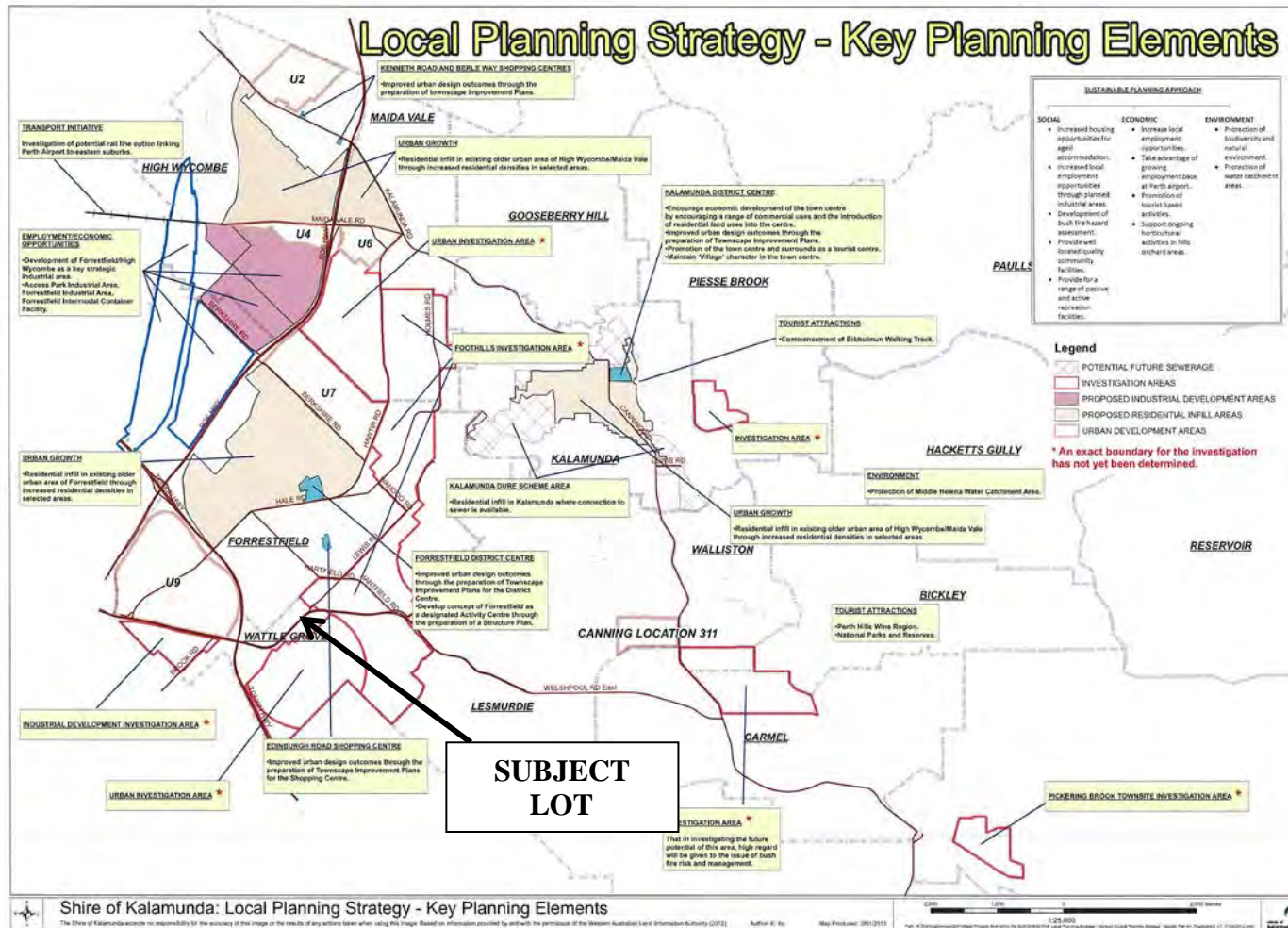
Seconded: **Cr Allan Morton**

Vote: **CARRIED UNANIMOUSLY (11/0)**

Attachment 1
Amendment to Local Planning Scheme No. 3 – Additional Use (Place of Worship) –
Lot 36 (831) Welshpool Road East, Wattle Grove
Preliminary Site Plan



Attachment 2
 Amendment to Local Planning Scheme No. 3 – Additional Use (Place of Worship) –
 Lot 36 (831) Welshpool Road East, Wattle Grove
Local Planning Strategy Key Elements Plan



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

63. Twelve Multiple Dwellings – Lot 21 (12) Heath Road, Kalamunda

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	HT-02/012
Applicant	N Barnard
Owner	N Barnard
Attachment 1	Site Plan
Attachment 2	Landscape Plan
Attachment 3	Elevations
Attachment 4	Ground Floor Plan
Attachment 5	First Floor Plan
Attachment 6	Submission Table
Attachment 7	Draft Local Housing Strategy – Kalamunda Centre

PURPOSE

- To consider a planning application to build 12 multiple dwellings at Lot 21 (12) Heath Road, Kalamunda. Refer to (Attachments 1 to 5).

BACKGROUND

- Land Details:**

Land Area:	1,738sqm
Local Planning Scheme Zone:	Residential R30
Metropolitan Region Scheme Zone:	Urban

Locality Plan

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4. The subject property contains a single dwelling and has direct access to Heath Road via a single crossover.
 5. Surrounding properties contain single dwellings and are also zoned Residential R30 under Local Planning Scheme No. 3 (“the Scheme”).
 6. As the use Multiple Dwellings is a use not listed under Table 1 (Zoning Table) of the Scheme the application is required to be determined by Council.

DETAILS

7. Details of the application are as follows:
 - The existing single dwelling is proposed to be demolished, and a two storey residential building is proposed to be built in its place which will contain 12 units.
 - The development is proposed to consist of 12 two bedroom units with individual floor areas ranging from 68sqm to 70sqm.
 - Access to the dwellings is proposed via a common property, which has been designed so that vehicles can enter and leave the property in forward gear, and allow for the two way movement of vehicles on site.
 - Twelve (12) car spaces are proposed on site for the tenants, and three spaces for visitors.
 - Four bicycle parking spaces are proposed on site for tenants and visitors.
 - Storerooms, 4sqm in area, are proposed to be available for each tenancy.
 - A screened communal clothes drying area and bin storage area are proposed.

STATUTORY AND LEGAL IMPLICATIONS

Local Planning Scheme No. 3

8. Under the Zoning Table (Table 1) of the Scheme the use “Multiple Dwellings” is a use not listed.
9. Clause 4.4.2 of the Scheme stipulates that where a use not listed is proposed, and cannot be reasonably determined as falling within the type, class or genus of activity of any other use category, the local government may:
 - a. Determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
 - b. Determine that the use may be consistent with the objectives of the particular zone and therefore follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
 - c. Determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

-
10. Clause 4.2.1 of the Scheme (Objectives of the Zone – Residential) includes the following:
- To provide primarily for single residential development whilst allowing for a range of residential densities in order to encourage a wide choice of housing types within the Shire.
 - To facilitate a range of accommodation styles and densities to cater for all community groups inclusive of the elderly, young people in transition and the handicapped. Such accommodation is supported where it is appropriately situated in proximity to other services and facilities.
11. In considering an application for planning approval, Clause 10.2 of the Scheme (Matters to be Considered by Local Government) requires Council to have due regard to number of matters, including:
- The compatibility of the development within its settings.
 - The likely effect of the scale and appearance of the proposal.
 - Whether the proposed means of access and egress from the property are adequate.
 - Any State Planning Policy.
 - Any relevant submissions received on the application.
12. If Council refuses the development, or imposes conditions that are not acceptable to the applicant, there is a Right of Review (appeal) to the State Administrative Tribunal.

STRATEGIC PLANNING IMPLICATIONS

Local Planning Strategy

13. The Local Planning Strategy (“LPS”) recommends a population growth scenario of the Shire will increase by 25,000 by 2031, with the potential to accommodate population growth of 80,000 within this timeframe.
14. Objectives of the LPS include providing appropriate density housing to:
- Support the Kalamunda town centre.
 - Provide a range of housing options.
 - Support activity centres such as the Kalamunda townsite with appropriate housing.
 - Encourage compact housing within walking distance of the town centre and commercial hubs.

Draft Local Housing Strategy

15. The principal purpose of the draft Local Housing Strategy (“draft LHS”) is to provide the Shire with a firm rationale for determining future housing needs, and to recommend appropriate policy measures for the provision of a range of housing types and densities.
16. The following objectives of the draft LHS which have been adapted from the LPS, and expanded:
 - a. To ensure new residential development and infill residential development is based on good design principles which protect amenity.
 - b. To provide for a variety of housing types that will cater for the diverse housing needs of the community at a density that can ultimately support the provision of local services, while at the same time meeting the social and economic needs of the Shire’s changing demographics.
 - c. To identify suitable areas for greater housing choice which:
 - are strategically located, i.e., close to, or well connected to, existing and future services (for example, employment centres, main transport routes/hubs, community facilities, shopping centres, and most importantly, the two District Centres within the Shire – Kalamunda and Forrestfield),
 - are in need of private investment to regenerate ageing housing stock, and
 - will make more effective use of existing community infrastructure and facilities.
 - d. To contribute appropriately to the urban infill aspirations of Directions 2031 and Beyond.
17. The property falls within an area proposed to have a dual density of R30/R40 under the draft LHS. Refer to the Draft Local Housing Strategy – Kalamunda Centre (Attachment 6).
18. As a consequence of Council resolving to extend the advertising period, the draft LHS is being advertised from 3 September up to and including 31 October 2013.

POLICY IMPLICATIONS

Residential Design Codes

19. An objective of the 2013 Residential Design Codes (“the R-Codes”) is to facilitate residential development which offers residents the opportunities for better living choices and affordability.
20. Under Appendix 1 (Definitions) of the R-Codes, the use “Multiple Dwellings” is defined as:

“A dwelling in a group of more than one dwelling on a lot where any part of a dwelling is wholly or predominantly vertically above part of any other.”

21. The R-Codes allow multiple dwellings to be considered on properties zoned Residential R30, which is a medium density coding.
22. The R-Code requirements for Multiple Dwellings on properties zoned Residential R30 are the following:

Site Requirements	Required	Proposed
Maximum Plot Ratio	0.5	0.48
Minimum Open Space	45%	55%
Primary street setback	4m or satisfy the Design Principles of the R-Codes.	4m
Side and rear setbacks (walls with major openings) Wall Height of up to 6m and Wall Length of 9m or Less	1.5m	4m
Side and rear setbacks (walls with no major openings) Wall Height of up to 5.5m and Wall Length of 9m or Less	1.2m or satisfy the Design Principles.	2.59m
Maximum Building Height: - Top of External Wall - Top of Pitched Roof	6m 9m	5.8m 8.1m
Enclosed, lockable storage areas with a minimum dimension of 1.5m and an internal area of at least 4sqm for each multiple dwelling.	8 storerooms minimum	8
Visual privacy setbacks (where active habitable spaces have a floor area more than 0.5m above natural ground level):		
• Bedrooms	4.5m or 1.6m high screening or fixed obscure glazing	2.5m and 1.6m high window sills with fixed obscure glazing beneath.
• Balconies	7.5m or 1.6m high screening	4.6m and 1.6m high obscure glazed screening
• Habitable rooms other than bedrooms	6m or 1.6m high screening or fixed obscure glazing	2.5m and 1.6m high window sills with fixed obscure glazing beneath.

23. Clause 6.4.2 (Solar Access for Adjoining Properties) of the R-Codes stipulates that development is to be designed with regard for solar access for neighbouring properties taking account the potential to overshadow outdoor living areas, major openings to habitable rooms, solar collectors; or balconies or verandahs.
24. Development on properties with an R30 coding is not to overshadow more than 35% of an adjoining property at midday on 21 June (the shortest day of the year). The northern orientation of the property means that the majority of any overshadowing created by the proposed development will be into the adjoining Road Reserve.
25. Clause 6.4.7 of the R-Codes stipulates that multiple dwelling developments are to be provided with an adequate communal area set aside for clothes drying, screened from the primary street.
26. The R-Code car parking requirements for Multiple Dwellings on properties zoned Residential R30 or greater, and not within 250m of a high frequency bus route, are the following:

Size of Dwelling	Required	Proposed
Small (up to 75sqm or 1 bedroom)	1 per dwelling = 12 car spaces	12 car spaces
Visitors	0.25 per dwelling minimum = 3 car spaces	3 car spaces

27. Clause 2.5.4 of the R-Codes stipulates that a Council shall not refuse to grant approval to an application in respect of any matter where the application complies with the relevant acceptable development provision and the relevant provisions of the Scheme or a local planning policy.
28. Appendix 1 (Definitions) of the R-Codes, habitable rooms are defined as being the following:
- “A room used for normal domestic activities that includes:*
- *A bedroom, living room, lounge room, music room, sitting room, television room, kitchen, dining room, sewing room, study, playroom, sunroom, gymnasium, fully enclosed swimming pool or patio, but excludes;*
 - *A bathroom, laundry, water closet, food storage pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes drying room, verandah and unenclosed swimming pool or patio and other spaces of a specialised nature occupied neither frequently nor for extended periods.”*
29. The Explanatory Guidelines of the R-Codes stipulate that the appropriateness of a particular development form for a site can be identified, based upon the existing and likely future development in the locality.

Directions 2031 and Beyond

30. *Directions 2031 and Beyond* is a high level strategic plan that establishes a vision for future growth of the Perth metropolitan area.
31. The objectives of *Directions 2031 and Beyond* include the following:
- Reducing greenhouse gas emissions.
 - Developing and revitalising activity centres as attractive places in which to invest, live and work.
 - Ensuring that economic development and accessibility to employment inform urban expansion.
 - Encourage reduced vehicle use.
 - Provide high standards of affordable and diverse housing forms.

Draft Liveable Neighbourhoods

32. Liveable Neighbourhoods is a State Government sustainable cities initiative which aims to:
- Increase support for efficiency, walking and cycling.
 - Achieve more compact and sustainable urban communities.
 - To provide a variety of housing types to cater for the diverse housing needs of the community at a density that can ultimately support the provision of local services.

COMMUNITY ENGAGEMENT REQUIREMENTS

33. The proposal was advertised for 14 days to nearby property owners for comment in accordance with Clause 9.4.1 and 9.4.3 of the Scheme. One non-objection and nine objections were received. Refer to the Submission Table (Attachment 6).
34. The following concerns were raised during advertising:
- The potential for visitors to the property to park along the adjoining verge due to the amount of visitor car parking bays on site.
 - Noise emissions from air conditioner units on the proposed development having an impact on those residing on adjoining properties.
 - The built form in not being in keeping with the amenity and character of the area.
 - Trees and vegetation being removed from the property as a consequence of the proposed development.
 - Approval of the proposed development setting an undesirable precedence.

- The proposed development creating privacy issues and overshadowing adjoining properties.
 - The height of the proposed development being excessive.
 - The potential impact the construction of the development may have on the value of surrounding properties.
 - An increase in traffic volume being of real concern.
35. A petition containing 15 signatures was also received, objecting to the proposal because of the height of the development, and concerns regarding privacy, waste bin storage, car parking potentially occurring along the adjoining verge and noise from air conditioners on the development.
36. With regard to the concerns raised during advertising the following should be noted:
- In respect to the built form, the subject lot is zoned Residential R30 which typically is deemed low to medium residential development. Acknowledging that the majority of Kalamunda is characterised by single storey residential development, the proposed two storey development will afford residents the opportunity for housing choice in walking distance of the town centre.
 - In respect the building works, the applicant will be required to submit a construction management plan for the duration of the building process.
 - A Traffic Impact Statement submitted as part of the application concludes that the anticipated traffic impacts associated with the development on the local road system will be minimal.
 - An adequate amount of car parking bays will be available on the property.
 - Noting residents' concerns regarding the amenity issues associated with the height of the buildings, noise, and privacy. The proposal complies with the Scheme, the R Codes, the Policy, the LPS, the Draft LHS, the Draft Liveable Neighbourhoods document, and Directions 2031 and Beyond.

FINANCIAL CONSIDERATION

37. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

- Strategy 4.3.1 Provide efficient building and development approval services to the community.
- Strategy 4.3.5 Incorporate best practice principles for designing out crime and encourage private developers and owners to do the same.

SUSTAINABILITY

Social Implications

39. Impacts the multiple dwellings may have on the amenity of the local area will be addressed through the inclusion of conditions. These relate to the maintenance of the proposed landscaping and screening along the edge of the balconies facing the adjoining properties. Importantly the proposal will provide for a different form of housing choice, close to the town centre which will attract a different demographic to the area.

Economic Implications

40. Nil.

Environmental Implications

41. Some vegetation will be lost on site as result of the development.

RISK MANAGEMENT CONSIDERATIONS

42.

Risk	Likelihood	Consequence	Action/Strategy
Council may resolve not to support the proposal.	Low	High	Ensure Council is aware that the proposal is compliant with the Scheme, R Codes, the Policy, the LPS and the Draft LHS.

OFFICER COMMENT

43. Whilst noting the concerns of residents who objected to the proposed development, the proposal complies with the Scheme, the R Codes, the Policy, the LPS, the Draft LHS, the Draft Liveable Neighbourhoods document, and Directions 2031 and Beyond.
44. From a planning perspective the proposed development is considered to be appropriate for the locality for the following reasons:
- The residential density of the property is currently R30, and the locality is shown on the proposed plan for the draft LHS as possibly becoming R30/R40. The R-Codes allow medium density development such as multiple dwellings to be considered on properties zoned Residential R30 or R30/R40. Refer to the Draft Local Housing Strategy – Kalamunda Centre (Attachment 7).

- The development is providing for a different housing type within walking distance of the Kalamunda town centre and transport routes. The development will also assist with accommodating the increase in local population and offer housing choice aside from single and aged person dwellings. It can also be argued that the provision of two bedroom units will offer the opportunity for more housing choice close to the Kalamunda Town Centre.
- The built form of the development from a streetscape perspective is the same as a two storey single or grouped dwelling.

44. It is noted that Council has previously approved three similar multiple dwelling developments in close proximity to the Kalamunda Town Site. The move towards this form of housing suggests a demand for housing choice in Kalamunda.

There were three speakers, two against the recommendation – Margaret Parkinson and Paul Morrow and one in favour of the recommendation, Simon Warwick who said he was speaking on behalf of Nigel Barnard.

Margaret Parkinson had two concerns, firstly the loss of privacy and secondly regarding parking. Whilst appreciating the number of bays complies with planning requirements she is concerned that parking might obstruct the footpath particularly for those using gophers and walking frames. The Director Development & Infrastructure Services indicated that infringements would be issued to offending vehicles.

Simon Warwick noted that both he and Nigel Barnard live in the Shire and are involved in the development, he stated that the development is fully compliant with all planning requirements. He considers that appropriate increase in density improves the viability and vitality of the town centre.

Paul Morrow spoke on behalf of his parents who live adjacent to the proposed development. Whilst recognising the plans are fully compliant he questioned whether the design is good architecture and good town planning in view of the overshadowing likely for existing homes. A Councillor asked if the precise amount of overshadowing of neighbours was known and if there is an overshadowing diagram or design drawing? This question was taken on notice by the Director Development & Infrastructure Services; he indicated Councillors would be supplied with an answer prior to the Ordinary Council Meeting on 23 September 2013.

Councillors debated the Officer Recommendation.

Prior to this meeting an amendment to point e. of the Officer's Recommendation had been circulated to Councillors (the change is highlighted in these Minutes), only the amended Officer's Recommendation was put.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 63/2013)

That Council:

1. Determines that the use is consistent with the objectives of the particular zone and is therefore permitted.
2. Approves the application dated 17 June 2013 to build 12 multiple dwellings at Lot 21 (12) Heath Road, Kalamunda, subject to the following conditions:
 - a. The access way shall be suitably constructed, sealed and drained to the satisfaction of the Shire.
 - b. The crossover shall be designed and constructed to the satisfaction of the Shire.
 - c. Vehicle parking, manoeuvring and circulation areas to be suitably constructed, sealed, kerbed, line marked and drained to the satisfaction of the Shire.
 - d. The redundant crossover is to be removed, and the verge and kerbing reinstated to the satisfaction of the Shire.
 - e. ~~The~~ Balcony screening being maintained by the **unit owner/s or the Strata Management Group** to the Shire's satisfaction.
 - g. The proposed landscaping being planted within 28 days of the proposed development's completion, and maintained thereafter by the landowner (Strata management group) to the satisfaction of the Shire.
 - h. A geo-technical report being submitted to and approved by the Shire prior to the building licence being issued.
 - i. Stormwater being contained on site to the satisfaction of the Shire.
 - j. The applicant making the necessary arrangements for a waste bin contractor to enter the property and service the receptacles from the designated bin storage enclosures.
 - k. The external colour and material details of the proposed dwellings being provided to, and approved by the Shire prior to the building licence being issued.
 - m. A Construction Management Plan be prepared by the applicant addressing the following, but not limited to:
 - Construction Workers' Parking
 - Material's Delivery and Storage
 - Worker's Toilets

To the satisfaction of the Manager Development Services, prior to the issue of a Building Licence.

Moved: **Cr John Giardina**

Seconded: **Cr Frank Lindsey**

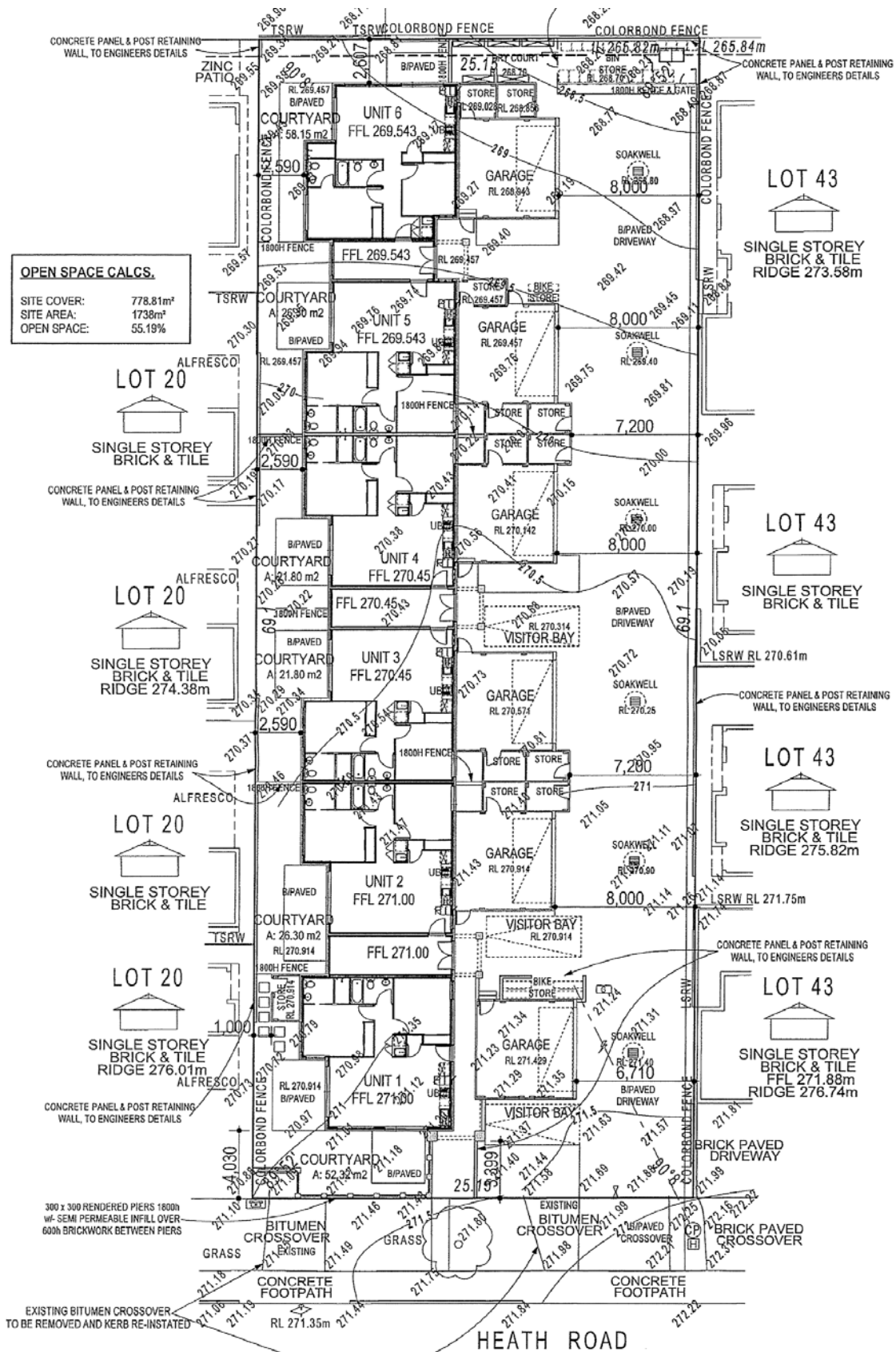
Vote: **For**
Cr John Giardina
Cr Frank Lindsey
Cr Geoff Stallard
Cr Allan Morton
Cr Noreen Townsend
Cr Justin Whitten
Cr Martyn Cresswell
Cr Dylan O'Connor
Cr Margaret Thomas

Against
Cr Sue Bilich
Cr Simon Di Rosso

CARRIED (9/2)

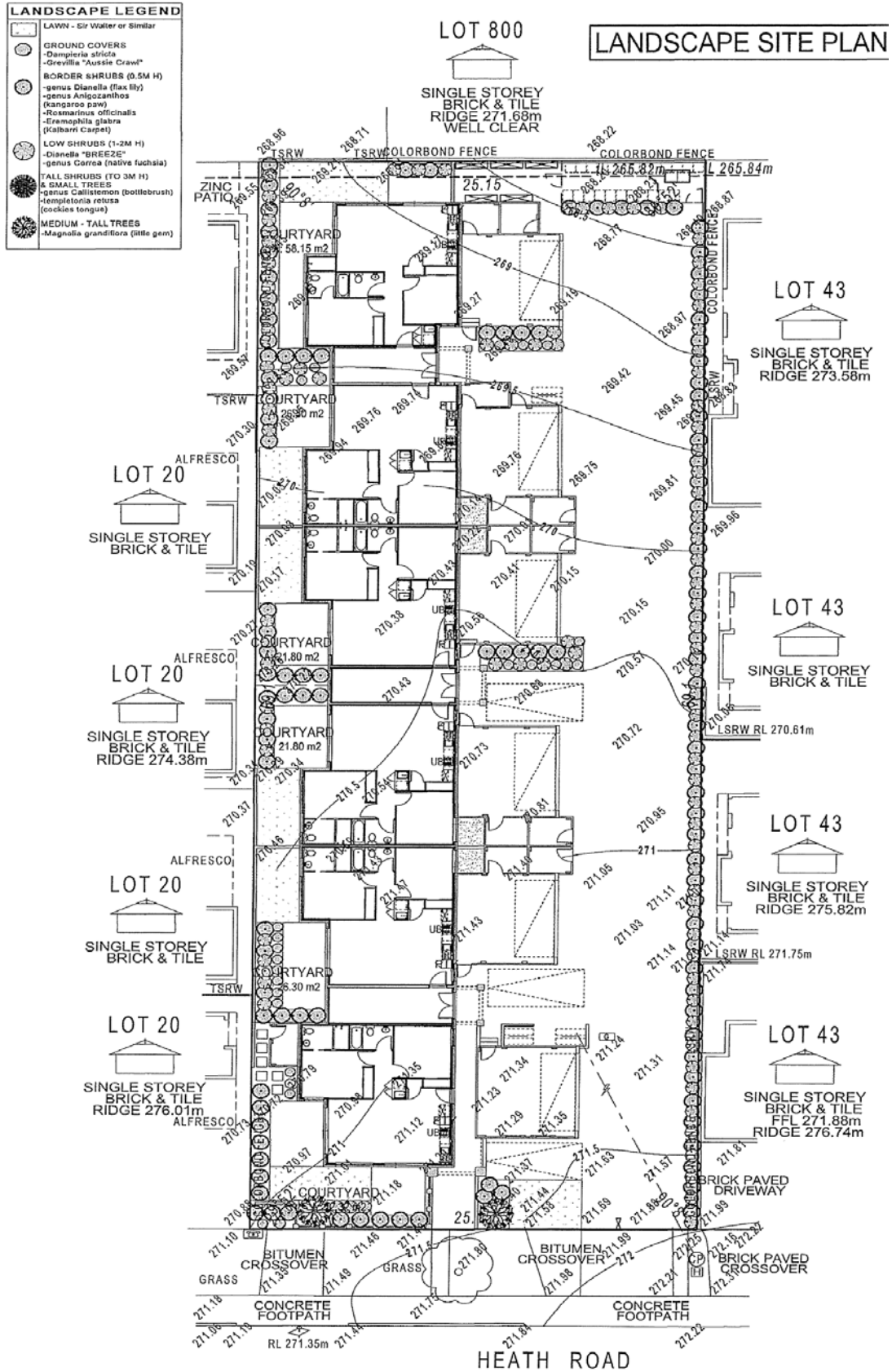
Attachment 1

**Twelve Multiple Dwellings – Lot 21 (12) Heath Road, Kalamunda
 Site Plan**

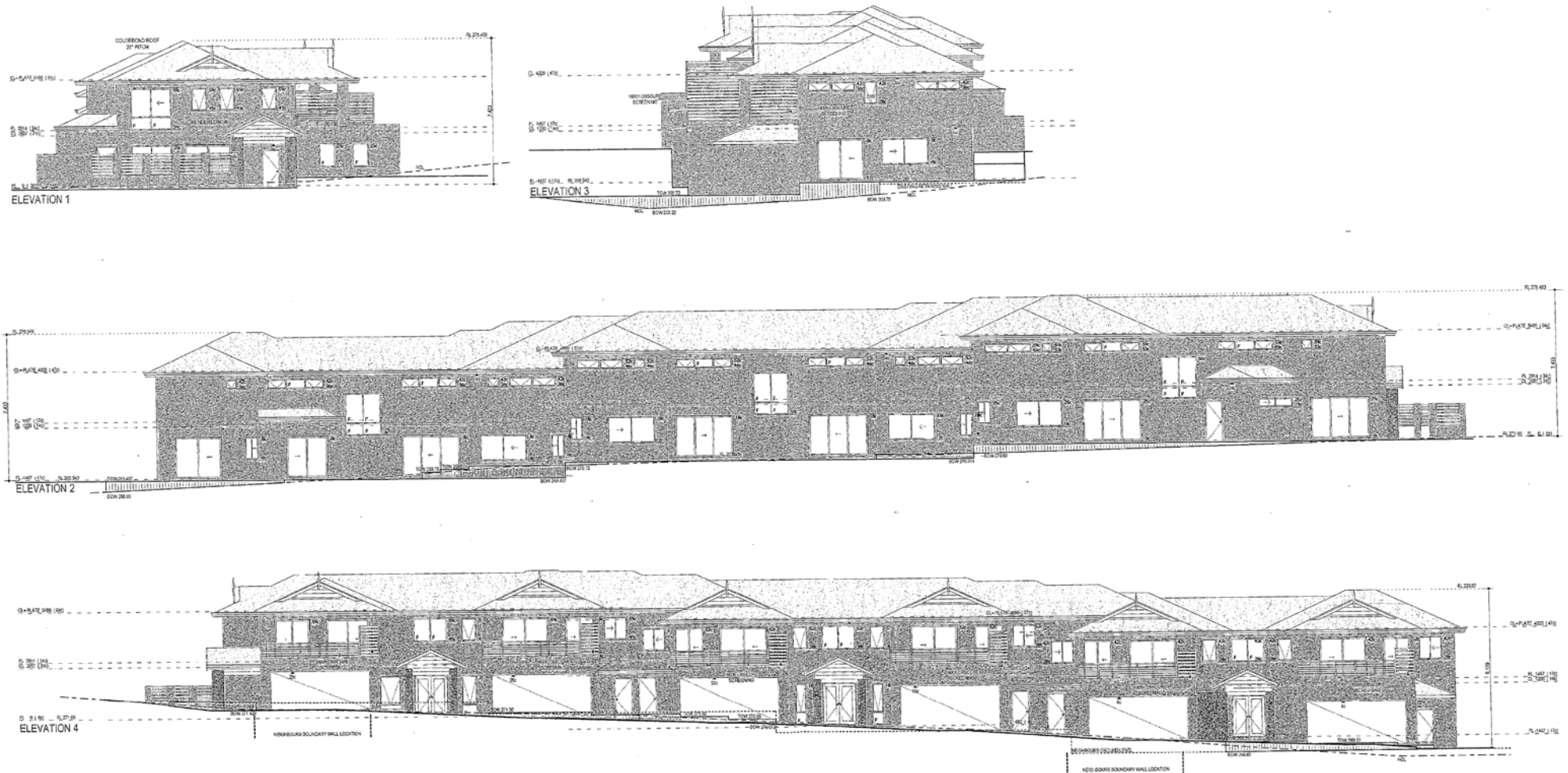


Attachment 2

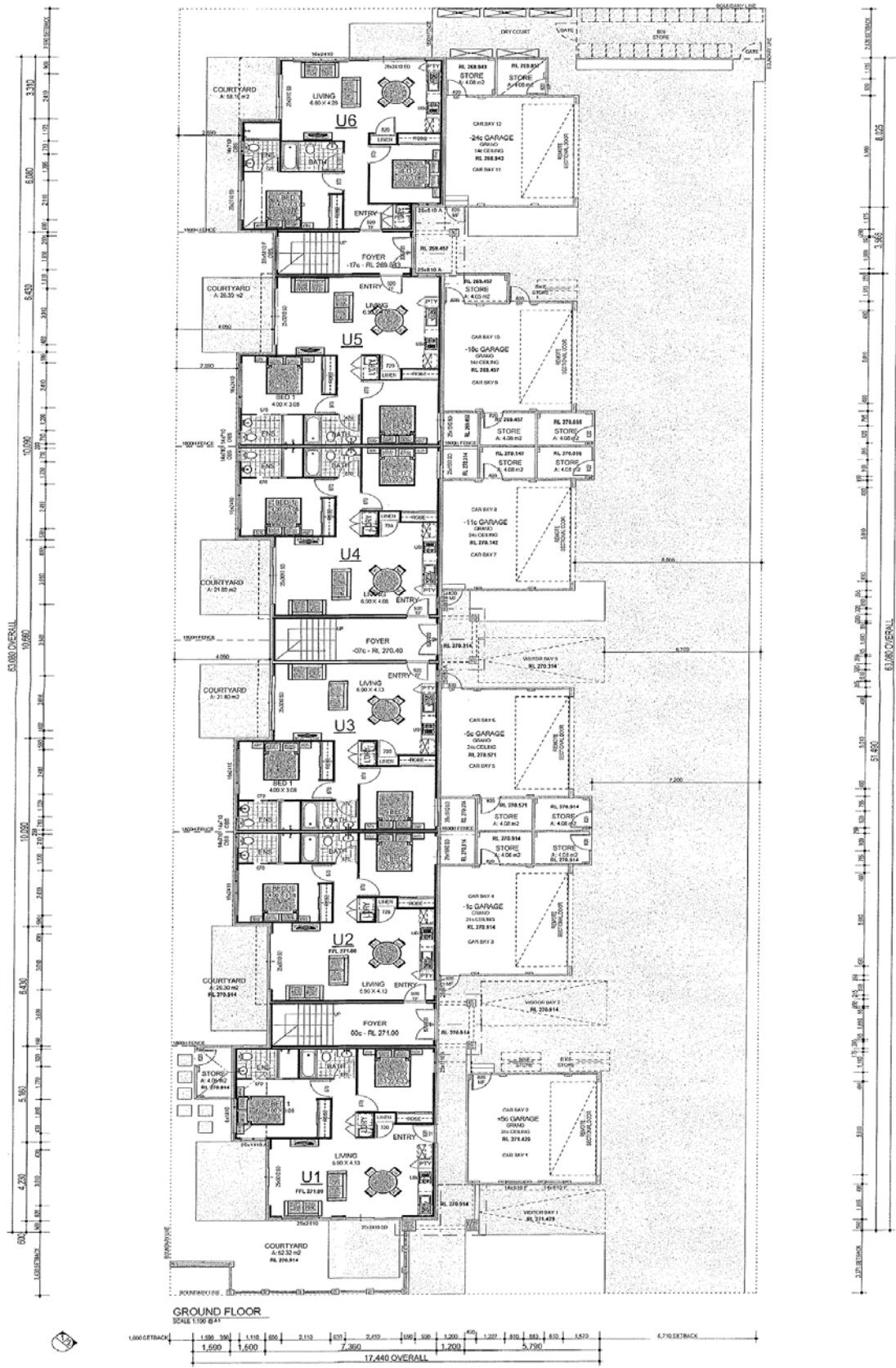
Twelve Multiple Dwellings – Lot 21 (12) Heath Road, Kalamunda Landscape Plan



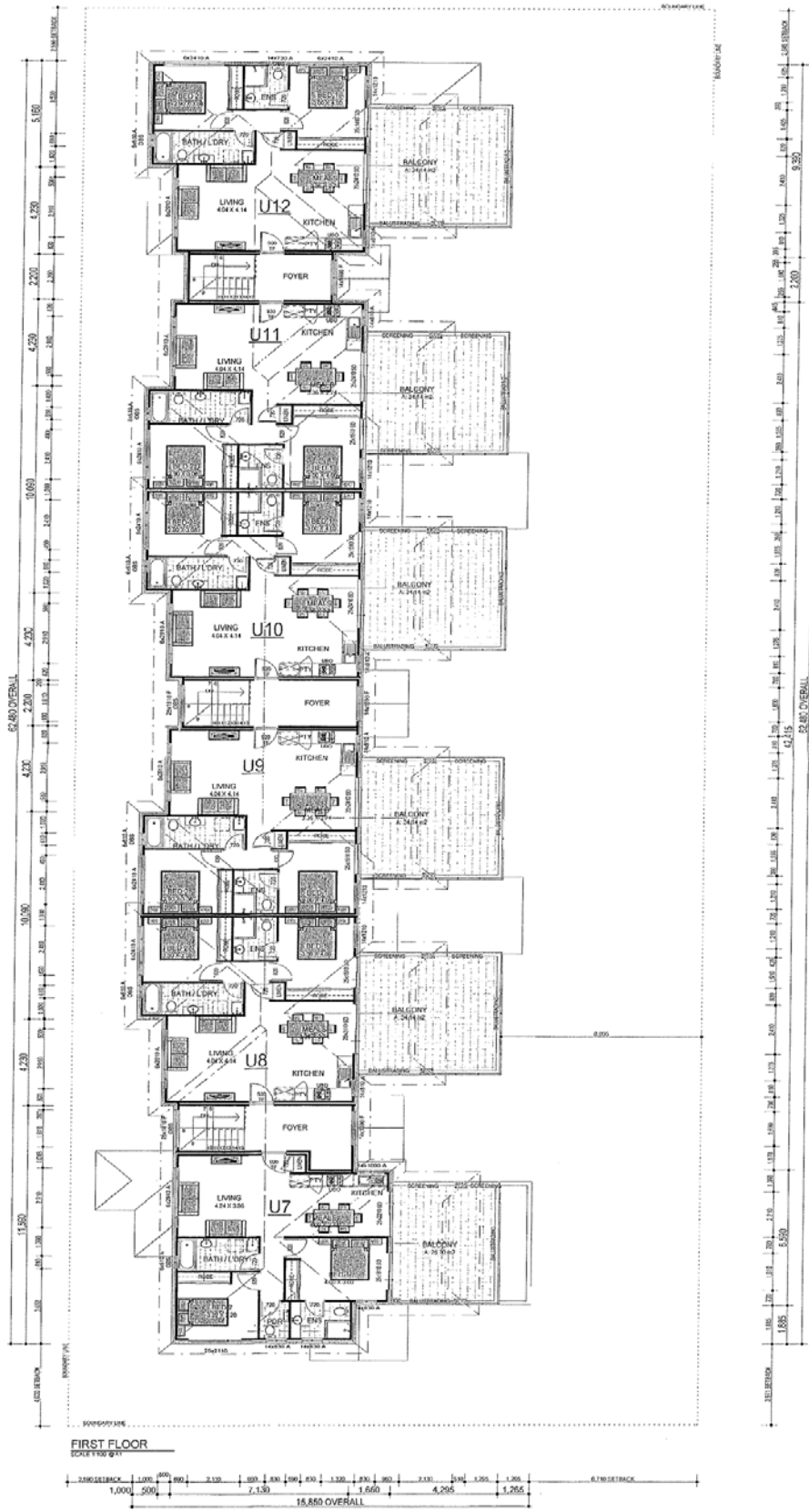
Attachment 3
Twelve Multiple Dwellings – Lot 21 (12) Heath Road, Kalamunda
Elevations



Attachment 4 Twelve Multiple Dwellings – Lot 21 (12) Heath Road, Kalamunda Ground Floor Plan



Attachment 5 Twelve Multiple Dwellings – Lot 21 (12) Heath Road, Kalamunda First Floor Plan



Attachment 6

Twelve Multiple Dwellings
Lot 21 (12) Heath Road, Kalamunda
Submission Table

	Details	Comment	Staff Comment
1.	W Salter 10 Heath Road KALAMUNDA WA 6076	<p>Objection.</p> <p>a) Why put two storey units in such a hazardous traffic area with too many cars.</p> <p>b) Either side of the proposed development are elderly people in units. Upper storey units would attract younger people which would not work (i.e. conflicts of lifestyle).</p>	<p>a) A Traffic Impact Statement submitted as part of the application concludes that the anticipated traffic impacts associated with the development on the local road system will be minimal.</p> <p>b) Noted.</p>
2.	C Hannah 23 Recreation Road KALAMUNDA WA 6076	<p>Objection.</p> <p>I feel these high density areas of living will cause many disruptions for residents in the immediate vicinity. Some of these being noise, traffic and parking difficulties.</p>	<p>The type of development proposed is designed on the medium density principles of the Residential Design Codes ("R Codes").</p> <p>Future occupants will be required to comply with the Noise Regulations.</p> <p>The proposed amount of car parking bays to be available on site is compliant with the R Codes.</p>

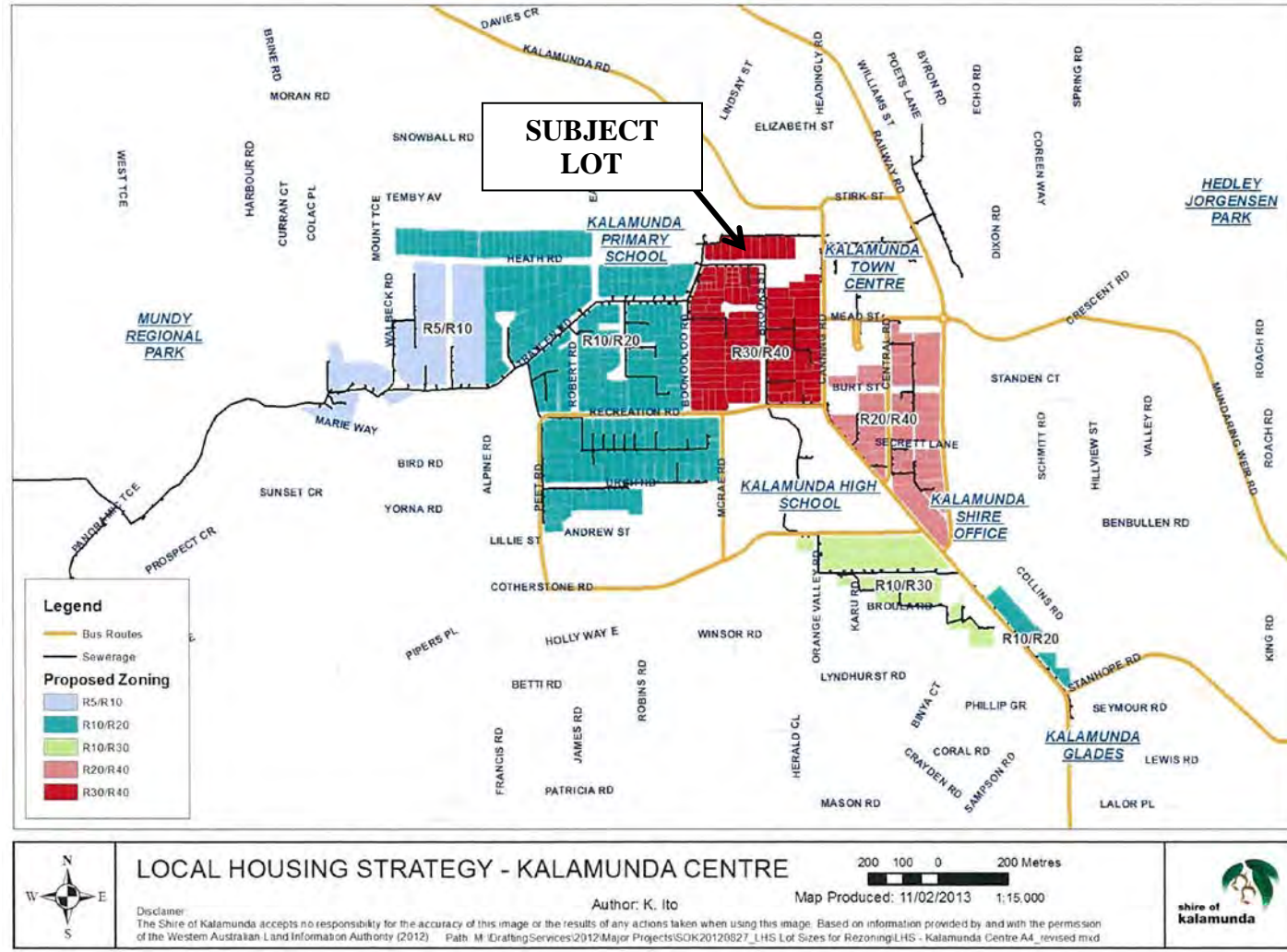
3.	J and M Fowler 4/14 Heath Road KALAMUNDA WA 6076	<p>Objection.</p> <p>a) The proposed two storey building right up to the fence would make it too dark to live without the lights on all day.</p> <p>b) We would not object to single storey dwellings.</p>	<p>a) The proposal complies with the overshadowing provisions of the R Codes.</p> <p>b) Noted.</p>
4.	M Parkinson 2/10 Heath Road KALAMUNDA WA 6076	<p>Objection.</p> <p>a) The second storey residents would have a clear view into my back garden.</p> <p>b) I have concerns regarding parking and street congestion.</p> <p>c) I am worried my property will lose value being next door to such a big development.</p>	<p>a) The proposal complies with the visual privacy provisions of the R Codes.</p> <p>b) The proposal complies with the car parking provisions of the R Codes. Also refer to the response to comment 1a).</p> <p>c) The potential loss in property values is not a matter we are required to have due regard to when determining planning applications.</p>
5.	Name and address withheld.	<p>Objection.</p> <p>a) Height and close proximity of building will result in much reduced lighting to living areas.</p> <p>b) Possible future noise issues.</p> <p>c) An invasion of privacy.</p>	<p>a) The proposal complies with the building height and overshadowing provisions of the R Codes.</p> <p>b) Future occupants will be required to comply with the Noise Regulations.</p> <p>c) The proposal complies with the visual privacy requirements of the R Codes.</p>

<p>6.</p>	<p>S and P Crawford 3/10 Heath Road KALAMUNDA WA 6076</p>	<p>Objection.</p> <p>a) Too many units.</p> <p>b) Concerns regarding privacy, noise and building height.</p>	<p>a) The size, zoning and density coding allocated to the property allows for this scale of development to be considered.</p> <p>b) The proposal complies with the visual privacy and building height provisions of the R Codes.</p> <p>Future occupants will be required to comply with the Noise Regulations.</p>
<p>7.</p>	<p>Name and address withheld.</p>	<p>Objection.</p> <p>a) Concerns regarding height of building and privacy.</p> <p>b) Little room for visitors to park on the verge.</p> <p>c) The height of the building will mean we will have no natural light until late morning.</p> <p>d) Concerns regarding noise in future from air conditioners on the proposed building.</p>	<p>a) The proposal complies with the visual privacy and building height provisions of the R Codes.</p> <p>b) The proposal complies with the car parking provisions of the R Codes.</p> <p>c) The proposal complies with the building height and overshadowing provisions of the R Codes.</p> <p>d) Future occupants will be required to comply with the Noise Regulations.</p>
<p>8.</p>	<p>I Adamson 1/14 Heath Road KALAMUNDA WA 6076</p>	<p>Objection.</p> <p>If the proposed development tis going to be double storey ten my property will be shaded.</p>	<p>The proposal complies with the overshadowing provisions of the R Codes.</p>

9.	D Robinson 3/11 Kalamunda Road KALAMUNDA WA 6076	Objection. a) The proposed development is not suitable for the area. b) The development is too dense, more in keeping with central Perth. c) The development does not allow for any trees within the complex. d) If approved it would allow for lots in the area to be developed in the same way. e) At the moment Kalamunda is an attractive setting, bad planning could soon change it.	a) The size, zoning and density coding allocated to the property allows for this scale of development to be considered. b) Refer to previous response. c) Noted, however the property is proposed to be extensively landscaped and an existing street tree is to be retained. d) Refer to response to comment 9a). It should be noted that all applications are assessed on their individual merits. e) Noted.
10.	E Middleton 13 Kalamunda Road KALAMUNDA WA 6076	No objection.	Noted.

Attachment 7

Twelve Multiple Dwellings – Lot 21 (12) Heath Road, Kalamunda
Draft Local Housing Strategy – Kalamunda Centre



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

64. The Parking of One Commercial Vehicle – Lot 57 (5B) Goodall Street, Lesmurdie

Previous Items	OCM 96/2012, OCM 70/2013, OCM 98/2013
Responsible Officer	Director of Development & Infrastructure Services
Service Area	Development Services
File Reference	GD-03/005
Applicant	W Barnes
Owner	P and S Arasi

Attachment 1	Site Plan
Attachment 2	Photograph of the Commercial Vehicle in the Proposed Parking Area
Attachment 3	Photograph of the Proposed Commercial Vehicle in the Proposed Parking Area as Viewed from 9 Goodall Street
Attachment 4	Site Plan Approved by Council in June 2013
Attachment 5	Submission Table

PURPOSE

- To consider an application for retrospective approval to continue to park one commercial vehicle (a bus) at Lot 57 (5B) Goodall Street, Lesmurdie. Refer to (Attachments 1, 2 and 3).

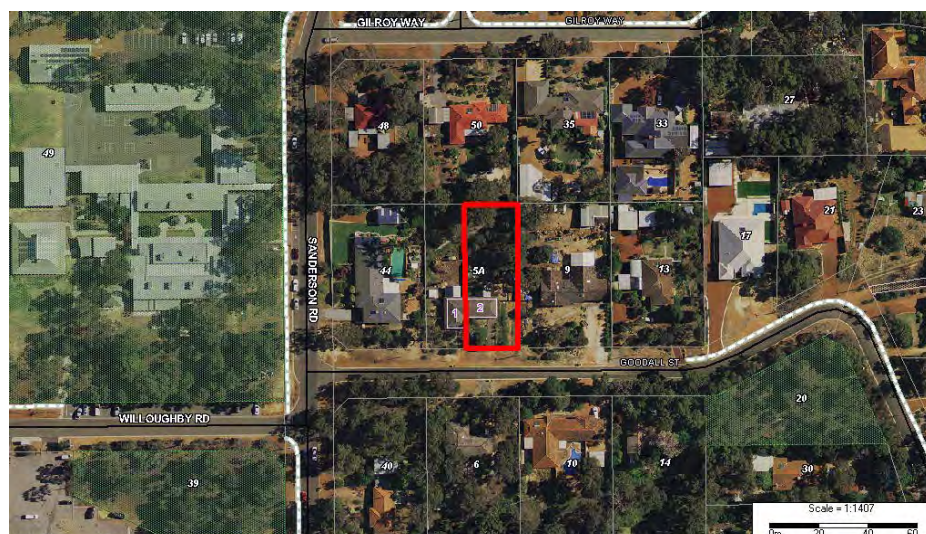
BACKGROUND

- Land Details:**

Land Area:	Approximately 1,246sqm
Local Planning Scheme Zone:	Residential R5
Metropolitan Region Scheme Zone:	Urban

Locality Plan

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4. The subject property contains a single dwelling and has direct access to Goodall Street via an unsealed driveway and crossover.
 5. Surrounding properties contain single dwellings, mature vegetation and associated outbuildings.
 6. In February 2012, a complaint was received by the Shire that a commercial vehicle (a bus) was being parked on the property. A retrospective planning application was requested for the commercial vehicle and submitted to the Shire.
 7. In August 2012, Council resolved (OCM 96/2012) to temporarily approve the retrospective planning application to continue to park the commercial vehicle on the property. The following condition was included in the approval:

“g. The approval for the parking of one commercial vehicle on the subject property is valid for 6 months from the date of this approval, after which time the use is not to continue unless planning approval has again been obtained from the Shire.”
 8. In February 2013, it was noted that the commercial vehicle was continuing to be parked on the property without receiving the necessary approval from the Shire. A planning application was requested by the Shire to allow for the commercial vehicle to remain on the property. The approval subsequently expired and is therefore no longer valid.
 9. In March 2013, a Planning Infringement Notice was served by the Shire on the land owner, on the basis that the commercial vehicle continued to be parked on the property without approval. On receipt of the infringement notice the owner of the subject property submitted an application to park the commercial vehicle.
 10. In June 2013, Council resolved (Resolution OCM 70/2013) to approve a retrospective planning application to continue to park the commercial vehicle on the property. Refer to the site plan approved by Council in June 2013 (Attachment 4). The following conditions were included in the approval:

“h. Screening being erected on the subject lot adjacent to the dividing fence adjoining Lot 57 (9) Goodall Street, Lesmurdie to the Shire's satisfaction. The screening is to be erected within 14 days of the date of approval and is to be maintained thereafter by the landowner.

i. Should the screening set out above in Clause h. not be erected within 14 days of the approval to Council's satisfaction then after 14 further days this approval will lapse.”
 11. These were included by Council to address concerns from the neighbour regarding the visual impact the commercial vehicle was having on their amenity.
 12. In July 2013, Council resolved (En Bloc Resolution OCM 98/2013) to modify the above conditions so that the required screening was to be erected within 28 days of the date of approval; this was as a consequence of the landowner's personal circumstances.
-

13. The required screening was not erected within the required timeframe and therefore the approval subsequently expired.
14. An application for retrospective approval was received on the day the screening was required to be erected, to continue to park the commercial vehicle in a different location on the property to that previously approved by Council.

DETAILS

15. Details of the application are as follows:
 - Those residing at the property are using the commercial vehicle as a mobile caravan.
 - The applicant has advised that no work is required to the vehicle's engine, exterior or interior.
 - No one is to reside in the vehicle whilst parked on the property.
 - The commercial vehicle is proposed to be parked on an unsealed area behind the front alignment of the dwelling, towards the north west corner of the property.
 - The commercial vehicle is to be covered in green sheeting whilst parked on the property.
 - The landowner also owns the adjoining property to the west, being 5A Goodall Street.
16. Details of the commercial vehicle proposed to be parked on the property are as follows:

	BUS	POLICY REQUIREMENTS (RIGID TYPE)
MAKE	Bedford	
TYPE	Mobile Caravan	
YEAR	1973	
LENGTH	11m	11m Maximum
HEIGHT	3m	4.3m Maximum
WIDTH	2.5m	2.5m Maximum
TARE WEIGHT	8.8 tonnes	
LICENCE NO.	1CPU 256	

STATUTORY AND LEGAL IMPLICATIONS

17. Under the Zoning Table (Table 1) of the Scheme the use "Commercial Vehicle Parking" is classed as an 'A' use in a Residential zoning meaning that it is not permitted, unless Council has granted planning approval after the proposal has been advertised to affected landowners by the Shire.

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18. Under Schedule 1 of the Scheme (Land Use Definitions) commercial vehicles are defined as being:
- “a vehicle whether licensed or not, and include propelled caravans, trailers, semi-trailers, earth moving machines whether self-propelled or not, motor wagons, buses and tractors and their attachments but shall not include any motor car or any vehicle whatsoever the weight of which is less than 3.5 tonnes.”*
19. Clause 5.20 of the Scheme (Commercial Vehicle Parking) stipulates that the determination of commercial vehicle parking applications shall be “*generally*” in accordance with the Policy. The Shire reserves the right to amend the conditions of an approval or revoke an approval to park a commercial vehicle as a result of a justified complaint being received.
20. Clause 8.4 of the Scheme (Unauthorised Existing Developments) stipulates that the Shire may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.
21. In considering an application for planning approval, clause 10.2 of the Scheme (Matters to be Considered by Local Government) requires Council to have due regard to the compatibility of the development within its settings; the preservation of the amenity of the locality; the likely effect of the scale and appearance of the proposal; whether the proposed means of access and egress from the property are adequate; any local planning policy adopted by Council; and any relevant submissions received on the application.
22. If Council refuses the application, or imposes conditions that are not acceptable to the applicant, there is a Right of Review (appeal) to the State Administrative Tribunal.

POLICY IMPLICATIONS

Local Planning Policy DEV22 – Parking of Commercial Vehicles on Private Property

23. Local Planning Policy DEV22 – Parking of Commercial Vehicles on Private Property (“the Policy”) stipulates that where objections and/or complaints have been received the application will be referred to Council for determination; therefore the application cannot be determined under delegation.
24. In assessing the application, Council is to give consideration to the Policy which stipulates the following provisions applicable to parking commercial vehicles on Residential zoned properties:
- Only one commercial vehicle will be permitted.
 - The commercial vehicle shall not exceed (rigid type) 11m in length and 4.3m in height.

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- Approval to park a commercial vehicle on a lot shall apply to the applicant only on the lot the subject of the application and shall not be transferred to any other person.
 - The commercial vehicle shall be parked entirely on the lot behind the alignment of the front of the house. If the vehicle is parked alongside the residence then gates/fencing of a minimum of 1.8m in height are to be erected to screen the vehicle from the street. It shall be screened from the view of the street and from neighbours to Council's satisfaction.
 - The commercial vehicle must be parked on the lot so that it does not interfere with the normal access and egress of other vehicles, and does not cause damage to the road, kerb or footpath.
 - Standard vehicle movement and start up times of between 7.00am and 7.00pm Monday to Saturday and 9.00am to 5.00pm on Sundays and public holidays.
 - The idling times for start-up and cool down being restricted to five minutes.
 - Spray painting, panel beating and major servicing on the commercial vehicles is not permitted. Maintenance limited to oil and grease changes, and changes of wheels (but not repairs to tyres) and other minor maintenance as approved by Council.

COMMUNITY ENGAGEMENT REQUIREMENTS

25. The proposal was advertised for 14 days to nearby property owners for comment in accordance with Clause 9.4.3 of the Scheme. Two non-objections, two objections both of which provided comments, and a submission which just provided comments on the proposal were received. Refer to the Submission Table (Attachment 5).
26. The following concerns were raised during advertising:
- The commercial vehicle still being visible from the street.
 - Gates have not been installed whilst the commercial vehicle has been parked on the property.
 - No screening has been installed as required by Council.
 - No internal fit out having been undertaken to the commercial vehicle despite previous advice received from the applicant advising this would be done.
27. With regard to the concerns raised the following should be noted:
- The proposed location where the commercial vehicle is to be parked is adjacent to a boundary forming part of a duplex development and therefore the commercial vehicle is not visible when standing directly in front of the property.

- When previously approved by Council it has not been a requirement that gates be installed in order to screen the commercial vehicle from the street. The Policy stipulates that gates or fencing of 1.8m in height is to only be installed where a commercial vehicle is parked alongside the dwelling.
- In respect to the screening issue, this was a requirement of a previous approval and therefore will be followed up by the Shire as a separate matter to the current application.

FINANCIAL CONSIDERATION

28. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

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

SUSTAINABILITY

Social Implications

30. Nil.

Economic Implications

31. Nil.

Environmental Implications

32. Nil.

RISK MANAGEMENT CONSIDERATIONS

33.

Risk	Likelihood	Consequence	Action/Strategy
Council may resolve not to support the proposal.	Medium	High	Ensure Council is aware that the proposal is compliant with the Policy.

The commercial vehicle having a detrimental impact on the amenity of adjoining landowners.	Medium	Low	The commercial vehicle is proposed to be parked further away from the boundary with 9 Goodall Street. Landowners at the rear raised no objection to the proposed location.
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OFFICER COMMENT

34. It is noted some landowners have previously expressed strong opposition to the proposal to park a commercial vehicle on the property. Concerns have been primarily on amenity grounds and the period of time the vehicle has been parked on the property and in particular the failure of the applicant to comply with the conditions of the planning approval.
35. Acknowledging the history of this site, the applicant has now submitted a new application for Council approval. Issues raised regarding the previous approval will be dealt with as a separate matter to this application. From a planning perspective the proposal is compliant with Policy and Scheme requirements and amenity impacts are considered unlikely given the degree of screening from existing fencing and vegetation. On this basis it is recommended that the application be approved.

Mr Barry Bennett spoke against the Recommendation and raised concerns that after 20 months no resolution had been achieved regarding the bus parked next to his property. Mr Peter Ethel spoke against the Recommendation; he is concerned no improvements have been made to the bus over that period, as originally stipulated.

A Councillor asked why this issue had been so prolonged. The Director Development & Infrastructure Services responded that issues regarding compliance can be difficult. He added that a planning infringement had been issued; however, when a fresh application is made it is customary to put any action on hold and view only the new application.

A Mover and Seconder were found and Councillors debated the Recommendation. The Mover foreshadowed a motion to amend the Recommendation to include screening; the Seconder did not support this. The Mover withdrew and the Presiding Person Moved the Recommendation as presented by Officers. The Motion was Lost.

Additional wording to include screening was put forward. The Director Development & Infrastructure Services was concerned that it was unclear where the screening should be, it was suggested the matter be deferred in order that staff could precisely measure where the screening should be placed in order to obscure the bus for the neighbour. The Director Development & Infrastructure Services suggested that the length of the screening be taken on notice so that it could be accurately measured. A Councillor put the Motion that the item should be deferred until the next Ordinary Council Meeting.

The Motion was put and Councillors went into debate regarding the deferral. A Councillor believed the matter had been protracted too long and needed to be resolved not postponed.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 64/2013)

That Council:

1. Approves the retrospective planning application dated 22 July 2013 for William Barnes to continue to park one commercial vehicle, a Bedford Bus (registration number 1CPU 256) at Lot 57 (5B) Goodall Street, Lesmurdie, subject to the following conditions:
 - a. The vehicle must, at all times, be parked in the location shown on the approved site plan (Attachment 1).
 - b. Maintenance and cleaning of the commercial vehicle is only permitted between 8.00am and 6.00pm Monday to Saturday, and 9.00am to 6.00pm on Sundays.
 - c. The vehicle is not to be used for habitation purposes whilst parked on the property.
 - d. Only maintenance of a minor nature, such as servicing or wheel changing, is to be carried out on the subject property between the hours designated in condition b. No panel beating, external spray painting, external welding or the removal of major body or engine parts is permitted.
 - e. The idling time for the start-up and cool down of the vehicle being a maximum of five minutes per day.
 - f. Washing of the commercial vehicle on the subject lot is to be limited to the use of water and mild detergent, but not involve the use of any solvents, degreasing substances, steam cleaning and any other processes which may cause pollution or degradation of the environment.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Frank Lindsey**

Vote:	<u>For</u>	<u>Against</u>
	Cr Frank Lindsey	Cr John Giardina
	Cr Noreen Townsend	Cr Geoff Stallard
	Cr Sue Bilich	Cr Justin Whitten
	Cr Margaret Thomas	Cr Martyn Cresswell
	Cr Allan Morton	Cr Dylan O'Connor
		Cr Simon Di Rosso
	LOST (5/6)	

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 64/2013)

That Council:

1. Defer this Item to the next Ordinary Council Meeting to be held on 23 September 2013.

Moved: **Cr John Giardina**

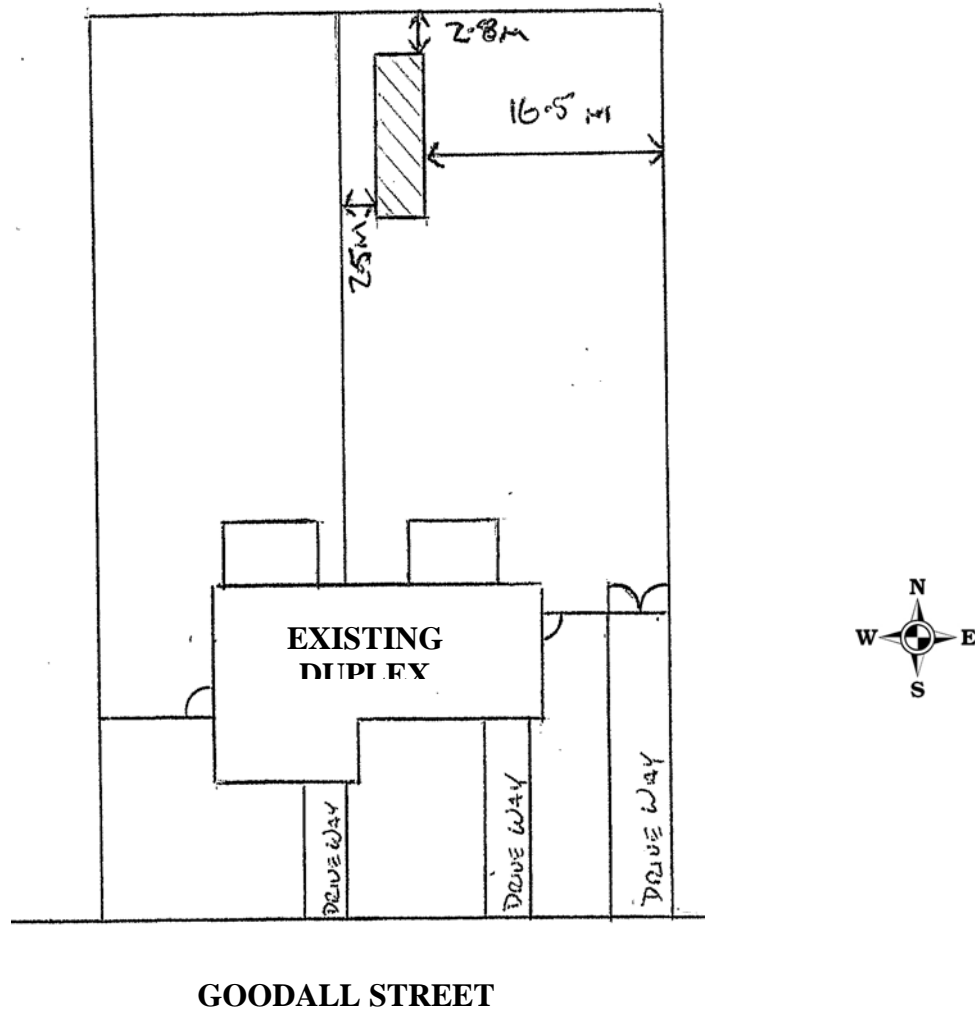
Seconded: **Cr Simon Di Rosso**

Vote:	<u>For</u>	<u>Against</u>
	Cr John Giardina	Cr Geoff Stallard
	Cr Frank Lindsey	Cr Martyn Cresswell
	Cr Allan Morton	Cr Dylan O'Connor
	Cr Noreen Townsend	
	Cr Justin Whitten	
	Cr Sue Bilich	
	Cr Simon Di Rosso	
	Cr Margaret Thomas	

CARRIED (8/3)

Attachment 1

The Parking of One Commercial Vehicle
Lot 57 (5B) Goodall Street, Lesmurdie
Site Plan



Attachment 2

The Parking of One Commercial Vehicle
Lot 57 (5B) Goodall Street, Lesmurdie

Photograph of the Commercial Vehicle in the Proposed Parking Area



Attachment 3

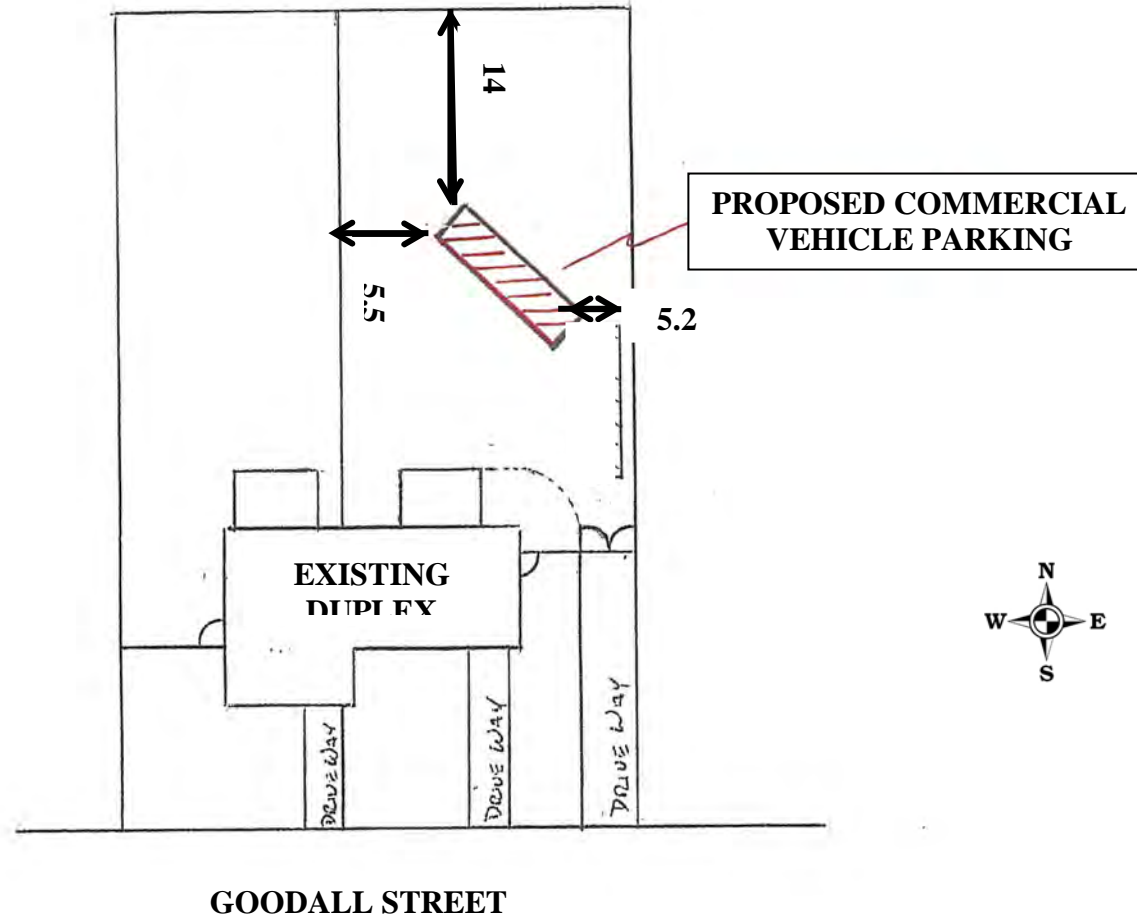
The Parking of One Commercial Vehicle
Lot 57 (5B) Goodall Street, Lesmurdie

Photograph of the Proposed Commercial Vehicle in the Proposed Parking Area as Viewed from 9 Goodall Street



Attachment 4

The Parking of One Commercial Vehicle
Lot 57 (5B) Goodall Street, Lesmurdie
Site Plan Approved by Council in June 2013



Attachment 5

The Parking of One Commercial Vehicle

Lot 57 (5B) Goodall Street, Lesmurdie

Submission Table

	Details	Comment	Staff Comment
1.	P Ethell 10 Goodall Street LESMURDIE WA 6076	<p>Objection.</p> <p>a) The bus is still visible from the street.</p> <p>b) The gates have not been installed for the 20 months that the bus has been on site.</p> <p>c) The bus has been moved to the rear left of the lot. The resolution of Council was for the bus to be screened.</p> <p>d) The bus has been on site for 20 months already and no internal fit out has been undertaken to the vehicle.</p>	<p>a) The proposed location where the commercial vehicle is to be parked is adjacent to a boundary forming part of a duplex development and therefore the commercial vehicle is not visible when standing directly in front of the property.</p> <p>b) When previously approved by Council it has not been a requirement that gates be installed in order to screen the commercial vehicle from the street. The Policy stipulates that gates or fencing of 1.8m in height is to only be installed where a commercial vehicle is parked alongside the dwelling.</p> <p>c) Noted. The matter of the screening was a requirement of a separate application for the parking of the commercial vehicle and therefore is not considered as part of this proposal. The issue will be followed up as a separate matter.</p> <p>d) Noted.</p>

		e) The bus is now partially covered. If/when the internal fit out is undertaken the cover will have to be removed and yet again we will be able to see the bus.	e) Noted. Refer to the response provided to comment 1 a).
2.	B Bennett 9 Goodall Street LESMURDIE WA 6076	Objection. a) You stated that screening is to be installed to the Shire's satisfaction however all that has happened is that the vehicle has been moved to a different location in the rear garden and a tarp draped over the front of the vehicle.	a) Noted. Please refer to the comments 1c)
3.	L Chidgey 50 Sanderson Road LESMURDIE WA 6076	Comment on the proposal. a) Placement of the vehicle takes advantage of the shade from a large tree on our property, but there is the risk of the vehicle becoming damaged during a storm. We would be happy to cooperate if the lower branches of the tree were trimmed.	a) Noted.
4.	R Branchi 6 Goodall Street LESMURDIE WA 6076	No objection.	Noted.
5.	S Lo Presti 35 Gilroy Way LESMURDIE WA 6076	No objection.	Noted.

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

65. Place of Worship – Lot 411 (5) Rooth Road, Lesmurdie

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	RT-02/005
Applicant	Kalamunda Gospel Trust
Owner	W and M Henderson
Attachment 1	Site Plan (As Advertised)
Attachment 2	Internal Floor Plan
Attachment 3	Elevations (As Advertised)
Attachment 4	Modified Site Plan
Attachment 5	Modified Internal Floor Plan
Attachment 6	Modified Elevations

PURPOSE

- To consider a planning application to build a place of worship at Lot 411 (5) Rooth Road, Lesmurdie, (Attachments 1 to 3).

BACKGROUND

- Land Details:**

Land Area:	2,016sqm
Local Planning Scheme Zone:	Residential R5
Metropolitan Region Scheme Zone:	Urban

Locality Plan

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4. The subject property is currently vacant and street trees exist along the adjoining portion of verge.
 5. Surrounding properties contain single dwellings and the Lesmurdie Road Shopping Centre is nearby.

DETAILS

6. Details of the application are as follows:
 - A single storey place of worship building is proposed to be built.
 - A 1.8m high fence is proposed along the front boundary consisting of 1.8m high brick piers and wrought iron infill.
 - No external signage is proposed.
 - The existing street trees along the adjoining verge are to be retained with additional trees being provided on site.
 - The following is proposed to occur at the proposed place of worship for up to one hour on each occasion:
Communion every Sunday from 6.00am;
Prayer meetings every Monday from 6.30pm;
Preachings one Sunday every 4 months from 3.00pm; and
Bible readings one Friday every 4 to 6 months from 7.30pm.
 - A Traffic Impact Statement submitted as part of the application concludes that the anticipated traffic impacts associated with the development on the local road system will be minimal.
 - Following the advertising period, a meeting was held between the Kalamunda Gospel trust and the local community, where both had the opportunity to discuss the proposal. In response to the concerns raised the applicant submitted revised plans detailing the following changes:
 - a) The proposed side setback of the proposed building being increased from 2.5m to 3m from the west (side) boundary.
 - b) Sealed section of the proposed car parking area being reduced from 29 bays to 15 bays, with 13 bays being provided as an overflow car parking area on a grass area towards the rear of the property.
 - c) In an attempt for the appearance of the proposed building to resemble that of a dwelling a carport is proposed over the internal access way.
 - d) Bollard style lighting being used to reduce the potential impact lighting may have on adjoining properties.

Refer to the modified site plan (Attachment 4), the modified internal floor plan (Attachment 5) and modified elevations (Attachment 6).

- By way of justification in favour of the proposal the applicant has advised the following:

“The proposal is to develop a new residential style building for church use, compatible with the architecture of surrounding properties and situated towards the front of the block with normal residential setbacks.

Meeting schedules would be the same as used for the last 40 years in our three smaller facilities operating within the Shire.

The building is not used for any form of social activity. There are no musical instruments, functions, games or entertainment and the building is not available to be hired out.

Approximately 5 to 10 cars will be on site when communion and prayer meetings are held, whilst approximately 20 to 25 cars will be on site when preachings and bible readings are held.”

STATUTORY AND LEGAL IMPLICATIONS

Local Planning Scheme No. 3

7. Under the Zoning Table (Table 1) of Local Planning Scheme No. 3 (“the Scheme”) the use “Place of Worship” is an ‘A’ use meaning that prior to determining the proposal it is required to be advertised in accordance with Clause 9.4 of the Scheme.
8. The Scheme car parking requirements for the use Place of Worship are the following:

Car Parking Requirement	Required	Proposed
Place of Worship – 1 bay for every 5sqm of Net Lettable Area (NLA)	141sqm NLA = 28 car bays minimum	28

9. Table 2 (Site Requirements) of the Scheme stipulates that development on Residential zoned properties is to comply with the Residential Design Codes (“R Codes”) in terms of site coverage and setbacks. The exception being for development on properties zoned Residential R5 which is required to have a 6m side setback unless otherwise approved by Council.
10. The place of worship is proposed to be setback 3m from the west boundary and 13.5m from the east boundary.
11. In considering an application for planning approval, Clause 10.2 of the Scheme (Matters to be Considered by Local Government) requires Council to have due regard to number of matters, including:
 - The compatibility of the development within its settings.
 - The likely effect of the scale and appearance of the proposal.

- Whether the proposed means of access and egress from the property are adequate.
- Any State Planning Policy.
- Any relevant submissions received on the application.

12. If Council refuses the development, or imposes conditions that are not acceptable to the applicant, there is a Right of Review (appeal) to the State Administrative Tribunal.

POLICY IMPLICATIONS

Residential Design Codes

13. The R Code requirements for development on properties zoned Residential R5 are the following:

Site Requirements	Required	Proposed
Open Space	70% Minimum	83%
Primary street setback	12m or reduced by up to 50% when averaged.	12.9m average front setback
Rear setbacks (walls with major openings) Wall Height of up to 6m and Wall Length of 9m or Less	1.5m	42m
Maximum Building Height: - Top of External Wall - Top of Pitched Roof	6m 9m	3.6m 5.8m

COMMUNITY ENGAGEMENT REQUIREMENTS

14. The proposal was advertised for 14 days to nearby property owners for comment in accordance with Clause 9.4.1 and 9.4.3 of the Scheme. Two non-objections, 82 objections were received and one which provided comment on the proposal.

15. The following concerns were raised during advertising:

- The use not being suitable for a residential area.
- The proposal decreasing property values if approved.
- The proposal not having an effluent disposal area.
- The proposed side setback of 2.5m not being in accordance with the Scheme requirements (Note: The applicant has since amended this setback to 3.0m).

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- The proposed 29 car parking bays representing a car park which is a use not permitted on a Residential zoned property under the Scheme.
 - The proposed front fence having a negative impact on the streetscape.
 - Whether a lockable gate will be provided to prevent access to the property outside of operating hours.
 - How waste bins will be stored and managed.
 - The proposal creating safety issues for road users and pedestrians.
 - Noise emissions from the property having a negative impact on the amenity of the local area.
 - The proposed building being used for activities and at times not stated by the applicant.
 - The car parking area on the property being used for anti-social behaviour when the proposed building is unoccupied.

16. In response to the concerns raised, the following should be noted:

- The Scheme allows for the use Place of Worship to be considered on a Residential zoned property.
- The potential impact such a proposal may have on the value of nearby properties is not a matter stipulated under Clause 10.2 of the Scheme which is required to be taken into consideration when determining planning applications.
- A new effluent disposal system that complies with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulation 1974* would be required to be installed.
- Whilst the proposed side setback of 2.5m in lieu of 6m is currently not in accordance with the Scheme requirements, the Scheme does allow for setback variations to be considered.

Council has also previously adopted an amendment to the Scheme to have this requirement removed so that setbacks are to be in accordance with the Residential Design Codes. If this amendment was approved by the Minister for Planning, such development proposals could be setback 1.5m from the side boundary.

- The proposed car park area is incidental to the proposed place of worship and is a requirement of the Scheme, and therefore cannot be deemed to be the use Car Park.
- The proposed 1.8m high fence is proposed along the front boundary will consist of 1.8m high brick piers and wrought iron infill, thereby allowing for passive surveillance of Rooth Road. Such front fencing is compliant with the R Codes and the State Government's Designing Out Crime Policy.

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- A lockable gate is proposed across the entrance to the property to prevent access outside of operating hours.
 - Waste bins will be stored behind the building.
 - A Traffic Impact Statement submitted as part of the application concludes that the anticipated traffic impacts associated with the development on the local road system will be minimal.
 - The applicant has advised that the proposed building will not be used for other activities such as festivals, fetes, parties, ban or choir practices or educational purposes.
17. Two petitions containing 272 and 270 signatures from residents around the Shire objecting to the proposal was also received.
18. The following comments on the proposal were provided by the owner of 7 Rooth Road, Lesmurdie:
- A meeting was held between them and the applicant regarding the proposal.
 - Concerns regarding noise were not addressed by the applicant at the meeting, however it was discussed that more trees could be planted and the ground level of 5 Rooth Road could be lowered, to assist with reducing noise levels.
 - The applicant advised that if the property was ever sold they would ensure that the proposed building would revert to only being used for residential purposes.
 - If any dividing fencing was replaced between the properties it was expected that both landowners contribute towards it.
 - If the application was approved and any amendments to the approval were proposed, that the adjoining landowners be consulted with.

FINANCIAL CONSIDERATION

19. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

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

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

SUSTAINABILITY

Social Implications

21. Activities conducted on site would be required to comply with the *Environmental Protection (Noise) Regulations 1997*

Economic Implications

22. Nil.

Environmental Implications

23. Nil.

RISK MANAGEMENT CONSIDERATIONS

24.

Risk	Likelihood	Consequence	Action/Strategy
Council may resolve not to support the proposal.	Medium	High	Ensure Council is aware that the proposal is considered an appropriate use in the proposed location.

OFFICER COMMENT

25. The proposal is compliant with the R Codes and the Scheme with the exception of the proposed side setback of 3m in lieu of 6m. It should be noted that Council has adopted Amendment No. 52 to the Scheme which will remove the 6m side setback for R5 lots and defer to the R Codes requirements, which the proposal would comply with. The amendment is currently before the Minister for Planning for consideration.
26. From a planning perspective it is considered that the proposal will have no significant impact on the amenity of the area given its scale, appearance, layout and purpose. More over the applicant has submitted revised plans seeking to address resident concerns regarding car parking, lighting and the general appearance of the building.
27. Whilst changes have been made to the proposed car parking bay layout to address the concerns of residents, it should be noted that it is a standard requirement that all car parking bays are to be suitably constructed, marked, kerbed and drained. Should Council support the proposal, it should not set a precedence for future development to use grassed areas as an overflow area.
28. Having regard to the above it is recommended that the application for the place of worship be approved.

Melanie Eleonora spoke against the Recommendation; she felt the proposal does not complement the amenity of the area of the "Stirkwood Private Estate" or the requirements of the residents and asked the following questions.

- 1) Were there any particular parameters set in place when the development was firstly approved when the Sisters of Mercy applied to have the sub-division put in place?*
- 2) Can the Shire verify when the Traffic Impact Statement was done and over what period of time?*
- 3) Will the Shire be carrying out an independent Traffic Impact Report or Traffic Study as requested by the local residents?*
- 4) If more than 25 cars come on site (which is not "predicted" but is possible) where will they park?*
- 5) Will the property be able to handle the additional car parking requirements given the possible maximum occupancy which is permitted by Health Regulations?*
- 6) Is it standard practice for the Shire to consider car parking requirements based on the specific religious practices and religious requirements of a Place of Worship?*
- 7) Is it standard practice for the Shire to give approvals that are not favoured by local residents (as outlined by the number of objections and signatures received in the petitions)? Can we be told who the two non-objections came from?*
- 8) The applicant has advised that if the property was ever sold, they would ensure that the proposed building would revert to only being used for residential purposes. What is the Shire proposing to ensure this recommendation is in place and is enforced in the future?*
- 9) Does the total of 542 objection signatures and 82 individual objection letters prove sufficient grounds to the Shire that this planning application is not welcomed by residents?*
- 10) Is the Shire against attending SAT if they do not approve this planning application?*

A written list of these questions was submitted by Melanie Eleonora, however it is noted that the first and last questions were asked verbally and do not appear on the written list.

The Director Development & Infrastructure Services requested that these questions be taken on notice.

A Councillor asked if the speaker had attended the public meeting and if so why the questions had not been asked at that time, the speaker indicated the questions had been as a result of information in this Agenda Item.

Bruce Flintoff a Trustee of the Kalamunda Gospel Trust spoke in favour of the application. The Trust is responsible for securing property and looking after the facilities for the Plymouth Brethren. The Trust had made changes to the development to allay some of the local residents' concerns.

A Councillor asked if the public parking outside of the property (designed for users of public transport through the week) would be available for the Church's use. The Director Development & Infrastructure Services believed this could be used by the Church for their weekend gatherings.

A Councillor noted that according to the Officer's Report the applicant has advised that if the property was ever sold they would ensure that the proposed building would revert to only being used for residential purposes. The Director Development & Infrastructure Services commented that in 99.9% of cases the approval goes with the land, he believed that legal advice had indicated that it was not possible to restrict an owner to that sort of a requirement.

A Councillor asked for confirmation that any new owner would have to use the land for a use within the approval limits, the Director Development & Infrastructure Services confirmed that the Scheme of the day would still apply.

The Mover was invited to speak on the item prior to the vote being taken. He indicated that his initial non-support of this application had changed and that following a full investigation he is confident the development will be acceptable to local residents.

The meeting was adjourned during Cr Giardina's summary.

The Presiding Person advised that as a Special Council Meeting was scheduled to start at this time, the Development & Infrastructure Services Committee Meeting must be adjourned.

Adjournment of Development & Infrastructure Services Committee Meeting

MOTION

That the Development & Infrastructure Services Committee Meeting be adjourned.

Moved: **Cr Frank Lindsey**

Seconded: **Cr Geoff Stallard**

Vote: **CARRIED UNANIMOUSLY (11/0)**

The Development & Infrastructure Services Committee adjourned at 8.00pm.

Resumption of Development & Infrastructure Services Committee Meeting

MOTION

That the meeting reconvene.

Moved: **Cr John Giardina**

Seconded: **Cr Geoff Stallard**

Vote: **CARRIED UNANIMOUSLY (11/0)**

The meeting recommenced at 8.03pm. All Councillors, members of staff and members of the public gallery present prior to the adjournment were present at the resumption of the meeting.

Following the adjournment Cr Giardina concluded that he had met with the objectors and then Mr Flintoff. The Gospel Trust were very responsive to having a public meeting which he, the Chief Executive Officer, Shire President and other Councillors had assisted with. Shire officers sent out notices to all the objectors and the meeting was held in the Agricultural Hall. At the conclusion of the meeting he felt most concerns had been dealt with and he was surprised to hear the questions asked at tonight's meeting.

The Gospel Trust have been happy to agree to changes to make the development acceptable to local residents rather than take the application to SAT (State Administrative Tribunal) as they are part of the local community themselves.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 65/2013)

That Council:

1. Approves the application dated 9 June 2013 to build a place of worship at Lot 411 (5) Rooth Road, Lesmurdie, subject to the following conditions:
 - a. The access way shall be suitably constructed, sealed and drained to the satisfaction of the Shire.
 - b. The crossover shall be designed and constructed to the satisfaction of the Shire.
 - c. Vehicle parking, manoeuvring and circulation areas, except for the overflow area, to be suitably constructed, sealed, kerbed, line marked and drained to the satisfaction of the Shire.
 - d. The overflow car parking area being maintained by the landowner to the satisfaction of the Shire.
 - e. A landscaping plan being submitted to and approved by the Shire prior to the certified building licence being issued.
 - f. The proposed landscaping being planted within 28 days of the proposed development's completion, and maintained thereafter by the landowner to the satisfaction of the Shire.
 - g. A geo-technical report being submitted to and approved by the Shire prior to the building licence being issued.
 - h. Stormwater being contained on site to the satisfaction of the Shire.
 - i. The property not being used for Community Purpose or Club Premises purposes as defined under Local Planning Scheme No. 3.
 - j. An effluent disposal system that complies with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulation 1974* is to be installed to the Shire's satisfaction.

Moved: **Cr John Giardina**

Seconded: **Cr Geoff Stallard**

Vote:

For

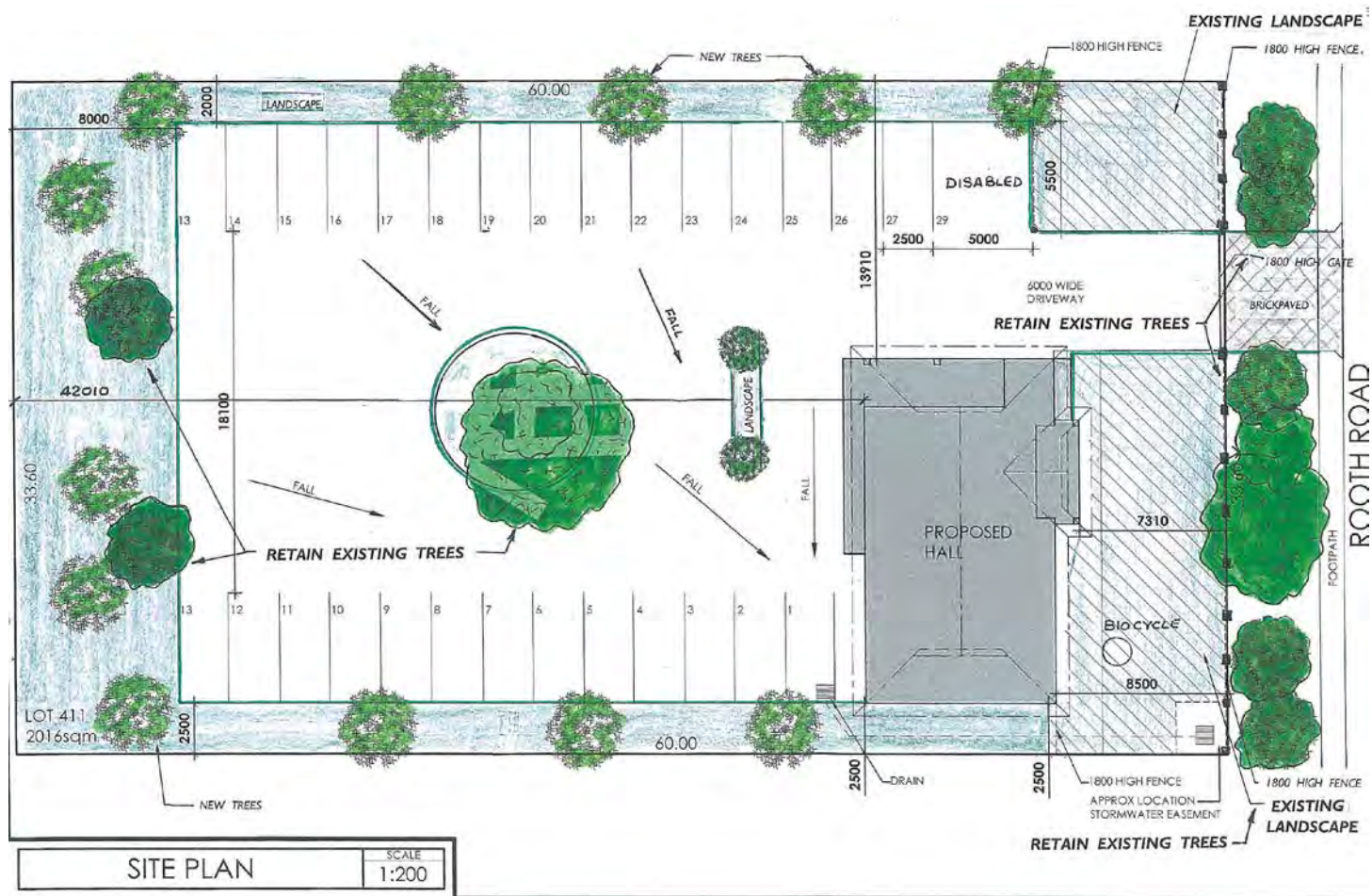
**Cr John Giardina
Cr Frank Lindsey
Cr Geoff Stallard
Cr Allan Morton
Cr Noreen Townsend
Cr Justin Whitten
Cr Martyn Cresswell
Cr Sue Bilich
Cr Simon Di Rosso
Cr Margaret Thomas**

Against

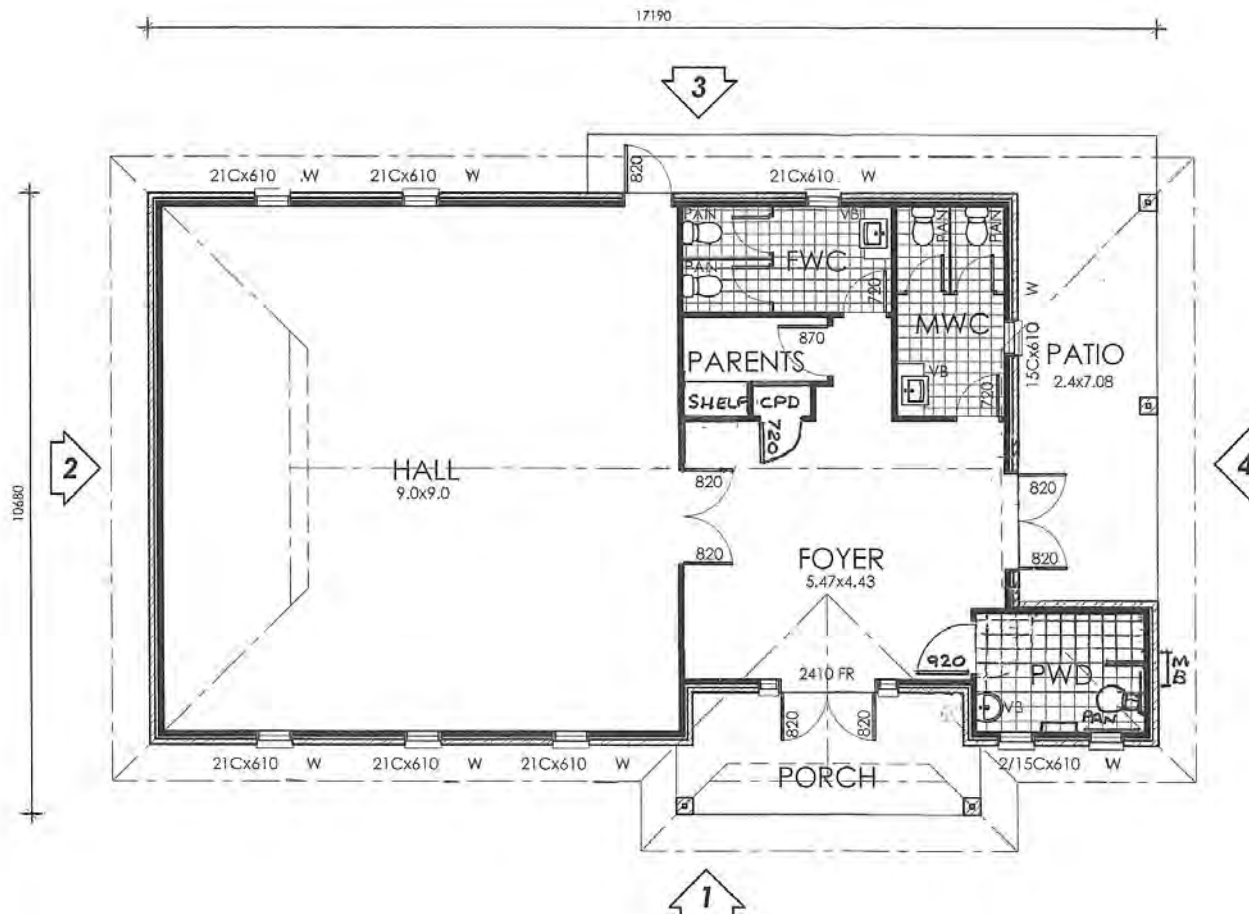
Cr Dylan O'Connor

CARRIED (10/1)

Attachment 1
Place of Worship
Lot 411 (5) Rooth Road, Lesmurdie
Site Plan (As Advertised)



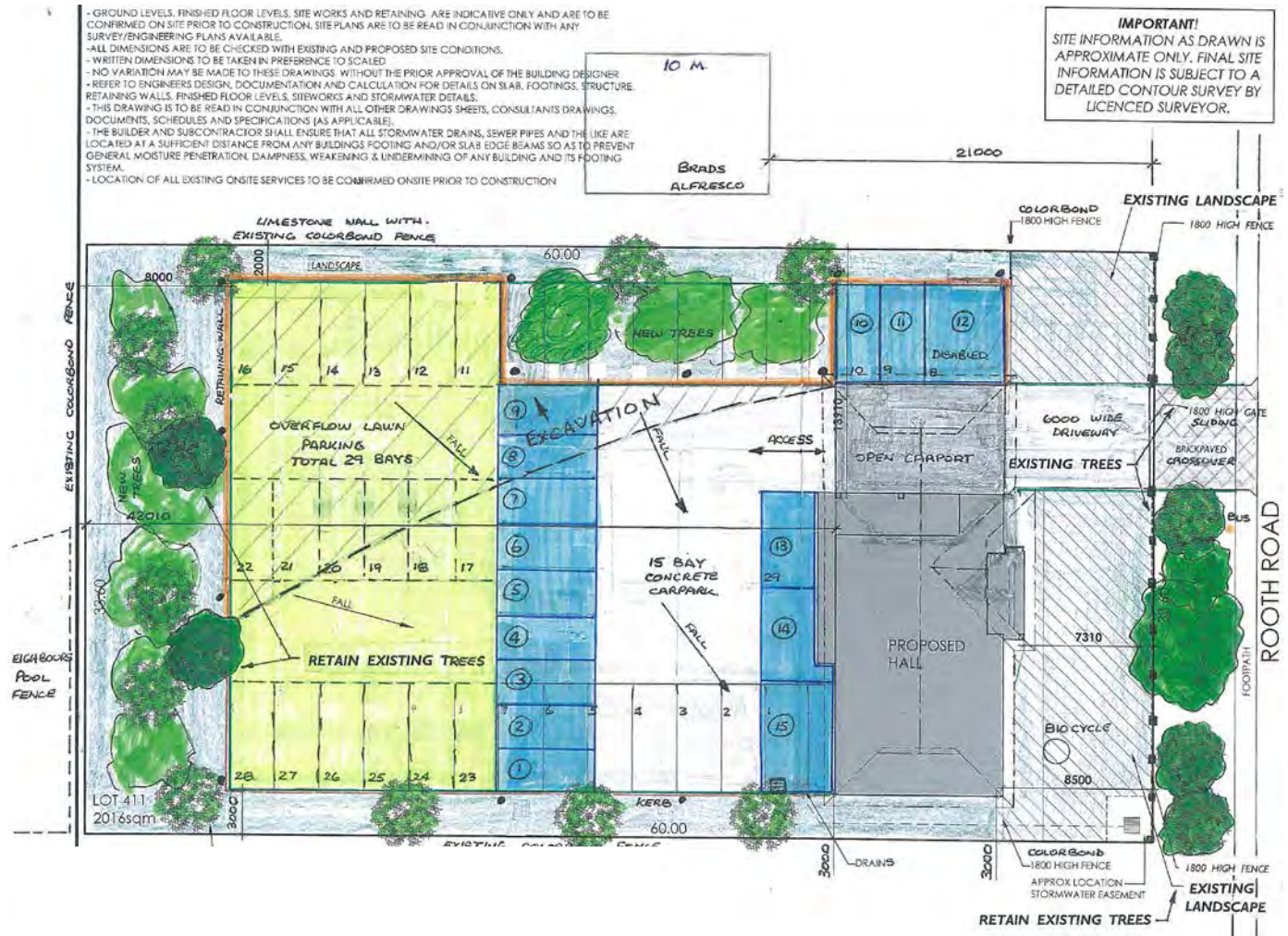
Attachment 2
Place of Worship
Lot 411 (5) Rooth Road, Lesmurdie
Internal Floor Plan



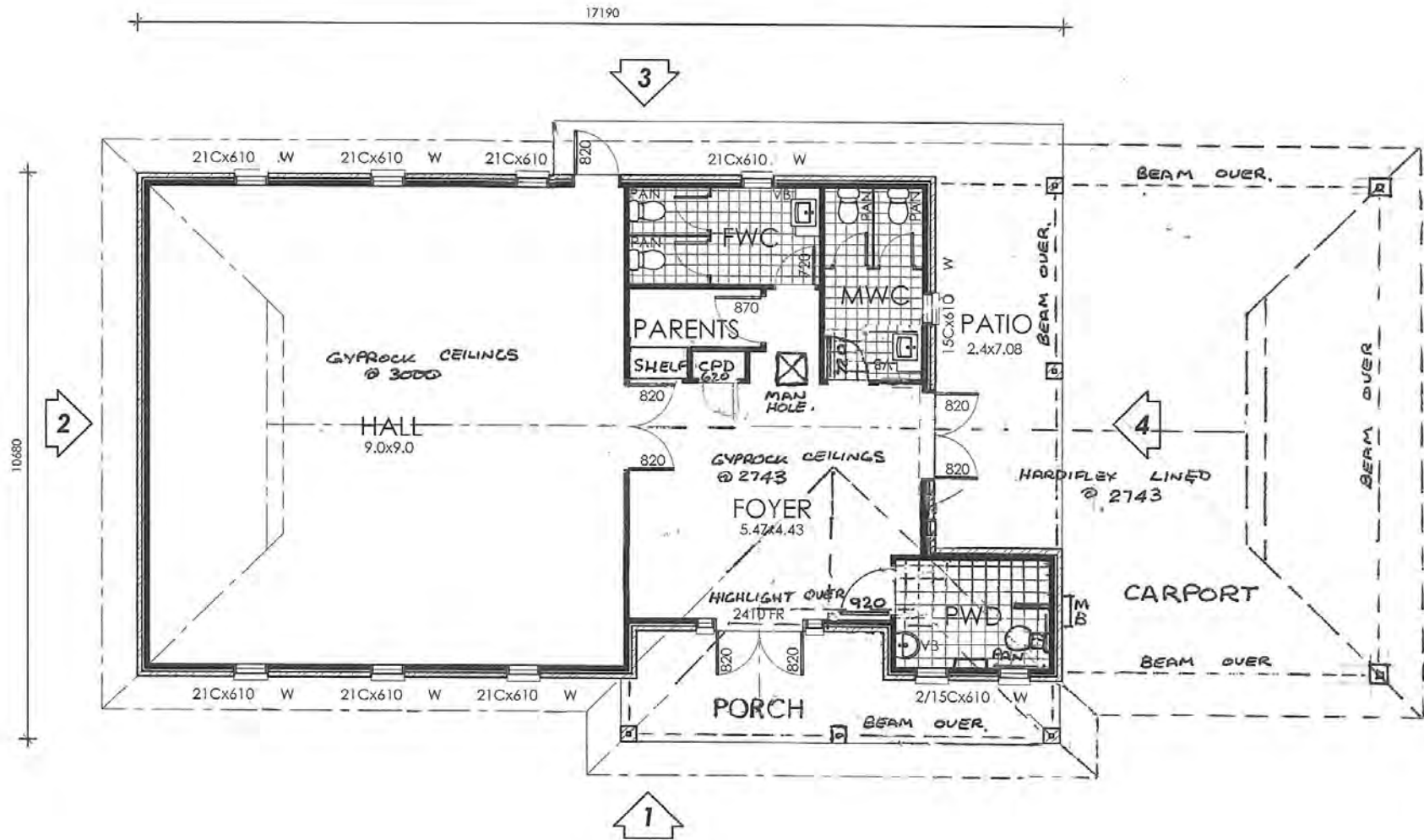
Attachment 3
Place of Worship
Lot 411 (5) Rooth Road, Lesmurdie
Elevations (As Advertised)



Attachment 4
Place of Worship
Lot 411 (5) Rooth Road, Lesmurdie
Modified Site Plan



Attachment 5
Place of Worship
Lot 411 (5) Rooth Road, Lesmurdie
Modified Internal Floor Plan



Attachment 6
Place of Worship
Lot 411 (5) Rooth Road, Lesmurdie
Modified Elevations



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

66. Storage of Inert Materials – Lot 1 (251), 20 (259) and 21 (257) Berkshire Road, Forrestfield

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	BR-08/259
Applicant	Talis Consultants
Owner	DC Recycling
Attachment 1	Site Plan for Stage 1 of the Proposed Recycling Business
Attachment 2	Forrestfield/High Wycombe Industrial Area Stage 1 Structure Plan

PURPOSE

1. To consider a planning application for the storage of inert materials at Lot 1 (251), 20 (259) and 21 (257) Berkshire Road, Forrestfield, (Attachment 1).
2. The applicant is seeking dispensation on the number of car parking bays required under Local Planning Scheme No. 3 ("Scheme").

BACKGROUND

3. **Land Details:**

Aggregate Land Area:	3.04ha
Local Planning Scheme Zone:	Industrial Development
Metropolitan Region Scheme Zone:	Urban

Locality Plan

4.



-
5. The subject properties contain vacated dwellings, associated outbuildings and mature vegetation, and fall within Stage 1 of the proposed Forrestfield/High Wycombe Industrial Area ("Structure Plan"). Refer to Forrestfield/High Wycombe Industrial Area Stage 1 Structure Plan (Attachment 2).
 6. Surrounding properties contain single dwellings and a Regional Reserve (Bush Forever) Site to the north.

The Forrestfield/High Wycombe Industrial Area

7. The Forrestfield/ High Wycombe Industrial Area ("Area") was identified in the Kewdale-Hazelmere Integrated Masterplan as one of the key precincts suitable for significant freight related industries.
8. The Area development is identified as one of the key strategic issues in the Shire's Local Planning Strategy.
9. The Area has been included as a priority key short term (developed in 0-4 years) non heavy industrial site in the Economic and Employment Lands Strategy: non-heavy industrial (2012).

DETAILS

10. Details of the application are as follows:
 - The applicant is proposing to store inert materials on site as part of a recycling business (DC Recycling).
 - The business is relocating from an industrial property in Kewdale
 - The business specialises in paving and hard landscaping civil construction works which includes pedestrian paths, roads, islands, roundabouts, median strips, driveways, playgrounds and cycle pathways.
 - The inert material from their construction works are recycled to be used in other projects.
 - The proposed business is to operate between Monday and Friday 7.00am to 5.00pm, and on Saturdays 7.00am to 3.00pm.

The redevelopment of the properties is to occur in 2 stages, the details of which are as follows:

Stage 1

11. Stage 1 involves inert material, such as concrete slabs, bitumen and fill material, being stored on 251 and 259 Berkshire Road.
12. The materials are to be received from the business's parent company and the materials will be stored in unenclosed areas.
13. Vehicular access to the proposed storage area will be obtained via existing unsealed driveways through 257 and 259 Berkshire Road.

-
14. A 20m wide area has been set aside at the rear of 251 and 259 Berkshire Road to allow for the future extension of Nardine Close through to Ashby Close.
 15. No car parking bays are proposed to be provide due to the nature of the proposal and as these are proposed to be provided at Stage 2 of the redevelopment.
 16. The existing dwelling on 251 Berkshire Road is to be used as a caretaker's dwelling.

Stage 2

17. Stage 2 will involve the existing dwellings on 257 and 259 Berkshire Road being demolished and replaced with a permanent office and warehouse to store equipment used in conjunction with the business.
18. A separate application will be submitted for Stage 2 of the proposed redevelopment of the property in the near future if Stage 1 is approved by Council.

Proposed Recycling Process

19. Should Stages 1 and 2 of the proposal be approved, similar to what is done at other recycling facilities inert materials would be accepted, sorted, crushed, screened and stored on site.

Acceptance of Materials

20. Acceptance of waste materials will involve the inspection of incoming loads by gate staff to ensure that only conforming loads are taken on Site. The landowners propose to accept waste from its parent company and from established contractors that they have long term working relationships with. During the acceptance stage, waste data and financial information will be collected at the gatehouse.

Sorting of Materials

21. Once accepted on site, the materials will then be sorted in preparation for the recycling activities. Designated storage areas for the deposition of the various types of materials including sand, concrete and bitumen will be used towards the rear of the properties.

Crushing of Materials

22. Following the sorting process, the remaining materials will be passed through a crushing system to reduce them to the appropriate size. There will be several types of crushers used including jaw, impact and cone crushers which are able to crush materials to increasingly smaller diameters depending on the desired Recycled Building Products.

Screening of Materials

23. The inert materials will then be passed through a series of screens of various diameters. This separates the materials by size into a range of Recycled Building

Products and ensures uniform particle size within the end product. Any large pieces that do not pass through the screens may be returned for further crushing.

Storage of Materials

24. The various Recycled Building Products will then be stored separately on site. The stockpiles will be removed from site according to demand.

Proposed Dust Management

25. In accordance with the Dust Guidelines (DEC, 2011), an aspect and impact analysis has been carried out for the subject properties. Based on the activities proposed as part of Stage 1, the applicant has advised that the sources of dust emissions are most likely to occur from the following activities;
- Vehicle movements along unsealed areas;
 - Loading and unloading of vehicles;
 - Material handling operations; and
 - Stockpiles of inert material.
26. The following management measures are proposed to control the potential for dust emissions arising from vehicle movements:
- A maximum speed limit of 5km will be applied to all vehicles on the subject site. This will be sign posted at appropriate locations including the entrance to the subject site.
 - The implementation of a one way traffic system to minimise vehicle movements.
 - Vehicles will be maintained in good condition and drivers will be instructed of the requirement to use conservative driving techniques.
 - Staff will be instructed to minimise vehicle movements occurring across the subject site.
 - A water cart will be utilised on the subject site to suppress the generation of dust on all internal roadways.
 - Internal roads will be compacted roadbase surfaces and will undergo routine inspection and maintenance.
 - Chemical dust suppression solutions, such as DustTec will be utilised for internal roadways where required.
 - The Dowsing Concrete Street Sweeper will be utilised to clean the road surfaces and other areas on the subject site on a weekly basis, if not more frequently.
 - Fencing and vegetation screens will be developed and maintained, where appropriate, surrounding the subject site.
 - All vehicles carrying material to the subject site will be covered.
 - If required, vehicles will be hosed down prior to leaving the properties.

27. The following management measures are proposed to control the potential for dust emissions arising from material handling operations:
- Inert material will be wetted down prior to unloading with the designated free hose as per the proposed sprinkler system design (Attachment 1).
 - Unloading will be undertaken giving due consideration to the climatic conditions including wind speed and direction. During unfavourable climatic conditions, unloading activities will be ceased. This includes times of high wind or dry periods. The site manager will be required to undertake a daily assessment of forecasted climatic conditions as well as conduct daily site inspections throughout the day including the dust management system.
 - A sprinkler system will be established and maintained.
 - The sprinkler system will be monitored daily to ensure optimal performance.
 - The sprinkler system will be set by a timer to minimise dust emissions during both operational and non-operational hours.
 - Disturbance of materials stored on site will be minimised as much as possible.
 - Operational vehicles kept permanently on the subject site will be maintained in good working condition and drivers will be instructed of the requirement to use conservative driving techniques.
28. The following management measures are proposed to control the potential for dust emissions arising from stockpiling of materials:
- Stockpiles will be kept within designated areas and ensure internal buffers are maintained.
 - The sprinkler system will be established and maintained.
 - The sprinkler system will be monitored daily to ensure optimal performance.
 - The sprinkler system will be set by a timer to minimise dust emissions during both operational and non-operational hours.
 - Operations will be stopped during unfavourable climatic conditions
 - Inert material will be wetted down prior to any disturbance to the stockpiles
 - Fencing and vegetation screens will be developed and maintained, where appropriate, surrounding the properties.
29. The following procedures are proposed to ensure that all complaints received are managed and addressed appropriately:
- A notice will be erected and maintained at the front of the properties, providing contact details of the person to be contacted in the event of dust nuisance.

-
- The Site Manager will be informed immediately in the event of a dust nuisance complaint and complaint entered in to the Complaints Register.
 - Operations will be immediately assessed by the site manager or other relevant staff member.
 - Management measures will be undertaken immediately to address any identified source of dust emissions, if required.
 - Operations will be monitored closely for the remainder of the day.
 - The site manager will be required to complete a Complaint Register including if any actions were undertaken.
 - The site manager will be required to prepare a formal response to all dust nuisance complaints received.
 - In the event of a dust incident, this will be recorded and managed as a non-conformance and/or corrective action.
 - In the event of breach of licence conditions relating to dust nuisance, the DER will be informed.
30. To ensure that all staff has the required knowledge and understanding to fulfil their responsibilities in relation to dust management, the landowners are proposing to conduct staff training.
31. By way of justification to support the proposal the applicant has advised the following:
- “Currently, the closest sensitive receptors are residential properties currently located 450m north-east of the Subject Site. However, as part of the development of the Forrestfield/High Wycombe Industrial Area, these are anticipated to be replaced by industrial land uses in the near future. The nearest long-term sensitive receptor is a residential area located 525m south-east of the subject site, on the other side of Roe Highway.*
- Both these distances are well beyond the EPA’s recommended minimum separation distance of 200m between sensitive land uses and the type of facility as proposed within Phase 1 which is classified as a Category 62 – Solid Waste Depot.”*

Proposed Noise Management

32. The following are measures proposed by the applicant in an attempt to minimise the impact noise will have on nearby properties:
- Compliance with the *Environmental Protection (Noise) Regulations 1997*.
 - All inert materials being confined in the designated storage area.
 - Staff will be instructed to minimise the disturbance of inert material.

- Staff being instructed to minimise vehicular movements occurring across the properties.
- Adopt conservative operational practises across the properties.
- A maximum speed limited of 5km/h will be applied to all vehicles on the properties.
- Vehicles will be maintained in a good condition and drivers will be instructed to use conservative driving techniques.
- Vegetation screens will be developed and maintained where appropriate on the properties.

STATUTORY AND LEGAL IMPLICATIONS

Local Planning Scheme No. 3

33. Under the Zoning Table (Table 1) of the Scheme the use "Storage" is a 'D' use on properties zoned Industrial Development meaning that the use is not permitted unless planning approval has been granted.
34. Clause 4.2.4 (Objectives of the Zones - Industrial Zones) stipulates that the following are the Scheme objectives for the Industrial Development zoning:
- To provide for orderly and proper planning through the preparation and adoption of a Structure Plan establishing the overall design principles for the area.
 - To permit the development of the land for industrial purposes and for commercial and other uses normally associated with industrial development.
35. Under Schedule 1 (Land Use Definitions) of the Scheme the use "Storage" is defined as being the following:

"Means premises used for the storage of goods, equipment, plant or materials."

36. The Scheme car parking requirements for the use Industry - Light are the following:

Car Parking Requirement	Required	Proposed
Industry – Light Two car bays per 100sqm of industrial area, or 1 bay per employee plus 2 visitor bays, whichever is greater.	4,290sqm = 86 car bays minimum	Nil.

37. If Council approved the application there would be a shortfall of 86 car parking bays, however considering that Stage 1 of the proposal only involves the storage of material on the properties there would be no staff on site. The required amount of car parking would be provided at Stage 2 of the proposed redevelopment if Stage 1 is approved by Council.

-
38. In considering an application for planning approval, Clause 10.2 of the Scheme (Matters to be Considered by Local Government) requires Council to have due regard to number of matters, including:
- The compatibility of the development within its settings.
 - The likely effect of the scale and appearance of the proposal.
 - Preservation of the amenity of the locality.
 - The relationship of the proposal to development on adjoining properties or on other properties in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.
39. If Council refuses the development, or imposes conditions that are not acceptable to the applicant, there is a Right of Review (appeal) to the State Administrative Tribunal.

Forrestfield/High Wycombe Industrial Area Stage 1 Structure Plan

40. Clause 6.2.2.2 (Special Control Areas) of the Scheme stipulates that where a Structure Plan exists the development of land is to be in accordance with the Structure Plan.
41. The Structure Plan shows a 20m Road Reserve requirement for the rear portion of 251 and 259 Berkshire Road for the future extension of Nardine Close to Ashby Close.

POLICY IMPLICATIONS

Local Planning Strategy

42. The Forrestfield/High Wycombe Industrial Area development is identified as one of the key strategic issues in the Shire's Local Planning Strategy.

Forrestfield/High Wycombe Industrial Area Design Guidelines

43. Clause 1.2 (Vision/Statement of Intent) of the Forrestfield/High Wycombe Industrial Area Design Guidelines ("Guidelines") stipulates that in addition to the usual light industrial activities, industries such as research and development facilities will be encouraged in the area.
44. An objective of the Guidelines, amongst others, is to ensure that the storage and transportation of materials and vehicles, the nature of goods produced, emissions of waste products, noise, odour and odour shall not be permitted to have an undue adverse impact on the amenity and environment of the locality.
45. If Stage 1 of the proposal is approved by Council, the office and warehouse proposed at Stage 2 will be required to comply with the Guidelines.
46. Section 2 of the Guidelines stipulates that new development must not unreasonably compromise or constrain future development, and that it is preferred that new proposals enhance existing and future developments.

Local Planning Policy DEV41 – Framework for Assessing Requests for Variation of the Number of Car Parking Bays

47. Local Planning Policy DEV41 – Framework for Assessing Requests for Variation of the Number of Car Parking Bays stipulates that a reduction in parking will only be considered by Council and not under delegation.

The Environmental Protection Authority's *Guidance for the Assessment of Environmental Factors No. 3 – Separation Distances between Industrial and Sensitive Land Uses (2005)*

48. The Environmental Protection Authority's (EPA) *Guidance for the Assessment of Environmental Factors No. 3 – Separation Distances between Industrial and Sensitive Land Uses (2005)* contains recommended minimum separation distances between these two land use categories to ensure that the potential environmental impacts of the industrial land use are maintained within appropriate levels. Sensitive land uses are defined as those that are sensitive to industrial emissions and include residential developments, schools, hospitals, shopping centres and other public areas and buildings.
49. The EPA's recommended separation distance between industries involving the crushing of waste or demolition material, and residential development is 1,000m.
50. The EPA's recommended separation distance between industries involving the storage or sorting of waste materials pending disposal or reuse, and residential development is 200m.

COMMUNITY ENGAGEMENT REQUIREMENTS

51. There is no statutory requirement for the proposal to be advertised for comment however considering the nature of the proposed activity it was referred to the Department of Environment Regulation ("DER"), formerly known as the Department of Environment and Conservation.
52. The DER advised that it would not support the proposal as it does not comply with the required separation distances between such industrial uses and sensitive land uses such as dwellings.

FINANCIAL CONSIDERATION

53. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 4.1 – To ensure land use plans provide long term sustainable population growth.

Strategy 4.1.4 Facilitate the development of industrial land within the Shire.

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

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

SUSTAINABILITY

Social Implications

55. Despite surrounding properties falling within Stage 1 of the Forrestfield/High Wycombe Industrial Area, they still contain occupied residences which dust emissions could have an unacceptable impact upon.

Economic Implications

56. If Council was to approve the application, nearby existing or planned freight or logistics industries which cannot tolerate dust may be affected.

Environmental Implications

57. Despite the dust management plan provided, the Shire still has concerns regarding the impact dust from the proposed use will have on nearby properties, including the Bush Forever Site, and future industrial land uses.
58. There is no statutory requirement for the proposal to be advertised, however considering the nature of the proposal comments were obtained from the Department of Environment Regulation ("DER"), formerly known as the Department of Environment and Conservation. The DER is satisfied with the provisions of the proposed dust management plan.
59. In the event that contaminated soil or asbestos is brought onto the properties the following is proposed:

"All DC Recycling staff will be informed on the potential issues surrounding contaminated sites and the identification of contaminated soils. In the unlikely event that contaminated soils are accepted on the Subject Site, the onsite inspection processes will ensure that the Site Manager will be aware of such material and will be immediately isolated. Following further assessments the material will be covered and prepared for its safe removal from site including in accordance with the Environmental Protection (Controlled Waste) Regulations 2004. This material will be brought to an appropriate licenced treatment facility for such material."

RISK MANAGEMENT CONSIDERATIONS

60.	Risk	Likelihood	Consequence	Action/Strategy
	Dust emitted from the inert material being stored potentially having a detrimental impact on the nearby Bush Forever Site and the amenity of nearby properties.	High	High	Enclose the proposed storage areas.
	Noise from the proposed activity having an unacceptable impact on the amenity of nearby properties.	Medium	Medium	Despite the noise management plan provided and the assurances it gives, the Shire still has reservations regarding the potential impact the proposal may have on existing and future uses.
	The visual appearance of the storage areas having a negative impact on adjoining properties.	Medium	High	Ensure appropriate screening and landscaping is provided on the site.

OFFICER COMMENT

61. The applicant and the landowners have met with the Shire on numerous occasions throughout the assessment phase to discuss the suitability of the use in the location and measures to mitigate dust. In particular the impact dust and noise could have on those currently residing on nearby properties, and the capability of these properties to be redeveloped for various light industrial purposes in future.
62. The intent of Stage 1 as outlined in the Guidelines is to encourage a range of light industrial activities including freight, transport and research type uses. An objective of the Guidelines, amongst others, is to ensure that the storage and transportation of materials and vehicles, the nature of goods produced, emissions of waste products, noise, odour and odour shall not be permitted to have an undue adverse impact on the amenity and environment of the locality. Notwithstanding the Dust Management Plan it is questionable as to whether the proposed use in its present form can achieve this.
63. Research facilities and some transport companies cannot be exposed to dust, and therefore the potential for dust to drift onto the adjoining properties would restrict which industrial types of development could occur on nearby properties within Stage 1.

64. In assessing the suitability and compatibility of the use "Storage" as defined under the Scheme, consideration needs to be given to the issue of amenity. In this regard the applicant has provided a Dust Management Plan which has been approved by DER. On this basis it is reasonable to conclude that the proposed use is consistent with the Scheme definition of Storage. That said, the true measure of the dust management plan will be its implementation and the extent to which the operator of the site complies with the requirements of the management plan.
65. To ensure dust mitigation is addressed, and the potential impact the proposal would have on existing and future operation of uses on adjoining properties as well as the nearby Bush Forever Site, consideration could be given to the storage areas being enclosed. There are examples where such techniques (i.e. concrete bunkers) are used by other recycling companies to ensure dust is controlled to acceptable levels.
66. The applicant has advised that because of the measures proposed as part of the dust management plan the storage areas will not be enclosed.
67. The noise management plan provided stipulates measures to minimise noise emitted when inert materials are brought on and taken off the properties as part of Stage 1 of the proposal. As Stage 2 is still in the process of being prepared there are no details available which outline how noise will be minimised when materials will be sorted and crushed on site.
68. It is understood that Stage 2 of the proposal is reliant on Stage 1 proceeding. Based on preliminary legal advice, it is considered highly unlikely that Stage 2 of the proposal could be considered a light industrial use and therefore could be supported by the Shire.
69. The DER has advised that it does not support the proposal because of the activities not complying with the minimum separation distances stipulated under the EPA's *Guidance for the Assessment of Environmental Factors No. 3 – Separation Distances between Industrial and Sensitive Land Uses* (2005).
70. In summary despite the dust and noise management plans provided and the assurances it gives, the Shire still has significant reservations regarding the potential impact the proposal may have on existing and future operation of uses on adjoining properties as well as the nearby Bush Forever Site. Concerns also exist as to whether the proposed use has the potential to impact existing and future development within Stage 1 because of noise, and future development for freight and logistics activities within Stage 1 because of the dust.

Mr Ronan Cullen from Talis Consultants spoke on behalf of the applicant who had requested the item be withdrawn from the Agenda at this time. The company have met with the Department of Environment who have formally commenced the process of assessing the application in full, which will take a few weeks; they also hope to meet again with the Shire's senior planning staff to look at areas where the application can be adjusted to the satisfaction of all parties.

A memo detailing the request to withdraw this item from the Agenda had been sent to Councillors prior to the meeting. Only the motion to withdraw the item was put.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 66/2013)

That Council:

1. Accepts the request from the Applicant to withdraw the item from the Development & Infrastructure Services Agenda of 9 September 2013.

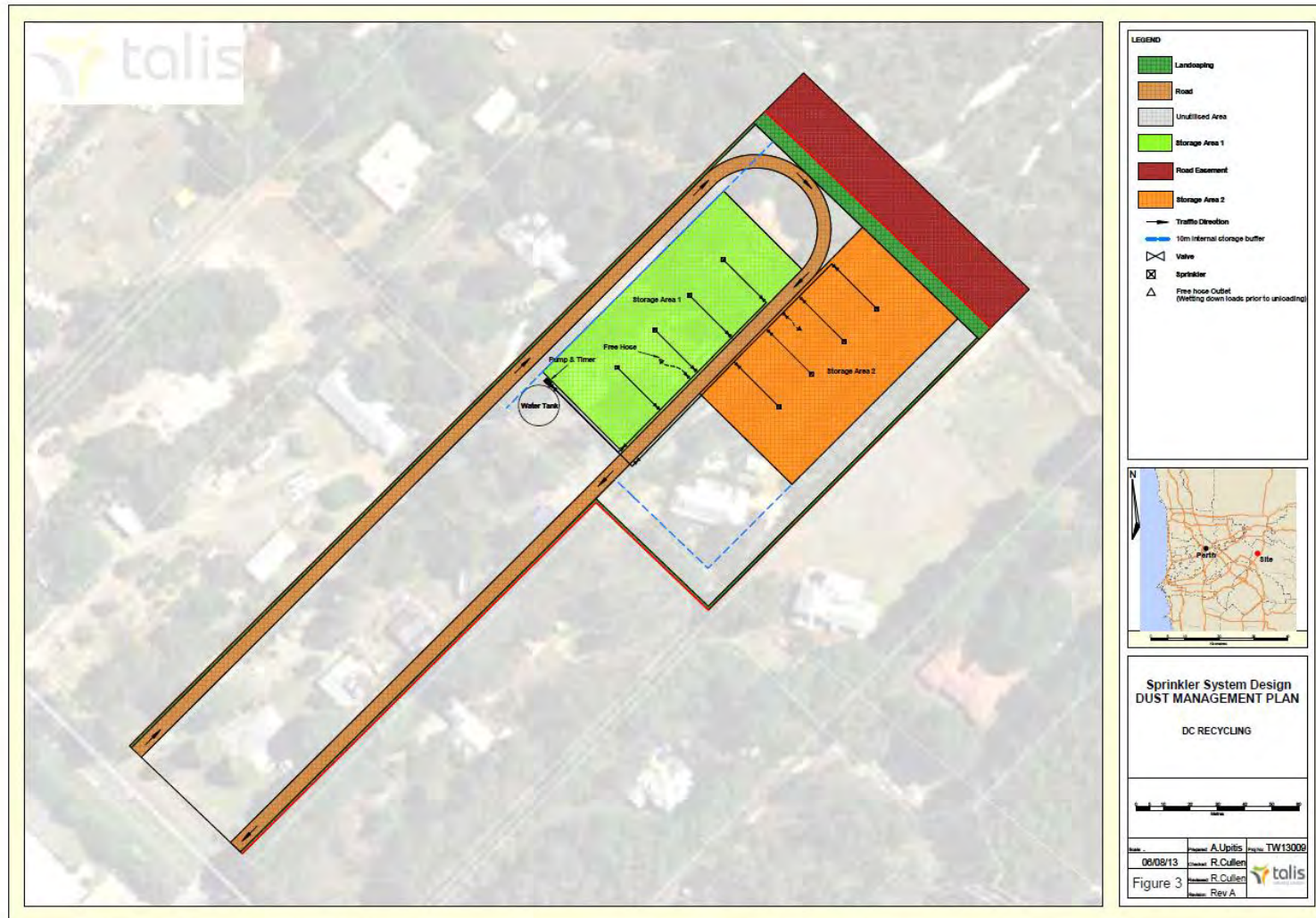
Moved: **Cr Justin Whitten**

Seconded: **Cr Martyn Cresswell**

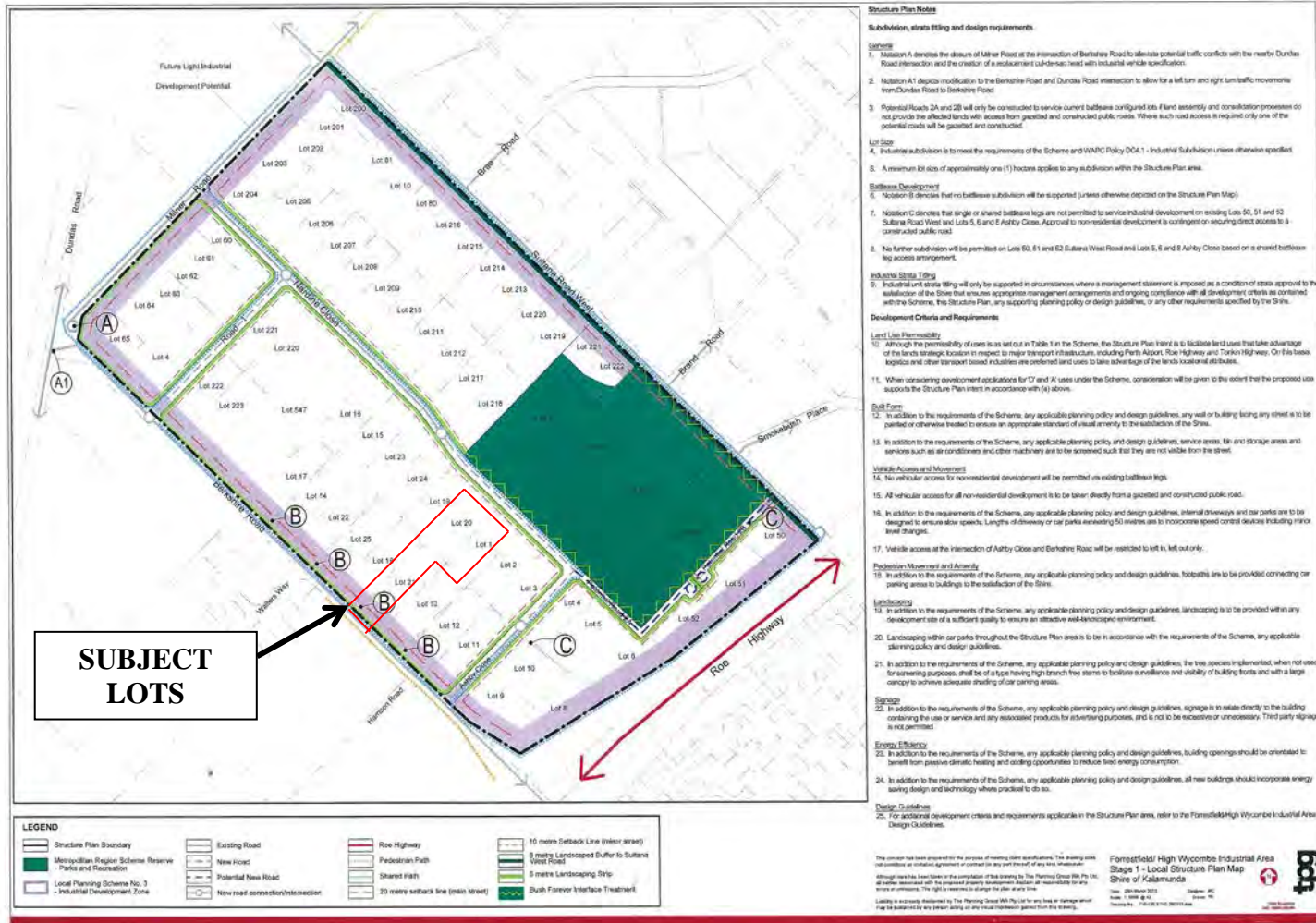
Vote: **CARRIED UNANIMOUSLY (11/0)**

Attachment 1

Storage of Inert Materials – Lot 1 (251), 20 (259) and 21 (257) Berkshire Road, Forrestfield Site Plan for Stage 1 of the Proposed Recycling Business



Attachment 2 Storage of Inert Materials – Lot 1 (251), 20 (259) and 21 (257) Berkshire Road, Forrestfield Forrestfield/High Wycombe Industrial Area Stage 1 Structure Plan



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

67. Petition to Restore Water Flow to Yule Brook, Forrestfield

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	UT-DGN-002
Applicant	A Snook
Owner	N/A
Attachment 1	Petition

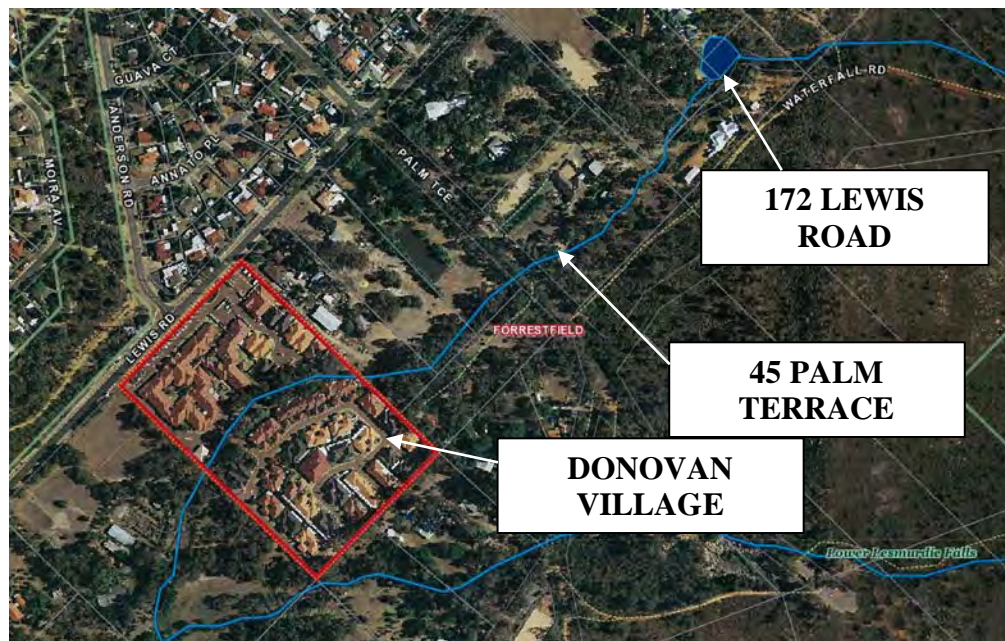
PURPOSE

1. To consider a petition received from the President of the Donovan Village Residents Committee to restore the downstream flow of Yule Brook which goes through Donovan Village situated at Lot 19 (138) Lewis Road, Forrestfield. Refer to (Attachment 1).

BACKGROUND

Locality Plan

- 2.



3. In June 2013, a petition was tabled at the Development and Infrastructure Services Committee by the President of the Donovan Village Residents Committee which contained 82 signatures.
4. The petition was tabled as residents are concerned that the lack of water flow of Yule Brook through Donovan Village is responsible for the loss of several established trees, and they believe this is the result of Yule Brook being dammed upstream at 45 Palm Terrace and 172 Lewis Road, Forrestfield.

5. Yule Brook is a natural watercourse which discharges into the Canning River in Beckenham.
6. The Forrestfield section of Yule Brook goes through private properties which contain medium density residential land uses and agricultural uses.
7. The dams in question are being used for non-commercial purposes.

DETAILS

8. A petition has been received which has been signed by those residing at Donovan Village requesting that action be taken to restore the downstream flow of Yule Brook *“so that the requirements of the Rights in Water and Irrigation Act 1914 are no longer being violated”*.

STATUTORY AND LEGAL IMPLICATIONS

9. Under the *Rights in Water and Irrigation Act 1914*, “Riparian Rights” the owner or occupier of the land in direct contact with a water course can take water without a license for domestic use.
10. A license or permit is required from the Department of Water (“DOW”) if you intent to construct a dam to direct water from a proclaimed water course.

POLICY IMPLICATIONS

Catchment Nutrient Report – Yule Brook

11. The Swan River Trust’s Catchment Nutrient Report for Yule Brook stipulates that the average amount of annual rainfall that runs into Yule Brook is 800mm.
12. The only data available from the Swan River Trust also shows that the annual flow of Yule Brook is decreasing, from being 10.8 gicalitres in 1994 to 6.7 gicalitres in 2001.

State of the Environment Report WA (2007)

13. The State of the Environment Report WA (2007) stipulates that the average amount of rainfall in south west Western Australian, which includes the Perth Metropolitan Area, has decreased 15% over the past 30 years.

COMMUNITY ENGAGEMENT REQUIREMENTS

14. No community engagement was undertaken, however comments were sought from the DOW regarding the matter, and whether any approvals have been granted for the dams concerned.
15. The DOW advised that it is a landowners right to take water for non-commercial purposes to the extent that it does not “sensibly diminish” downstream flows, however the term “sensibly diminish” has never been tested in a court of law.

16. The DOW also advised that there is a 2 year statute of limitations regarding offences carried out under the *Rights in Water and Irrigation Act 1914* and that it is extremely difficult to establish a case for enforcement action with respect to illegally constructed dams unless there is documented evidence.

FINANCIAL CONSIDERATION

17. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 3.4 - To manage the use of water sustainability within the Shire.

Strategy 3.4.2 Investigate and implement water harvesting, and other such means of providing alternative water supplies for the Shire.

SUSTAINABILITY

Social Implications

19. Nil.

Economic Implications

20. Nil.

Environmental Implications

21. Average rainfall amounts in the area are decreasing due to changes in the climate. There is no evidence to suggest that the existence of dams in the locality are the main reason for an apparent fall in water flow.

RISK MANAGEMENT CONSIDERATIONS

22.

Risk	Likelihood	Consequence	Action/Strategy
Water flows continuing to decline.	Medium	Medium	Ensure future proposals for new dams on Yule Brook require planning approval.

OFFICER COMMENT

23. The petition was tabled as residents are concerned that the lack of water flow of Yule Brook through Donovan Village is responsible for the loss of several established trees, and they believe this is the result of Yule Brook being dammed upstream at 45 Palm Terrace and 172 Lewis Road, Forrestfield.

24. The properties were inspected by the Shire and it was found that little evidence exists to suggest that the dams were the reason for the apparent fall in water flow along Yule Brook. The last inspection on 28 August 2013 found with the recent rain the Yule Brook flowing through Donovan Village. It should be noted that there are multiple dams located along the length of Yule Brook which all have rights to take water under the riparian rights legislation.
25. A search of Shire records indicates that these dams have existed since at least 2003. The DOW also advised that there is a 2 year statute of limitations regarding offences carried out under the *Rights in Water and Irrigation Act 1914* and that it is extremely difficult to establish a case for enforcement action with respect to illegally constructed dams unless there is documented evidence.
26. The State of the Environment Report WA (2007) and the Swan River Trust's Catchment Nutrient Report for Yule Brook both stipulate that the average rainfall amount in the area are decreasing due to climate change.
27. In summary there is no conclusive evidence to suggest that the dams in question are solely responsible for decreasing water flow in Yule Brook, rather it is considered more likely that the declining rainfall is the principal contributor.

A Councillor referred to a meeting when, with the Director Infrastructure & Development Services, they had been approached by Julie Robert who indicated that an additional dam had been built; this is not referred to in the report.

Manager Development Services advised that he had contacted Julie Robert to confirm the property details and had requested staff attend the site. Staff had noted that this was an off-stream dam that had been there for many years and was not interfering with the creek line.

A Councillor queried if Julie Robert had been contacted since the site inspection to clarify what she had said because she had been quite certain that there had been some recent activity. The Councillor requested this information be confirmed prior to the Ordinary Council Meeting and foreshadowed a motion to defer the item until that meeting.

Councillors debated the Officer's Recommendation and then this was put, the Motion was lost. The motion to defer to the next meeting to give Officers time to investigate was then put.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 67/2013)

That Council:

1. Notes the petition received regarding the alleged decrease in water flows along Yule Brook through Donovan Village.

2. Advises the President of Donovan Village that following an investigation of the section of the brook upstream from the village it is apparent that the dams identified have been in place without substantial change since at least 2003 and therefore under the, *Rights in Water and Irrigation Act 1914* no further action can be taken against the landowners of Lot 6 (45) Palm Terrace and Lot 1000 (172) Lewis Road, Forrestfield regarding the dams on the properties.

3. Notes there is no evidence to suggest that the dams are solely responsible for the decrease in water flows along Yule Brook.

Moved: **Cr John Giardina**

Seconded: **Cr Frank Lindsey**

Vote:	<u>For</u>	<u>Against</u>
	Cr John Giardina	Cr Geoff Stallard
	Cr Frank Lindsey	Cr Noreen Townsend
	Cr Allan Morton	Cr Justin Whitten
	Cr Margaret Thomas	Cr Martyn Cresswell
		Cr Dylan O'Connor
		Cr Sue Bilich
		Cr Simon Di Rosso
	LOST (4/7)	

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 67/2013)

That Council:

1. Defer this item until the next Development & Infrastructure Services Committee meeting for staff to investigate.

Moved: **Cr Sue Bilich**

Seconded: **Cr Noreen Townsend**

Vote:	<u>For</u>	<u>Against</u>
	Cr Geoff Stallard	Cr John Giardina
	Cr Noreen Townsend	Cr Frank Lindsey
	Cr Justin Whitten	Cr Allan Morton
	Cr Martyn Cresswell	Cr Margaret Thomas
	Cr Dylan O'Connor	
	Cr Sue Bilich	
	Cr Simon Di Rosso	
	CARRIED (7/4)	

Attachment 1

**Petition to Restore Water Flow to Yule Brook, Forrestfield
Petition**

**Petition to Restore Waterflow to Yule Brook, West of
Palm Tce, Forrestfield**

Petition Summary and Background:	<p>Under the <i>Rights in Water and Irrigation Act 1914</i>, landowners may take water from the watercourse free of charge for the purposes of domestic use, stock watering and garden irrigation for areas up to two hectares. This usage is known as “riparian rights” and requires landowners to use the water in a manner that:</p> <ul style="list-style-type: none"> • must not affect the use enjoyed by others downstream; and • ensures water is shared in an equitable way. <p>Yule Brook has been dammed in a ‘Proclaimed’ area on private property at 45 Palm Tce Forrestfield. Its height was increased in 2011. Yule Brook typically flows each winter, however, downstream of this dam, its flow has completely ceased since the increase in the height of the dam wall. A number of well established native trees have since shown signs of severe water stress with some of them dying.</p> <p>Residents of Donovan Village, and others residing near the brook, are deeply concerned that we have not only lost our beautiful brook but many of the trees it supported. Other trees are deteriorating and may well die if something is not done to restore the normal winter flow of Yule Brook in 2013.</p> <p><i>Urgent action needs to be taken to rectify this situation.</i></p> <p>Yule Brook is the ‘focal point’ of Donovan Village with homes on both sides plus a lovely viewing room overlooking the brook for those who can no longer live independently.</p>
Action Petitioned For:	We, the undersigned, are concerned citizens who urge our leaders to act now to restore waterflow to Yule Brook, west of Palm Tce, Forrestfield.

	Printed Name	Signature	Address	Date
1	ROBIN FAULKNER	<i>Robin Faulkner</i>	14/138 Lewis Rd Forrestfield	7/5/13.
2	MONICA MURRAY	<i>Monica Murray</i>	27/138 Lewis Rd Forrestfield	7.5.13
3	PAT DUXBURY	<i>P Duxbury</i>	42/138 Lewis Rd Forrestfield	7.5.13
4	A BANKER	<i>A Banker</i>	30/138 LEWIS RD FORRESTFIELD	7.5.13.
5	Jo Wann	<i>JPWann</i>	36/138 Lewis Rd Forrestfield	7.5.13
6	J. Nowotny	<i>J Nowotny</i>	54/138 LEWIS RD FORRESTFIELD	7-5-13
7	J. DUNNINGS	<i>J Dunning</i>	56/138 LEWIS RD FORRESTFIELD	9-5-13
8	D.H. ADAMS	<i>H. Adams</i>	51/138 LEWIS RD FORRESTFIELD	9-5-13
9	AJS MATTHEWS	<i>A Matthews</i>	13/138 Lewis Rd FORRESTFIELD	10.5.13
10	Fien Romberg	<i>F Romberg</i>	40/138 Lewis Rd Forrestfield	14-5-13
11	HENK ROMBERG	<i>H Romberg</i>	40/138 LEWIS RD FORRESTFIELD	14-5-13

~ ~ ~

	Printed Name	Signature	Address	Date
12	LORNA SNOOK	<i>L. Snook</i>	(11) Donovan Village	7.5.2013
13	TONY SNOOK	<i>T. Snook</i>	(11) DONOVAN VILLAGE	7-5-2013
14	Fran West	<i>F. West</i>	(50) Donovan Village	7-5-2013
15	JOHN WICKS	<i>J. Wicks</i>	(18) DONOVAN VILLAGE	7.5.2013
16	MARNIE WICKS	<i>M.A. Wicks</i>	(18) DONOVAN VILLAGE	7.5.2013
17	JENNIFER VAN SOCKMEER	<i>J. Sockmeer</i>	(26) DONOVAN VILLAGE	7.5.2013.
18	J. VAN BODEN	<i>J. Bodin</i>	(26) Donovan Village	7-5-2013
19	J. EASTON	<i>J. Easton</i>	(48) DONOVAN VILLAGE	7-5-2013
20	JOYCE MOORE	<i>J. Moore</i>	31 DONOVAN VILLAGE	8.5.13
21	G.L. MOORE	<i>G.L. Moore</i>	31 DONOVAN VILLAGE	8/5/13
22	J.B. KARRINGTON	<i>J.B. Carrington</i>	10 " "	8.5.13
23	J. HARRIS	<i>J. Harris</i>	33 " "	8.5.13
24	JO. CASSON	<i>J. Casson</i>	34 " "	8-5-13
25	STE. COHEN	<i>St. Cohen</i>	34 " "	8.5.13
26	A. KRAPER	<i>A. Kraper</i>	12 " "	8/5/13.
27	Jean Stockbridge	<i>J. Stockbridge</i>	35 " "	8/5/13
28	J. FARLES	<i>J. Farles</i>	21 " "	8/5/13
29	B. OFFER.	<i>B. Offer</i>	Unit 5 " "	9/5/13
30	M. KING	<i>M. King</i>	6 " "	9-5-13
31	R. G. OAKENFULL	<i>R. Oakenfull</i>	9 " "	9.5.13
32	D. BEALES	<i>D. Beales</i>	17 Donavan Village.	9.5.13
33	B. GAUNT.	<i>B. Gaunt</i>	41 " "	9.5.12
34	B. TURNER	<i>B. Turner</i>	39 " "	9-5-13
35	E.S. HENRICK.	<i>E.S. Henrick</i>	42 " "	9.5.13
36	V. TURNER	<i>V. Turner</i>	39 " "	9-5-13
37	L. MATTHEWS	<i>L. Matthews</i>	13 " "	9-5-13

PAGE 2

-7-

Petition to Restore Waterflow to Yule Brook, West of Palm Tce, Forrestfield

Petition Summary and Background:	<p>Under the <i>Rights in Water and Irrigation Act 1914</i>, landowners may take water from the watercourse free of charge for the purposes of domestic use, stock watering and garden irrigation for areas up to two hectares. This usage is known as “riparian rights” and requires landowners to use the water in a manner that:</p> <ul style="list-style-type: none"> • must not affect the use enjoyed by others downstream; and • ensures water is shared in an equitable way. <p>Yule Brook has been dammed in a ‘Proclaimed’ area on private property at 45 Palm Tce Forrestfield. Its height was increased in 2011. Yule Brook typically flows each winter, however, downstream of this dam, its flow has completely ceased since the increase in the height of the dam wall. A number of well established native trees have since shown signs of severe water stress with some of them dying.</p> <p>Residents of Donovan Village, and others residing near the brook, are deeply concerned that we have not only lost our beautiful brook but many of the trees it supported. Other trees are deteriorating and may well die if something is not done to restore the normal winter flow of Yule Brook in 2013.</p> <p><i>Urgent action needs to be taken to rectify this situation.</i></p> <p>Yule Brook is the ‘focal point’ of Donovan Village with homes on both sides plus a lovely viewing room overlooking the brook for those who can no longer live independently.</p>
Action Petitioned For:	We, the undersigned, are concerned citizens who urge our leaders to act now to restore waterflow to Yule Brook, west of Palm Tce, Forrestfield.

	Printed Name	Signature	Address	Date
38.	Kaye Forster		32 Palm Tce Forrestfield	21-4-13
39.	MURRAY FORSTER		" " " "	21/4/13
40.	MARGARET BECK		57 Donovan Village Forrestfield	21.4.13.
41.	PETER VOSS		55 DONOVAN " "	2-5-13
42.	TONY SNOOK		V11, DONOVAN VILLAGE, FORRESTFIELD	5/5/2013.
43.	KEN BATCHELOR		44/138 LEWIS ROAD	6/5/13
44.	MARY BATCHELOR		44/138 LEWIS RD FORRESTFIELD	6/5/13
45.	Ann Sulton		15/138 Lewis Rd Forrestfield	6/5/2013
46.	John Sulton		15/138. " "	

PAGE 3

	Printed Name	Signature	Address	Date
47.	JOAN SPRATLING	J Spratling	32/138 Lewis Rd. Forrestfield	6/5/13
48.	MARINA TASSONE	M Tassone	66/138 Lewis Rd Forrestfield	6/5/13
49.	Lesley Filows	L Filows	37 Cassia Way, Morley	6/5/13
50.	KIM DAVID	David	14 Cedar W, Forrestfield	6/5/13
51.	M Ward	M Ward	158/138 Lewis Rd Forrestfield	6/5/13
52.	N Ward	M Ward	" " " "	6/5/13
53.	M. Pawlovich	MP	65 " " "	6/5/13
54.	A BAILEY	A Bailey	64 " " "	"
55.	MARGARET McEWAN	M McEwan	62/138 LEWIS RD FORRESTFIELD	6/5/13
56.	JUNE JURY	J Jury	61/138 LEWIS RD	6/5/13
57.	Belis Booth	B Booth	60/138 Lewis Road	6/5/13
58.	DEAN PHILLIPS	D Phillips	59/ - - -	6/5/13
59.	JUNE PHILLIPS	J Phillips	59/ - - -	6/5/13
60.	WALLY KERR	W Kerr	63 VIKKA	6/5/13
61.	RAEANE BESWICK	R Beswick	V25/138 LEWIS RD	7/5/13
62.	GEORGE BESWICK	G Beswick	" " "	7/5/13
63.	DOLORES DE ROOY	D. de Rooy	V127-136 LEWIS ROOY	7/5/2013
64.	TOM KERRIN	T Kerrin	V25 " "	"
65.	STEPHEN NEWSNAP	S Newsnap	2429 138 LEWIS RD	7-5-2013
66.	ELLEN DALTON	E Dalton	V3138 Lewis Rd	7-5-13
67.	Liz Weggelaar	L Weggelaar	52 138 Lewis Rd.	7-5-2013
68.	REND PARKER	R Parker	4 LEWIS ROAD	7-5-2013
69.	JOHN HALLAM	J Hallam	Villa T 138 Lewis Rd	7.3.13
70.	BORRAINE HALLAM	B Hallam	" "	7.3.13
71.	ANNIE BRUCE	A Bruce	Villa 8. 138 LEWIS RD	7-3-13
72.	EUCENE BRUCE	E Bruce	Villa 8 138 LEWIS RD	7.3.13

(P4)

Petition to Restore Waterflow to Yule Brook, West of Palm Tce, Forrestfield

Petition Summary and Background:	<p>Under the <i>Rights in Water and Irrigation Act 1914</i>, landowners may take water from the watercourse free of charge for the purposes of domestic use, stock watering and garden irrigation for areas up to two hectares. This usage is known as “riparian rights” and requires landowners to use the water in a manner that:</p> <ul style="list-style-type: none"> • must not affect the use enjoyed by others downstream; and • ensures water is shared in an equitable way. <p>Yule Brook has been dammed in a ‘Proclaimed’ area on private property at 45 Palm Tce Forrestfield. Its height was increased in 2011. Yule Brook typically flows each winter, however, downstream of this dam, its flow has completely ceased since the increase in the height of the dam wall. A number of well established native trees have since shown signs of severe water stress with some of them dying.</p> <p>Residents of Donovan Village, and others residing near the brook, are deeply concerned that we have not only lost our beautiful brook but many of the trees it supported. Other trees are deteriorating and may well die if something is not done to restore the normal winter flow of Yule Brook in 2013.</p> <p><i>Urgent action needs to be taken to rectify this situation.</i></p> <p>Yule Brook is the ‘focal point’ of Donovan Village with homes on both sides plus a lovely viewing room overlooking the brook for those who can no longer live independently.</p>
Action Petitioned For:	We, the undersigned, are concerned citizens who urge our leaders to act now to restore waterflow to Yule Brook, west of Palm Tce, Forrestfield.

	Printed Name	Signature	Address	Date
73.	ELSIE	E Mitchell	Donovan Village	6-5-13
74.	ELENIS S.	A. Kepherna	Donovan Hotel, 45	6-5-13
75.	MARGARET	M. Grant	(32) Donovan Village	6-5-13
76.	THERESA	J. White	(53) Donovan Village	7-5-20 ¹³
77.	NANCY BOYD	N Boyd	(45) Donovan Village	7-5-13
78.	JOHN SUTTON	J Sutton	(15) Donovan Village	7-5-13
79.	JOHN DUNNINGS	J Dummings	(56) DONOVAN VILLAGE	7-5-13
80.	BARBARA WATER	B Water	(DONOVAN VILLAGE	7-5-13
81.	GAIL BARRINGTON	G Barrington	(19) DONOVAN VILLAGE	7-5-13
82.	J. BIGLIN	J Biglin	(47) " "	27-5-13

PAGE 5

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

68. Proposed Developer Contribution Instalment Plan for an Approved Light Industry - Lot 219 (122) Sultana Road West, Forrestfield

Previous Items	Nil.
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	SL-08/122
Applicant	M Stuart
Owner	The Letizia Property Trust
Attachment 1	Forrestfield/High Wycombe Industrial Area Stage 1 Structure Plan
Attachment 2	Scheme Provisions for Developer Contribution Items
Attachment 3	Developer Contribution Cost Schedule

PURPOSE

- To consider a request to stage the developer contribution payments required for an approved light industry development at Lot 219 (122) Sultana Road West, Forrestfield.

BACKGROUND

2. Land Details:

Land Area:	9,823sqm
Local Planning Scheme Zone:	Industrial Development
Metropolitan Region Scheme Zone:	Urban

Locality Plan

3.



4. The properties fall within Stage 1 of the proposed Forrestfield/High Wycombe Industrial Area ("Stage 1").
5. In November 2011, the Minister for Planning approved Amendment No. 34 to Local Planning Scheme No. 3 ("Scheme") to rezone the land bounded by Berkshire Road, Roe Highway, Sultana Road West and Milner Road, with the exception of Lots 497, 498 and 499 Sultana Road West and a portion of Lots 1 and 2 Sultana Road West, Forrestfield, from Special Rural to Industrial Development.
6. Amendment No. 34 also included provisions so that Stage 1 became a Development Area ("DA").
7. In December 2012, Council resolved (En Bloc Resolution OCM 183/2012) to adopt the Developer Contribution Rate of \$23.03 plus GST per sqm for Stage 1 of the Forrestfield/High Wycombe Industrial Area effective from 1 January 2013. The current Developer Contribution Rate is \$24.02 per sqm plus GST.
8. In February 2013, the WA Planning Commission ("the Commission") endorsed a Structure Plan for Stage 1 of the Forrestfield/High Wycombe Industrial Area, which, amongst other matters, identifies the developer contribution items relevant to the structure planning area. Refer to the Forrestfield/High Wycombe Industrial Area Stage 1 Local Structure Plan Map (Attachment 1).
9. In May 2013, the Minister approved Amendment No. 48 to the Scheme, which amongst other provisions, proposed that Developer Contribution Items for Stage 1 be inserted under Schedule 12 (Development Areas) in the Scheme. Refer to the Proposed Developer Contribution Items (Attachment 2). The proposed Developer Contribution Cost Schedule (Attachment 3), establishes the cost contribution and apportionment for each landowner.
10. In July 2013, approval was granted for a light industry on the property which involves the fabrication of truck dollies.
11. Prior to the property being redeveloped, the landowner is required to make a proportional contribution to the cost of common infrastructure such as road upgrades and modifications, land acquisition for road reserves, dual use paths and administration costs of the sharing arrangements.
12. In June 2013 Council resolved to support a similar arrangement to stage developer contribution payments for Lot 10 Ashby Close, and Lots 8 and 9 Berkshire Road, Forrestfield. The approved payment schedule involved an initial one third payment with the balance to be paid in 6 months.

DETAILS

13. The total developer contribution for the approved warehouse and office development is currently \$241,595 exclusive of GST.
14. The landowner has requested that this payment be made at the following three stages:
 - An amount of \$50,000 prior to the building licence being issued.

- An amount of \$100,000 being paid in May 2014.
- The remaining amount owed in October 2014.

STATUTORY AND LEGAL IMPLICATIONS

15. Schedule 12 (Development Contribution Areas) of the Scheme describes the DAs and sets out the purpose and particular requirements that may apply to the DA.
16. Clause 6.5.14.2 (Payment of Cost Contribution) of the Scheme stipulates that the owner, with the agreement of Council, may pay the owner's cost contribution in a lump sum, by instalments or in such other manner acceptable to Council.
17. Clause 6.5.17.1 (Shortfall or Excess in Cost Contributions) of the Scheme stipulates that if there is a shortfall in the total cost contribution owed, Council may:
- a) Make good the shortfall.
 - b) Enter into agreements with the owners to fund the shortfall.
 - c) Raise loans or borrow from a financial institution, to fund the shortfall.

POLICY IMPLICATIONS

State Planning Policy No. 3.6 – Development Contributions for Infrastructure

18. State Planning Policy No. 3.6 – Development Contributions for Infrastructure ("the Policy") sets out the principles underlying development.

COMMUNITY ENGAGEMENT REQUIREMENTS

19. Nil.

FINANCIAL CONSIDERATION

20. The Developer Contribution Scheme for Stage 1 is cost neutral to the Shire.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

21. *Kalamunda Advancing: Strategic Community Plan to 2023*
- | | |
|----------------|---|
| Strategy 4.1.4 | Facilitate the development of industrial land within the Shire. |
|----------------|---|

SUSTAINABILITY

Sustainability Implications

22. Nil.

Social Implications

23. Infrastructure needs to be carefully designed, costed and ultimately delivered to ensure that social impacts are minimised and that benefits are maximised.

Economic Implications

24. The staged payment process will assist the developer in meeting his financial obligations to the Scheme.

Environmental Implications

25. Nil.

RISK MANAGEMENT CONSIDERATIONS

26.

Risk	Likelihood	Consequence	Action/Strategy
Council supporting the instalments proposed by the applicant.	Low	High	Without the contribution being paid within the short term, the required upgrades and modifications to roads, the acquisition of land for road Reserves and dual use paths, amongst other items, may be delayed.

OFFICER COMMENT

27. The Scheme allows the developer contribution to be paid in a lump sum or by instalments which are acceptable to Council. This however has to be considered in the context of the Scheme meeting its obligations in respect to the delivery of Scheme Infrastructure.

28. Without the contribution being paid in full, the required upgrades and modifications to roads, the acquisition of land for road Reserves and dual use paths, amongst other items, may be delayed.

29. If Council is supportive of a staged approval, then payments due will be at the Developer Contribution rate applicable at the time.

30. Considering the above, it is recommended that the following instalments be adopted by Council:
- At least 30% on acceptance of this arrangement; and
 - The remaining amount by 31 March 2014.
31. Council has previously approved similar instalments for other developments within Stage 1 over the same period of time.

Matt Stuart spoke on behalf of the applicant, and indicated he was happy to pay the development contribution; however, payment as outlined in paragraph 14 of the report would be of assistance to his client. Councillors also directed questions to the applicant.

The Officer Recommendation was put but there was no Mover and this lapsed.

A Councillor moved that payment should be as outlined in Point 14 of the Council Report.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 68/2013)

That Council:

1. Requests the contribution for the approved light industry development at Lot 219 (122) Sultana Road West, Forrestfield, be paid by the landowner as follows, at the contribution rate applicable at the time payment is made:
- At least 30% on acceptance of this arrangement; and
 - The remaining balance of the Developer Contribution payment to be paid in full by 31 March 2014.

Moved:

Seconded:

Vote: **LAPSED**

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 68/2013)

That Council:

1. Approves the contribution for the approved light industry development at Lot 219 (122) Sultana Road West, Forrestfield, be paid by the landowner as follows:
 - An amount of \$50,000 prior to the building licence being issued
 - An amount of \$100,000 being paid in May 2014
 - The remaining amount owed in October 2014 at the contribution rate applicable at the time payment is made.

Moved: **Cr Noreen Townsend**

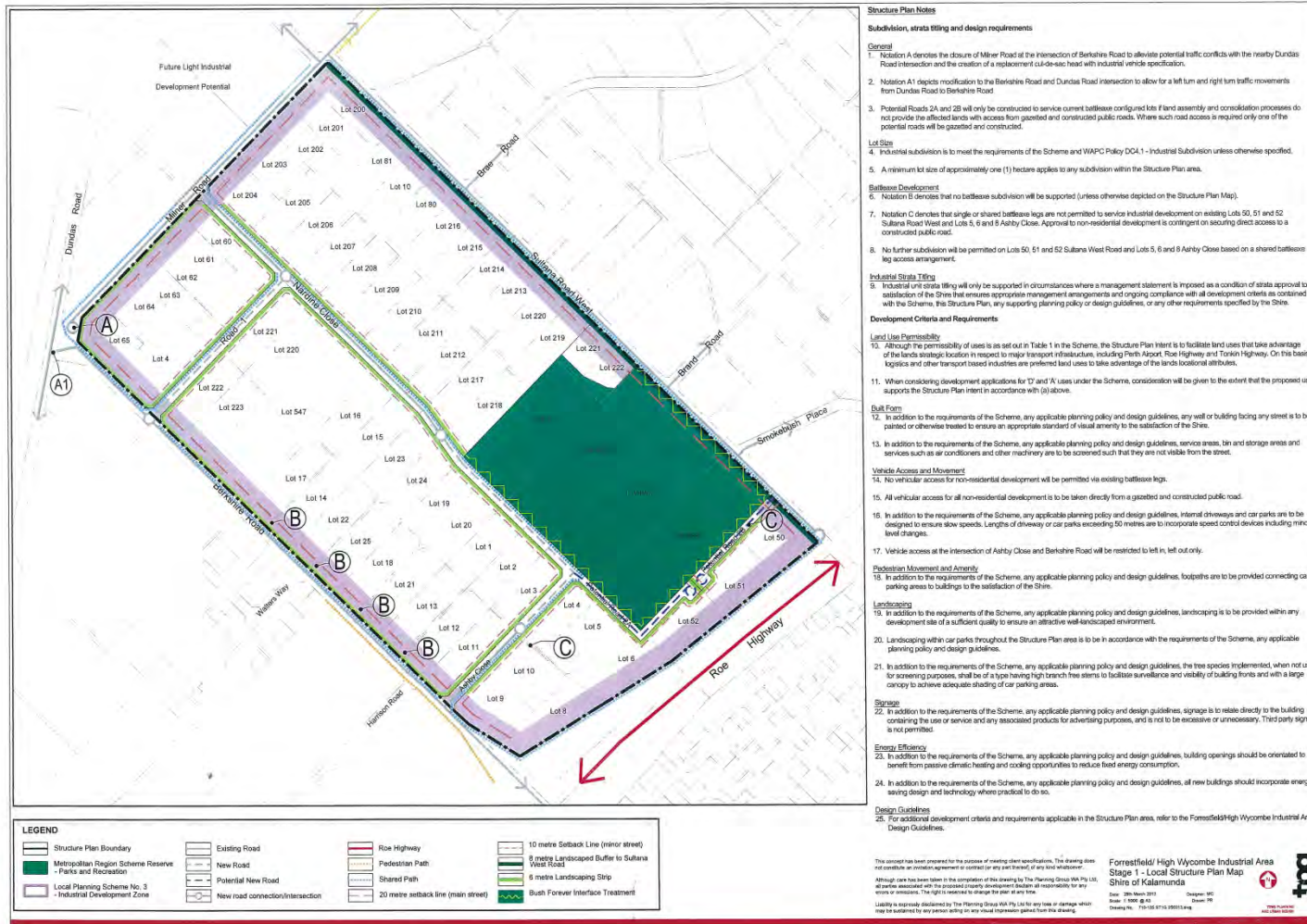
Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (11/0)**

Attachment 1

Proposed Developer Contribution Instalment Plan for an Approved Light Industry Lot 219 (122) Sultana Road West, Forrestfield

Forrestfield/High Wycombe Industrial Area Stage 1 Structure Plan



Attachment 2

Proposed Developer Contribution Instalment Plan for an Approved Light Industry
Lot 219 (122) Sultana Road West, Forrestfield

Scheme Provisions for Developer Contribution Items

“6.5 DEVELOPMENT CONTRIBUTION AREAS (DCA)

6.5.1 Interpretation

In clause 6.5 unless the context otherwise requires –

‘Administrative Costs’ means such costs as are reasonably incurred for the preparation and (with respect to standard infrastructure items) implementation of the Development Contribution Plan.

‘Administrative Items’ means the administrative matters required to be carried out by or on behalf of the local government in order to prepare and (with respect to standard infrastructure items) implement the Development Contribution Plan, including legal, accounting, planning, engineering, and other professional advice.

‘Cost Apportionment Schedule’ means a schedule prepared and distributed in accordance with clause 6.5.10.

‘Cost Contribution’ means the contribution to Infrastructure Costs and Administrative Costs payable by an Owner pursuant to a Development Contribution Plan.

‘Development Contribution Area’ means an area shown on the scheme map as DCA with a number and included in schedule 12.

‘Development Contribution Plan’ means a development contribution plan prepared in accordance with the provisions of State Planning Policy 3.6 Development Contributions for Infrastructure and the provisions of this clause 6 of the Scheme (as incorporated in Schedule 12 to this Scheme).

‘Development Contribution Plan Report’ means a report prepared and distributed in accordance with clause 6.5.10.

‘Infrastructure’ means the standard infrastructure items (services and facilities set out in appendix 1 of State Planning Policy 3.6 ‘Development Contributions for Infrastructure’) and community infrastructure, including recreational facilities; community centres; child care and after school centres; libraries and cultural facilities and such other infrastructure, services and facilities for which development contributions may reasonably be required having regard to the objectives, scope and provisions of State Planning Policy 3.6 ‘Development Contributions for Infrastructure’.

‘Infrastructure Costs’ means such costs as are reasonably incurred for the acquisition and construction of infrastructure.

‘Local government’ means the local government or local governments in which the development contribution area is located or through which the services and facilities are provided.

‘Owner’ means an owner of land that is located within a Development Contribution Area.

6.5.2 Purpose

The purpose of having Development Contribution Areas is to –

- (a) provide for the equitable sharing of Infrastructure Costs and Administrative Costs between owners;*
- (b) ensure that the Cost Contributions are reasonably required as a result of the subdivision and development of land in the Development Contribution Area; and*
- (c) coordinate the timely provision of Infrastructure.*

6.5.3 Development contribution plan required

A Development Contribution Plan is required to be prepared for each Development Contribution Area.

6.5.4 Development contribution plan part of scheme

A Development Contribution Plan is incorporated in Schedule 12 as part of this Scheme.

6.5.5 Subdivision, strata subdivision and development

The local government shall not withhold its support for subdivision, strata subdivision or refuse to approve a development solely for the reason that a Development Contribution Plan is not in effect, there is no approval to advertise a Development Contribution Plan or that there is no other arrangement with respect to an owner's contribution towards the provision of community infrastructure.

6.5.6 Guiding principles for development contribution plans

The Development Contribution Plan for any Development Contribution Area is to be prepared in accordance with the following principles –

- (a) Need and the nexus*

The need for the Infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).

- (b) Transparency*

Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.

(c) Equity

Development contributions should be levied from all developments within a Development Contribution Area, based on their relative contribution to need.

(d) Certainty

All development contributions should be clearly identified and methods of accounting for cost adjustments determined at the commencement of a development.

(e) Efficiency

Development contribution should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.

(f) Consistency

Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.

(g) Right of consultation and review

Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of the costs forming part of the contributions is not reasonable.

(h) Accountable

There must be accountability in the manner in which development contributions are determined and expended.

6.5.7 Content of development contribution plans

The Development Contribution Plan is to specify –

- (a) The Development Contribution Area to which the Development Contribution Plan applies;*
- (b) the Infrastructure and Administrative Items to be funded through the Development Contribution Plan;*
- (c) the method of determining the Cost Contribution of each Owner; and*
- (d) the priority and timing for the provision of Infrastructure.*

6.5.8 Period of development contribution plan

A Development Contribution Plan shall specify the period during which it is to operate.

6.5.9 Land Excluded

In calculating both the area of an Owner's land and the total area of land in a Development Contribution Area, the area of land provided in that Development Contribution Area for –

- (a) roads designated under the Metropolitan Region Scheme as primary regional roads and other regional roads;*
- (b) existing open public open space;*
- (c) existing government primary and secondary schools; and*
- (d) such other land as is set out in the Development Contribution Plan,*

is to be excluded.

6.5.10 Development contribution plan report and cost apportionment schedule

6.5.10.1 Within 90 days of the Development Contribution Plan coming into effect, the local government is to adopt and make available a Development Contribution Plan Report and Cost Apportionment Schedule to all Owners in the Development Contribution Area.

6.5.10.2 The Development Contribution Plan report and the Cost Apportionment Schedule shall set out in detail the calculation of the Cost Contribution for each owner in the Development Contribution Area, based on the methodology provided in the Development Contribution Plan, and shall take into account any proposed staging of the development.

6.5.10.3 The Development Contribution Plan report and the cost apportionment schedule do not form part of the scheme, but once adopted by the local government they are subject to review as provided under clause 6.5.11.

6.5.11 Cost contributions based on estimates

6.5.11.1 The determination of Infrastructure Costs and Administrative Costs is to be based on amounts expended, but when expenditure has not occurred, is to be based on the best and latest estimated costs available to the local government and adjusted accordingly, if necessary.

6.5.11.2 Where a Cost Apportionment Schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government –

- (a) in the case of land to be acquired, in accordance with clause 6.5.12; and*
- (b) in all other cases, in accordance with the best and latest information available to the local government,*

until the expenditure on the relevant item of Infrastructure or Administrative Costs has occurred.

- 6.5.11.3 *The local government is to have such estimated costs independently certified by appropriate qualified persons and must provide such independent certification to an Owner when requested.*
- 6.5.11.4 *Where any Cost Contribution has been calculated on the basis of an estimated cost, the local government -*
- (a) is to adjust the Cost Contribution of any Owner in accordance with the revised estimated costs; and*
 - (b) may accept a Cost Contribution, based upon estimated costs, as a final Cost Contribution and enter into an agreement with the Owner accordingly.*
- 6.5.11.5 *Where an Owner's Cost Contribution is adjusted under clause 6.5.11.4, the local government, on receiving a request in writing from an Owner, is to provide the owner with a copy of estimated costs and the calculation of adjustments.*
- 6.5.11.6 *If an Owner objects to the amount of a Cost Contribution, the Owner may give notice to the local government requesting a review of the amount of the Cost Contribution by an appropriate qualified person ('independent expert') agreed by the local government and the Owner at the Owner's expense, within 28 days after being informed of the Cost Contribution.*
- 6.5.11.7 *If the independent expert does not change the Cost Contribution to a figure acceptable to the Owner, the cost contribution is to be determined:*
- (a) by any method agreed between the local government and the Owner; or*
 - (b) if the local government and the Owner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in accordance with the Commercial Arbitration Act 1985, with the costs to be shared equally between the local government and the Owner.*

6.5.12 Valuation

6.5.12.1 *Clause 6.5.12 applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.*

6.5.12.2 *In clause 6.5.12 –*

'Value', means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arms length transaction in an open and unrestricted market, assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell.

The net land value is to be determined by a static feasibility valuation model, using the working sheet model attached to this scheme as Schedule 13. As part of that feasibility an appropriate profit and risk factor is to be determined from which a 10 per cent profit factor is to be excluded from the calculation.

'Valuer' means a licensed valuer agreed by the local government and the owner, or where the local government and the owner are unable to reach

agreement, by a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.

- 6.5.12.3 *If an Owner objects to a valuation made by the Valuer, the Owner may give notice to the local government requesting a review of the amount of the Value, at the Owner's expense, within 28 days after being informed of the Value.*
- 6.5.12.4 *If, following a review, the Valuer's determination of the value of the land is still not a figure acceptable to the Owner, the value is to be determined:*
- (a) By any method agreed between the local government and the owner; or*
 - (b) if the local government and the owner cannot agree, the owner may apply to the State Administrative Tribunal for a review of the matter under part 14 of the Planning and Development Act 2005.*

6.5.13 Liability for cost contributions

- 6.5.13.1 *An Owner must make a Cost Contribution in accordance with the applicable Development Contribution Plan and the provisions of clause 6.53.*
- 6.5.13.2 *An Owner's liability to pay the Owner's Cost Contribution to the local government arises on the earlier of -*
- (a) the Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the Owner's land within the Development Contribution Area;*
 - (b) the commencement of any development on the Owner's land within the Development Contribution Area;*
 - (c) the approval of any strata plan by the local government or Western Australian Planning Commission on the owner's land within the development contribution area; or*
 - (d) the approval of a change or extension of use by the local government on the Owner's land within the Development Contribution Area.*

The liability arises only once upon the earliest of the above listed events.

- 6.5.13.3 *Notwithstanding clause 6.5.13.2, an Owner's liability to pay the Owner's Cost Contribution does not arise if the Owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the Development Contribution Plan.*
- 6.5.13.4 *Where a Development Contribution Plan expires in accordance with clause 6.5.8, an owner's outstanding liability to pay the Owner's Cost Contribution under the Development Contribution Plan shall be deemed to continue in effect and be carried over into any subsequent Development Contribution Plan which includes the Owner's land, and the Owner's land, subject to such liability.*

6.5.14 Payment of cost contribution

6.5.14.1 *The Owner, with the agreement of the local government, is to pay the Owner's Cost Contribution by -*

- (a) *cheque or cash;*
- (b) *transferring to the local government or a public authority land in satisfaction of the cost contribution;*
- (c) *the provision of physical infrastructure;*
- (d) *some other method acceptable to the local government; or*
- (e) *any combination of these methods.*

6.5.14.2 *The Owner, with the agreement of the local government, may pay the Owner's Cost-Contribution in a lump sum, by instalments or in such other manner acceptable to the local government.*

6.5.14.3 *Payment by an Owner of the cost contribution, including a cost contribution based upon estimated costs in a manner acceptable to the local government, constitutes full and final discharge of the Owner's liability under the development contribution plan and the local government shall provide certification in writing to the owner of such discharge if requested by the Owner.*

6.5.15 Charge on land

6.5.15.1 *The amount of any Cost Contribution for which an Owner is liable under clause 6.5.13, but has not paid, is a charge on the Owner's land to which the Cost Contribution relates, and the local government may lodge a caveat, at the Owner's expense, against the certificate of title to that land.*

6.5.15.2 *The local government, at the Owner's expense and subject to such other conditions as the local government thinks fit, can withdraw a caveat lodged under clause 6.5.15.1 to permit a dealing and may then re-lodge the caveat to prevent further dealings.*

6.5.15.3 *If the Cost Contribution is paid in full, the local government, if requested to do so by the Owner and at the expense of the Owner, is to withdraw any caveat lodged under clause 6.5.15.*

6.5.16 Administration of funds

6.5.16.1 *The local government is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each Development Contribution Area into which Cost Contributions for that Development Contribution Area will be credited and from which all payments for the Infrastructure costs and Administrative costs within that Development Contribution Area will be paid.*

The purpose of such a reserve account ~~of~~ and the use of money in such a reserve account is limited to the application of funds for that Development Contribution Area.

6.5.16.2 *Interest earned on Cost Contributions credited to a reserve account in accordance with clause 6.5.16.1 is to be applied in the Development Contribution Area to which the reserve account relates*

6.5.16.3 *The local government is to publish an audited annual statement of accounts for that Development Contribution Area as soon as practicable after the audited annual statement of accounts becomes available.*

6.5.17 *Shortfall or excess in cost contributions*

6.5.17.1 *If there is a shortfall in the total of Cost Contributions when all cost contributions have been made or accounted for in a particular Development Contribution Area, the local government may -*

- (a) make good the shortfall;*
- (b) enter into agreements with Owners to fund the shortfall; or*
- (c) raise loans or borrow from a financial institution, to fund the shortfall, but nothing in this clause restricts the right or power of the local government to impose a differential rate to a specified Development Contribution Area in that regard.*

6.5.17.2 *If there is an excess in funds available to the development contribution area when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the local government is to refund the excess funds to contributing Owners for that Development Contribution Area. To the extent, if any, that it is not reasonably practicable to identify Owners and/or their entitled amount of refund, any excess in funds shall be applied, to the provision of additional facilities or improvements in that Development Contribution Area.*

6.5.18 *Powers of the local government*

The local government in implementing the Development Contribution Plan has the power to -

- (a) acquire any land or buildings within the Scheme area under the provisions of the Planning and Development Act 2005; and*
- (b) deal with or dispose of any land which it has acquired under the provisions of the Planning and Development Act 2005 in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.*

6.5.19 *Arbitration*

Subject to clauses 6.5.12.3 and 6.5.12.4, any dispute between an Owner and the local government in connection with the cost contribution required to be made by an owner is to be resolved by arbitration in accordance with the Commercial Arbitration Act 1985."

Attachment 3

Proposed Developer Contribution Instalment Plan for an Approved Light Industry
Lot 219 (122) Sultana Road West, Forrestfield

Developer Contribution Cost Schedule

Ref No.	DCA1
Area:	Forrestfield Light Industrial Area- Stage 1 (Area bounded by Berkshire Road, Milner Road, Sultana Road West and Roe Highway)
Relationship to other planning instruments	The development contribution plan generally conforms to the Strategic Community Plan to 2022 (Draft)
Infrastructure and Administrative items to be funded	<p>All landowners within DCA1 shall make a proportional contribution to the cost of common infrastructure.</p> <p>The proportional contribution is to be determined in accordance with the provisions clause 6.5 of the Scheme.</p> <p>Contributions shall be made towards the following items:</p> <ul style="list-style-type: none"> a) 50% to the widening and upgrading of Berkshire Road between Dundas Road and Roe Highway, including the cycling lanes; b) Any required modifications to Milner Road, including the closure procedure and installation of a cul-de-sac at the intersection point with Berkshire Road; c) Upgrading of Nardine Close and Ashby Close; d) Upgrading of the Berkshire Road and Dundas Road intersection; e) Upgrading of the Berkshire Road and Ashby Close intersection; f) 50% of any required modifications to Sultana Road West, including the cycling lane which will form part of the dual use path depicted on the applicable Forrestfield/High Wycombe Industrial Area Structure Plan; g) Acquisition of land required for the section of road linking Ashby Close to Nardine Close and the new section of road linking Nardine Close with Berkshire Road. h) Land required for the construction and drainage for all internal roads- Water Sensitive Urban Design principles to be incorporated as per the adopted Drainage Strategy; i) Full earthworks associated with road and drainage construction; j) Dual use paths as depicted on the applicable Forrestfield/High Wycombe Industrial Area Structure Plan; k) Landscaping of verges and entry statements including maintenance; l) Fencing treatment for Bush Forever site; m) Servicing infrastructure relocation where necessary; n) Costs associated with the preparation of the development area framework to meet the statutory requirements and obligations including the local water management strategy and monitoring, structure plan design and report, drainage strategy and development contribution costings. o) Costs to prepare and administer cost sharing arrangements –

	<p>preliminary engineering drainage design and costings, valuations, annual or more frequent reviews and audits (where identified as appropriate at the discretion of the local government) and administrative costs; and</p> <p>p) Costs for the repayment of any loans raised by the local government for the purchase of any land for road reserves or any of the abovementioned works.</p>
<p>Method for Calculating Contributions</p>	<p>All landowners within DCA1 shall make a proportional contribution to the cost of common infrastructure and administrative items based on net lot areas.</p> <p>The contributions will be in accordance with the Cost Contribution Schedule adopted by the local government for DCA1 which will be reviewed annually.</p> <p>owner's cost contribution = net lot area (m2) x contribution rate</p> <p>where</p> $\text{contribution rate} = \frac{\text{cost of infrastructure items} + \text{cost of administrative items}}{\text{total area of DCA (m2)}}$ <p>net lot area = lot area (m2) - area of road reserve (m2)</p> <p>The contributions will be in accordance with the Cost Contribution Schedule adopted by the local government for DCA1 which will be reviewed annually.</p>
<p>Period of Operation</p>	<p>10 years</p>
<p>Priority and timing of infrastructure</p>	<p>The timing of the provision of infrastructure will be developer driven and subject to market demand for land. Infrastructure is generally to be provided within the 10 year operating period for the DCP.</p>
<p>Review Process</p>	<p>The plan will be reviewed when considered appropriate, though not exceeding a period of five years duration, having regard to the rate of subsequent development in the development contribution area since the last review and the degree of development potential still existing.</p> <p>The estimated infrastructure costs will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on the Building Cost index or other appropriate index as approved by the qualified person undertaking the certification of costs.</p>

10.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 Nil.

11.0 QUESTIONS BY MEMBERS WITHOUT NOTICE

11.1 Cr Dylan O'Connor – Planning Enquiry

Q. Could you please provide me with the information as to whether there is a planning mechanism that allows an approval to be attached to the applicant and not the land?

A. This question was taken on notice.

11.2 Cr Margaret Thomas – School Holiday Program

Q. Does the Shire of Kalamunda provide any programs for children through the school holidays as other Cities and Shires do?

A. The Chief Executive Officer confirmed that there are, these are mostly run through the school holiday program facilitated by the libraries, she will ensure Cr Thomas is provided with this information.

12.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

12.1 Cr Bob Emery – Update on Public Access Way, Sparrow/Parrot Court

Cr Emery would like an update on the Public Access Way (“PAW”) situation in Sparrow Court / Parrot Court. The laneway is right by Fleming Reserve and is constantly vandalised. Council had recommended closure to the Commission quite some time ago. Are we able to write to the Commission to confirm when this closure will take place?

Manager Development Services advised that a meeting was held with Planning Commission staff recently regarding the lack of response on this issue, and others. The Planning Commission are aware of the time they are taking, indicating it is a resourcing issue and are looking to find a solution to quicken the process. The Shire will make contact again with the Commission and see where they stand on the matter now.

The Shire has received advice from the Water Corporation that a major service pipe exists in the PAW which can neither be capped or relocated and therefore the Corporation cannot support the closure of the PAW.

The Shire is presently seeking further advice from the Corporation as to what other options exist in relation to closure.

13.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

13.1 Nil.

14.0 MEETING CLOSED TO THE PUBLIC

14.1 Nil.

15.0 CLOSURE

15.1 There being no further business the Chairman declared the meeting closed at 8.39pm

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

Signed: _____
Chairman

Dated this _____ day of _____ 2013