

Development & Infrastructure Services Committee Meeting

Minutes for 3 September 2012



**shire of
kalamunda**

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MINUTES

1.0 OFFICIAL OPENING

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

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Councillors

Donald McKechnie	(Shire President) North Ward
Margaret Thomas	(Chairman) North Ward
Allan Morton	South West Ward
Noreen Townsend	South West Ward
Justin Whitten	South West Ward
Geoff Stallard	South East Ward
John Giardina	(Deputy Chairman) South East Ward
Dylan O'Connor	North West Ward
Bob Emery	North West Ward

Members of Staff

James Trail	Chief Executive Officer
Rhonda Hardy	Director Corporate & Community Services
Clayton Higham	Director Development & Infrastructure Services
Darrell Forrest	Manager Governance
Andrew Fowler-Tutt	Manager Development Services
Sam Assaad	Manager Infrastructure Operations
Michelle Clark	Executive Assistant to the CEO
Meri Comber	Governance Officer

Members of the Public 4

Members of the Press Nil

2.2 Apologies

Councillors

Sue Bilich	North Ward
Martyn Cresswell	North West Ward

Members of Staff Nil

2.3 Leave of Absence Previously Approved Nil

3.0 PUBLIC QUESTION TIME

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

3.1 Nil.

4.0 PETITIONS/DEPUTATIONS

Nil.

5.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 That the Minutes of the Development & Infrastructure Services Committee Meeting held on 6 August 2012 are confirmed as a true and accurate record of the proceedings.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Bob Emery**

Vote: **CARRIED UNANIMOUSLY (9/0)**

6.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

6.1 Nil.

7.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

7.1 Nil.

8.0 DISCLOSURE OF INTERESTS

8.1 Disclosure of Financial and Proximity Interests

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

8.1.1 Nil.

8.2 Disclosure of Interest Affecting Impartiality

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

- 8.2.1 Cr Margaret Thomas declared an interest affecting impartiality regarding Item 81, Lot 2 (664) Pickering Brook Road, Pickering Brook - Application to Keep More Than Two Dogs, as she is the owner of the property.

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.

73. Detailed Area Plan – Lot 24 (48) and 163 (40) Hardey East Road, Wattle Grove

Previous Items	Nil
Responsible Officer	Director of Development & Infrastructure Services
Service Area	Development Services
File Reference	100829
Applicant	Gray & Lewis Land Use Planners
Owner	D and M Cook
Attachment 1	Locality Plan
Attachment 2	Existing Wattle Grove Cell 9 Structure Plan
Attachment 3	Detailed Area Plan
Attachment 4	Approved Subdivision Plan
Attachment 5	Photograph of the Existing Kelang Road Streetscape

PURPOSE

1. To consider a Detailed Area Plan (“DAP”) for Lots 24 (48) and 163 (40) Hardey East Road, Wattle Grove. Refer to (Attachments 1 to 3).

BACKGROUND

2. Land Details:

Land Area:	2.62ha
Local Planning Scheme Zone:	Urban Development
Wattle Grove Cell 9 Structure Plan:	Residential R20
Metropolitan Region Scheme Zone:	Urban

3. The Wattle Grove Cell 9 Structure Plan (“the Structure Plan”) was adopted by Council in 2000 and endorsed by the WA Planning Commission in March 2001.
4. The property contains a single dwelling and associated outbuildings, and has frontage onto Hardey East Road, Fennel Crescent and Kelang Road.
5. In October 2011, the WA Planning Commission approved an application to subdivide the property into 65 freehold lots ranging from 432sqm to 1,124sqm, with the existing dwelling being retained. The approval has yet to be implemented. Refer to the Approved Subdivision Plan (Attachment 4).
6. Surrounding properties are identified on the Structure Plan as being Residential R20 and public open space, and Wattle Grove Primary School is nearby. Refer to the photograph of the existing Kelang Road streetscape (Attachment 5).

DETAILS

7. A DAP is a document that provides design and development requirements in addition to or in replacement of those already required. These requirements may be more or less restrictive than the prevailing standards, in this instance the Residential Design Codes.
8. The following variations are proposed to the Residential Design Code (“the R-Codes”) requirements:

	R-Code Requirements for Development on Properties with an R20 Density Coding	Variations proposed in the DAP
Minimum Open Space	50%	35%
Primary Street Setback	6m minimum, or a 6m average, the closest point of any building to the front boundary being a minimum of 3m when averaged.	3m Minimum 6m Maximum No average front setback
Maximum Boundary Wall Height	3m	3.5m
Minimum Side Setback for Single Storey Dwellings Containing a Wall with Major Openings	1.5m for walls 3.5m or less in height, and 9m or less in length. 1.8m for walls up to and including 4m in height and 9m or less in length.	1m

9. No concept plans are currently available which show the built form and building footprints proposed on the parent lot.
10. The DAP has not been requested by the Shire or the WA Planning Commission as a condition of the subdivision approval for the property.
11. The south west area of the property has been excluded from the DAP as a request to modify the Structure Plan has been received, to increase the residential density coding of this portion. A separate report on this proposal has been prepared for Council's consideration at this meeting.

STATUTORY AND LEGAL IMPLICATIONS

12. Under the provisions of Local Planning Scheme No. 3 (“the Scheme”) the property is zoned Urban Development.
13. The Scheme objectives of the Urban Development zone as follows:
 - *“To provide orderly and proper planning through the preparation and adoption of a Structure Plan setting the overall design principles for the area.*
 - *To permit the development of land for residential purposes and for commercial and other uses normally associated with residential development.”*
14. Clause 6.2.6 (Detailed Area Plans) of the Scheme makes provision for a DAP to be prepared where it is considered to be desirable to enhance, elaborate or expand the details or provisions contained in the Scheme or a Structure Plan.
15. Council is to either approve the DAP with or without conditions, or refuse to approve the DAP.
16. If approved by Council, the DAP will be forwarded to the WA Planning Commission for endorsement. In the event that Council or the WA Planning Commission refuses the DAP, there is a right of review (appeal) to the State Administrative Tribunal.

POLICY IMPLICATIONS

State Planning Policy 3.1 – Residential Design Codes

17. If approved by Council, future development on the property will be expected to comply with the acceptable criteria of the R-Codes, or the requirements of the R-Codes can be varied subject to satisfying the performance criteria of the R-Codes or requirements of the DAP.
18. An objective of the R-Codes is to protect the amenity of adjoining residential properties, and to ensure that appropriate provisions are provided for different dwelling types.

PUBLIC CONSULTATION/COMMUNICATION

19. There is no requirement under the Scheme to advertise the DAP.

FINANCIAL IMPLICATIONS

20. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Planning Implications

21. DAPs give local government an opportunity to enhance, elaborate or expand on provisions contained in a Structure Plan. Guidelines developed for a

specific DAP should ensure a certain standard of residences will be achieved. A DAP is particularly beneficial for development on small residential lots.

Sustainability Implications

Social Implications

22. The DAP gives rights and obligations to landowners in respect to a number of design parameters, such as reduced setbacks. Identification of these issues prior to development will reduced potential conflicts between landowners at the building stage and minimise the amount of consultation that would otherwise be required.

Economic Implications

23. Nil.

Environmental Implications

24. Nil.

OFFICER COMMENT

25. The DAP has not been requested by the Shire or the WA Planning Commission as a condition of the subdivision approval for the property. Minor variations to the requirements of the R-Codes were requested by the developer and considered by the staff.

Minimum Open Space

26. A variation to the minimum open space requirements of the R-Codes has been sought to allow for a minimum of 35% open space in lieu of the acceptable 50% for R20 development as stipulated by the R-Codes.
27. The proposed variation represents a 30% reduction in the minimum amount of open space required by the R-Codes for properties with a density coding of R20.

By way of comparison, properties with a minimum of 35% open space is what would normally be expected on properties with a density coding of greater than R60. The variation is therefore not supported.

Front Setback

28. A variation to the front setback requirement of the R-Codes for properties with a density coding of R20 has been sought to allow for a minimum front setback of 3m in lieu of 6m, and a maximum front setback of 6m. The front setback will not be able to be averaged.
29. Currently the R-Codes stipulate that a minimum front setback of 6m is acceptable for properties with a density coding of R20, which can be reduced by up to 50%, being 3m, when the front setback is averaged.

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30. By way of comparison, properties with a minimum front setback of 3m are normally expected on properties with a density coding of greater than R60. The variation is therefore not supported.

Side Setbacks for Walls with Major Openings

31. The applicant has requested that the minimum side setback for a wall with major openings be reduced from 1.5m or 1.8m to 1.0m. Considering that the lots in this subdivision are between 15m to 24m wide, and that future development is proposed to occupy up to 65% of the lots and have a minimum front setback of 3m, this request is considered unreasonable and is therefore not supported.

Maximum Boundary Wall Height

32. A variation to the maximum boundary wall height requirement of the R-Codes has been sought to allow for a maximum boundary wall height of 3.5m in lieu of 3m considered acceptable under the R-Codes for R20 development.
33. This variation is considered to be minimal as currently the R-Codes stipulate that a boundary wall on a property with a density coding of R20 can be up to 3m. It should also be noted that only one boundary wall is permitted on a side boundary. The proposed variation is therefore considered acceptable.
34. In support of the proposed DAP, the applicant has advised the following:

“The location of existing roads and adjoining lot boundaries has largely determined the proposed road locations and accordingly lot depths. You will note that the depth of many of the lots are in the 27 -28m range compared with the more standard depth of 30 -32m. By the time a standard front setback is applied to these shallower lots, the depth of the building envelope is fairly limited.

To address this issue we are seeking a reduction in the front setbacks to the primary street down to a minimum of 3.0m. A reduced front setback does in fact create a more intimate streetscape and manageable front yards. Not all purchasers will want to reduce to the minimum but the DAP does at least provide the opportunity to vary the front setback to accommodate a reasonably sized dwelling within a similar depth to a conventional 30m deep lot.

Going hand in hand with the reduced front setbacks we are also seeking a reduced area of open space. The minimum courtyard dimensions specified under the Codes would be maintained and we are also specifying the location of such courtyard area should have regard to solar orientation (located on the northern or eastern boundary). The problem we have with lots getting smaller and smaller, is that purchasers still have an expectation that they can still have relatively large house. The only way to accommodate such expectation is to slightly reduce the area open space. This should be acceptable providing it does not adversely impact upon the amenity of adjoining residents. again in most case, the purchaser will not reduce the open space to the 35% proposed but it does at least provide the opportunity to do so. In many other estates similar variations to the open space provisions of the Codes is allowed.”

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35. If Council approves the DAP, it is recommended that the following changes be made:
- A minimum open space of 45%.
 - A minimum front setback of 4m.
 - Under point (iv) include the following: *“Consultation with the adjoining landowner will be required if a variation to this Detailed Area Plan is proposed.”*
 - Under the General Provisions Table stipulate the following: *“The minimum open space provisions stipulated in the General Provisions table will not be varied.”*
 - All mention of the Scheme being referred to as Local Planning Scheme No. 3.
 - Under the Endorsement section, the Officer’s title being changed to Manager Development Services.
 - The provision of a street tree to each property.
36. The above changes to the proposed minimum open space and front setback variations are considered acceptable as they are consistent with the R-Codes for development on properties with a density coding of R30.
37. It is however recommended that Council refuses the DAP for the following reasons:
- With the exception of the proposed provision relating maximum boundary wall heights, the built form and appearance of the future development the proposed variations would allow for are those typically found on properties with a residential coding of R60 or greater. As such, it would not preserve the local amenity and streetscape.
 - The property’s location, being within an established residential area, and the size of the proposed lots on the property, means that a DAP is not considered necessary, and would set an undesirable precedence in other established residential areas.
 - The subdivision does not present any attribute or constraint in its design that would necessitate the need for design considerations not already applicable in the R-Codes.
 - Having differing design requirements for a portion of the estate which differ from the balance of similar zoned property may cause confusion and expectations for similar design dispensations.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION TO COUNCIL (D&I 73/2012)

That Council:

1. Refuses the Detailed Area Plan for Lots 24 (48) and 163 (40) Hardey East Road, Wattle Grove, for the following reasons:
 - a. With the exception of the proposed provision relating to the maximum boundary wall heights, the Detailed Area Plan would provide for a built form and appearance that is likely to have an unacceptable impact on the local amenity and streetscape by way of:
 - Increased site coverage
 - Reduced front boundary setbacks
 - Reduced side boundary setbacks
 - b. The Detailed Area Plan is unnecessary given the low density design of the subdivision.

Moved:

Seconded:

Vote:

After the Agenda had been published the Applicant had contacted Shire Officers requesting that the item be deferred to a future meeting. This was to allow for the opportunity to address Shire concerns regarding the plan. A new Officer Recommendation was circulated to Councillors prior to the meeting and was voted on.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION TO COUNCIL (D&I 73/2012)

That Council:

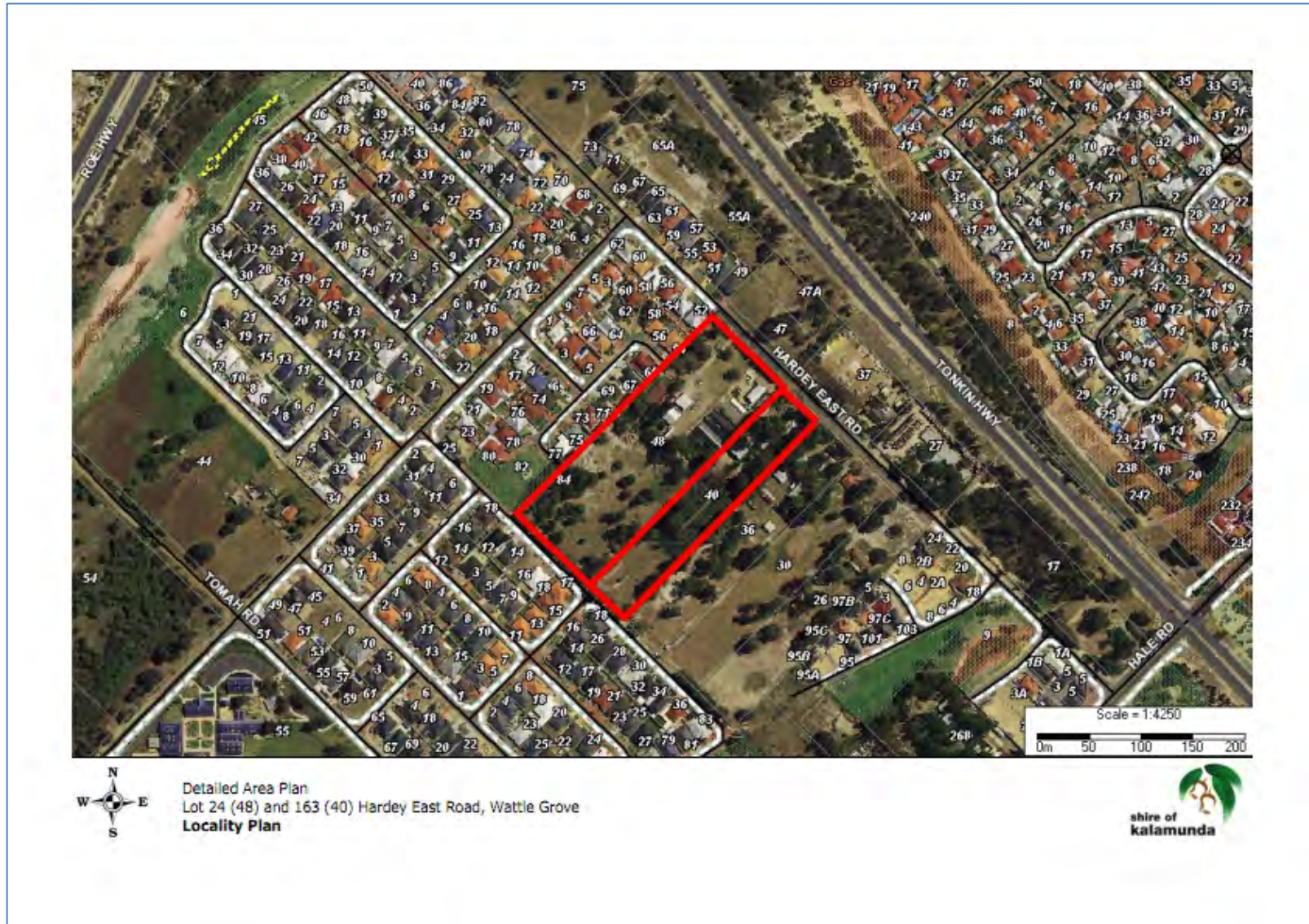
1. Defer the Detailed Area Plan for Lots 24 (48) and 163 (40) Hardey East Road, Wattle Grove to a future meeting to allow the applicant the opportunity to address Shire concerns regarding the plan.

Moved: **Cr Allan Morton**

Seconded: **Cr Donald McKechnie**

Vote: **CARRIED UNANIMOUSLY (9/0)**

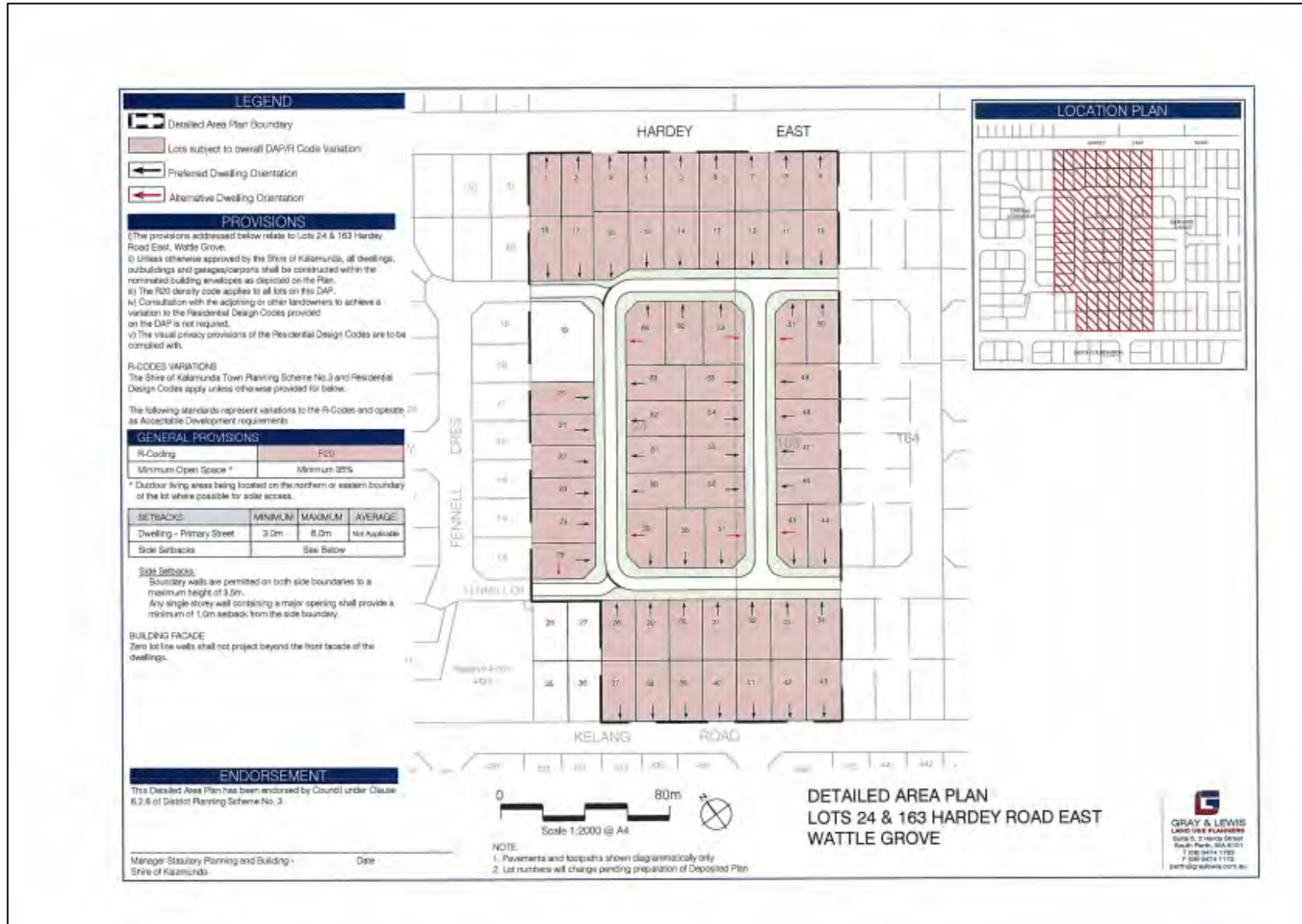
Attachment 1



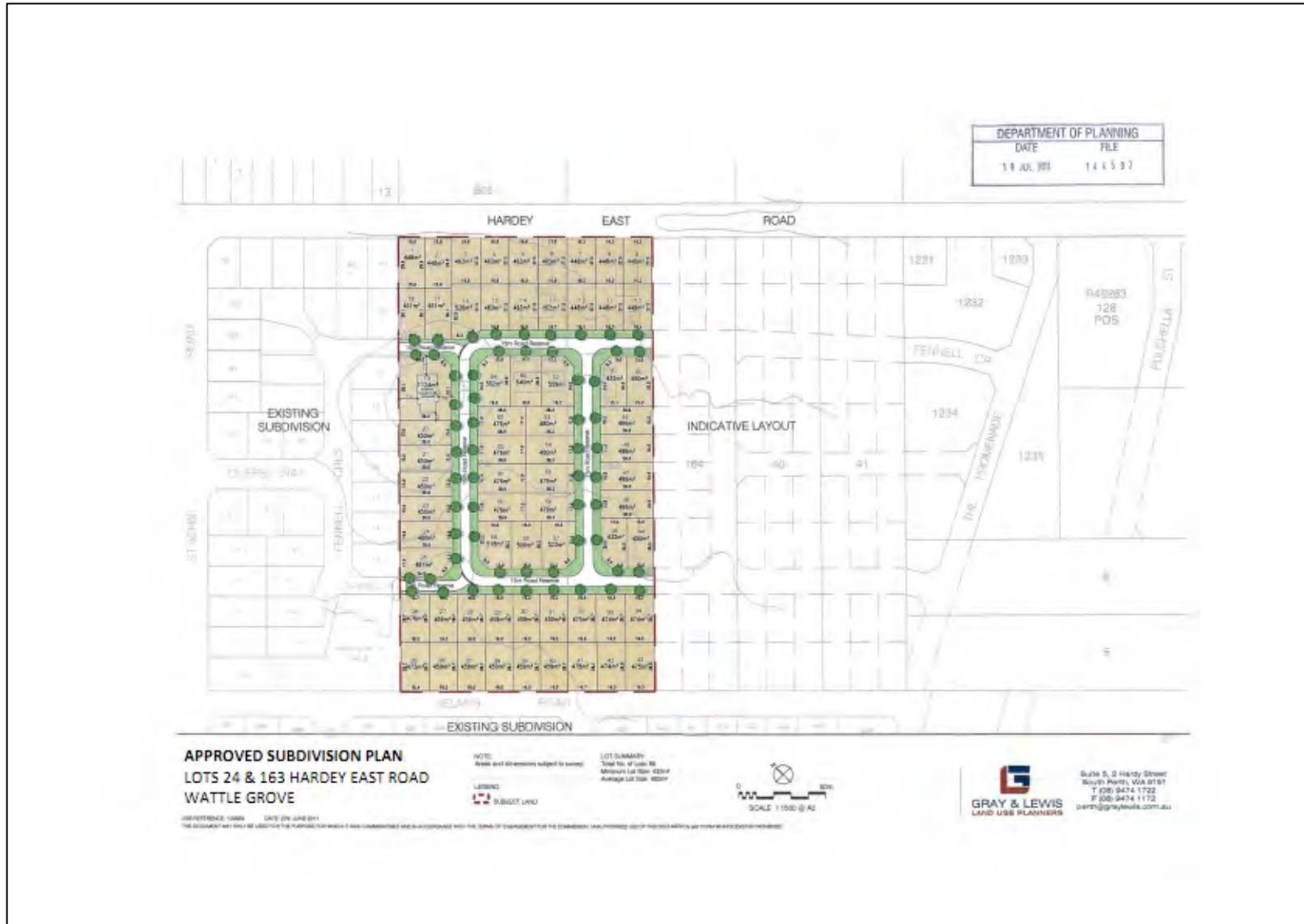
Attachment 2



Attachment 3



Attachment 4



Attachment 5



Detailed Area Plan
Lot 24 (48) and 163 (40) Hardey East Road, Wattle Grove
Photograph of the Existing Kelang Road Streetscape



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

74. Eight Multiple Dwellings – Lot 27 (15) Boonooloo Road, Kalamunda

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	BN-10/015
Applicant	Developtions Pty Ltd
Owner	S Hughes
Attachment 1	Locality Plan
Attachment 2	Site Plan
Attachment 3	Landscape Plan
Attachment 4	Elevations
Attachment 5	Ground Floor Plan
Attachment 6	First Floor Plan
Attachment 7	Overshadowing Diagram
Attachment 8	Consultation Plan
Attachment 9	The Kalamunda Dwelling Unit Reticulation Equivalent (DURE) Sewerage Area

PURPOSE

1. To consider a planning application to build eight multiple dwellings at Lot 27 (15) Boonooloo Road, Kalamunda. Refer to (Attachments 1 to 6).

BACKGROUND

2. **Land Details:**

Land Area:	1,017sqm
Local Planning Scheme Zone:	Residential R30
Metropolitan Region Scheme Zone:	Urban

3. The subject property contains a single dwelling and has direct access to Boonooloo Road via a single crossover.
4. Surrounding properties contain single dwellings and are also zoned Residential R30 under Local Planning Scheme No. 3 ("the Scheme"). Opposite the property (south west) is a child care centre.

DETAILS

5. 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 eight units.

- The development is proposed to consist of eight two bedroom units with individual floor areas ranging from 60sqm to 65sqm.
- 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.
- Eight 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.
- 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 and the anticipated site generated traffic can be comfortably accommodated within the existing capacity of the local road network.

STATUTORY AND LEGAL IMPLICATIONS

Local Planning Scheme No. 3

6. Under the Zoning Table (Table 1) of the Scheme the use "Multiple Dwellings" is a use not listed.
7. Clause 4.4.2 of the Scheme stipulates that where a use not listed is proposed, and cannot be reasonably be 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.
8. 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.

- To encourage the retention of remnant vegetation.
9. 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.
10. 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.

Draft Local Planning Strategy

11. The Draft Local Planning Strategy ("the Strategy") 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.
12. Objectives of the Strategy 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.

POLICY IMPLICATIONS

Residential Design Codes

13. The objectives of the 2008 Residential Design Codes ("the R-Codes"), include the following:
- a. To provide for a full range of housing types and densities that meet the needs of all people.
 - b. To provide for local variations in neighbourhood character.

14. 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.”

15. The R-Codes allow multiple dwellings to be considered on properties zoned Residential R30, which is a medium density coding.

16. The R-Code requirements for Multiple Dwellings on properties zoned Residential R30 are the following:

Site Requirements	Required	Proposed
Maximum Plot Ratio	0.5	0.49
Minimum Open Space	45%	52%
Primary street setback	4m or satisfy the Performance Criteria of the R-Codes. Refer to point 17 of this report.	3.92m
Side and rear setbacks (walls with major openings) Wall Height of up to 6m and Wall Length of 9m or Less	1.5m	1.7m
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 performance criteria.	2.2m
Boundary Walls A wall built on one side boundary with a maximum height of 3.5m, and an average height of 3m, not occupying more than two-thirds the length of the boundary.	Maximum height of 3.5m. Average height of 3m.	Maximum height of 2.73m. Average height of 2.69m.
Maximum Building Height: - Top of External Wall - Top of Pitched Roof	6m 9m	5.5m 8.5m
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	2.2m and 1.6m high window sills with fixed obscure glazing beneath.
Balconies	7.5m or 1.6m high screening	3.3m and 1.6m high obscure glazed screening
Habitable rooms other than bedrooms	6m or 1.6m high screening or fixed obscure glazing	2.2m and 1.6m high window sills with fixed obscure glazing beneath.

17. The performance criteria under Clause 7.1.3 (Street Setback) of the R-Codes stipulates that the primary street setback can be varied subject to contributing to the desired streetscape and is appropriate to its location, respecting the adjoining development and existing streetscape.
18. Clause 7.4.2 (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.
19. 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). Up to 4% of the adjoining property (22 Heath Road) will be overshadowed. Refer to the overshadowing diagram (Attachment 7).
20. Clause 7.4.7 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.
21. 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 = 8 car spaces	8 car spaces
Visitors	0.25 per dwelling minimum = 2 car spaces	3 car spaces

-
22. 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.
23. 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.”*
24. 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

25. *Directions 2031 and Beyond* is a high level strategic plan that establishes a vision for future growth of the Perth metropolitan area.
26. 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

27. 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.

PUBLIC CONSULTATION/COMMUNICATION

28. 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. Six objections were received. Refer to the Consultation Plan (Attachment 8).
29. The following concerns were raised during advertising:
- Multi storey and high density development not being appropriate nor in keeping with the area.
 - Surrounding properties being overlooked by the proposed development.
 - The apparent lack of car parking bays on the property.
 - Concerns regarding damaged being caused to vegetation and paved areas on adjoining properties when the boundary wall is being constructed.
 - Stormwater runoff not being adequately disposed of on the property.
 - Adjoining properties being overlooked from the proposed development.
 - The development not being appropriately designed to cater for the older members of the community.
 - The increase in traffic volumes and movements creating safety issues.

FINANCIAL IMPLICATIONS

30. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Planning Implications

31. The proposal is consistent with the objectives of the Strategy and *Directions 2031 and Beyond* and the Shire's Draft Local Planning Strategy.

Sustainability Implications

Social Implications

32. 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.

Economic Implications

33. Nil.

Environmental Implications

34. Nil.

OFFICER COMMENT

35. The proposal complies with the Scheme, the Policy, the Strategy, the Draft Liveable Neighbourhoods document, and *Directions 2031 and Beyond*.
36. The proposal complies with the R-Codes with the exception of the proposed front setback. With regard to the proposed variation, existing grouped dwellings on nearby properties are setback between 1.9m and 3m from the Heath Road boundary. Therefore the proposed difference in the primary street setback of 3.9m in lieu of 4m from the Heath Road boundary is considered to be minimal and therefore acceptable.
37. During advertising, concerns were raised that overlooking would be possible onto properties to the north from two windows on the first floor of the proposed development which are for stairways. By way of definition under the R-Codes these are not habitable rooms and therefore the visual privacy provisions are not applicable.
38. Despite not being habitable rooms, and to address the concerns raised, the applicant has amended the elevations to show the stairways windows as being obscure glazing.
39. Concerns were raised during advertising that the development had not been appropriately designed to cater for the older members of the community. It should be noted that the dwellings proposed are not specifically for aged persons and will provide, housing choice for a different demographic in Kalamunda.
40. During advertising, concerns were raised that the development would result in an increase in traffic volumes and movements. 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 and the anticipated site generated traffic can be comfortably accommodated within the existing capacity of the local road network.
41. 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 Kalamunda Dwelling Unit Reticulation Equivalent ("DURE") Sewerage Area as remaining R30. The R-Codes allow medium density development such as multiple dwellings to be considered on properties zoned Residential R30. Refer to the Kalamunda Dwelling Unit Reticulation Equivalent ("DURE") Sewerage Area Plan (Attachment 9).
 - 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 aged person dwellings. It can also be argued that the provision of two bedroom units will offer the opportunity for affordable housing 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.
42. Issues relating to dividing fencing and any damaged caused to adjoining properties by the developer during the construction of boundary walls is a civil matter.
43. Since advertising concluded, amended plans were submitted showing store room 1 being relocated from the side boundary abutting Lot 39 Boonooloo Court to the side of the garage near the east (rear) boundary. This was not readvertised as the setback and height of the storeroom is compliant with the R-Codes, and it does not significantly change the layout of the proposed development.
44. It is noted that Council has previously approved two 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.
45. Having regard to the above, it is recommended that Council approves the application.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 74/2012)

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 4 July 2012 to build eight multiple dwellings at Lot 27 (15) Boonooloo 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 satisfaction of the Shire.
 - e. The balcony screening being maintained by the owner to the Shire's satisfaction.
 - f. 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.

- 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. An amended site plan being submitted to and approved by the Shire prior to the building licence being issued which shows the proposed bin pad on the adjoining verge being removed.
- 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.
- l. 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**

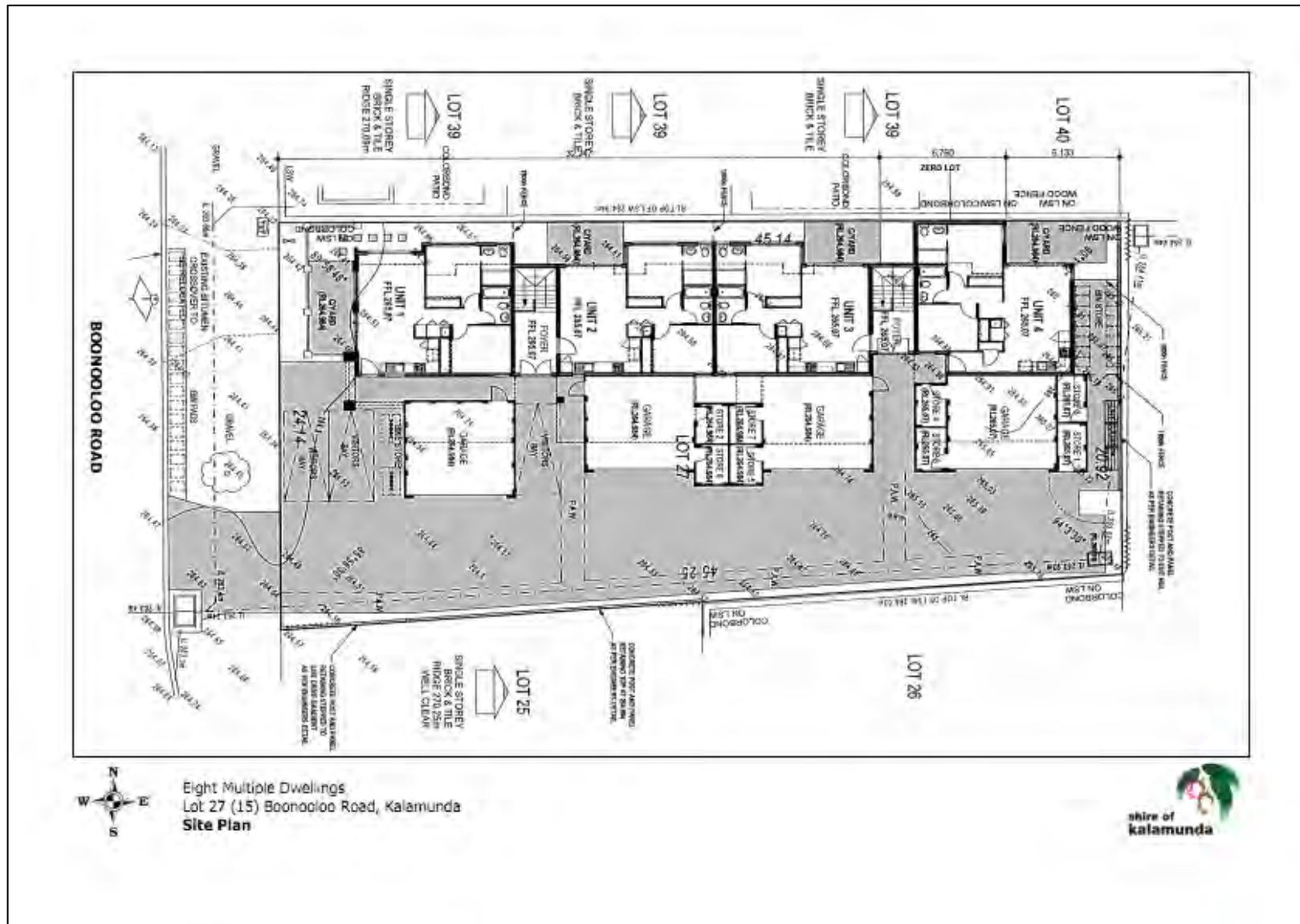
Seconded: **Cr Geoff Stallard**

Vote: **CARRIED UNANIMOUSLY (9/0)**

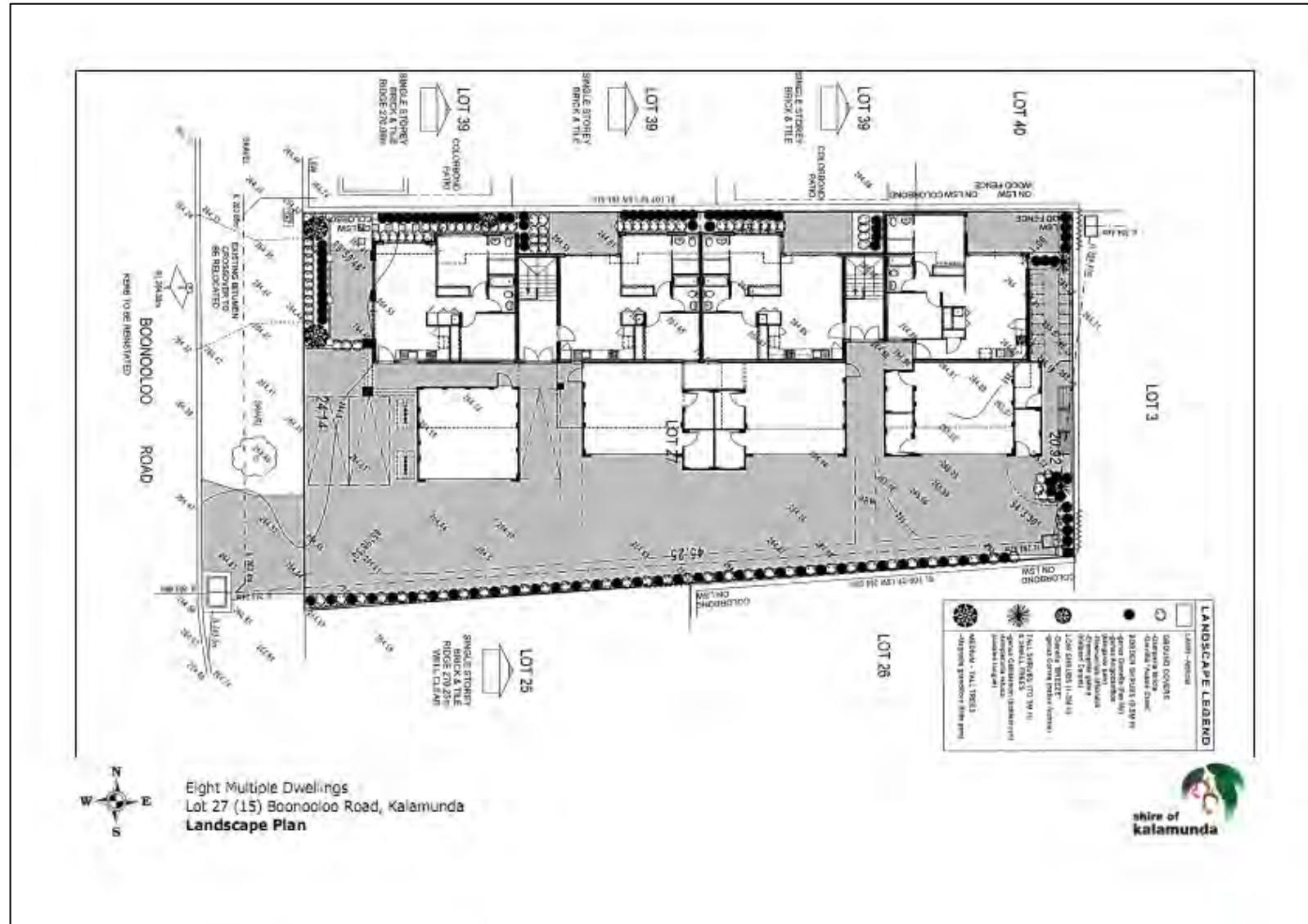
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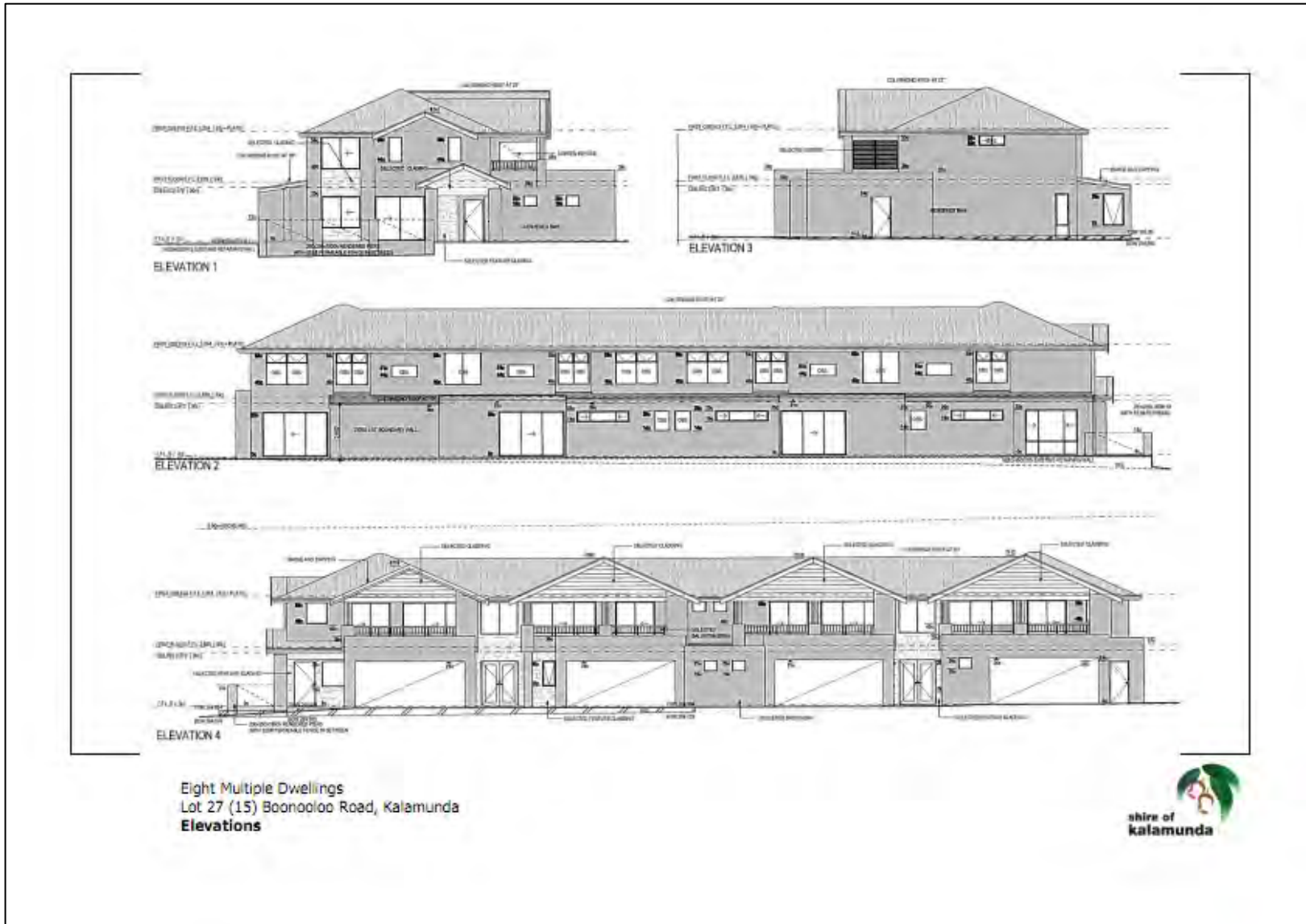
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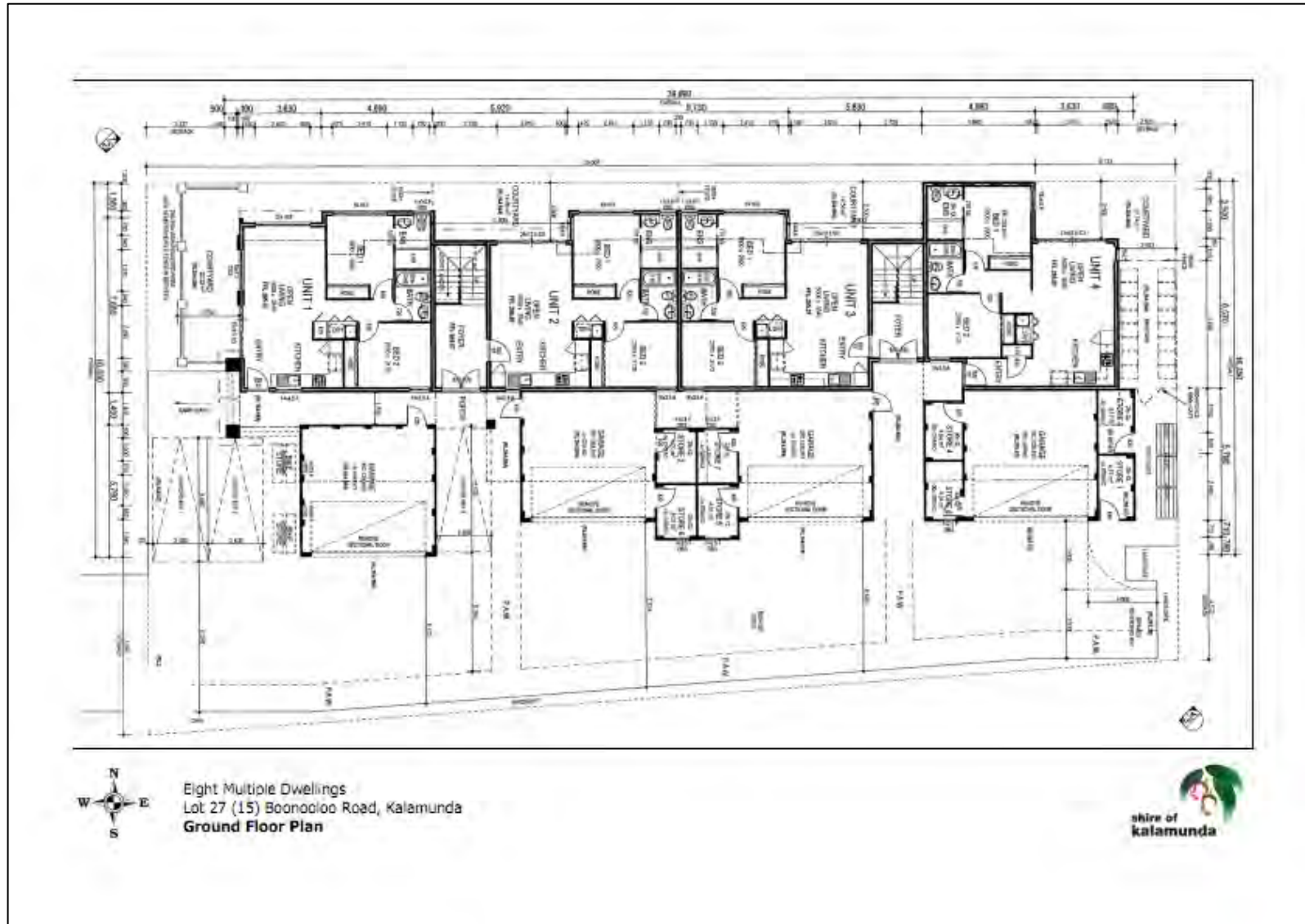
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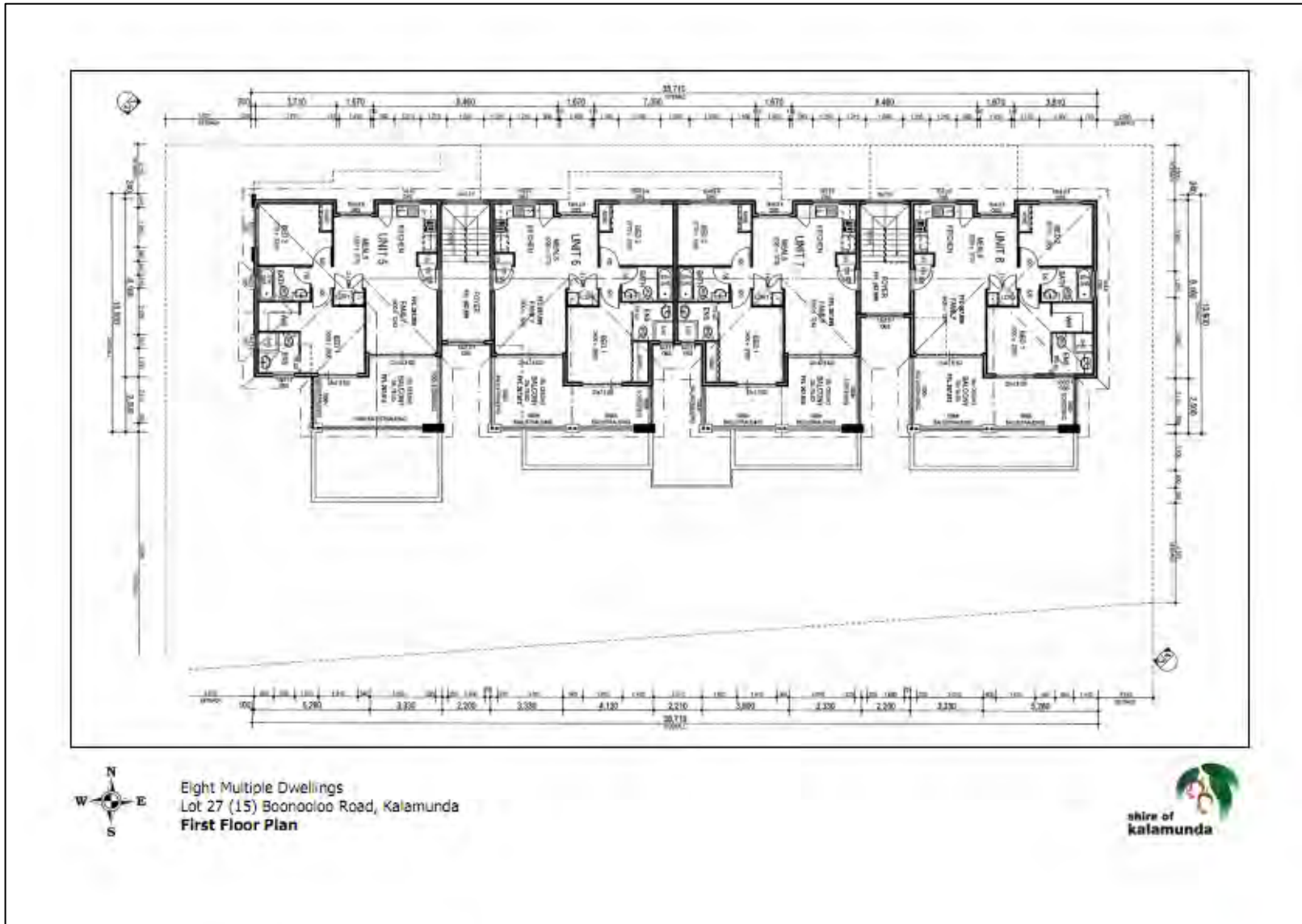
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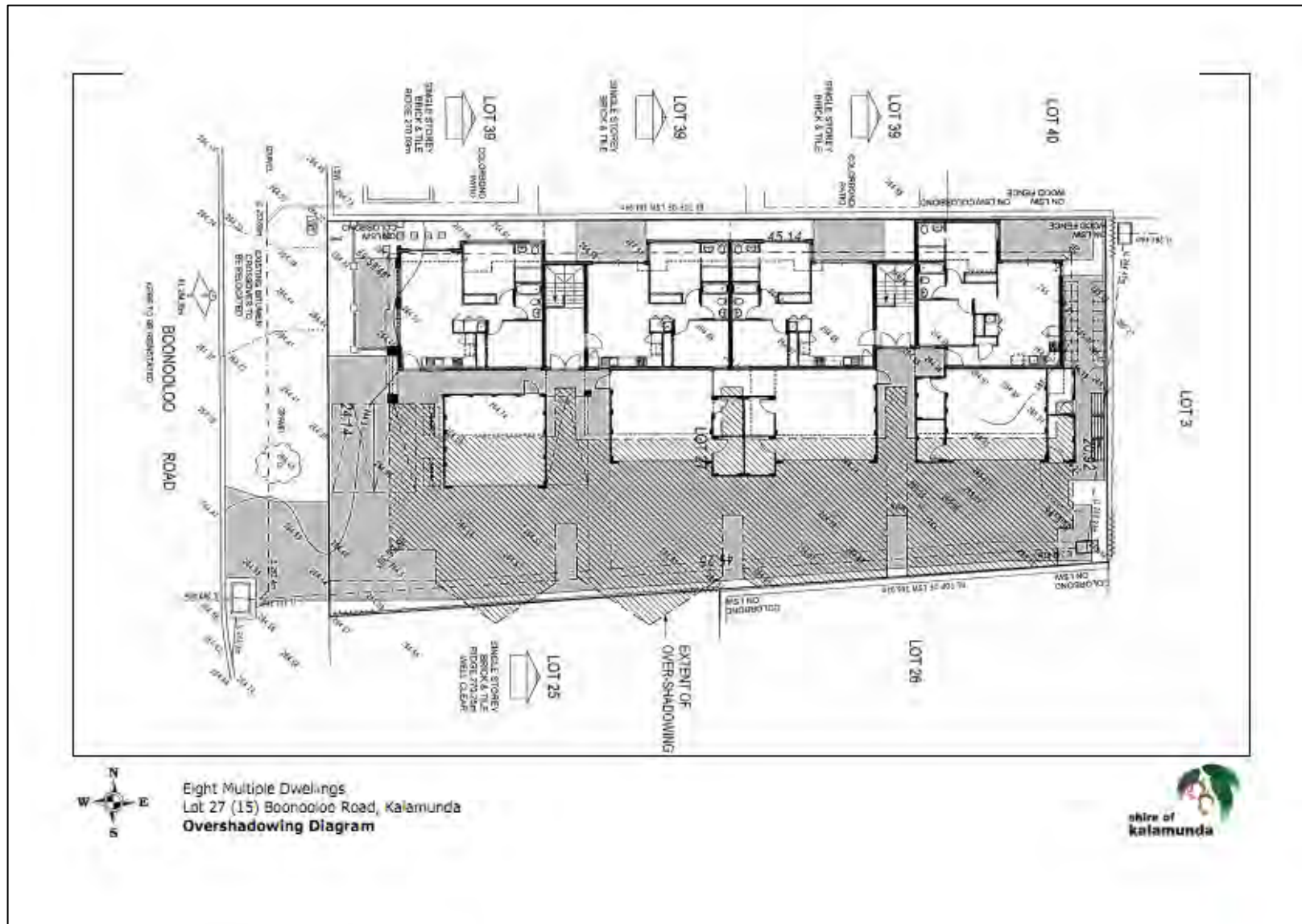
Attachment 5



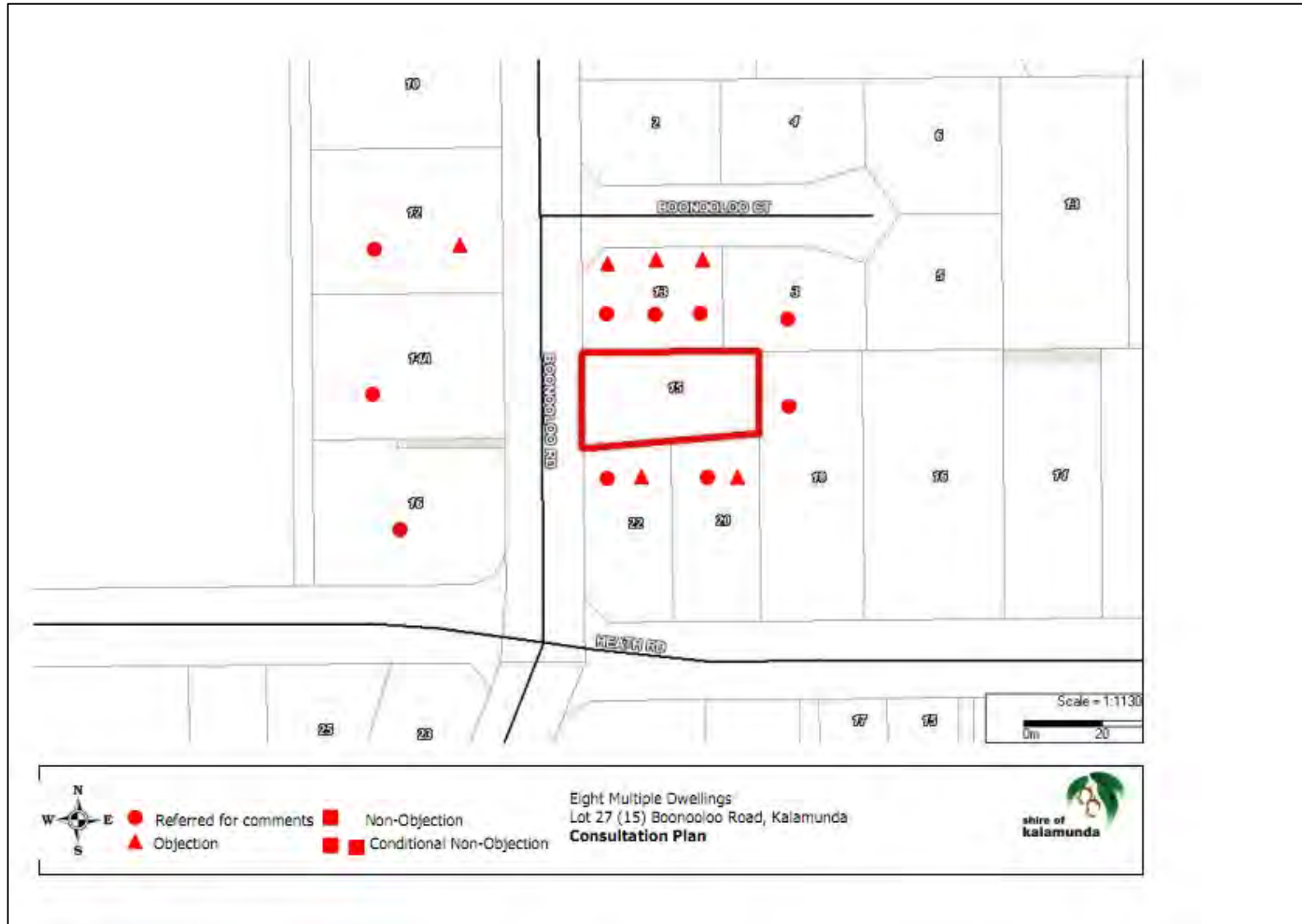
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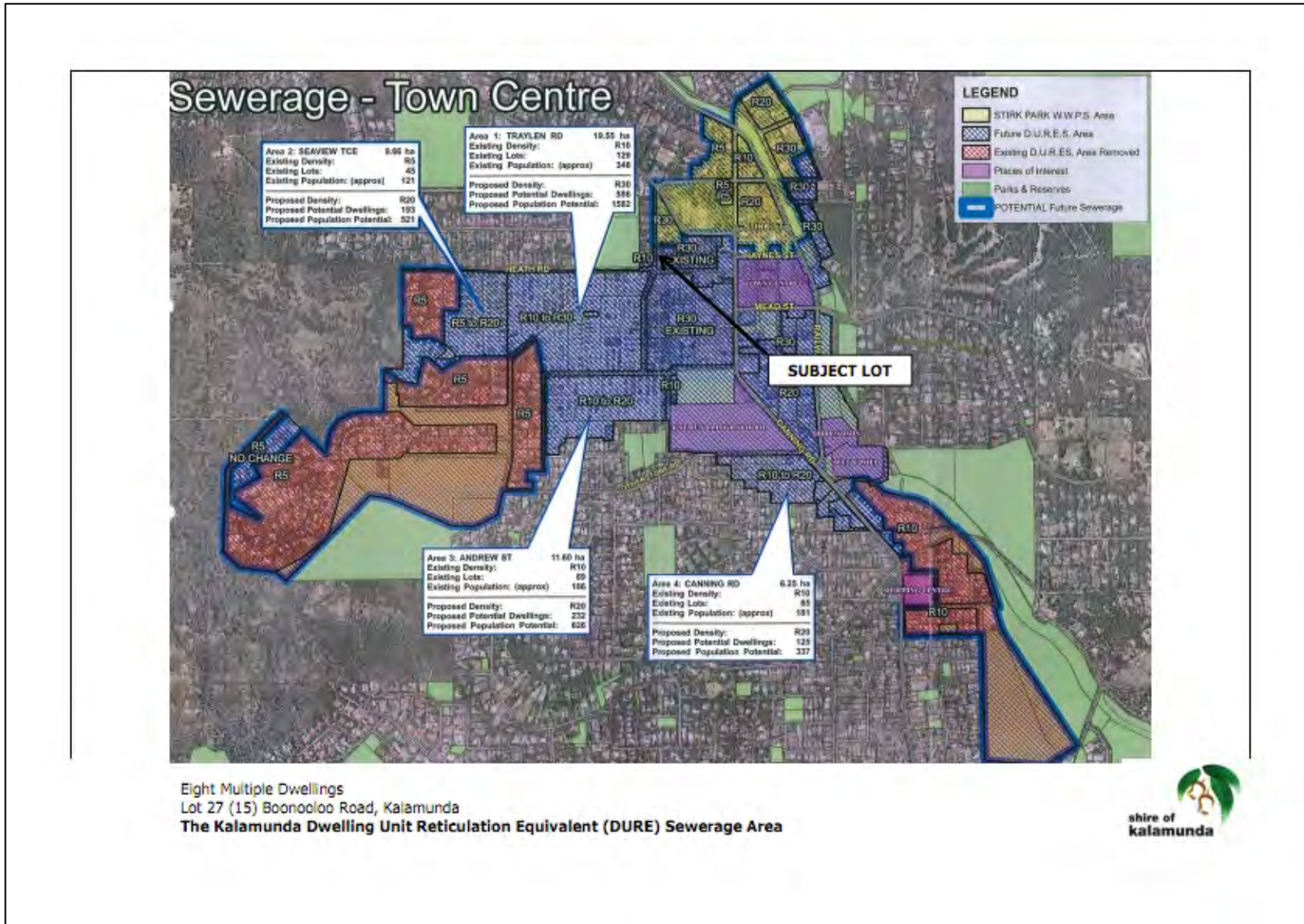
Attachment 7



Attachment 8



Attachment 9



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

75. Modification to the Wattle Grove Cell 9 Structure Plan – Lot 24 (48) Hardey East Road, Wattle Grove

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	100829
Applicant	Gray & Lewis Land Use Planners
Owner	D and M Cook
Attachment 1	Locality Plan
Attachment 2	Existing Wattle Grove Cell 9 Structure Plan
Attachment 3	Proposed Modified Structure Plan
Attachment 4	Photograph of the Existing Kelang Road Streetscape
Attachment 5	Consultation Plan

PURPOSE

1. To consider a proposal to modify the Wattle Grove Cell 9 Structure Plan (“the Structure Plan”) to allow for the residential density coding of the south west portion of Lot 24 (48) Hardey East Road, Wattle Grove, to be increased from R20 to R40. Refer to (Attachments 1 to 3).

BACKGROUND

2. **Land Details:**

Land Area:	2.62ha
Local Planning Scheme Zone:	Urban Development
Wattle Grove Cell 9 Structure Plan:	Residential R20
Metropolitan Region Scheme Zone:	Urban

3. The Structure Plan was adopted by Council in 2000 and endorsed by the WA Planning Commission in March 2001.
4. The property contains a single dwelling and associated outbuildings, and has frontage onto Hardey East Road, Fennel Crescent and Kelang Road.
5. In October 2011, the WA Planning Commission approved an application to subdivide the property into 65 freehold lots ranging from 432sqm to 1,124sqm in area, with the existing dwelling being retained.
6. Surrounding properties are identified on the Structure Plan as being Residential R20 and public open space, and the Wattle Grove Primary School is nearby. Refer to the photograph of the existing Kelang Road streetscape (Attachment 4).

DETAILS

7. The applicant proposes to modify the Structure Plan to increase the residential density coding of the south west portion of the property from R20 to R40.
8. If the proposed modification is ultimately endorsed by the WA Planning Commission, the new density coding would allow for up to 8 lots or dwellings to be created in the south west portion of the parent lot, currently approved as being able to have four lots.

STATUTORY AND LEGAL IMPLICATIONS

9. Under the provisions of Local Planning Scheme No. 3 (“the Scheme”) the property is zoned Urban Development.
10. The Scheme objectives of the Urban Development zone are the following:
 - *“To provide orderly and proper planning through the preparation and adoption of a Structure Plan setting the overall design principles for the area.*
 - *To permit the development of land for residential purposes and for commercial and other uses normally associated with residential development.”*
11. The Scheme stipulates that where a designation is shown on a Structure Plan, the permissibility of the use would be as if the land is zoned for that purpose.
12. The design and assessment of structure plans are dealt under Clause 6.2 – *Development Areas* of the Scheme. In particular, Clause 6.2.3 (Preparation of Structure Plans) and clause 6.2.4 (Adoption and Approval of Structure Plans).
13. Subclause 6.2.5.1 (Change or Departure from Structure Plan) of the Scheme stipulates that Council may adopt a minor change to or departure from a Structure Plan if, in its opinion, the change or departure does not materially alter the intent of the Structure Plan.
14. If adopted by Council, the modified structure plan will be forwarded to the WA Planning Commission for endorsement. In the event that the WA Planning Commission refuses the modification, there is a right of review (appeal) to the State Administrative Tribunal.

POLICY IMPLICATIONS

Directions 2031 and Beyond

15. *Directions 2031 and Beyond* is a high level strategic plan that establishes a vision for future growth of the Perth metropolitan area. A key theme of the strategic plan is the need to manage urban growth and make the most efficient use of available land and infrastructure.

PUBLIC CONSULTATION/COMMUNICATION

16. The proposal was advertised for 42 days in accordance with the provisions of the Scheme. This involved a notice in a newspaper circulating the District, a sign being erected on the property and the proposal being referred to nearby landowners for comment.
17. During the advertising period, four objections were received on the proposal. One of the submitters falls outside of the advertisement area and are therefore not included on the Consultation Plan. Refer to the Consultation Plan (Attachment 5).
18. Concerns raised during advertising included:
- The creation of eight units on the property resulting in an increase of traffic which will have an impact on the amenity of nearby residents.
 - Future development on the property creating car parking difficulties and a reduction in traffic safety.
 - Increased density housing attracting tenants who are less desirable, and this will subsequently affect the values and attractiveness of the adjoining properties.
 - There currently being a lack of information on whether the lots will be used for public housing, aged persons or private development.
 - The future development of the properties resulting in a higher number of rental properties rather than owner occupied, and the low level of maintenance of these properties.
 - There currently being a lack of information on how access to the lots will be obtained.
 - The future development of the properties resulting in a reduction in privacy for properties around the public open space.

FINANCIAL IMPLICATIONS

19. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Planning Implications

20. The proposed modification is consistent with the intent of the structure plan in providing for a range of housing types in close proximity to public open space and community facilities.

Sustainability Implications

Social Implications

21. If endorsed, the modification will allow for medium density development, compared with low density development currently, adjacent to Public Open Space and with dual street frontage. This will allow for greater surveillance of the locality, and would not significantly increase traffic movements and volumes.

Economic Implications

22. Nil.

Environmental Implications

23. Nil.

OFFICER COMMENT

24. The proposed modification is consistent with the intent of *Directions 2031 and Beyond* and the Structure Plan in providing for a range of housing types in close proximity to public open space and community facilities.
25. In response to the concerns raised during the advertising period, the following comments are made.
26. Matters relating to access, parking, traffic volumes and whether aged person dwellings will exist in the subject area will be dealt with at the subdivision and/or development stage if the modification is endorsed by the WA Planning Commission. Notwithstanding the above mentioned, the proposed R40 coding is considered appropriate for this location.
27. The Shire has no control over, nor statutory obligation to take into consideration, the type of occupants who will reside on the property unless the development is specifically for aged persons, in which case it will be required to comply with the Residential Design Codes.
28. If the modification is endorsed by the WA Planning Commission, future applications received for the properties will be required to comply with the visual privacy provisions of the Residential Design Codes.
29. The affect future development may have on the value of surrounding properties is not a planning consideration.
30. Considering the above, it is recommended that Council adopts the modified Structure Plan.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION TO COUNCIL (D&I 75/2012)

That Council:

1. Adopts the proposed modification to the Wattle Grove Cell 9 Structure Plan to increase the residential density coding of the south west portion of Lot 24 (48) Hardey East Road, Wattle Grove, from R20 to R40.
2. Forwards the modified Wattle Grove Cell 9 Structure Plan to the WA Planning Commission for endorsement.

Moved: **Cr Donald McKechnie**

Seconded: **Cr John Giardina**

Vote: **For**
Cr John Giardina
Cr Geoff Stallard
Cr Justin Whitten
Cr Bob Emery
Cr Dylan O'Connor
Cr Donald McKechnie
Cr Margaret Thomas

Against
Cr Allan Morton
Cr Noreen Townsend

CARRIED (7/2)

Attachment 1



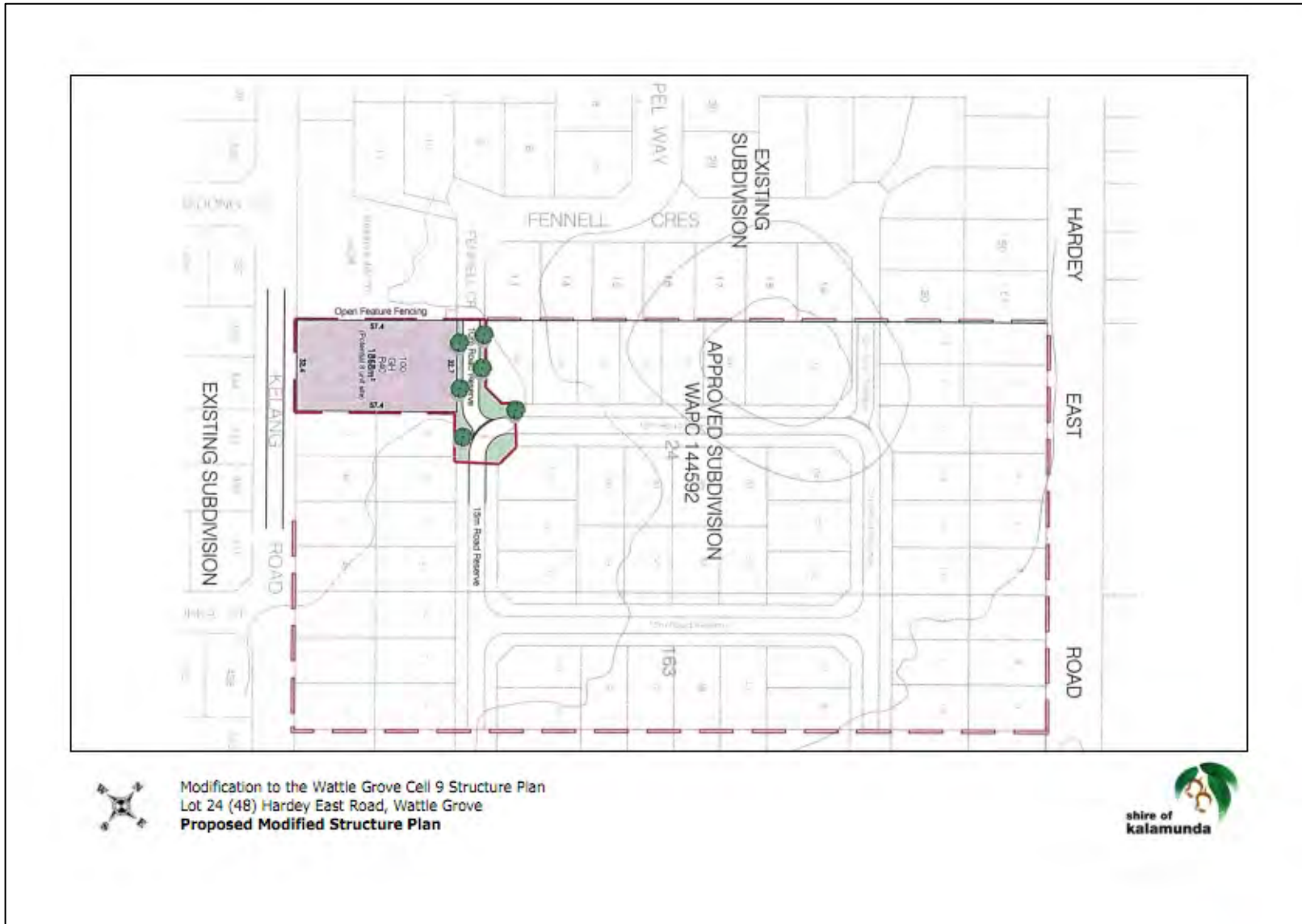
Modification to the Wattle Grove Cell 9 Structure Plan
Lot 24 (48) Hardey East Road, Wattle Grove
Locality Plan



Attachment 2



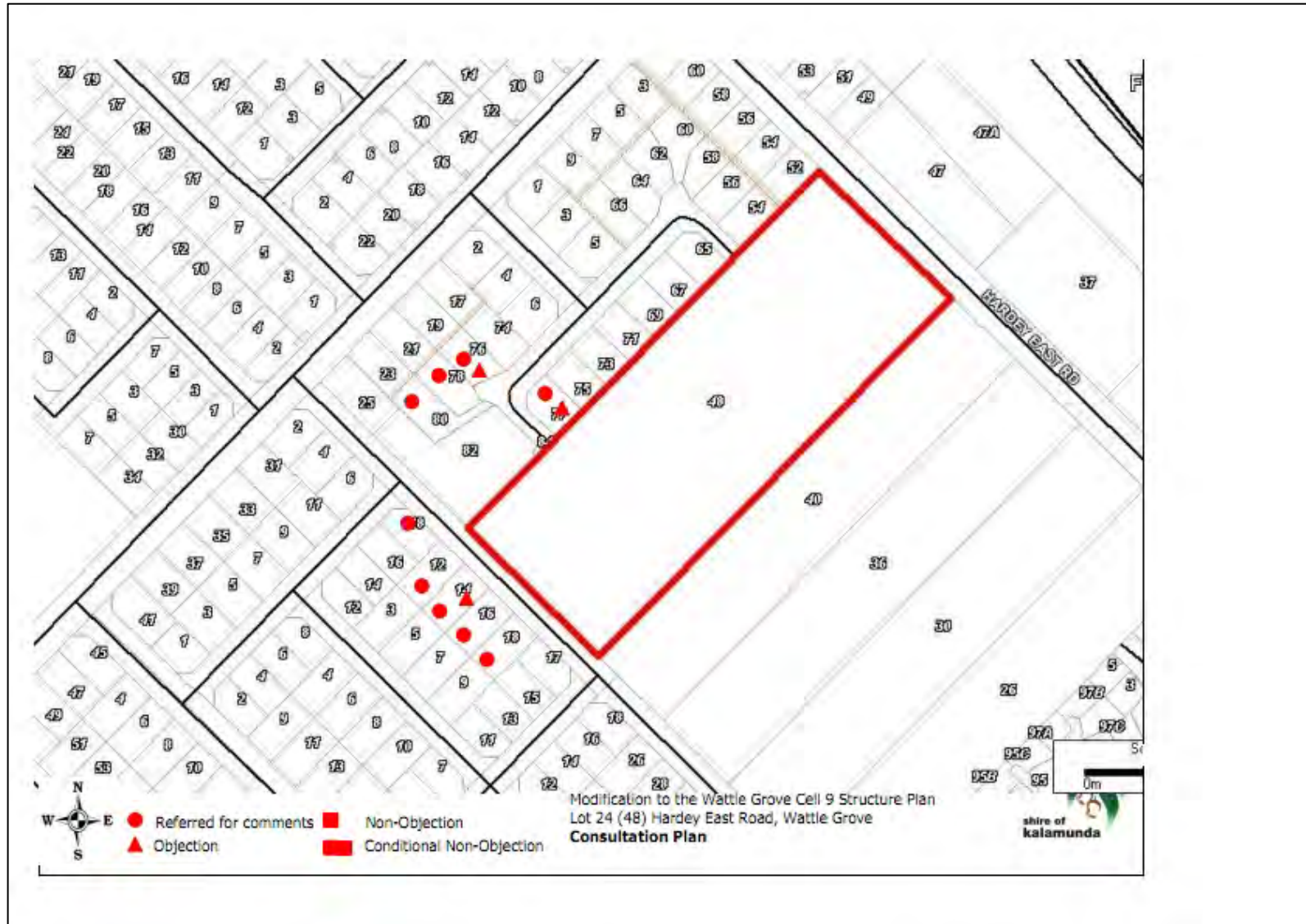
Attachment 3



Attachment 4



Attachment 5



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

76. Outbuilding (Shed) – Lot 213 (41) Brentwood Road, Wattle Grove

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	BR-24/041
Applicant	D Lovegrove
Owner	Lovegrove Turf Services
Attachment 1	Locality Plan
Attachment 2	Site Plan
Attachment 3	Elevations
Attachment 4	Internal Floor Plan
Attachment 5	Consultation Plan

PURPOSE

1. To consider a planning application to build an 830sqm outbuilding (shed) at Lot 213 (41) Brentwood Road, Wattle Grove. Refer to (Attachments 1 to 4).

BACKGROUND

2. **Land Details:**

Land Area:	4.06ha
Local Planning Scheme Zone:	Special Rural
Metropolitan Region Scheme Zone:	Rural

3. The property contains a single dwelling and outbuildings with an aggregate floor area of 1,577sqm.
4. A turf farm (Lovegrove Turf Services) operates from the property and adjoining 53 Brentwood Road.
5. Surrounding properties contain single dwellings and associated outbuildings.

DETAILS

6. Details of the application are as follows:
 - An existing 400sqm outbuilding (shed) is proposed to be demolished because it has been damaged by fire, and replaced with an 830sqm outbuilding (shed).
 - The outbuilding is proposed to contain a 108sqm mezzanine.

- The outbuilding is proposed to have a wall height of 5.4m and a roof height of 6.6m above the natural ground level. By way of comparison, the existing outbuilding has a wall height of 2.5m and a roof height of 3m.
- The outbuilding is proposed to be used to store equipment and machinery used in conjunction with the turf farm operating from the property.

STATUTORY AND LEGAL IMPLICATIONS

Local Planning Scheme No. 3

7. Clause 4.2.2 (Objectives of the Zones – Rural Zones) of Local Planning Scheme No. 3 (“the Scheme”) stipulates the following are objectives of the Special Rural zone:

- *“To retain amenity and the rural landscape in a manner consistent with orderly and proper planning.”*

8. Table 2 of the Scheme stipulates the following for properties zoned Rural Landscape Interest:

	Scheme Requirement	Proposed
Front Setback	20m Minimum	57m
Side Setback	15m	37m from the nearest side boundary, being the north east (side) boundary.
Rear Setback	15m	Approximately 255m

9. 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.
 - Any relevant submissions received on the application.
10. 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

Local Planning Policy DEV20 - Outbuildings

11. Local Planning Policy DEV20 – Outbuildings (“the Policy”) stipulates that rural outbuildings will be assessed on their individual merits, but shall be referred to Council if the floor area exceeds 300sqm. If approved, the aggregate floor area of the outbuildings on the property will be 2,007sqm.
12. The floor areas of the existing outbuildings on 53 Brentwood Road have not been taken into consideration, despite being used in conjunction with the same business operating from Lot 213 (41) Brentwood Road, as the maximum floor area requirements stipulated in the Policy apply to individual lots.

PUBLIC CONSULTATION/COMMUNICATION

13. The proposal was advertised for 14 days to nearby property owners for comment in accordance with clause 9.4.3 of the Scheme. One non-objection and one objection were received. Refer to the Consultation Plan (Attachment 5).
14. The submitter who objected to the proposal advised that if the proposed outbuilding was similar in size to the outbuilding it is replacing then they would not have any concerns.

FINANCIAL IMPLICATIONS

15. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Planning Implications

16. Nil.

Sustainability Implications

Social Implications

17. Nil.

Economic Implications

18. Nil.

Environmental Implications

19. Nil.

OFFICER COMMENT

20. The use, height, scale and appearance of the proposed outbuilding is considered acceptable for the following reasons:
 - The proposal complies with the Scheme requirements.

- The outbuilding is proposed to be used to store equipment and machinery used in conjunction with the turf farm operating from the property.
- The proposed outbuilding will result in an aggregate floor area of 2,007sqm on the property, which is less than 5% site coverage.
- Mature landscaping will screen the proposed outbuilding sufficiently from Brentwood Road and the nearest adjoining properties.
- The proposed outbuilding being approximately 70m from the nearest dwelling on the adjoining property, being located on 25 Brentwood Road.

21. Considering the above, it is recommended that Council approves the application.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 76/2012)

That Council:

1. Approves the application dated 29 June 2012 to build an 830sqm outbuilding at Lot 213 (41) Brentwood Road, Wattle Grove, subject to the following conditions:
 - a. The outbuilding not being used for habitation purposes.
 - b. Items and machinery stored in the approved outbuilding are to be used in conjunction with the maintenance of and/or the turf farm operating on the property.
 - c. The colour and materials of the outbuilding blending with existing development on the property.
 - d. The colour and material details of the outbuilding being submitted to and approved by the Shire prior to the building licence being issued.

Moved: **Cr Donald McKechnie**

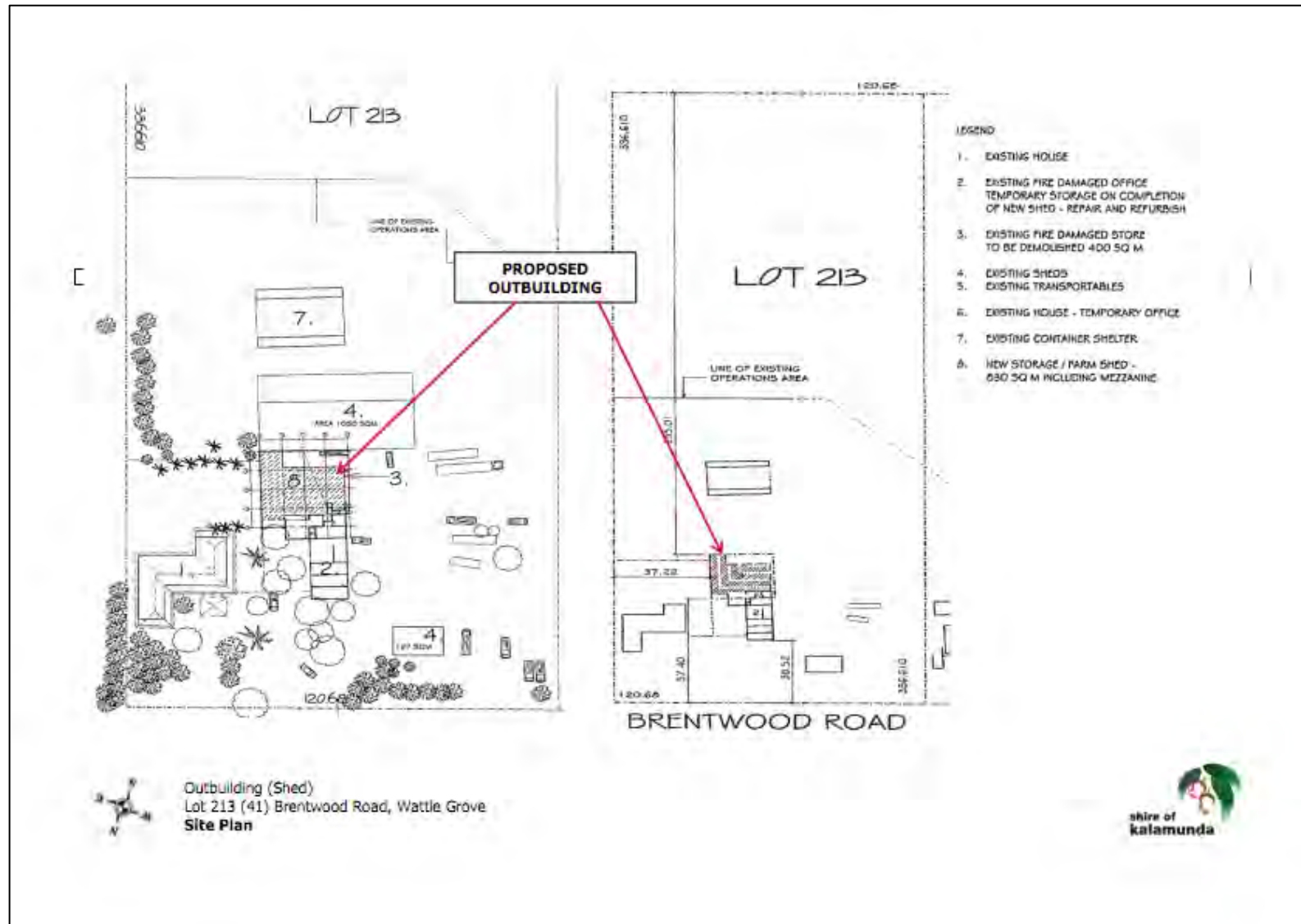
Seconded: **Cr Dylan O'Connor**

Vote: **CARRIED UNANIMOUSLY (9/0)**

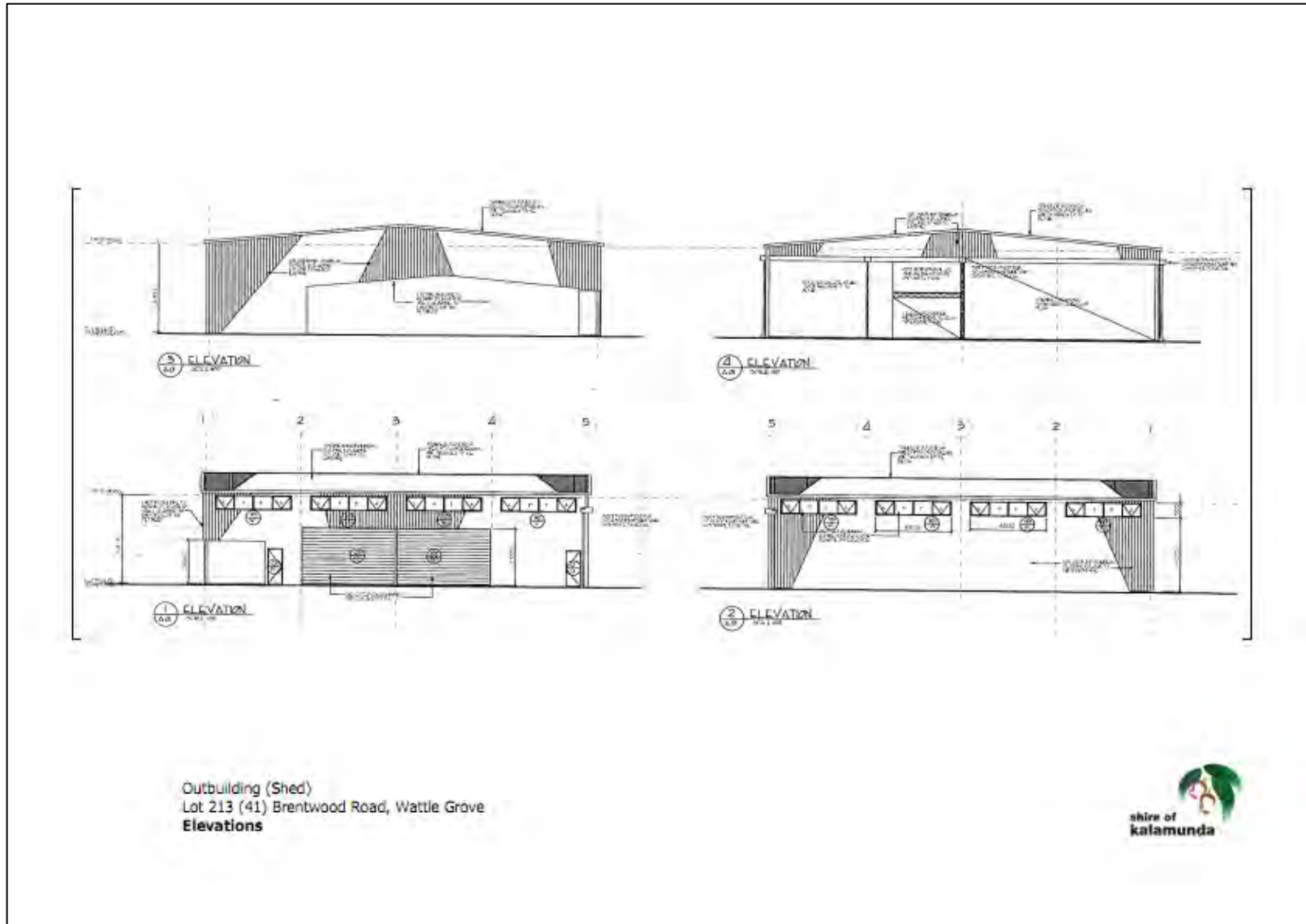
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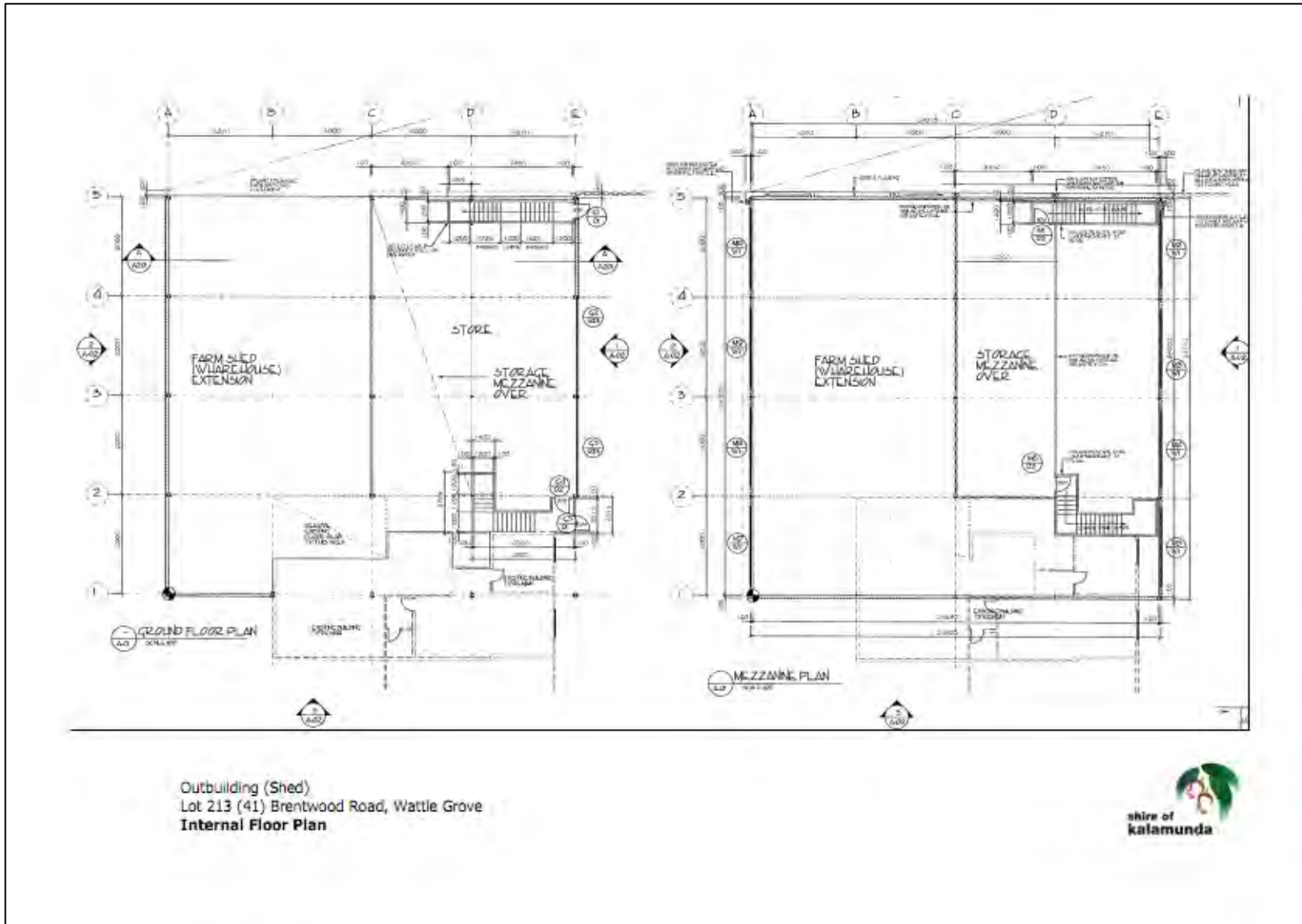
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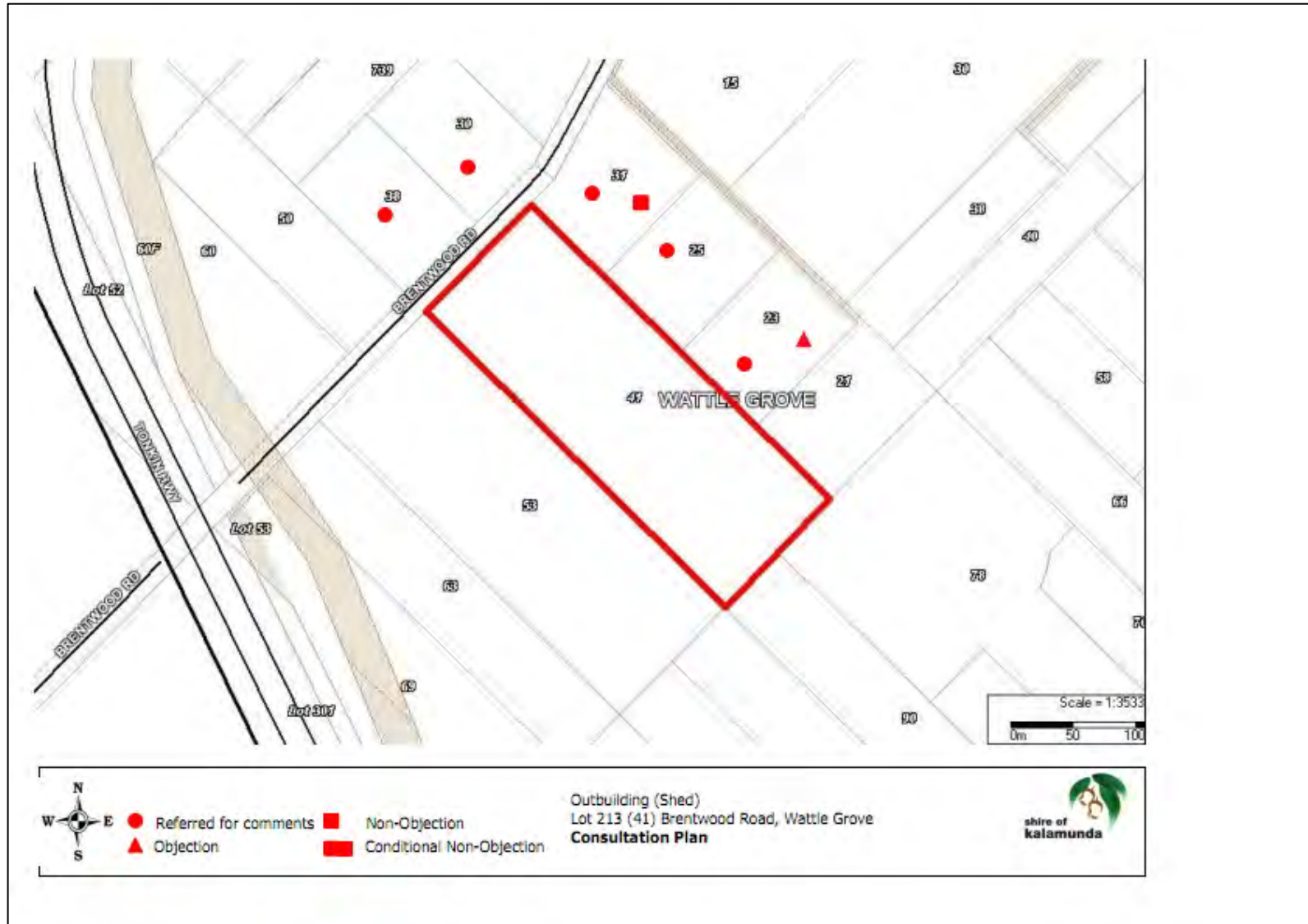
Attachment 3



Attachment 4



Attachment 5



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

77. The Parking of One Commercial Vehicle – Lot 142 (10) Moonglow Rise, Maida Vale

Previous Items	OCM 37/07, OCM 118/08, OCM 68/09
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development & Infrastructure Services
File Reference	MN-04/010
Applicant	P Gilham
Owner	P Gilham
Attachment 1	Locality Plan
Attachment 2	Site Plan
Attachment 3	Photograph of the Proposed Commercial Vehicle
Attachment 4	Photograph of the Proposed Commercial Vehicle Parking Area
Attachment 5	Consultation Plan
Attachment 6	Photograph of the Property from Moonglow Rise

PURPOSE

1. To consider a retrospective planning application to park one commercial vehicle (a bus) at Lot 142 (10) Moonglow Rise, Maida Vale. Refer to (Attachments 1 and 2).

BACKGROUND

2. **Land Details:**

Land Area:	4,291sqm
Local Planning Scheme Zone:	Residential Bushland R2.5
Metropolitan Region Scheme Zone:	Rural

3. The subject property contains a single dwelling and has direct access to Moonglow Rise, which is a cul-de-sac.
4. Surrounding properties contain single dwellings, mature vegetation and associated outbuildings.
5. In May 2007, Council resolved (Resolution OCM 37/07) to temporarily approve an application to park one commercial vehicle (a bus) at the property, for a period of twelve (12) months. The vehicle was 3.5 metres in height, 2.5m in width and 6.2 metres in length.
6. In September 2008, Council resolved (Resolution OCM 118/08) to approve the renewal application to park the commercial vehicle at the property for a further 12 months.
7. In June 2009, Council resolved (Resolution OCM 68/09) to approve the application, with a variation in the vehicle's length to 12.3m, to park the

commercial vehicle on the property without the need to apply for further renewals from Council.

8. A condition of Council's last approval was the following:

"c. The approval authorises Paul David Gilham and no other operator to park commercial vehicle 1CMI 595 on the subject property."

9. In March 2010, the applicant requested that the above condition be modified so as to allow "back up" drivers to drive the bus when he was sick or on holiday. The Shire sought legal advice and was advised given that if it was still the same vehicle parked under the same conditions and that the applicant was still "receiving advantage", then the condition did not need to be modified or deleted to allow this to occur.

10. In June 2012, the applicant advised the Shire that the authorised commercial vehicle has been removed from the property on a permanent basis and replaced with the proposed commercial vehicle.

11. In August 2012, Council resolved to defer the application to park the proposed commercial vehicle at the property pending receipt of legal advice related to the Local Planning Scheme No. 3 ("the Scheme") definitions related to the use Transport Depot and Commercial Vehicle Parking.

12. This was as a consequence of the applicant raising concerns regarding the following recommendation to Council at this meeting:

"Advises the applicant that all other vehicles used in conjunction with their bus company be removed from the property within 35 days from the date of this decision."

13. The Shire was advised by its solicitors that if more than one vehicle, regardless of the vehicle's tonnage, is parked on the subject property and these vehicles are used to carry goods or people for hire or reward, then this can be deemed to be a transport depot.

DETAILS

14. Details of the application are as follows:

- The existing authorised commercial vehicle (a bus) will be removed from the property and replaced by another commercial vehicle (a bus) if Council approves the application. Refer to the photograph of the proposed commercial vehicle (Attachment 3).
- The applicant who resides at the property and two other people who do not reside at the property, are proposed to drive the commercial vehicle as part of their employment. The two drivers who do not reside at the property will be used as "back up drivers".
- Initially the applicant was proposing to operate the commercial vehicle between Monday and Saturday 6.30am to 8.00pm, and Sunday 9.00am to 5.00pm. The applicant has since advised that the commercial vehicle will

be operated and maintenance conducted on the vehicle during the same times approved by Council previously.

- Considering the previous point, the commercial vehicle is proposed to be operated between 6.30am and 7.00pm Monday to Saturday, and 9.00am to 5.00pm on Sundays and public holidays. Maintenance and cleaning of the commercial vehicle is proposed between 8.00am and 7.00pm Monday to Saturday, and 9.00am to 6.00pm on Sundays.
- The commercial vehicle is proposed to be parked on an unsealed area behind the front alignment of the dwelling, in the same location where the previous commercial vehicle was approved by Council to park.
- The commercial vehicle will idle for up to three minutes, prior to leaving the site and upon arrival.

15. Details of the commercial vehicles proposed to be parked on the property are as follows:

	BUS	POLICY REQUIREMENTS (RIGID TYPE)
MAKE	Volvo	
TYPE	Bus	
YEAR	2012	
LENGTH	12.5m	11m Maximum
HEIGHT	3.5m	4.3m Maximum
WIDTH	2.5m	2.5m Maximum
TARE WEIGHT	12 tonnes	
LICENCE NO.	1DXT 503	

STATUTORY AND LEGAL IMPLICATIONS

16. Under the Zoning Table (Table 1) of the Scheme the use “Commercial Vehicle Parking” is classed as an ‘A’ use in a Residential Bushland 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.
17. 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.”*
18. Clause 4.2.1 of the Scheme (Objectives of the Zone – Residential Bushland) an objective of the Residential Bushland zone is to give due consideration to land uses that are compatible with the amenity of surrounding residential development.

-
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. 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.
 - Any relevant submissions received on the application.
21. 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.

22. In assessing the application, Council is to give consideration to Local Planning Policy DEV22 – Parking of Commercial Vehicles on Private Property ("the Policy") which stipulates the following provisions applicable to parking commercial vehicles on Residential Bushland zoned properties:
- Only one commercial vehicle will be permitted.
 - The commercial vehicle shall not exceed (rigid type) 11m in length, 2.5m in width and 4.3m in height.
 - 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.
23. The Policy stipulates that where objections have been received the application will be referred to Council for determination. During advertising objections were received and therefore the application cannot be determined under delegation.
24. The Policy does not stipulate that a commercial vehicle can only be driven by those residing on the property where the commercial vehicle is to be parked.

PUBLIC CONSULTATION/COMMUNICATION

25. The proposal was advertised for 14 days to nearby property owners for comment in accordance with Clause 9.4.3 of the Scheme. Three non-objections, two of which provided comment, and two objections were received.
26. One of the submitters who objected to the proposal has requested that their response be kept confidential and therefore is not shown on the Consultation Plan. Refer to the Consultation Plan (Attachment 5).
27. Concerns raised during advertising include the following:
- The vehicle exceeds the Policy requirements.
 - The applicant having an alternative property at which the vehicle is occasionally parked at, not in Moonglow Rise.
 - The applicant having a history of breaking conditions of previous approvals.
 - The bus posing a risk to the safety of residents.
 - The noise of the vehicle disturbing local residents.
 - The Policy against which the application is being assessed against being out dated.
 - There being another vehicle parked on the property, a Toyota Coaster, which is also used in conjunction with the applicant's bus company.

- There being no restrictions in the Policy regarding the frequency which the bus can leave and arrive at the property during the hours of operation.

28. The submitters who have no objections to the proposal, advised the following:

- They have had no problems with the bus currently parked at the property when it is driven along the road.
- They live next to the property where the vehicle will be parked, and never hear the bus currently parked there leave and return.
- The bus will not be visible where it will be parked.

FINANCIAL IMPLICATIONS

29. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Planning Implications

30. Nil.

Sustainability Implications

Social Implications

31. Impacts the commercial vehicle has on the amenity of the local area will be addressed through the inclusion of conditions, should Council approve the application. These relate to the hours of operation, the area where the vehicle is to be parked and the type of maintenance which can be carried out on the vehicle.

Economic Implications

32. Nil.

Environmental Implications

33. Nil.

OFFICER COMMENT

34. The application is to park one commercial vehicle (a bus) at the property. All other vehicles parked at the property and used in conjunction with the applicant's business will be dealt with as a separate matter.

The Parking of the Proposed Commercial Vehicle

35. The proposal complies with the Policy requirements with the exception of the vehicle's length being 12.5m in lieu of a maximum of 11m and the proposed hours of operation.

-
36. The commercial vehicle will not have any visual impact on the locality because of being parked behind the dwelling, and being screened by vegetation on the property and 1.8m high solid fencing along the dividing boundaries. Refer to the photograph of the proposed commercial vehicle parking area (Attachment 4) and the photograph of the property from Moonglow Rise (Attachment 6).
37. It should be noted that the proposed commercial vehicle is only 0.2m longer, the same width and height, and parked in the same location as the commercial vehicle (bus) approved by Council previously.
38. There is an ample amount of space on the property for the vehicle to enter and leave the property in a safe manner.
39. The property is located at the end of a cul-de-sac and therefore pedestrian and traffic volumes and movements will be low. The safety of pedestrians and other road users will not therefore be detrimentally impacted.
40. No objections were received during the advertising period regarding the visual impact the proposed commercial vehicle may have on the locality or regarding the ability to be able to enter and leave the property in a safe manner.
41. The applicant has advised the following to address the concerns raised during advertising:
- "I am contracted to the Public Transport Authority to supply transport to and from school for students residing in the Kalamunda Shire. On school days to service the contract I will be leaving between 6.30am to 7.00am and coming back home around 4.30pm.*
- Most days I am out all day doing charter for the local schools, swimming lessons, trips to the zoo and Art Gallery. On some occasions when there is no charter work I would come home after the morning run around 8.45am and the leave in the afternoon around 2.30pm for the afternoon run.*
- I do rent some land where I do park my other buses, but there is no security and to leave a brand new \$450,000 bus parked in a paddock I am not comfortable with. Also having the bus parked at home allows me leave home later than if I had to drive there.*
- Most of the work I do after school hours is actually for schools. Mazenod College and also St Brigid's College has a boarding section. They do excursions in the evening of the likes of movies, concerts and shopping. Also a lot of the primary schools have sing fest competitions which are held either at Perth Concert Hall or the Burswood Theatre."*
42. After the advertising period had concluded a nearby landowner raised concerns that the proposed vehicle's actual height is higher than that advised by the applicant.
43. During an inspection of the vehicle the applicant advised, and demonstrated, that the commercial vehicle has two settings which affects its height depending on whether it is parked or being driven or idling. When parked the vehicle is 3.5m in
-

height and when driven or idling it is 3.6m in height. The height of the vehicle was measured, from ground level to the air conditioning unit on the roof, and found to be 3.5m in height when parked. Manufacturer's details inside the commercial vehicle confirmed that it is a maximum height of 3.6m when being driven or idling.

Transport Depot

44. During advertising concerns were raised that another vehicle used in conjunction with the bus company was also being parked on the property.
45. This other vehicle is not considered to be a commercial vehicle by way of definition under the Scheme as it is not greater than 3.5 tonnes, however it is being used to carry persons for hire or reward, the same as the bus subject of this application.
46. The Shire was advised by its solicitors that if more than one vehicle, regardless of the vehicles' tonnage, is parked on the subject property and are used to carry goods or people for hire or reward, then this can be deemed to be a transport depot. Accordingly such a use is not permitted on the property.
47. Considering the above, it is recommended that Council approves the application.
48. While there are other vehicles on the property, this application is in relation to the one bus. The recommendation is based on the legal advice received. All other vehicles being parked on the property which are used to carry goods and/or persons for hire and/or reward will be dealt with separately as a compliance matter.

Mr Mark Wilson and Mrs Georgina Wilson spoke against the Officer Recommendation; Mr Paul Gilham spoke in favour of the Officer Recommendation. Councillors clarified a number of points prior to voting on the item.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 77/2012)

That Council:

1. Approves the application for Paul Gilham to park one commercial vehicle, a Volvo bus (registration number 1DXT 503) at Lot 142 (10) Moonglow Rise, Maida Vale, subject to the following conditions:
 - a. The vehicle must, at all times, be parked in the location shown on the approved site plan (Attachment 2).
 - b. The commercial vehicle is only permitted to be operated between 6.30am and 7.00pm Monday to Saturday, and 9.00am to 5.00pm on Sundays and public holidays.
 - c. Maintenance and cleaning of the commercial vehicle is only permitted between 8.00am and 7.00pm Monday to Saturday, and 9.00am to 6.00pm on Sundays.

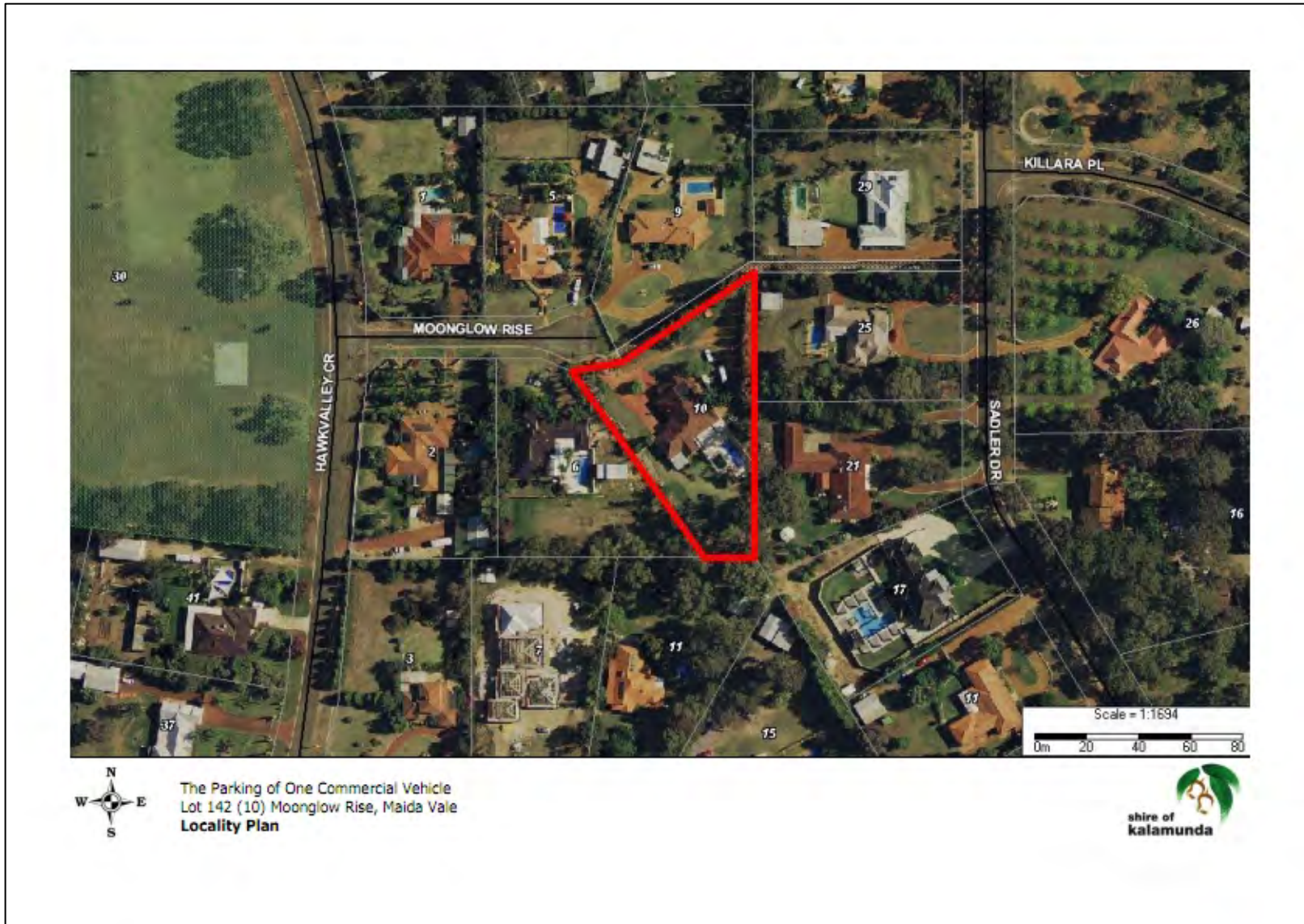
- d. Approval of the parking activity does not include approval for having clients on the bus brought to and/or from the property.
- e. Only maintenance of a minor nature, such as servicing or wheel changing, is to be carried out on the subject property between the hours designated in condition b. No panel beating, spray painting, welding or the removal of major body or engine parts is permitted.
- f. The idling time for the start-up and cool down of the vehicle being a maximum of five minutes.
- g. 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 Dylan O'Connor**

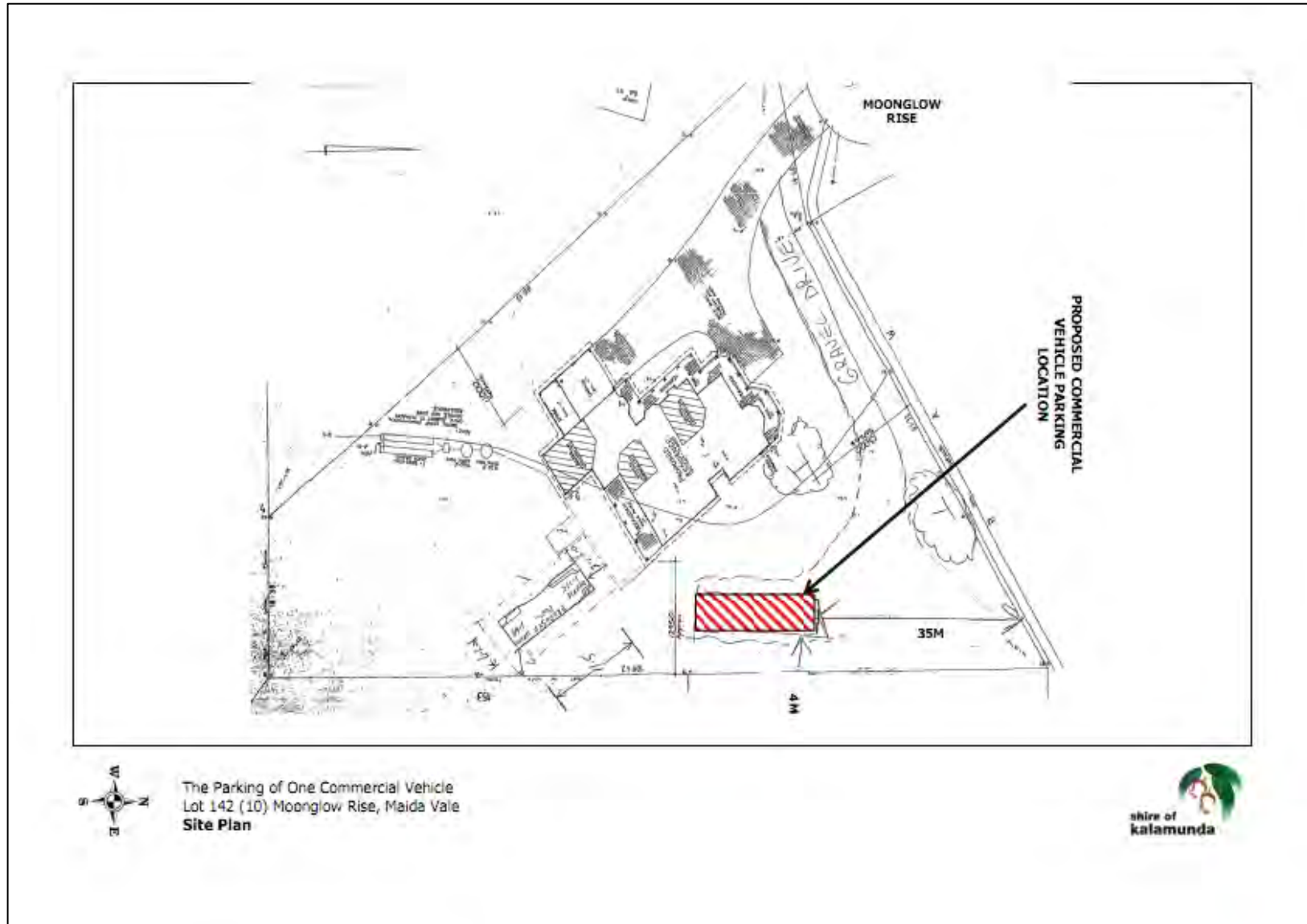
Seconded: **Cr John Giardina**

Vote: **CARRIED UNANIMOUSLY (9/0)**

Attachment 1



Attachment 2



Attachment 3



The Parking of One Commercial Vehicle
Lot 142 (10) Moonglow Rise, Maida Vale
Photograph of the Proposed Commercial Vehicle



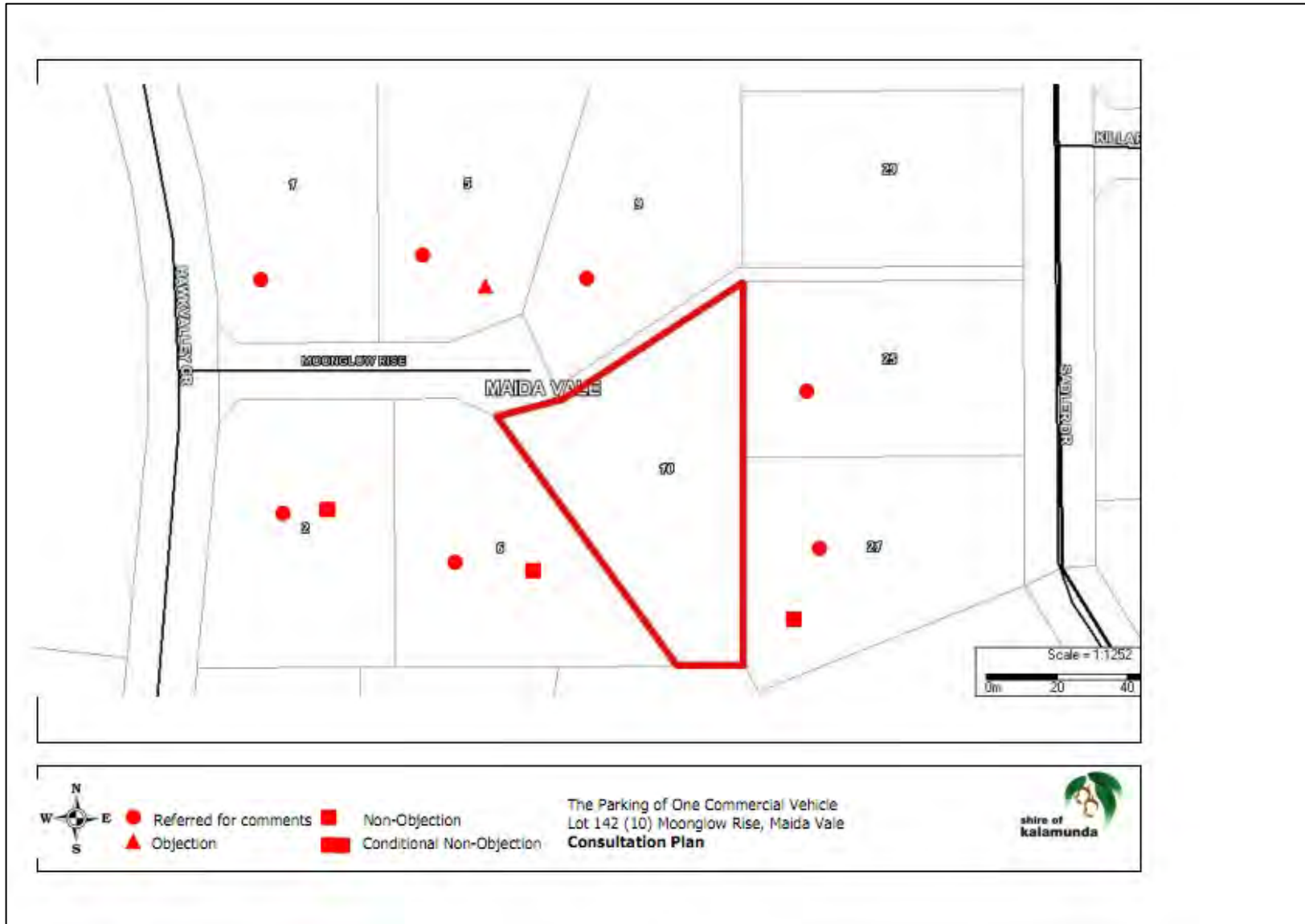
Attachment 4



The Parking of One Commercial Vehicle
Lot 142 (10) Moonglow Rise, Maida Vale
Photograph of the Proposed Commercial Vehicle Parking Area



Attachment 5



Attachment 6



The Parking of One Commercial Vehicle
Lot 142 (10) Moonglow Rise, Maida Vale
Photograph of the Property from Moonglow Rise



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

78. Lot 77 (1) Bauhinia Road, Forrestfield - Application to Keep More Than Two Dogs

Previous Items	Nil
Responsible Officer	Director of Development & Infrastructure Services
Service Area	Health and Ranger Services
File Reference	RA-ANC-011: ICS-42160
Applicant	Maureen Skinner
Owner	RG & L Field
Attachment 1	Location Map

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 1 Bauhinia Road, Forrestfield, has recently applied to Council requesting permission to keep more than two dogs on their property.

DETAILS

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

	Breed	Sex	Sterilised	Colour	Name	Registration Number	Age	Local Authority
1.	Jack Russell Cross	F	Y	Brindle and White	Princess	12-1194	10	Kalamunda
2.	Jack Russell	M	Y	Tan and White	Austin	12-1196	7	Kalamunda
3.	Kelpie Cross	F	Y	Black	Tina	14-2228	7 mths	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*.
5. The property at 1 Bauhinia Road, Forrestfield is 728 sqm and zoned Residential.

STATUTORY AND LEGAL IMPLICATIONS

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 IMPLICATIONS

9. Nil.

PUBLIC CONSULTATION/COMMUNICATION

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 ten adjoining properties within the vicinity of the applicant's property that may be directly affected (Attachment 1). The occupants of these properties have been contacted by the attending Ranger, six properties have supported the application, one property does not support the application and three properties did not respond.

FINANCIAL IMPLICATIONS

12. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Planning Implications

13. Nil.

Sustainability Implications

Social implications

14. 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

15. Nil.

Environmental Implications

16. Nil.

OFFICER COMMENT

17. 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
18. As part of the assessment process, Officers have not recorded any issues regarding the dogs kept at this property.
19. The resident who did not agree to this application advised that the reason was due to the dogs barking when the owners were away.
20. The owner of the property has given permission for the applicant to have three dogs on the property.
21. It is in the opinion of the inspecting Ranger that the property is appropriately sized and capable of effectively and comfortably housing three dogs. The Ranger can also confirm that the fences and gates are compliant with the *Dog Act 1976*.
22. It is recommended that the application to keep more than two dogs is supported and is noted that this approval may be varied or revoked should any dog complaints be received which are considered reasonable.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 78/2012)

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 an exemption to the applicant of 1 Bauhinia Road, Forrestfield, to keep three dogs on this property.

Moved: **Cr Justin Whitten**

Seconded: **Cr Donald McKechnie**

Vote: **CARRIED UNANIMOUSLY (9/0)**

Attachment 1



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

79. Lot 67 (18) Begonia Way, Forrestfield - Application to Keep More Than Two Dogs

Previous Items	Nil
Responsible Officer	Director of Development & Infrastructure Services
Service Area	Health and Ranger Services
File Reference	RA-ANC-011: ICS-43997
Applicant	Lynette Joy Craike
Owner	DT & LJ Craike
Attachment 1	Location Map

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 18 Begonia Way, Forrestfield, has recently applied to Council requesting permission to keep more than two dogs on their property.

DETAILS

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

	Breed	Sex	Sterilised	Colour	Name	Registration Number	Age	Local Authority
1.	Rhodesian Ridgeback Cross	F	Y	Tan	Honey	13-0713	9	Kalamunda
2.	German Shepherd Cross	M	Y	Tan	Rex	13-0773	10	Kalamunda
3.	Cavalier King Charles Spaniel	F	Y	Blenheim	Sindy	14-2380	4	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*.
5. The property at 18 Begonia Way, Forrestfield is 761 sqm and zoned Residential.

STATUTORY AND LEGAL IMPLICATIONS

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 IMPLICATIONS

9. Nil.

PUBLIC CONSULTATION/COMMUNICATION

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 six adjoining properties within the vicinity of the applicant's property that may be directly affected (Attachment 1). The occupants of these properties have been contacted by the attending Ranger, four properties have supported the application and two properties did not respond.

FINANCIAL IMPLICATIONS

12. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Planning Implications

13. Nil.

Sustainability Implications

Social Implications

14. 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

15. Nil.

Environmental Implications

16. Nil.

OFFICER COMMENT

17. 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
18. As part of the assessment process, Officers have not recorded any issues regarding the dogs kept at this property.
19. It is in the opinion of the inspecting Ranger that the property is appropriately sized and capable of effectively and comfortably housing three dogs. The Ranger can also confirm that the fences and gates are compliant with the *Dog Act 1976*.
20. It is recommended that the application to keep more than two dogs is supported and is noted that this approval may be varied or revoked should any dog complaints be received which are considered reasonable.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 79/2012)

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 an exemption to the applicant of 18 Begonia Way, Forrestfield, to keep three dogs on this property.

Moved: **Cr John Giardina**

Seconded: **Cr Bob Emery**

Vote: **CARRIED UNANIMOUSLY (9/0)**

Attachment 1



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

80. Lot 68 (25) Marion Way, Gooseberry Hill - Application to Keep More Than Two Dogs

Previous Items	Nil
Responsible Officer	Director of Development & Infrastructure Services
Service Area	Health and Ranger Services
File Reference	RA-ANC-011: ICS 43354
Applicant	Sam Thomas
Owner	PJ & NW Thomas

Attachment 1 Location Map

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 25 Marion Way, Gooseberry Hill, has recently applied to Council requesting permission to keep more than two dogs on their property.

DETAILS

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

	Breed	Sex	Sterilised	Colour	Name	Registration Number	Age	Local Authority
1.	Kelpie X	M	N	Black / Tan	Tye	12-3874	5 mths	Kalamunda
2.	Poodle X	M	Y	White / Black	Ben	13-0279	12	Kalamunda
3.	Jack Russell X	F	Y	White / Tan	Jazzy	13-0280	6	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*.
5. The property at 25 Marion Way, Gooseberry Hill is 2338 sqm and zoned Residential.

STATUTORY AND LEGAL IMPLICATIONS

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 IMPLICATIONS

9. Nil.

PUBLIC CONSULTATION/COMMUNICATION

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 eleven adjoining properties within the vicinity of the applicant's property that may be directly affected (Attachment 1). The occupants of these properties have been contacted by the attending Ranger, five properties have supported the application, four properties do not support the application and two properties have not responded.

FINANCIAL IMPLICATIONS

12. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Planning Implications

13. Nil.

Sustainability Implications

Social Implications

14. 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

15. Nil.

Environmental Implications

16. Nil.

OFFICER COMMENT

17. 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
18. As part of the assessment process, Officers have noted that three of the properties objecting to the application do not own dogs. Each property objecting to this application has cited issues relating to the number of dogs currently residing in the area.
19. It is in the opinion of the inspecting Ranger that the property is appropriately sized and capable of effectively and comfortably housing three dogs. The Ranger can also confirm that the fences and gates are compliant with the *Dog Act 1976*.
20. It is recommended that the application to keep more than two dogs is supported and is noted that this approval may be varied or revoked should any dog complaints be received which are considered reasonable.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 80/2012)

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 an exemption to the applicant of 25 Marion Way, Gooseberry Hill, to keep three dogs on this property.

Moved: **Cr Donald McKechnie**

Seconded: **Cr John Giardina**

Vote: **CARRIED UNANIMOUSLY (9/0)**

Attachment 1



Cr Margaret Thomas declared an interest affecting impartiality as she is the owner of the property; she left the Chambers at 6.50pm.

81. Lot 2 (664) Pickering Brook Road, Pickering Brook - Application to Keep More Than Two Dogs

Previous Items	Nil
Responsible Officer	Director of Development & Infrastructure Services
Service Area	Health and Ranger Services
File Reference	RA-ANC-011: ICS 45182
Applicant	Amanda Donavon
Owner	FA Pinner & MJ Thomas
Attachment 1	Location Map

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 664 Pickering Brook Road, Pickering Brook, has recently applied to Council requesting permission to keep more than two dogs on their property.

DETAILS

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

	Breed	Sex	Sterilised	Colour	Name	Registration Number	Age	Local Authority
1.	Jack Russell	F	N	Tan & White	Molly	12-3812	3	Kalamunda
2.	Staffy Cross	F	Y	Black & White	Jemma	14-2136	9	Kalamunda
3.	Australian Cattle Dog	M	Y	Red	Banjo	14-2212	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 three dogs and to confirm that the fences and gates are compliant with the *Dog Act 1976*.
5. The property at 664 Pickering Brook Road, Pickering Brook is 6 hectares and zoned Rural Agricultural.

STATUTORY AND LEGAL IMPLICATIONS

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 IMPLICATIONS

9. Nil.

PUBLIC CONSULTATION/COMMUNICATION

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 three adjoining properties within the vicinity of the applicant's property that may be directly affected (Attachment 1). The occupants of each of the three properties have been contacted by the attending Ranger, and have supported the application.

FINANCIAL IMPLICATIONS

12. Nil.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Planning Implications

13. Nil.

Sustainability Implications

Social implications

14. 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

15. Nil.

Environmental Implications

16. Nil.

OFFICER COMMENT

17. 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
18. As part of the assessment process, Officers have not recorded any issues regarding the dogs kept at this property.
19. It is in the opinion of the inspecting Ranger that the property is appropriately sized and capable of effectively and comfortably housing three dogs. The Ranger can also confirm that the fences and gates are compliant with the *Dog Act 1976*.
20. 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.

Cr Margaret Thomas declared an interest affecting impartiality as she is the owner of the property; she left the Chambers at 6.50pm. Cr John Giardina (Deputy Chairman) presided for this item, Cr Margaret Thomas returned at 6.51pm after the vote had been taken.

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&I 81/2012)

That Council:

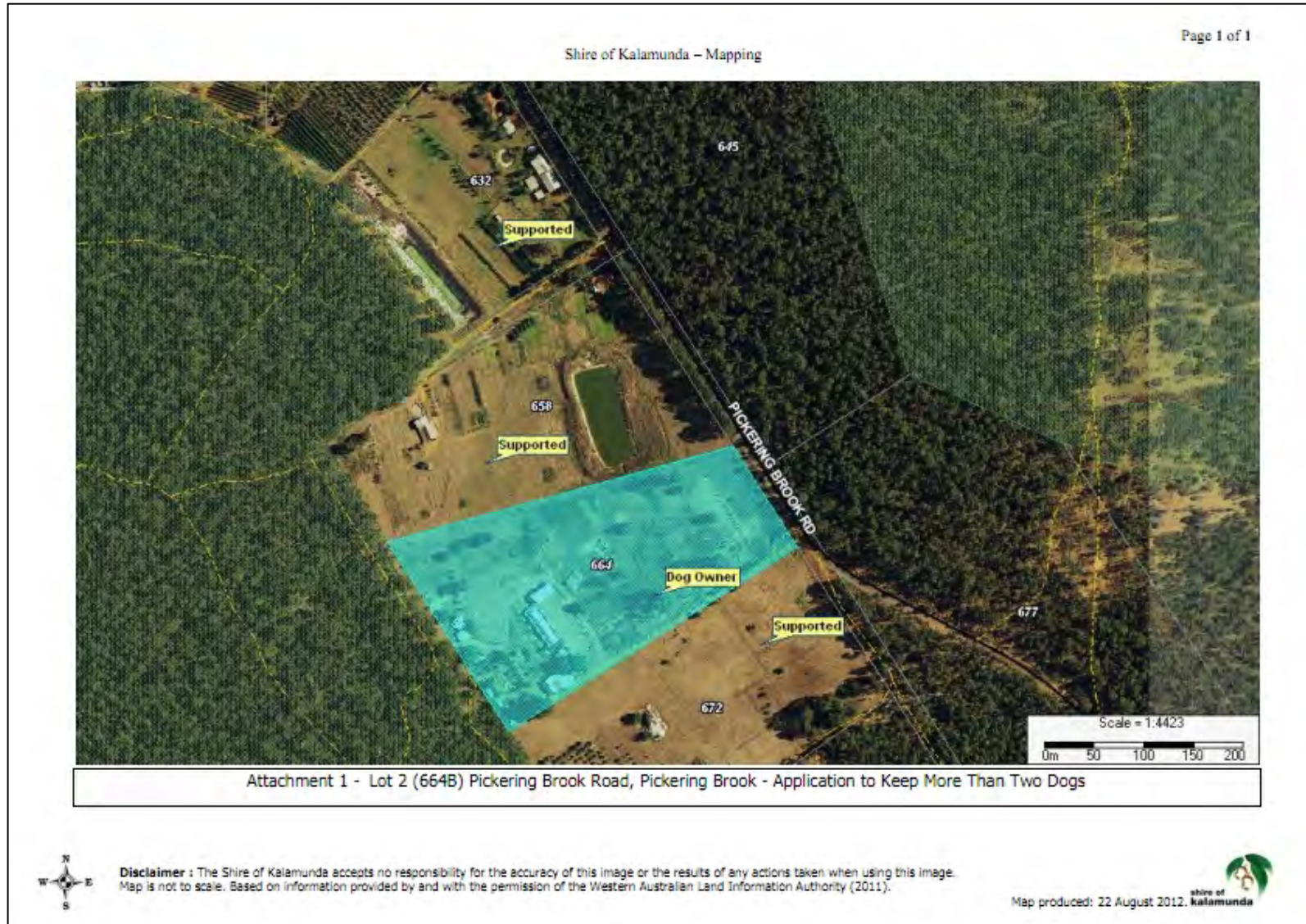
1. Pursuant to Clause 3.2 of the Shire of Kalamunda Dogs Local Law 2010 made under Section 26(3) of the *Dog Act 1976*, grant an exemption to the applicant of 664 Pickering Brook Road, Pickering Brook, to keep three dogs on this property.

Moved: **Cr Justin Whitten**

Seconded: **Cr Dylan O'Connor**

Vote: **CARRIED UNANIMOUSLY (8/0)**

Attachment 1



10.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 Nil.

11.0 QUESTIONS BY MEMBERS WITHOUT NOTICE

11.1 Cr Noreen Townsend – Three Dog Applications

Q. I notice on a number of the three dog applications the actual block size seems small to house three, often large, dogs. Could the procedures be reviewed so that a block under a certain size could automatically be considered too small to house three dogs?

A. This question was taken on notice.

11.2 Cr Bob Emery – EMRC

Q. I have previously suggested that due to the developments within the EMRC we ask their Chief Executive Officer, Peter Schneider to come and speak to the Shire of Kalamunda, will this be taking place?

A. The Chief Executive Officer apologised for not acting on this and will follow-up and arrange as soon as possible.

11.3 Cr Donald McKechnie – Cat Law

Q. Have any procedures been put in place in readiness for when the new Cat Law comes in?

A. This question was taken on notice.

12.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

12.1 Nil.

13.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

13.1 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 6.54pm.