

Ordinary Council Meeting

Agenda for 24 April 2017



**shire of
kalamunda**

NOTICE OF MEETING ORDINARY COUNCIL MEETING

Dear Councillors

Notice is hereby given that the next ordinary meeting of the Council will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on Monday 24 April 2017 at 6.30pm.

Dinner will be served prior to the meeting at 5.30pm.

Rhonda Hardy
Chief Executive Officer
20 April 2017

Our Vision and Our Values

Our Vision

The Shire will have a diversity of lifestyle and people. It will take pride in caring for the natural, social, cultural and built environments and provide opportunities for people of all ages.

Our Core Values

Service – We deliver excellent service by actively engaging and listening to each other.

Respect – We trust and respect each other by valuing our difference, communicating openly and showing integrity in all we do.

Diversity – We challenge ourselves by keeping our minds open and looking for all possibilities and opportunities.

Ethics – We provide honest, open, equitable and responsive leadership by demonstrating high standards of ethical behavior.

Our Aspirational Values

Prosperity – We will ensure our Shire has a robust economy through a mixture of industrial and commercial development.

Harmony – We will retain our natural assets in balance with our built environment.

Courage – We take risks that are calculated to lead us to a bold new future.

Creativity – We create and innovate to improve all we do.

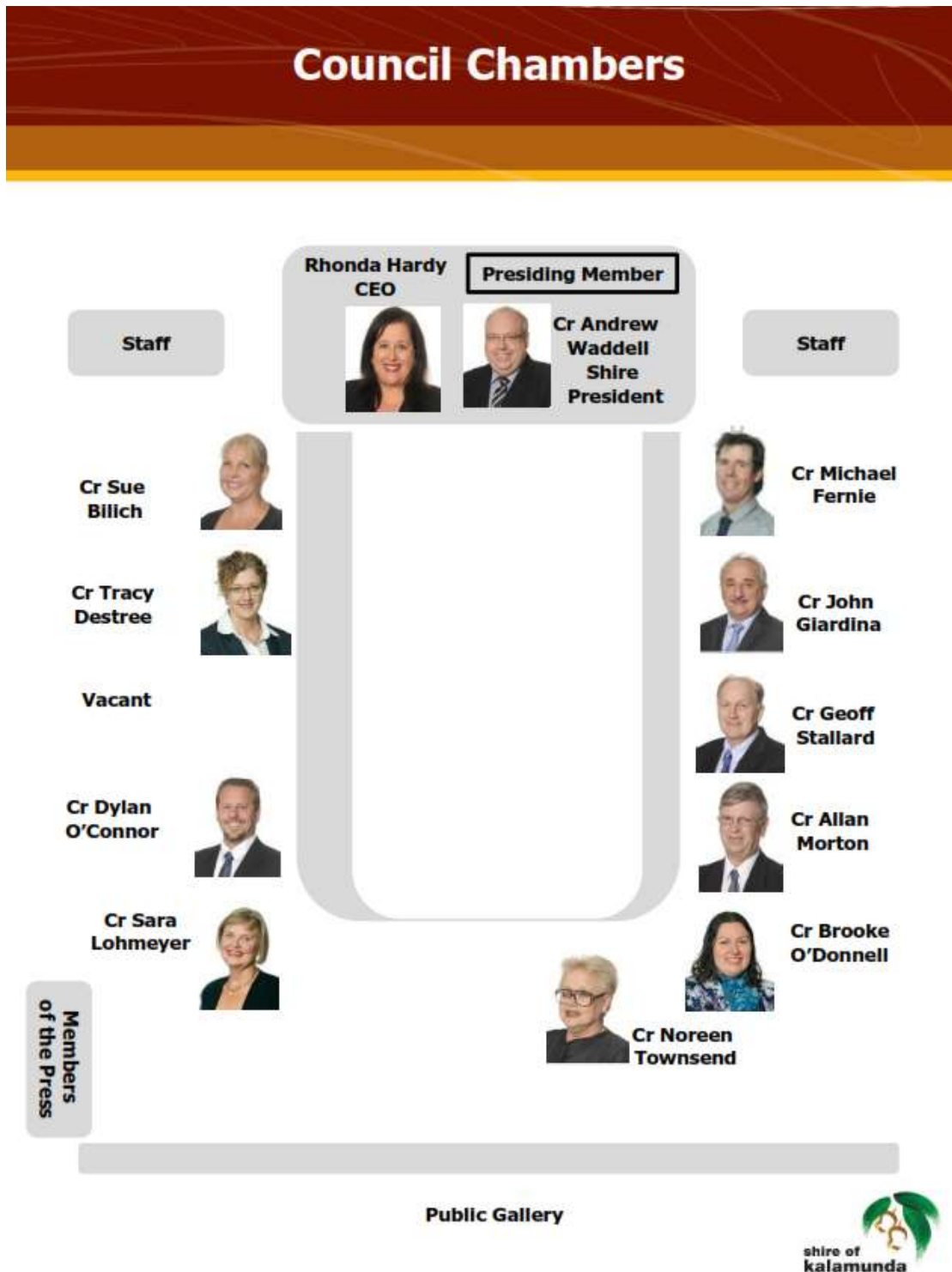


INFORMATION FOR THE PUBLIC ATTENDING COUNCIL MEETINGS

Welcome to this evening's meeting. The following information is provided on the meeting and matters which may affect members of the public.

If you have any queries related to procedural matters, please contact a member of staff.

Council Chambers – Seating Layout



Ordinary Council Meetings – Procedures

1. Council Meetings are open to the public, except for Confidential Items listed on the Agenda.
2. Members of the public who are unfamiliar with meeting proceedings are invited to seek advice prior to the meeting from a Shire Staff Member.
3. Members of the public are able to ask questions at an Ordinary Council Meeting during Public Question Time.
4. To facilitate the smooth running of the meeting, silence is to be observed in the public gallery at all times except for Public Question Time.
5. All other arrangements are in general accordance with Council's Standing Orders, the Policies and decision of the Shire or Council.

Emergency Procedures

Please view the position of the Exits, Fire Extinguishers and Outdoor Assembly Area as displayed on the wall of Council Chambers.

In case of an emergency follow the instructions given by Shire Personnel.

We ask that you do not move your vehicle as this could potentially block access for emergency services vehicles.

Please remain at the assembly point until advised it is safe to leave.

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AGENDA

1.0 OFFICIAL OPENING

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Cr Brooke O'Donnell – Leave of Absence

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 Council. For the purposes of Minuting, these questions and answers will be summarised.

6.1 Responses to questions asked at the Ordinary Council Meeting – 27 March 2017 - Mary and Peter Boldon, 55A Snowball Road, Kalamunda

Q1. In your response to my question 1, I used the word "selected". You used the words "chosen" and "invited". You seem to be playing semantics here. The Rise Network appears to have been selected without consideration of any other equally competent organisations. This has the appearance of favouritism on the part of the Council for not having invited any other providers to put forward their case for the provision of best services for our people.

Will the Council, prior to the full handover of services on April 1, 2017, 'invite' other organisations to provide these services to Kalamunda residents in Kalamunda using Kalamunda Shire or State facilities?

A1. The Shire will not be inviting other organisations to provide NDIS services to the Shire's NDIS participants. However, participants and their primary carers are able to exercise their choice in finding an alternate disability services provider if they choose to.

The NDIS program is consumer driven and as such, participants can choose to go to any provider of their choice at any given time.

Council resolved to transition services to Rise, being their prerogative to do so. The transition to Rise has been successful and without issue. The decision to transition to Rise was taken in the best interest of the community and was a decision that Council had the authority to make. It is not the view of the Shire nor the Council. Council's decision is final and was made in the best interests of the Shire.

The Shire will not be inviting other organisations because the Shire is not making a purchase or a sale and is not required to evaluate alternate providers.

Q2. In your response to question 1 you also state that Rise has a strong footprint within the Shire of Kalamunda. I have lived in the Shire of Kalamunda for 14 years and have been intimately involved in disability services during this period and to date have had no knowledge of services provided by Rise within the Shire. Neither has there ever been any

contact with my family regarding our family member with a disability. I know this also to be the case with other families within the Shire. Can you quantify the footprint that the Rise organisation has within the Shire?

- A2. Originally beginning as a volunteer based service to assist Hills residents to reach local services, Rise Network have nearly 35 years' experience of working in the Hills area. They have offices, social centres and houses in the area and many of their staff and volunteers are local residents of the Shire. Rise also operates a service from the Jack Healy centre which provides cooking preparation services to the Community.

Rise Network have worked closely with the Shire and other local organisations over the years and this is how the Shire has formed a professional working relationship with Rise and can confirm their strong footprint in the Hills area.

- Q3. With reference to your response to my question 5 can you quantify in Australian legal currency the amount of the peppercorn lease?

- A3. The Lease amount between the Shire and the Department of Health is stated in words not a legal currency amount. The lease states (verbatim) "yearly rental of One Peppercorn payable on demand". So we cannot provide a legal currency amount when one does not exist.

- Q4. Regarding your response to my question 6 you state a "peppercorn" sub lease will be offered to Rise. This will give Rise a commercial advantage over other service providers that would like to operate from a Kalamunda base to cater for Kalamunda residents. Essentially the Shire's ratepayers will be providing a subsidy to Rise. This is not an attack on Rise or any of their staff. The point to be made is that no other organisation was given the opportunity to provide the services. The Shire administration tells us that we have a choice of service providers as NDIS participants. Yes we have, but only if we go outside the Shire of Kalamunda.

Will the Shire still cover the full costs of repair and maintenance and any other variable outgoings on the Peter Anderton Centre or will the Rise Organisation (or any other private service provider) pay a pro rata share of these costs?

- A4. Rise is a not for profit entity and hence does not make commercial returns it reinvests into the community. Had the Shire decided to transition to a commercial based enterprise the arrangements would likely be different. Therefore the commercial advantage that you refer to is irrelevant in this case.

The Shire continues to be the Lessee with the Department of Health, not Rise. Therefore the Shire still has a responsibility to maintain all aspects of the entire building, as per the Lease Agreement. This refers to full costs of repairs and maintenance as required.

Rise Network has a temporary Agreement with the Shire to use the Peter Anderton Lodge (the Day Centre side only) between 5 April and 30 June. An hourly rate, consistent with what the Shire charges other community groups to use similar facilities will be charged to cover outgoings.

The Shire is currently working on the preparation of a sub-lease agreement whereby Rise would be responsible for all outgoings, typically utility and consumption based costs.

4.0 PETITIONS/DEPUTATIONS

- 4.1 A Deputation has been approved for Rob Melville and Katie Coyle, Bob Melville and Rick Grabner in relation to item 10.2.3. Retrospective Application for Nursery and Temporary Food Van – Lot 17 (105) Tanner Road, Carmel.

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

- 6.1 That the Minutes of the Ordinary Council Meeting held on 27 March 2017, as published and circulated, are confirmed as a true and accurate record of the proceedings.

Moved:

Seconded:

Vote:

Statement by Presiding Member

"On the basis of the above Motion, I now sign the Minutes as a true and accurate record of the meeting of 27 March 2017".

- 6.2 That the Minutes of the Special Council Meeting held on 3 April 2017, as published and circulated, are confirmed as a true and accurate record of the proceedings.

Moved:

Seconded:

Vote:

Statement by Presiding Member

"On the basis of the above Motion, I now sign the Minutes as a true and accurate record of the meeting of 3 April 2017".

7.0 ANNOUNCEMENTS BY THE MEMBER PRESIDING WITHOUT DISCUSSION

8.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

8.1 **D & A 18. CONFIDENTIAL ITEM - Shire Contaminated Sites Database**
- (Attachment 1) Provided under separate cover. Reason for Confidentiality *Local Government Act 1995 S5.23 (2) (d)* - "legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting".

8.2 **10.3.6 CONFIDENTIAL ITEM – Consideration of Tenders - Cloud Migration Strategy (e-Quote 04-2017)**
Reason for Confidentiality *Local Government Act 1995 S5.23 (2) (c)* – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."

9.0 DISCLOSURE OF INTERESTS

9.1 Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Section 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 of the *Local Government Act 1995*.)

9.2 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.

10.0 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.

10.1 Development & Asset Services Committee Report

10.1.1 Adoption of Development & Asset Services Committee Report

Voting Requirements: Simple Majority

That recommendations D&A 14 to D&A 18 inclusive, contained in the Development & Asset Services Committee Report of 3 April 2017 be adopted by Council en bloc.

Moved:

Seconded:

Vote:

10.1.2 D&A 14 Support for Local Planning Scheme No. 3 Amendment 75 – Forrestfield North

COMMITTEE RECOMMENDATION TO COUNCIL (D&A 14/2017)

That Council:

1. Supports Amendment 75 to Local Planning Scheme No. 3 pursuant to Regulation 50(3)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* with modifications as at Attachment 3.
2. Forwards to the Western Australian Planning Commission:
 - Schedule of submissions made on the Amendment (Attachment 2); and
 - Amendment 75 to Local Planning Scheme No. 3 (Attachment 3).

10.1.3 D&A 15 Preparation of Local Planning Scheme No. 3 Amendment 83 – Deemed Provisions and New Model Scheme Text

COMMITTEE RECOMMENDATION TO COUNCIL (D&A 15/2017)

That Council:

1. Considers Amendment 83 to Local Planning Scheme No. 3 as a standard amendment under Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The amendment is considered as “any other amendment that is not a complex or basic amendment”.
2. Pursuant to Section 75 of the *Planning and Development Act 2005* prepares Amendment 83 to Local Planning Scheme No. 3 as at Attachment 1.

3. Forwards the proposed Amendment 83 to Local Planning Scheme No. 3 and supporting documents to:
 - a) The Environmental Protection Authority for comment pursuant to Section 81 of the *Planning and Development Act 2005*;
4. Subject to Sections 81 and 82 of the *Planning and Development Act 2005*, advertises Amendment 83 to Local Planning Scheme No. 3 for public comment for 42 days.

**10.1.4 D&A 16 Change of Use - Office (Former Bank) to Restaurant and associated works - Lot 1 (21) Haynes Street, Kalamunda
COMMITTEE RECOMMENDATION TO COUNCIL (D&A 16/2017)**

That Council:

1. Approves the application for a Change of Use ('Restaurant') at Lot 1 (21) Haynes Street, Kalamunda, subject to the following conditions:
 - a. The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan to the satisfaction of the Shire of Kalamunda.
 - b. Stormwater to be disposed of onsite to the specification and satisfaction of the Shire Kalamunda.
 - c. Prior to the commencement of the use the development shall be connected to reticulated sewer.
 - d. The applicant shall submit a schedule of colours and materials including a colour palette for the proposal which shall be approved to the satisfaction of the Shire of Kalamunda prior to the issue of the building permit.

**10.1.5 D&A 17 Consent to advertise new Local Planning Policies, P-DEV 60 - Design Advisory Committees and P-DEV 61 - Retention and Upgrade of Grouped Dwellings
COMMITTEE RECOMMENDATION TO COUNCIL (D&A 17/2017)**

That Council:

1. Pursuant to Clause 3(1) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts the following proposed planning policies for the purpose of advertising for a period of 28 days:

-
- Draft Planning Policy – P-DEV 60- Design Advisory Committee; and
 - Draft Planning Policy – P-DEV 61- Retention and Upgrade of Grouped Dwellings

**10.1.6 D&A 18 CONFIDENTIAL ITEM – Shire Contaminated Sites Database
COMMITTEE RECOMMENDATION TO COUNCIL (D&A 18/2017)**

That Council:

1. Defer this item to the next Development & Asset Committee Meeting in May 2017.

10.2 Corporate & Community Services Committee Report

10.2.1 Adoption of Corporate & Community Services Committee Report

Voting Requirements: Simple Majority

That the recommendations C&C 28 to C&C 33 inclusive, contained in the Corporate & Community Services Committee Report of 18 April 2017 be adopted by Council en bloc.

Moved:

Seconded:

Vote:

10.2.2 C&C 28 Rates Debtors Report for the Period Ended 31 March 2017

COMMITTEE RECOMMENDATION TO COUNCIL (C&C 28/2017)

That Council:

1. Receives the rates debtors report for the period ended 31 March 2017 (Attachment 1).

10.2.3 C&C 29 Debtors and Creditors Report for the Period Ended 31 March 2017

COMMITTEE RECOMMENDATION TO COUNCIL (C&C 29/2017)

That Council:

1. Receives the list of payments made from the Municipal Accounts in March 2017 (Attachment 1) in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996 (Regulation 12)*.
2. Receives the list of payments made from the Trust Accounts in March 2017 as noted in point 15 above in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996 (Regulation 12)*.
3. Receives the outstanding debtors and creditors reports (Attachment 2 & 3) for the month of March 2017.

10.2.4 C&C 30 Draft Monthly Financial Statements to 31 March 2017

COMMITTEE RECOMMENDATION TO COUNCIL (C&C 30/2017)

That Council:

1. Receives the draft Monthly Statutory Financial Statements for the period to 31 March 2017, which comprises:
 - Statement of Financial Activity (Nature or Type).
 - Statement of Financial Activity (Statutory Reporting Program).
 - Net Current Funding Position, note to financial statement.

10.2.5 C&C 31 Appointment of a Community Representative to the Hartfield Park Advisory Committee

The report was **WITHDRAWN** as it requires an absolute majority of council vote. The report will be considered at the next ordinary meeting of council.

10.2.6 C&C 32 Kalamunda History Village Locomotive

COMMITTEE RECOMMENDATION TO COUNCIL (C&C 32/2017)

That Council:

1. Defer the item until requested information in relation to Option5 can be provided.

10.2.7 C&C 33 Conference Attendance – National General Assembly of Local Government 2017

COMMITTEE RECOMMENDATION TO COUNCIL (C&C 33/2017)

That Council:

1. Agrees the Shire President and Manager Economic, Property and Land attend the National General Assembly of Local Government 2017, to be held in Canberra from 18 to 21 June 2017, and that all conference, travel costs and accommodation be borne by the Shire of Kalamunda.
2. Requests a report on the outcomes of the Conference to the Ordinary Council Meeting to be held on 28 August 2017.

10.3 CHIEF EXECUTIVE OFFICER REPORTS

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

10.3.1 Appointment of a Community Representative to the Hartfield Park Advisory Committee

Previous Items	N/A
Responsible Officer	Director Corporate & Community Services
Service Area	Community Development
File Reference	CO-CCS-010/1
Applicant	N/A
Owner	N/A

EXECUTIVE SUMMARY

1. A Kalamunda And Districts Rugby Union (KDRU) Committee representative has recently resigned from the Hartfield Park Advisory Committee (HPAC).
2. A new nomination has been submitted by KDRU for Aaron Minett to be considered by Council as the replacement for the vacant position.
3. It is recommended that Council appoints Aaron Minett as a member of the HPAC.

BACKGROUND

4. Following the resignation of the Community Representative for KDRU in February 2017, KDRU no longer have a representative on the HPAC.
5. The Shire has received a nomination for the new representative for KDRU on the HPAC.
6. As such, Council is requested to consider the nomination of Aaron Minett, member of the KDRU, as a member of the HPAC.

DETAILS

7. As per the Terms of Reference for HPAC, the key components of the membership include:
 - A total membership of up to eleven (11) members, all of whom shall be appointed by Council. The term of appointment shall be up to two years; however retiring members are eligible for re-nomination.
 - Membership shall include one representative from each user group of the facility or other interested people.
8. In accordance with the *Local Government Act 1995*, a minimum of three (3) persons must be appointed to the Committee.
9. The nomination received from Aaron Minett, member of the KDRU, would provide the Club with a representative on the Committee.

STATUTORY AND LEGAL CONSIDERATIONS

10. *Section 5.11 (2)(d) of the Local Government Act 1995 – Tenure of Committee Membership.*

POLICY CONSIDERATIONS

11. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

12. Nil.

External Referrals

13. Nil.

FINANCIAL CONSIDERATIONS

14. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

15. *Kalamunda Advancing: Strategic Community Plan to 2023*
Strategy 1.8.1 Provide Leadership and assistance to local community groups and associations.

SUSTAINABILITY

Social Implications

16. Community representation on Shire Management and Advisory Committees is integral to ensuring a relationship is maintained between Shire operations and facility users.

Economic Implications

17. Nil.

Environmental Implications

18. Nil.

RISK MANAGEMENT CONSIDERATIONS

19.

Risk	Likelihood	Consequence	Rating	Action/Strategy
That the Hartfield Park Advisory Committee will not have full user group representation	Unlikely	Insignificant	Low	The Shire actively seeks to appoint members from all user groups.

OFFICER COMMENT

20. Officers support the nomination of Mr Aaron Minett to the HPAC as a representative of the Kalamunda and Districts Rugby Union Club.

Voting Requirements: Absolute Majority

RECOMMENDATION

That Council:

1. Appoints the nominee, Mr Aaron Minett, to the Hartfield Park Advisory Committee to represent Kalamunda & Districts Rugby Union Club as a member.

Moved:

Seconded:

Vote:

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

10.3.2 Occupational Safety and Health – Council Policy Review

Previous Items	
Responsible Officer	Chief Executive Officer
Service Area	People Services
File Reference	
Applicant	N/A
Owner	N/A
Attachment 1	Previous Occupational Safety and Health Shire Policy
Attachment 2	Proposed Update to Occupational Safety and Health Shire Policy

EXECUTIVE SUMMARY

1. An annual review of the Shire's Occupational Safety and Health Policy identified the need to ensure the policy complied with both the Australian Standard 4801 and the proposed International Standard (ISO) 45001.
2. Review of the Shire's Occupational Safety and Health Policy is a requirement of the Shire's Safety Management Plan and is in line with best practice protocol. The updated Policy has a consolidated list of compliance statements and now includes an Injury Management Statement and a hierarchy of controls in relation to risk mitigation. Further the Policy incorporates the requirements of the proposed ISO 45001, making it both nationally and internationally compliant.
3. The proposed Occupational Safety and Health Policy is submitted for Council adoption.

BACKGROUND

4. The Shire periodically reviews, revokes and adds new policies to its Policy Register. Policies are used to ensure consistency and transparency in decision making as well as adding clarity to and intent to existing legislation.
5. As such, the Occupational Safety and Health Policy has been reviewed and updated for inclusion in the Policy Register.

DETAILS

6. The Shire is committed to protecting the wellbeing of employees and stakeholders through the effective prevention of occupational injury and illness, by incorporating a Safety Management System that promotes continuous improvement.
7. The Policy has been reviewed and updated to include requirements from the proposed International Standard 45001 ensuring the Shire's approach to Occupational Safety and Health remains current and moves from national to international best practice.

8. Review of the Shire's Occupational Safety and Health Policy is a requirement of the Shire's Safety Management Plan and is in line with best practice protocol. The updated Policy has a consolidated list of compliance statements and now includes an Injury Management Statement and a hierarchy of controls in relation to risk mitigation. Further the Policy incorporates the requirements of the proposed ISO 45001, making it both nationally and internationally compliant.

STATUTORY AND LEGAL CONSIDERATIONS

9. The relevant Acts are:
 - *Occupational Safety and Health Act 1984*
 - *Tobacco Products Control Act 2006 (WA)*
 - *Tobacco Products Control Regulations 2006*
 - *Health (Smoking in Enclosed Public Places) Regulations 1999 (WA)*
 - *AS/NZS 4801:2001*
 - *ISO 45001 (proposed)*

POLICY CONSIDERATIONS

10. N/A

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

11. Reviewed and approved by the Shire of Kalamunda's Work Health and Safety Representatives Committee.

External Referrals

12. N/A

FINANCIAL CONSIDERATIONS

13. In committing to adopting the Occupational Safety & Health (OSH) policy, the financial impact for the Shire may be seen through the on-going training and dissemination of OSH information to staff. However, increasing staff awareness, ensuring tickets and licences are kept up to date; and providing an effective reporting, investigation and recording system works towards the reduction of serious workplace incidents, which would in turn reduce the financial implications of workers' compensation and related expenses.
14. Any additional cost will be captured during the Annual Budget process.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 6.9: To provide a risk minimised and safe working environment in every aspect of the Shire's business.

Strategy 6.9.2: Implement processes that ensure compliance with Occupational Safety and Health legislation.

SUSTAINABILITY

Social Implications

16. Provide a safe and secure environment for residents and visitors to the Shire of Kalamunda who may be impacted by the day to day business of the Shire, as far as reasonably practical.

Economic Implications

17. N/A

Environmental Implications

18. N/A

RISK MANAGEMENT CONSIDERATIONS

19.

Risk	Likelihood	Consequence	Rating	Action/Strategy
Ineffective system of reporting, investigating and recording accidents/incidents	Likely	Medium	High	Regular review and update of systems based on current needs
Staff and stakeholders are not adequately educated on up to date methods and requirements for working safely and have knowledge of emergency plans	Rare	Medium	Low	All staff are given an OSH induction with general safety and role specific OSH information; including emergency exit plans, locations of first aid and specialised resuscitation equipment, the provision of protective equipment and

				clothing and regular information sessions on sun care, injury management etc.
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OFFICER COMMENT

20. Given the advancements in technology and the continually changing work patterns and environments, it is important to keep up to date with contemporary best practices both nationally and globally. The Shire’s new Occupational Safety and Health Policy seeks to bridge the gap in requirements ensuring the Shire’s compliance with both national and international standards.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Adopts the Occupational Safety and Health Policy (Attachment 2).

Moved:

Seconded:

Vote:

Attachment 1

C-HR03 – Occupational Safety and Health

Purpose

The Shire of Kalamunda will maintain an effective Safety Management System that incorporates continuous improvement philosophy and provides as far as is reasonably practical for maintenance of occupational safety and health standards to protect the wellbeing of our staff, stakeholders and the environment.

Policy Statement

The Shire of Kalamunda will ensure all employees have safe workplace conditions, work instructions and safe systems of work that minimise the risk of injury or illness to our people (including full time and part time employees, contractors, labour hire, visitors, volunteers and other customers) and damage to our property and the environment.

The Safety Management System will continue to be integrated into the culture of our organisation and commitment will be demonstrated through effective leadership and consultation.

The Shire of Kalamunda is committed to:

- Ensuring that the organisations operations do not place the local community at risk of injury, illness or property damage.
- Take such steps as are reasonably practicable to provide and maintain a safe working environment.
- Maintaining and enhancing the wellbeing of our employees, contractors, community and environment, by:
 - Continuously improving our health and safety performance.
 - Respecting and complying with its legal obligations.
 - Seeking opportunities to share its successes.

The Shire of Kalamunda will:

- Comply with the Western Australian Occupational Safety and Health Act 1984, all relevant Regulations, Codes of Practice and Australian Standards.
- Ensure staff and stakeholders understand and comply with their obligations regarding relevant Occupational Safety and Health Legislation and Council's policies, procedures and safe systems of work.
- Provide a safe and secure environment for residents and visitors to the Shire of Kalamunda who may be impacted by the day to day business of the Shire of Kalamunda, as far as is reasonably practical.
- In consultation with staff and stakeholders, manage all safety related matters to reduce risks in the workplace.
- Control physical and procedural safety and environmental hazards through continuous hazard identification and control processes.
- Provide induction and ongoing training, information and instruction to staff and relevant stakeholders, regarding Occupational Safety and Health.
- Ensure that effective purchasing programs, contracts, tenders, leasing, hiring systems and assets comply with and are maintained in line with the Council's Policies and procedures and Australian Standards in relation to the Western Australian Occupational Safety and Health Act 1984.
- Provide an effective system of accident / incident reporting, investigation and recording.
- Ensure that staff and stakeholders are aware of the Emergency Response Plans and their responsibilities.
- Maintain sufficient qualified First Aid Officers and adequate First Aid Kits and ensure that all staff are familiar with their location throughout the organisation.
- Provide and maintain appropriate specialised Resuscitation equipment.
- Establish and maintain a safety management system modelled on Australian Standard 4801:2001.
- Protect workers from the harmful effects of the sun by using a combination of sun protection measures including protective clothing, hats, sunglasses, sunscreens, job rotation and utilising shade.
- Ensure that all Shire of Kalamunda indoor premises and motor vehicles will be smoke free at all times.

Staff and Stakeholders will

- Comply with the West Australian Occupational Safety and Health Act 1984, all relevant Regulations, Codes of Practices and Australian Standards.
- Report all workplace hazards and incidents to supervisors / manager.
- Work in accordance with the policies, procedures and safe systems of work of the Shire of Kalamunda.
- Work in a safe manner that will not endanger the safety and health of yourself, your colleagues the public or the environment.
- Consult and cooperate with supervisors and management on matters relating to workplace safety and health.

Attachment 2

C-HR03 – Occupational Safety and Health

Purpose

The Shire of Kalamunda will maintain an effective Safety Management System that incorporates continuous improvement philosophy and provides as far as is reasonably practical for maintenance of occupational safety and health standards to protect the wellbeing **and prevention of occupational injury and illness of our employees and stakeholders.** ~~of our staff, stakeholders and the environment.~~

Policy Statement

The Shire of Kalamunda will ensure all employees have safe workplace conditions, work instructions and safe systems of work that minimise the risk of injury or illness to our people ~~(including full time and part time employees, contractors, labour hire, visitors, volunteers and other customers)~~ **(including all employees and stakeholders)** and damage to our ~~property~~ **assets** and the environment.

The Safety Management System will continue to be integrated into the culture of our organisation and commitment will be demonstrated through effective leadership and consultation.

The Shire of Kalamunda is committed to:

- Ensuring that the organisations operations do not place the local community at risk of injury, illness or property damage.
- Take such steps as are reasonably practicable to provide and maintain a safe working environment.
- Maintaining and enhancing the wellbeing of our employees, ~~contractors, community and environment,~~ **and stakeholders** by:
 - Continuously improving our health and safety performance.
 - Respecting and complying with its legal obligations.
 - Seeking opportunities to share its successes.

The Shire of Kalamunda will:

- Comply with the Western Australian *Occupational Safety and Health Act 1984*, all relevant Regulations, Codes of Practice and Australian Standards.
- **Comply with their obligations regarding relevant Occupational Safety and Health Legislation and Council's policies, procedures and safe systems of work.**
- ~~Ensure staff and stakeholders understand and comply with their obligations regarding relevant Occupational Safety and Health Legislation and Council's policies, procedures and safe systems of work.~~
- Provide a safe and secure environment for residents and visitors to the Shire of Kalamunda who may be impacted by the day to day business of the Shire of Kalamunda, as far as is reasonably practical.
- **Seek to engage contractors who can demonstrate an appropriate OSH management system capability that, at a minimum, meets the Shire of Kalamunda OSH standards which will optimise safety management for workers contracted by the Shire of Kalamunda.**
- In consultation with staff and stakeholders, manage all safety related matters to reduce risks in the workplace **and control such risk using the hierarchy of controls.**
- Control physical and procedural safety and environmental hazards through continuous hazard identification and control processes.
- Provide induction and ongoing training, information and instruction to staff and relevant stakeholders, regarding Occupational Safety and Health.
- Ensure that effective purchasing programs, contracts, tenders, leasing, hiring systems and assets comply with and are maintained in line with the Council's Policies and procedures and Australian Standards in relation to the Western Australian *Occupational Safety and Health Act 1984*.
- Provide an effective system of accident / incident reporting, investigation and recording.
- Ensure that staff and stakeholders are aware of the Emergency Response Plans and their responsibilities.
- Maintain sufficient qualified First Aid Officers and adequate First Aid Kits, **including specialised resuscitation equipment**, and ensure that all staff are familiar with their location throughout the organisation.
- Establish and maintain a safety management system modelled on Australian Standard 4801:2001.
- ~~Provide and maintain appropriate specialised Resuscitation equipment.~~
- Protect workers from the harmful effects of the sun by using a combination of sun protection measures including protective clothing, hats, sunglasses, sunscreens, job rotation and utilising shade.
- Ensure that all Shire of Kalamunda indoor premises and motor vehicles will be smoke free at all times.
- **Provide a systematic approach to injury management and rehabilitation throughout the Shire immediately following work related illness, injury and disability.**

Staff and Stakeholders will

- ~~Comply with the West Australian *Occupational Safety and Health Act 1984*, all relevant Regulations, Codes of Practices and Australian Standards.~~
- ~~Report all workplace hazards and incidents to supervisors / manager.~~
- ~~Work in accordance with the policies, procedures and safe systems of work of the Shire of Kalamunda.~~
- ~~Work in a safe manner that will not endanger the safety and health of yourself, your colleagues the public or the environment.~~
- ~~Consult and cooperate with supervisors and management on matters relating to workplace safety and health.~~

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

10.2.3. Retrospective Application for Nursery and Temporary Food Van – Lot 17 (105) Tanner Road, Carmel

Previous Items	Nil.
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	DA16/0081 & TN-01/105
Applicant	Melville Nurseries
Owner	Melville Nurseries
Attachment 1	Site Plan
Attachment 2	Applicant's Water Management Plan
Attachment 3	Independent Hydrological and Geological Assessment
Attachment 4	Submission Table

EXECUTIVE SUMMARY

1. The application is seeking approval for an existing unauthorised nursery land use, incorporating a display, production, and overflow storage garden area, with two (2) employees, open four (4) days of the week. A temporary food (coffee) van is also proposed to operate from the site during nursery opening hours.
2. During advertising, the Shire received 10 submissions, comprising four (4) objections, five (5) non-objections and one (1) comment on the proposal.
3. The principal issues under consideration could be summarised into three (3) main areas; water volumes being used for the nursery, potential contamination of ground water (from fertilisers and chemicals) and potential traffic issues on Tanner and Mottram Road.
4. It is acknowledged that there may be some risks associated with ground water supply and contamination issues stemming from the use of the site as a nursery. However, having regard to the advice from the Department of Water and, independent technical advice from consultants specialising in land and water solutions, information available is inconclusive to determine the impact of the nursery use on nearby users in regard to ongoing access to water. However conditions can be included to address contamination risk from fertilisers.
5. From a landscape amenity perspective, the scale and nature nursery use itself is not considered to be incongruous in the Rural Conservation zone. Also the relatively low volumes of traffic expected is not considered to result in significant undue amenity impacts on the area. Accordingly, it is recommended that the application be approved subject to appropriate conditions, including a condition limiting the period of approval to three (3) years.
6. Given the property is located in a Water Catchment Reserve under the Metropolitan Region Scheme (MRS), the proposal will also require the approval of the Western Australian Planning Commission.

BACKGROUND

7. **Land Details:**

Land Area:	6.02 hectares (60,186m ²)
Local Planning Scheme No. 3 Zone:	Rural Conservation
Metropolitan Region Scheme Zone:	Rural / Water Catchment Reserve

8. The improvements on the land include a single house, outbuildings and water tanks. The south-west half of the site generally contains dense mature vegetation, however the north-east half is largely cleared with scattered trees.

9. The north-east, north-west and south-west boundaries of the site adjoin Mottram Road and Tanner Road reserves. The south-east boundary of the site adjoins another six (6) hectare rural conservation lot. Vehicle access is obtained via a single crossover on Tanner Road on the north-west side of the site.

10. The surrounding land uses are primarily rural landholdings and regional reserve for parks and recreation.

11. **Locality Plan**



12. **Site History**

On 17 December 2014, subdivision approval was granted by the Western Australian Planning Commission (WAPC) for a two (2) lot freehold subdivision of Lot 3 (105) Tanner Road, Carmel. The subject site and the six (6) hectare lot adjoining the south-east boundary were created through this plan of subdivision.

13. The application which is the subject of this report was lodged as a result of a compliance matter, whereby the nursery had commenced development without planning approval.

DETAILS

14. The application incorporates the continued use of the subject site as a nursery, incorporating the following key elements:

- A display, production, and overflow storage garden area to function as a plant nursery, as follows:
 - Display area - approximately 500m²
 - Production area – approximately 900m²
 - Overflow storage/production – approximately 387m²
- Two (2) employees associated with the nursery.
- Hours of operation are 10am to 4pm, Thursday to Sunday.
- A temporary food (coffee) van to operate at the site during the hours of 10am – 3pm, four days a week (Thursday to Sunday).

15. The applicant submits the following additional information with the application:

"The Melville family have been growing roses commercially both wholesale and retail on this property since 1957, in fact as of today we are third generation rose growers. Initially those roses were grown at the end of Tanner Road allowing the run off from overhead sprinklers to be captured by the dam and reused. The roses were then transported to Mason Mill Road where a retail outlet has been established to work alongside the Rose Heritage Café. 40 Mason Mill Road was sold; i.e. retail outlet and café, at this point we reverted to selling the roses on the initial retail site 105 Tanner Road, Carmel. Due to security problems, convenience and water issues we decided to move the position of the roses from the end of Tanner Road to the beginning of Tanner Road, closer to the family home where we could monitor security, Kangaroo infestations, water problems and theft."

STATUTORY AND LEGAL CONSIDERATIONS

Planning and Development Act 2005

16. The applicant may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the *Planning and Development Act 2005*, in the event that the Shire decides to not approve the development application, or impose conditions which are unacceptable to the applicant.

Local Planning Scheme No. 3

17. The subject site is zoned 'Rural Conservation' under the Local Planning Scheme No. 3. The objectives of the Rural Conservation zone are as follows:
- *Ensure development is in harmony with the natural environment.*
 - *Ensure that land uses, activities and land management practices are consistent with natural resources conservation and are compatible with public water supply objectives.*
 - *Conserve and preserve the bushland status of private freehold and Crown land within the zone.*
 - *Conserve indigenous flora and fauna to ensure the viability of natural ecosystems.*
 - *Encourage the reduction of bush fire hazard.*
 - *To retain large lot sizes.*
18. The proposed nursery use is defined under the Scheme as follows:
- "Nursery - means the use of land for the:*
- a) propagation, rearing and sale of plants and;*
 - b) the storage and sale of products associated with horticultural and garden decor from an open or enclosed area not exceeding a total of 200 square metres on one lot;*
- but does not include:*
- a) the sale, storage, or handling of any manure other than in packages approved by the Council, or*
 - b) the sale, storage, packaging, handling, or processing of any manure in bulk."*
19. The nursery land use is not listed under Table 1 of the Scheme, meaning that Council should exercise its discretion in determining the application, having regard to the objectives of the Rural Conservation zoning, the matters to be considered (referred to below) and any submissions received during advertising of the application.
20. The temporary food van is classified as a restaurant under Table 1 of the Scheme, meaning that Council should exercise its discretion in determining the land use.
21. The Scheme development and parking requirements for the proposal are as follows:

	Scheme requirement	Proposed (measured from the sales building)
Setbacks –		
Front:	North-west: 25m	Approximately 30m
Minor Street:	North-east: 20m	Approximately 60m
	South-west: 20m	Approximately 250m
Rear:	South-east: 20m	Approximately 140m

<p>Parking:</p>	<p>2 bays per 100m² of display and sales area, plus 1 bay per staff member.</p> <p>500m² display/sales: 10 car bays 2 staff members: 2 car bays</p> <p>Total: 12 car bays</p>	<p>11 car parking bays*</p>
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* Denotes a variation to the Scheme requirements.

Planning and Development (Local Planning Schemes) Regulations 2015

22. In considering an application for planning approval, Clause 67 of schedule 2 of the Regulations (Matters to be Considered by Local Government) requires Council to have due regard to a number of matters including, but not limited to:

- the amenity of the locality including the environmental impacts of the development, the character of the locality, and the social impacts of the development;
- the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- The adequacy of the means of access and egress from the site and arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- Whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved;
- The history of the site where the development is to be located;
- The impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals; and
- Any submissions received on the application.

23. Under the Regulations, development involving the construction and/or use of a habitable building requires development approval if it is located in a Bushfire Prone Area and is subject to a BAL-40 or BAL-FZ (flame zone) risk classification. Given the development does not involve the construction or use of any additional habitable buildings, a BAL assessment was not requested in this instance.

POLICY CONSIDERATIONS

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

24. SPP 3.7 intends to implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure. The policy applies to development applications located in bushfire prone areas.
25. Any development in areas above a bushfire hazard level of 'Low' are required to comply with the measures stipulated under SPP 3.7. In 2014, the Shire undertook bushfire hazard mapping as part of the preparation of mapping for bushfire prone areas, which identified the location of the proposed nursery as low. Furthermore, a bushfire management plan (BMP) was prepared and approved in December 2015 during the subdivision of the subject lot and the lot to the south-east (50 Mottram Road, Carmel) which requires the land owners to manage the land with a view of reducing fuel loads, provide water and improve access. The bushfire hazard mapping identified the subject area where the nursery is proposed as a low risk, which means that the proposal is not specifically subject to the provisions of State Planning Policy 3.7. Nevertheless the requirements for bushfire management of the site is considered to be addressed under the existing approved BMP.

COMMUNITY ENGAGEMENT REQUIREMENTS

26. The application was advertised twice during the course of the Shire's assessment; first when the application was received and then again when the applicant provided an amended site plan and water management plan. Advertising was undertaken on both occasions by sending letters to all property owners on Tanner Road and Mottram Road who were deemed to be impacted by the proposed use.
27. It is important to note that the plan that was advertised on the second occasion (in January 2017) was not entirely consistent with the extent of overflow and production area that are occurring at the site. However the applicant has revised the plan in March 2017 to accurately reflect the parameters of the production and overflow areas, which is provided in (Attachment 1) for Councils consideration. The applicant submits that the number of plants and details provided in the water management plan does not change as a result of the revised plan.
28. During advertising, the Shire received 10 submissions, comprising four (4) objections, five (5) non-objections and one (1) comment on the proposal. Refer to submission table in (Attachment 4). The concerns raised to the proposal can be summarised as follows:
 - water volumes being used for the nursery;
 - potential contamination of ground water (from fertilisers and chemicals); and
 - potential traffic issues on Tanner and Mottram Road.

Internal Referrals

29. **Assets Services**
- The position of the crossover on Tanner Road is acceptable. The crossover should be upgraded to a 6 metre wide seal including pipe culvert to allow two way access.
 - Unapproved advertising signs located within the road reserves on the corner of Welshpool Road East, Mottram Road and Tanner Road should be removed.
 - The disabled bay is required to meet Australian Standard AS2890.6.
 - Existing and proposed seal pavements for staff and visitor parking is required to meet Australian Standard AS2890.1.
 - Stormwater must be disposed of on-site.
 - In regards to considering the need for modifications to the intersection of Welshpool Road East and Tanner Road, a road safety audit would be an option, however based on the scale and anticipated volumes of traffic such an audit would be irregular for this proposal.
30. **Environmental Health Services**
- If staff and visitor toilets are provided, a new effluent disposal system that complies with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulation 1974* must be installed.
31. **Building Services**
- Any new buildings must comply with the Building Code of Australia.
 - Any building application must be a certified application.
 - Access must comply with Australian Standard 1428.1.
32. **Environment**
- The water management plan is very basic and contains broad statements, it provides a basic understanding of the water use but does not detail monitoring of nutrients.
 - Groundwater is not recognised (proclaimed) by the Department of Water (DoW) and there is little merit in mapping the ground water.
 - Applicant should develop a nutrient and irrigation management plan, addressing the relevant Department of Water guidelines and water quality protection notes.

External Referrals

33. **Department of Water (initial advice provided 13 December 2016)**
- The nursery is located within an unproclaimed groundwater area as such the DoW is unable to regulate ground water use in the area. The groundwater area is unproclaimed due to being within a fractured rock aquifer where there is no guarantee of groundwater quality or supply and connectedness of aquifers is difficult to determine. As such, any issues regarding groundwater need to be managed by the Local Government under the *Planning and Development Act 2005*.
 - Potential impacts of water use for the nursery on other groundwater users in the area will generally be very localised and unlikely to impact other uses. A small volume of water is proposed to be used further reducing the impact on other users.

- The Water Management Plan generally covers issues that are expected to be encountered. It might be suggested that water level and quality monitoring, trigger values and contingency measures are included to demonstrate the proposal will not impact other groundwater users.

34. **Department of Water (second letter of advice provided 13 March 2017)**

- The geology of an area influences the occurrence of groundwater, its movement and its quality. The subject property lies on higher ground that forms an interfluvium between the valleys that contain two southward flowing tributaries of the Bickley Brook. The geology of the western and south eastern valley floors is mapped as colluvium, underlain by laterite over Precambrian crystalline rocks.
- The laterite and rocks are generally impervious and therefore groundwater is stored within fractures and joints of the rock mass. Ground water yield and flow directions is extremely variable, and dependent on the distribution and orientation of the fractures. It is also extremely difficult to determine the connectivity of fracture systems, or predict whether ground water is likely to occur in the fractures. In most cases, drilling is the only way to confirm the presence of groundwater, and determine its yield and salinity. Recharge in fractured rock aquifers is usually local and intermediate. Similarly, abstraction bores in the area are more likely to have only a local drawdown impact, due to the limited hydraulic connection between fractures.
- In a worst case scenario, if the estimated ground water take of 36,000 litres per day in summer was applied every day for a year, the annual take would be less than 15,000 kilolitres per annum. This volume is not considered to be excessive and therefore would be unlikely to impact other nearby users.
- If the Local Government still have concerns regarding potential impacts to other groundwater users, then the Water Management Plan could be amended to include further hydrogeological investigations and reporting, such as pump testing and modelling drawdown impacts, water level and quality monitoring, trigger values and contingency measures, and requirements to meter abstraction from production bores and report annual usages.

Urbaqua Land and Water Solutions

35. In February 2017, the Shire sought independent advice from Environmental Consultants, Urbaqua, who provided the following advice in respect to the proposal (Attachment 3):

- The site is located in the upper Bickley Brook Catchment at an elevation of approximately 260m AHD. The site contains no mapped surface water features, or water bodies or waterways discernible in aerial imagery.
- There is a small tributary of the Bickley Brook mapped to the west of the site although it is not clearly visible in aerial imagery and is most likely a seasonal overland flow path that feeds the dam located in lot 121 Tanner Road rather than a defined watercourse.
- The site is likely to drain towards the south-west and may contribute surface water runoff to the existing water body located in lot 121 Tanner Road.

- The surface geology of the site and surrounds has been mapped as Laterite along elevated ridgelines transitioning to gravel slopes and granite in the steep base of the Bickley Brook valley. Some small pockets of clayey sandy silt of alluvial origin are mapped in tributary valleys.
- Topsoils in this area are expected to be thin and generally well drained.
- The Department of Water maps the hydrogeology of the area as Fractured Rock and does not license groundwater abstraction in this area. This is because there is no consolidated 'aquifer' present that can be reliably modelled or quantified. The successful abstraction of groundwater in fractured rock areas relies on the location of a suitable system of connected cracks or fissures in the rock where water has seeped through and collected over time. Small local alluvial aquifers are sometimes found to be present in porous sandy or clayey soils located in the base of valleys parts of the Kalamunda hills. However, these aquifers are generally small and may dry-out seasonally and are therefore not substantial enough to be considered an 'allocable resource'. A comparison of groundwater systems in fractured rock aquifers and porous media is shown in Figure 2 (below).

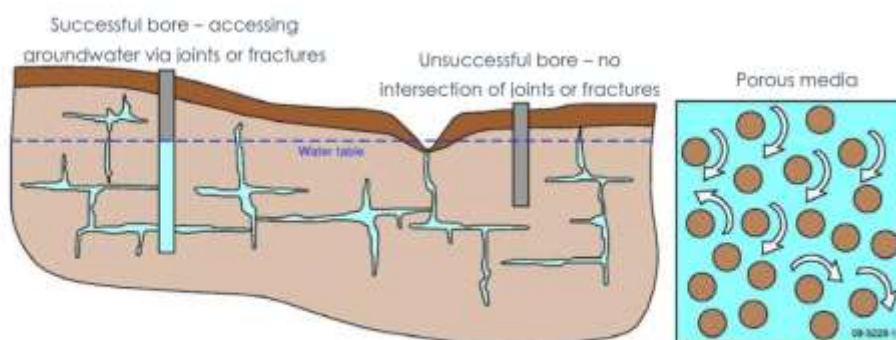


Figure 2: Groundwater systems in fractured rock aquifers (left) and porous media (right)

- If the two sites are drawing water from interconnected fractures, it is possible for groundwater abstraction at Lot 105 Tanner Road to reduce the volume of water available for abstraction at neighbouring properties. It is not usually possible; however, to accurately predict these occurrences without substantial (and costly) geological investigation.
- It is suggested that in the event of reduced yield noticed at Lot 105 Tanner Road or neighbouring properties, groundwater abstraction should be ceased or reduced by both parties and reasonable opportunities for alternate bore sites considered. It is noted that there is no legal requirement for this to occur, although it would be in the interest of both parties for at least one bore to be relocated into a hydraulically separate fracture if possible.
- Similarly, if fertilisers and other chemicals are being used in proximity to the abstraction bore head on Lot 105 Tanner Road, it is possible for them to enter the groundwater leading to contamination of groundwater abstracted on site and potentially at neighbouring properties if the two sites are drawing water from interconnected fractures.
- Management measures to prevent contamination of the groundwater should be implemented on the site including:
 - All fertilisers and chemicals should be appropriately stored at locations well removed from the groundwater bore.

- The use of fertilisers and other chemicals should be avoided within 30m of the bore.
- Stormwater runoff from cultivated areas of the site treated with fertilisers and other chemicals should be directed away from the bore head.

FINANCIAL CONSIDERATIONS

36. In the event that Council refuses the application or imposes conditions that are unacceptable to the applicant, and an application is lodged for review/ appeal with the SAT, the Shire may need to engage lawyers to assist in defending the Shire's position.
37. The cost to undertake a full hydrological and geological investigation to fully understand the implications on bore water extraction from the subject site on neighbouring properties, if any, would be in the vicinity of \$200,000.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

38. Kalamunda Advancing: Strategic Community Plan to 2023
- OBJECTIVE 4.3 – To ensure the Shire's development is in accord with the Shire's statutory and legislative obligations and accepted urban design planning standards.
- Strategy 4.3.2 – Undertake efficient monitoring and compliance of building developments within the Shire.

SUSTAINABILITY

Social Implications

39. Mottram Road and Tanner Road are cul-de-sac roads which predominantly service rural land uses. As such, these roads characteristically carry low volumes of traffic.
40. Consideration should be given to the impact that the proposal may have on the rural and landscape amenity of the area.

Economic Implications

41. The proposal would provide economic opportunities for the owners of the land and additional employment opportunities, including for the temporary food (coffee) van proposed to be located at the site during operating hours/days.

Environmental Implications

42. Several submissions raise concern in regard to the potential impact that the use may have on ground water in the area. In particular, the following issues were raised:
- The applicant’s water management plan does not adequately or accurately reflect the levels of water use used by the operation.
 - The methods of water use are not best practice.
 - The levels of water use proposed by the applicant are not sustainable and will result in impacts on other nearby ground water users.
 - The use of fertiliser for the nursery may impact on the ground water quality in the area.
 - There is a need for ongoing water level and quality monitoring to protect surrounding property owners.

Further discussion regarding the above concerns surrounding groundwater are provided in the officer comment section of this report.

43. In regard to the regulation of groundwater in this instance, Department of Water has advised that the subject site is located within an unproclaimed groundwater area under the *Rights in Water and Irrigations Act 1947*, meaning that the Department are not involved in the regulation of groundwater. The responsibility for determining the appropriateness of ground water use rests with the Shire through the development application process.
44. The proposal does not incorporate the excessive or unnecessary removal of vegetation. One (1) mature marri tree was recently removed from the site, however the applicant submits that this tree was termite damaged and a potential danger to safety.

RISK MANAGEMENT CONSIDERATIONS

45.

Risk	Likelihood	Consequence	Rating	Action/Strategy
The proposal will unduly impact on the level and quality of groundwater in the area.	Possible	Significant	High	Based on advice from the DoW and the independent consultants, it is unclear what impacts if any, the proposal will have on existing groundwater levels. It is recommended that the approval be limited to a restricted timeframe for the water usage to be monitored.

OFFICER COMMENT

46. During advertising, the principal concerns raised could be summarised into three (3) main areas; water volumes being used for the nursery, potential contamination of ground water and traffic issues on Tanner and Mottram Road. Further comment on these matters are provided below.
47. **Volume of water used by the Nursery:**
The applicant's water management plan indicates that the proposed nursery will require on average 8,000 gallons (approximately 36,000 litres) of water per day during summer, and 2,000 gallons (approximately 9,000 litres) per day during spring. No watering is proposed during winter and autumn.
48. On face value, the volume of water stipulated in the application is not considered unrealistic and advice received from the DoW does not question the veracity of the volumes claimed for the operation. Moreover, based on DoW advice, if the proposal were to hypothetically use 36,000 litres per day, for every day of the year, it would not be considered an excessive volume of water and therefore would be unlikely to impact on other nearby users.
49. In the event that the application is approved, Council could give consideration to the inclusion of conditions of the planning approval to require water level monitoring through metering the active bores on the site and for the applicant to report on annual usages. This would assist in providing some data on the amount of water being drawn from the site, which in turn could be reported back to the DoW for comment on.
50. **Potential contamination of ground water:**
The applicant submits that the nursery will operate with the use of controlled release fertilisers at a rate of 15 to 30 grams per pot, one application for perennials and two applications to root stock plants throughout the year (providing the plants are not sold before the second application). Based on this the maximum estimated volume of fertiliser used per annum is considered to be 720 kilograms.
51. The independent advice received from Urbaqua in relation to the subject proposal, indicates that management measures can prevent contamination of ground water, including:
- All fertilisers and chemicals being appropriately stored at locations well removed from groundwater bores.
 - The use of fertilisers and other chemicals should be avoided within 30m of the bore.
 - Stormwater runoff from cultivated areas of the site treated with fertilisers and other chemicals should be directed away from the bore head.
- It is recommended that the above measures be required to be implemented to the Shire's satisfaction and have been included as recommended conditions of planning approval.

52. **Traffic and access:**

Based on the scale of the proposal and the number of vehicles anticipated for the nursery, it is highly irregular to request a formal traffic impact statement or assessment. While it is noted that Tanner and Mottram Roads characteristically carry low volumes of traffic, it is not considered that the traffic generated by the nursery will be so significant that it will have the effect of unduly impacting on the amenity of the area in terms of traffic safety. The Shire's Asset Services has advised that the position of the crossover on Tanner Road is acceptable, however the crossover should be upgraded to a 6 metre wide seal including pipe culvert to allow two (2) way access.

53. The Shire's Asset Services has also noted that a road safety audit will be needed in the future for the intersection of Welshpool Road East and Tanner Road. Given the distance of the proposal from Welshpool Road, and the relatively low volumes of traffic expected due to the nursery use, it would not be reasonable to impose a condition requiring the applicant to undertake improvements or modifications to the intersection. Accordingly, this would need to be undertaken by the Shire.

54. **Signage**

It is noted that signage has been placed on the Welshpool Road and Tanner Road verges without the Shire's prior approval. In the event that this application is approved by Council, it is recommended that a condition be included that requires any signage to be located wholly on the subject site. Separately, the Shire would include an advice note which indicates that separate approval is required for any signage located within the road reserve.

55. **Summary**

It is acknowledged that there may be some risks associated with contamination issues stemming from the use of the site as a nursery. However conditions can be included to address contamination risk from fertilisers. From a landscape amenity perspective, the scale and nature nursery use itself is not considered to be incongruous in the Rural Conservation zone.

56. It is noted that the DoW has indicated that the amount of water to be taken from the groundwater is not considered to be excessive and is therefore unlikely to impact on surrounding landowners. That said, the concerns raised by surrounding landowners in terms of the water take impacting on their ability to draw water is a legitimate one. The independent consultants have indicated that given the nature of fractured rock evident in the area, it is possible for two sites to draw from interconnected fractures. In this instance, it would be possible for groundwater abstraction from the subject lot to reduce the volume of water available for abstraction from adjoining properties. The dilemma for the Shire and Council in considering this matter is that unless a detailed hydrological and geological assessment is undertaken for the area, it is not possible to accurately predict whether this is the case or not. Noting the estimated cost of \$200,000 to undertake such a study, the amount would from the applicant's perspective, appear disproportionate to the commercial scale of the nursery operation.

57. Council could consider limiting any approval on the site to a initial period of three years and request the applicant to undertake water level monitoring through metering the active bores on the site and for the applicant to report on annual usages. On balance, this is considered to be appropriate given it would allow the Shire to review the amount of water being drawn and seek advice from hydrological consultants as well as the DoW regarding usage rates, and provide Council to review the proposal at the end of the 3 year period. Accordingly, it is recommended that the application be approved for a period of three years subject to appropriate conditions.
58. It is open to the applicant to reapply for planning approval for the nursery after the expiration of the 3 year temporary approval. The data obtained over the temporary approval period relating to water use would be assessed as part any new planning application.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Approves the retrospective planning application for a nursery and temporary Food Van at Lot 17 (105) Tanner Road, Carmel, subject to the following conditions:
 - a) Pursuant to Clause 72 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, the time for which this development approval is valid lapses three (3) years from the date of this approval. The use of the site for a nursery shall cease on or before 24 April 2020, unless otherwise approved by the Shire of Kalamunda.
 - b) The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan to the satisfaction of the Shire of Kalamunda.
 - c) Bore water usage on the site for commercial purposes is restricted to the amounts (litres) identified in the Water Management Plan submitted with the application.
 - d) The Applicant shall undertake water level monitoring for commercial water use through metering the active bores on the site and to report the results to the Shire of Kalamunda on an annual basis.
 - e) Within 60 days of the approval to commence development, a fertiliser and chemical storage plan is to be submitted to, and approved by, the Shire of Kalamunda, detailing appropriate storage locations of fertilisers and chemicals associated with the nursery, well removed from any groundwater bore on the subject site. The applicant/owner shall thereafter comply with the storage arrangements and locations stipulated on the approved fertiliser and chemical storage plan to the satisfaction of the Shire of Kalamunda.

-
- f) The use of fertilisers and other chemicals shall not be used within 30 metres of any bore on the site.
 - g) Stormwater runoff from cultivated areas of the site treated with fertilisers and other chemicals shall be contained and directed so that the stormwater does not flow within 30 metres from any bore head, to the satisfaction of the Shire of Kalamunda.
 - h) Within 60 days of the approval to commence development, the crossover shall be upgraded to a six (6) metre wide seal including pipe culvert to allow two (2) way vehicle access.
 - i) Within 60 days of the approval to commence development, a disabled bay is required to be installed to meet Australian Standard AS2890.6.
 - j) Within 60 days of the approval to commence development, a separate application including plans and a description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by the Shire of Kalamunda. For the purposes of this condition, all signage shall be located wholly within the subject lot.
 - k) Within 60 days of the approval to commence development, 12 parking bays shall be constructed, sealed, line marked and drained to the satisfaction of the Shire of Kalamunda. For the purposes of this condition, staff and visitor parking is required to meet Australian Standard AS2890.1.
 - l) Vehicle access ways shall be suitably constructed, sealed, line marked and drained to the satisfaction of the Shire of Kalamunda.
 - m) The hours of operation for the Nursery be limited to 10am to 4pm, Thursday to Sunday.
 - n) The temporary food (coffee) van to operate at the site during the hours of 10am – 3pm, four days a week (Thursday to Sunday).

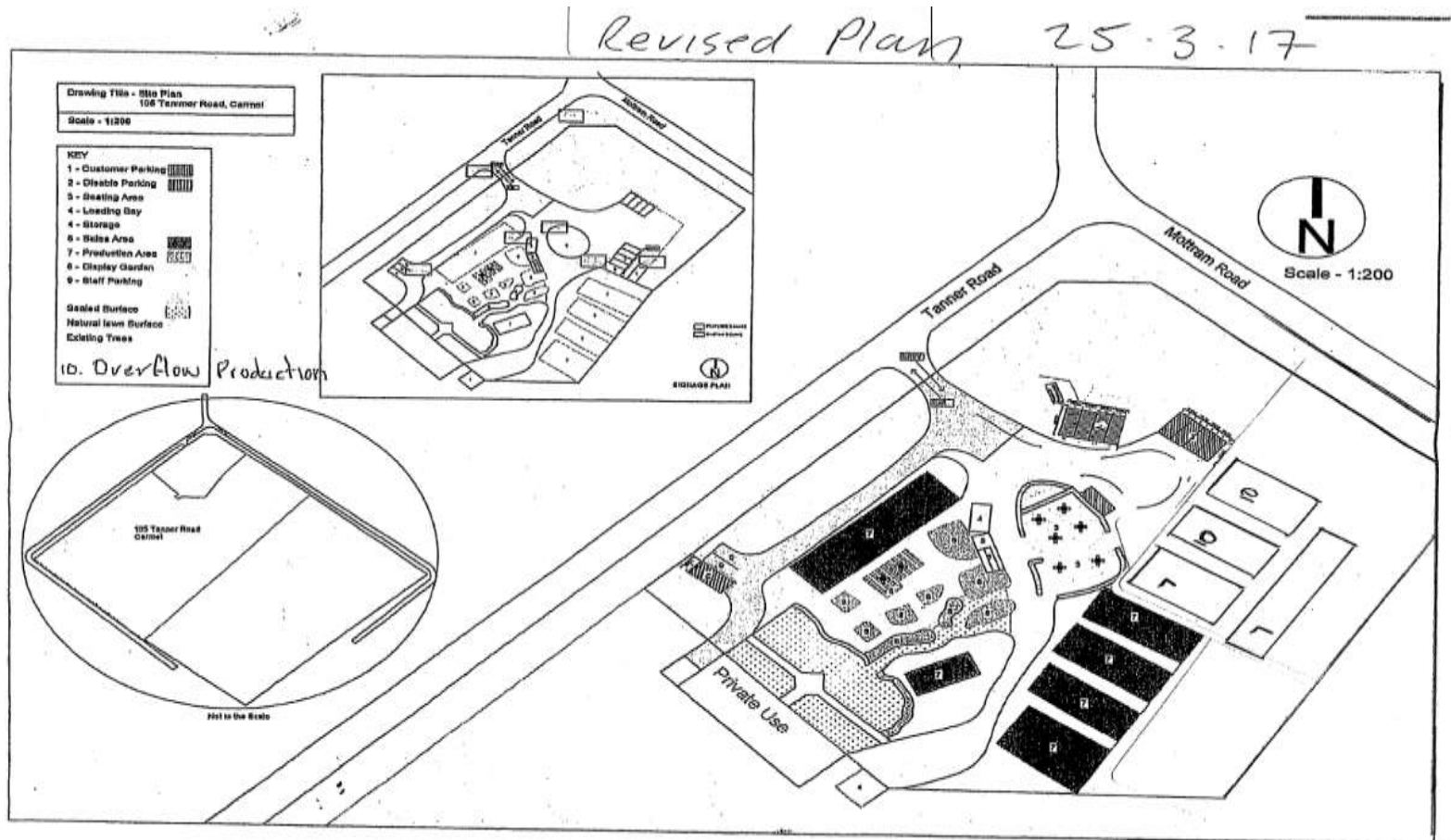
Moved:

Seconded:

Vote:

Attachment 1

Retrospective Application for Nursery and Temporary Food Van – Lot 17 (105) Tanner Road, Carmel
Site Plan



Attachment 2

Retrospective Application for Nursery
Lot 17 (105) Tanner Road, Carmel

Applicant's Water Management Plan

Page 1 of 6

Melvilles Rose n Garden Water Management Plan 2016
105 Tanner Road Carmel WA 60761

3a. The Overall impact of the proposed nursery on water resources in the area (both waterways and underground systems).

The nursery is located in an area that has minimal effect on water resources. Geographically 300 meters above sea level this means the land is not subject to seasonal flooding.

Clay soils are 7 meters deep followed by granite for 40 meters. This ensures a natural barrier/filtration system to leaching from the nursery into ground water or waterways. Coupled with operating conditions, onsite materials and processes the nursery does not pose a risk to the local water ways. The soil is non permeable and the maximum water table is 47 meters below the surface through dense clay/granite. Bores are 40 meters deep through granite and are double cased.

Gradient on the property is 10% therefor excessive run off and erosion are not a problem.

3b. If the proposal will use bore water, please provide the location of the bore and the volume of water use. This will also need to detail the impact on the availability of ground water to surrounding properties.

Bore water is in use. Bore 1 is located 150 metres west of the house on Tanner Road, Bore 2 is 100 metres west of the house on Tanner Road. 105 Tanner Road is situated in an area that has 'un-proclaimed water' - the water authority deems that there is no water worth proclaiming. This is the situation for every property in the area, therefore everyone collects, stores and uses the water as required according to their needs. No license is required.

We have owned and operated a retail/wholesale nursery on this land since 1957, growing up to 70,000 plants per annum. Water was also pumped to another property we owned, 40 Masonmill Road Carmel 6076 24 hours a day seven days a week through the summer and warmer months for 20+ years, this consisted of 25,000+ gallons of water being consumed.

Since down sizing the nursery to between 10-13,000 plants we now use 8000 gallons of water per day in summer, up to 2,000 gallons per day in spring and no ground water in winter and autumn. These amounts vary due to climactic factors such as rainfall, fluctuating temperatures and the number of plants sold.

Over the past 3 years our water extraction has dramatically reduced. While using less, we have calculated a significant 17,000 gallon difference per day. As a result, this positively impacts the levels and increases the availability of ground water to all surrounding properties.

Water management is key to the success and sustainability of the nursery and the family home which is located on the property, our aim is to continue to implement progressive facilities and management practices that minimise the risk to water resources in our area.

3c.i. Management measures regarding types of nursery stock.

The nursery grows approximately 10-12,000 roses per annum. Total numbers are approximate due to losses at each stage of the process. Our varieties include David Austin Roses, Heritage, Hybrid-Tea, Floribunda, Delbard Roses, Mini Roses, Climbing Roses, Persica Roses and Standard Roses.

As stock is sold we move and consolidate remaining pots this ensures wise water use. At this point excessive sprinklers can be removed and reinstated at another time when new stock is introduced.

We also grow a section of perennials that are extremely water wise in the salvia range. Approximately 1000 plants per annum.

total numbers are approximate due to losses at each stage of the process.

All stock is on an impermeable membrane and or trays to minimise run off and leaching.

This nursery does not stock plants declared environmental weeds as per the Dept of Agriculture and Food.

3c.ii. Storage of pesticides, fertilisers and chemicals.

The nursery prefers to take an organic approach as much as possible to the propagation and care of the plants. There is an extremely abundant array of native flora and fauna on the property including but not limited to bee hives, various bird life including, bandicoots, frogs, insects, kangaroos, lizards, wild flowers, native trees and shrubs. We use a minimum of Pesticides, fertilisers and chemicals so as not to impact on our surroundings, roses are extremely sensitive to chemicals we will not use them unless we have no other option, the very high risk of damaging and or killing the stock has to be very carefully considered. Everything is stored on an impermeable concrete based zincalume lockable weather proof shed. The building is signed as chemical storage and has no public access. Chemicals are contained in individual

sealable, labeled containers within the storage area. All chemicals are mixed in the shed and volumes needed calculated prior to use so as to minimise waste and environmental impact.

No more than 160kg of fertiliser are stored at any one time

No more than 10 Litres of pesticide and chemicals are stored at any one time

3c.iii. Methods of irrigation

No License is required as we are in an un proclaimed water are.

We schedule watering plans according to the plants developmental requirements, the varieties and seasonal demand such as evaporation losses, variations in plant water needs and the water-holding capacity of the size of the plants and pots. As the stock is sold we move and consolidate remaining pots this ensures wise water use. At this point excessive sprinklers can be removed and reinstated at another time when new stock is introduced. All plants with similar water requirements are grouped in common stations and watered at the appropriate frequency for the seasonal plant uptake and evaporation rates. This changes seasonally and annually.

Water wastage and chemical leaching is minimised by limiting the space between the potted plants as this maximises the water delivery to pots. We use overhead sprinklers, micro sprayers and dripper systems to ensure minimum wastage. Sprinkler systems have been selected and maintained to deliver a uniform coverage of water with 90% to 95% of the water being delivered to the appropriate place.

All pots are mulched with 100% organic lupin mulch and pea hay, thus reducing evaporation and minimising nutrient export. Mulch absorbs the water keeping root systems up to 7 degrees celsius cooler therefore minimising water usage.

3c.iv. Fertiliser and pesticide application

We have a thorough and practical understanding of the nutrient needs of each of the plant species we grow and appropriate application rates of fertiliser during the plant growth cycle. Fertilising at the optimum time is required to minimise leaching of nutrients from the pots. We use controlled release fertilisers this provides a consistent release of nutrients when the temperature is perfect (24+ degrees celsius) enabling plants to take in the nutrients.

Page 4 of 6

Technical details of the Osmocote (tm) CRF are NPK 21.2:1.9:5.7.. Each prill is encased in a permeable and biodegradable soy extract coating which releases a reliable and consistent balance of nutrients due to temperature not moisture. CRF is applied at a rate of 30grams per 20cm pot as the root stock is potted in January, a further application is applied in spring (October) if the plant hasn't been sold. Perennials receive Osmocote (tm) 15grams of CRF when potted generally they are sold quickly and require no further application. The fertiliser we use is Phosphorus low, Swan River friendly.

Pesticides are applied as and when they are required through out the growing period, there is 4 months of dormancy and pre-dormancy, May-August where no treatments are required as the roses are slowing down and going to be pruned, during this time no fertiliser or pesticides are applied. Our first option for controlling pests is always biological and physical, snails for example are collected and given to chooks, bandicoots are in very high numbers and are often seen in the late afternoon eating pests, there are also a lot of magpies, ducks and other water birds on the property all of which contribute to controlling pest numbers.

Aphids can be rubbed off by hand.

However, throughout the growing season if chemical pesticides are necessary we spot spray the areas that require it. Confidor (tm) is used to control sucking insects i.e. Aphids and Sapro (tm) is a fungicide used to control mildew and black spot. Over many years of trial we have found that if pruning is done correctly and the dormant rose is sprayed with Copper Oxy Chloride no application of Sapro is required as the main fungal impact is the following autumn when the plant is going into dormancy therefore it facilitates the process of pruning.

All fertilisers and pesticides are applied at the suppliers recommended rates.

C.v. Waste water and material management

Our root stock are planted into new 20cm pots, grafted in situ and then sold, we have no used pots to dispose of.

The paths surrounding the rose bays are turf over lap water from sprinklers is taken up by the lawn.

Material waste is organic and biodegradable. It is reused in gardens as compost.

The propagation and production of our plants creates no waste water to dispose of.

C.vi. Consideration of run-off and erosion issues.

Run off from seasonal rain fall only, this has been channeled into garden beds via compacted gravel paths The area the pots are grown on is flat therefore avoiding erosion issues. Management of the water is vital to our sustainability we use only what we need.

d. Details of how the proposal will minimise nutrient leaching

Due to the use of CRF and moderate application leaching is minimised. Additionally the pots are placed on a non permeable barrier and in cases trays to retain an possibly nutrient-rich leachate for later plant uptake. The growing area is surrounded by turf which acts as a barrier collecting and using the leachate at run off.

Water wastage and chemical leaching is minimised by limiting the space between the potted plants as this maximises the water delivery to pots.

The planting mix we use contains less than 10% sand, it is predominately pine bark which is very absorbent therefore the permeability of the mix is compatible with the irrigation methods we use, again reducing nutrient leaching.

e. Details of Methods of containing and reusing waste water.

Our nursery has no mechanisation, hence there is no equipment or machinery to sterilise or wash.

New 20cm pots are purchased annually therefore no washing is required.

The propagation and production of our plants creates no waste water to dispose of.

4. Details relating to food van

The food van will be temporality located on the property.

See attached seating area amendment on site plan.

Food vans in use have Kalamunda Shire Health Services approval. They are either Mr Bean or Coastal Coffee.

Food vans will operate approximately 10am-3pm four days a week in good weather, any extreme temperatures or rain would negate their desirability as it is an open area very casual no building, generally people wonder and look with a drink.

The food vans have one operator.

The food vans are managed by their respective owners. Relationship is incidental to the use of the nursery, it is a minor accompaniment providing our customers with service, we derive no income and have no part in the running of the vans.

Attachment 3 - Retrospective Application for Nursery and Temporary Food Van –



08/03/2017

Andrew Fowler-Tutt
Shire of Kalamunda
PO Box 42
KALAMUNDA
WA 6926

Dear Andrew,

Re: Retrospective application for Nursery and Temporary Food Van - Lot 17 (105) Tanner Road, Carmel

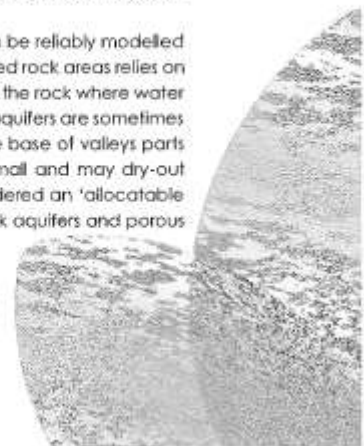
I write in the context of concerns expressed in relation to this proposal and the potential impacts from nursery operations on neighboring property owners. We understand that the primary concerns raised include:

- Ongoing ability to draw water from existing bores; and
- Impact of fertiliser/chemical use on the water table.

I have reviewed available information on the geological and hydrology of the site and surrounding area and make the following observations:

- The site is located in the upper Bickley Brook Catchment at an elevation of approximately 260m AHD.
- The site contains no mapped surface water features, or waterbodies or waterways discernible in aerial imagery.
- There is a small tributary of the Bickley Brook mapped to the west of the site although it is not clearly visible in aerial imagery and is most likely a seasonal overland flowpath that feeds the dam located in lot 121 Tanner Road rather than a defined watercourse.
- The site is likely to drain towards the south-west and may contribute surface water runoff to the existing waterbody located in lot 121 Tanner Road.
- The surface geology of the site and surrounds has been mapped (Figure 1) as Laterite along elevated ridgelines transitioning to gravel slopes and granite in the steep base of the Bickley Brook valley. Some small pockets of clayey sandy silt of alluvial origin are mapped in tributary valleys.
- Topsoils in this area are expected to be thin and generally well drained.
- The Department of Water maps the hydrogeology of the area as Fractured Rock and does not license groundwater abstraction in this area. This is because there is no consolidated 'aquifer' present that can be reliably modelled or quantified. The successful abstraction of groundwater in fractured rock areas relies on the location of a suitable system of connected cracks or fissures in the rock where water has seeped through and collected over time. Small local alluvial aquifers are sometimes found to be present in porous sandy or clayey soils located in the base of valleys parts of the Kalamunda hills. However, these aquifers are generally small and may dry-out seasonally and are therefore not substantial enough to be considered an 'allocatable resource'. A comparison of groundwater systems in fractured rock aquifers and porous media is shown in Figure 2.

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Lot 17 (105) Tanner Road, Carmel.

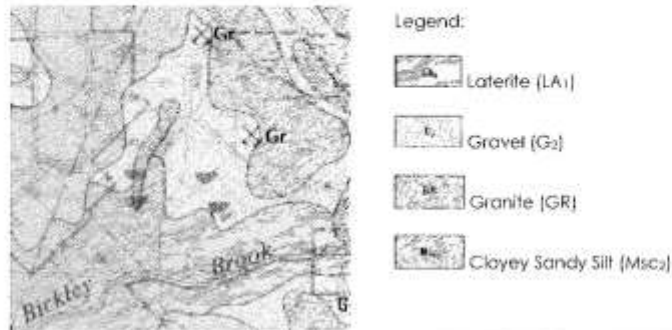


Figure 1: 1:50,000 Environmental Geology (Obtained from DMP)

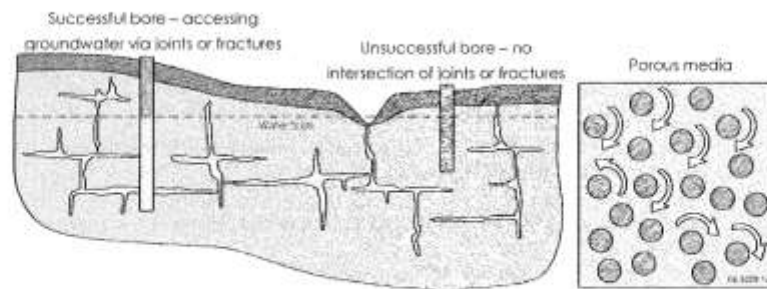


Figure 2: Groundwater systems in fractured rock aquifers (left) and porous media (right)

Findings and recommendations

Consideration of available information on the geological and hydrology of the site and surrounding area leads to the following conclusions in relation to the concerns raised:

Ongoing ability to draw water from existing bores:

- If the two sites are drawing water from interconnected fractures, it is possible for groundwater abstraction at Lot 105 Tanner Road to reduce the volume of water available for abstraction at neighbouring properties. It is not usually possible; however, to accurately predict these occurrences without substantial (and costly) geological investigation.
- It is suggested that in the event of reduced yield noticed at Lot 105 Tanner Road or neighbouring properties, groundwater abstraction should be ceased or reduced by both parties and reasonable opportunities for alternate bore sites considered. It is noted that there is no legal requirement for this to occur, although it would be in the interest of both parties for at least one bore to be relocated into a hydraulically separate fracture if possible.

Impact of fertiliser/chemical use on the water table:

- Similarly, if fertilisers and other chemicals are being used in proximity to the abstraction bore head on Lot 105 Tanner Road, it is possible for them to enter the groundwater leading to contamination of groundwater abstracted on site and potentially at neighbouring properties if the two sites are drawing water from interconnected fractures.
- Management measures to prevent contamination of the groundwater should be implemented on the site including:
 - All fertilisers and chemicals should be appropriately stored at locations well removed from the groundwater bore.
 - The use of fertilisers and other chemicals should be avoided within 30m of the bore.
 - Stormwater runoff from cultivated areas of the site treated with fertilisers and other chemicals should be directed away from the bore head.

Please do not hesitate to contact me on (08) 9328 4663 or at helen@urbaqua.org.au should you have any questions.

Yours sincerely,



Helen Brookes
DIRECTOR/PRINCIPAL HYDROLOGIST
URBAQUA

Attachment 4

Retrospective Application for Nursery and Temporary Food Van – Lot 17 (105) Tanner Road, Carmel

Submission Table

	Comment	Staff Comment
1.	<p>Objection:</p> <ul style="list-style-type: none"> a) A geological survey of the underground water should be undertaken. The water management plan indicated that there is 7 metres of clay soil and 40 metres of granite, however no other property in the area has this geological structure. b) The flow rate of the bores used by the applicant should be tested and recorded. The bores should be capped at household water use levels. c) Annual water testing of bores surrounding the property should be undertaken at the applicant's expense. d) Soil testing should be carried out on an annual basis to ensure run off has not polluted nearby properties. e) Road signage and road design should be upgraded to support increased traffic. f) A bushfire emergency plan should be formalised to cater for the increased number of people in the area during bushfire season. g) Chemical safety and storage management plan should be provided by the applicant. h) If approval is provided there needs to be regular inspections to ensure no further expansion occurs. 	<ul style="list-style-type: none"> a) The Shire has received advice that the cost of undertaking a detailed geological and hydrological investigation of the area would be in the vicinity of \$200,000. The significant cost would appear to be disproportionate to the scale of the commercial operation. b) In the event the application is approved, conditions will be included requiring the applicant to undertake water level monitoring through metering the active bores on the site and for the applicant to report on annual usages. c) Noted, refer above comments. d) In the event the application is approved, conditions will be included requiring the applicant to undertake management measure to prevent contamination of the groundwater. e) Noted. All signage associated with the proposal will need to be submitted to the Shire for approval. f) Under the Regulations, development involving the construction and/or use of a habitable building requires development approval if it is located in a Bushfire Prone Area and is subject to a BAL-40 or BAL-FZ (flame zone) risk classification. Given the development does not involve the construction or use of any additional habitable buildings, a BAL assessment was not requested in this instance. g) Noted, refer above comments d). h) Noted, refer comments b). i) The applicant has confirmed the technical aspects of the management plan as being correct. The document has been reviewed by the DoW and independent consultants.

Comment	Staff Comment
<ul style="list-style-type: none"> i) Many statements within the water management plan are incorrect or inaccurate and need to be properly verified. j) The adjoining property at 50 Mottram Road, Carmel, should be included in the application as they provide root stock to the subject nursery. k) The proposal is inconsistent with the objectives of the rural conservation zone, which states that "<i>... rural pursuits in the zone will only be permitted by local government where they are to satisfy domestic needs only unless it can be demonstrated that there will be no detrimental impact on the water catchment and environment.</i>" 	<ul style="list-style-type: none"> j) The adjoining property is not the subject of this retrospective application. k) The subject lot is located in a unproclaimed groundwater area under the <i>Rights in Water and Irrigation Act 1947</i>. In the event the application is approved, conditions will be included requiring the applicant to undertake management measure to prevent contamination of the groundwater.
<p>2. Objection:</p> <ul style="list-style-type: none"> a) The adjoining property at 50 Mottram Road, Carmel, should be included in the application as they provide root stock to the subject nursery. b) The applicant expanded on the operation before the application was approved; this makes a mockery of good planning practices. c) It is recommended that the Shire's Engineers review the traffic situation for Tanner and Mottram Roads and recommend some mitigation options to be implemented either by the applicant or the Shire. d) It is recommended that the Shire of Kalamunda ensure there are adequate bushfire management plans and ensure adequate water availability. e) The applicant's water management plan contains many erroneous propositions, for example: 	<ul style="list-style-type: none"> a) Noted refer comments 1 j). b) Noted, it is acknowledged that the plan that was advertised on the second occasion (in January 2017) was not consistent with the extent of overflow and production area that are occurring at the site. However the applicant has revised the plan in March 2017 to accurately reflect the parameters of the production and overflow areas, which is provided in (Attachment 1). The applicant submits that the number of plants and details provided in the water management plan does not change as a result of the revised plan. c) Based on the scale of the proposal and the number of vehicles anticipated for the nursery, it is highly irregular to request a formal traffic impact statement or assessment. While it is noted that Tanner and Mottram Roads characteristically carry low volumes of traffic, it is not considered that the traffic generated by the nursery will be so significant that it will have the effect of unduly impacting on the amenity of the area. d) Noted, refer comments in 1 f).

Comment	Staff Comment
<ul style="list-style-type: none"> i. The soil type is incorrect. ii. The number of bores actually in use at the site. iii. The use of gallons instead of litres is an attempt to play down the volume of water being used. iv. The number of pots have grown by 30%, the plan states 10-12,000 rose plants, however the business website states 15,000 roses. v. The applicant continues to use overhead sprinklers during the hottest period of the day, which flies in the face of best management practices. vi. There appears to be no effort towards contemporary water technologies. f) A revised water management plan should be provided which uses appropriate scientific references and terminology to indicate that all modern best practices and technology is employed. g) The Shire should limit the proposal to the area outlined in the revised plan submitted 4 January 2017. h) The advice from the Department of Water was poorly resourced and inaccurate. i) The levels of water use are not sustainable. Water quality and level monitoring is required to demonstrate that the proposal will not impact other groundwater users. 	<ul style="list-style-type: none"> e) Noted, refer comments in 1i). f) The document has been review by the DoW and found to generally cover issues that are expected to be encountered. g) Noted, the decision will ultimately rest with Council. h) The Shire is not in a position to dispute the advice of the DoW. i) Noted, unless a detailed geological and hydrological investigation is undertaken the matter unclear. In the event the application is approved, it is recommended that conditions be included to limit the approval to an initial period of 3 years with annual monitoring through metered bores. j) Noted, the applicant advised the tree was subject to decay and was unsafe. k) Noted. l) The nursery land use is not listed under Table 1 of the Scheme, meaning that Council should exercise its discretion in determining the application, having regard to the objectives of the Rural Conservation zoning, the matters to be considered (referred to below) and any submissions received during advertising of the application.

Comment		Staff Comment
	<p>j) An old marri tree was removed from the site to accommodate the unapproved overflow area.</p> <p>k) There is significant concern regarding the apparent disregard by the applicant for the values of other landholders, who have invested and lived in this area that is a quiet, safe, sustainable area of natural bushland, with discreet private gardens and fruit trees.</p> <p>l) The proposal is in direct conflict with the rural conservation zoning under the Local Planning Scheme No. 3.</p>	
3.	Non Objection	Noted.
4.	Non-objection	Noted.
5.	Non-objection	Noted.
6.	Non-objection	Noted.
7.	<p>Objection:</p> <p>a) The applicant should cap the amount of water to be used and should clearly demonstrate the measurement of this.</p> <p>b) The overall size of the nursery should be limited to prevent further expansion and additional water usage.</p>	<p>a) Noted, refer comments 1b).</p> <p>b) Noted, the extent of the nursery will be limited as per the proposed site plan.</p> <p>c) Noted.</p> <p>d) Noted, the DoW have indicated that in a worst case scenario, if the estimated ground water take of 36,000 litres per day in summer was applies every day for a year, the annual take would be less than 15,000 kilolitres per annum.</p>

Comment		Staff Comment
	<p>c) Surrounding properties rely heavily on bore water to service their households. The availability of water fluctuates depending on the levels of rainfall.</p> <p>d) The applicant has advised that they will use 8,000 gallons of water per day in summer and 2,000 gallons per day in spring. This equates to over 5,000,000 litres per annum, which is a significant amount over and above average usage. It therefore puts the rest of the immediate community at risk of running out of water.</p> <p>e) The Shire has a duty of care to ensure that they have adequate supply of fresh water under the Local Planning Scheme No. 3.</p> <p>f) The Shire has a duty of care to encourage a reduction of bushfire hazard. A bushfire management plan should be required, including provisions around adequate water supply.</p> <p>g) There should be regular water and soil quality testing to ensure run off is not polluting the general water supply.</p> <p>h) The proposal is expected to use 720kg of fertiliser per annum. However the Local Planning Scheme No. 3 recommends a maximum of 100kg per hectare per annum.</p>	<p>This volume is not considered to be excessive and therefore would be unlikely to impact other nearby users.</p> <p>e) The provision of water to properties is a responsibility of owners and not the Shire.</p> <p>f) Noted, refer comments 1f).</p> <p>g) Noted, refer comments 1d).</p> <p>h) It is unclear where this is being referenced from.</p>
8.	Non-objection	Noted.
9.	Objection:	<p>a) In event the proposal is approved, the applicant will be restricted to the area for the nursery shown on the approved plan. in the event the Shire became</p>

Comment		Staff Comment
	<p>a) Would an approval restrict the nursery to the current size and will there be any monitoring in place to ensure this outcome?</p> <p>b) What commercial enterprises are allowed in the Rural Conservation zone?</p> <p>c) Tanner Road does not have scheme water supply. What protection do we have if the nursery were to dry up our bore?</p> <p>d) Fertilizers are being used in abundance, how can we be sure that this does not conflict our drinking water in a couple of years?</p> <p>e) Tanner Road and Welshpool Road intersection is quite dangerous. The proposal will increase traffic which will make the situation worse.</p>	<p>aware the applicant was operating in breach of his conditions of planning approval, the matter would be followed up by the Shire.</p> <p>b) There are a number of commercial relate activities that can be considered for example a restaurant and chalets are two such uses.</p> <p>c) In the event the application is approved, conditions will be included requiring the applicant to undertake water level monitoring through metering the active bores on the site and for the applicant to report on annual usages. A detailed geological and hydrological investigation of the area is the only sure way of knowing whether water taken for the nursery is impacting on adjoining residents.</p> <p>d) Noted, refer comments 1d).</p> <p>e) Noted, refer comments 2c).</p>
10.	<p>Comment on the proposal:</p> <p>a) Appropriate signage must be put in place on the intersection of Mottram and Tanner Roads, otherwise an accident will occur.</p> <p>b) The proposal will increase traffic and people not familiar with that particular intersection.</p>	<p>a) Noted.</p> <p>b) Noted, refer comments 2c).</p>

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

10.3.4. Metropolitan Regional Roads Group Program – 2018/2019

Previous Items	OCM 85/2016
Responsible Officer	Director Asset Services
Service Area	Asset Services
File Reference	FI-FAG-008
Applicant	N/A
Owner	N/A
Attachment 1	Road Rehabilitation Projects and Site Location Plans

EXECUTIVE SUMMARY

1. To consider the submissions for funding as part of the 2018/2019 Metropolitan Regional Roads Group (MRRG) Road Rehabilitation Projects Program.
2. There is an annual process where local governments are invited to submit projects for funding consideration as part of the MRRG Program. For the Road Rehabilitation Projects Program, there is a maximum grant amount of \$750,000, with successful local governments required to provide a matching contribution of up to \$375,000.
3. Submissions have been prepared on the basis of maximising the grant opportunity for the Shire.

BACKGROUND

4. Each year, Main Roads WA (MRWA) invites project submissions for funding consideration as part of the MRRG Program.
5. The project types are separated into two categories as outlined below:

Road Improvement Projects

Improvement projects are those which would involve the upgrading of an existing road to a higher standard than currently exists, i.e. dual carriageway construction, pavement widening, new overtaking lanes, traffic control measures, major intersection upgrades etc.

A multi-criteria analysis (taking into consideration road capacity, geometry, accidents, benefits and costs) is used to prioritise road improvement projects on urban arterial roads within the metropolitan area. This analysis is an integral part of the guidelines for the MRRP and must be followed for submissions to be considered for funding.

Road Rehabilitation Projects

Road Rehabilitation Projects are those proposed for existing roads where a failed road section is to be brought back to pre-existing physical condition, e.g. resealing, reconstruction, re-sheeting and reconditioning.

A number of conditions have to be met for a project to be considered in the program. Projects qualify only if the road has a classification of a local distributor road or higher and its Average Annual Daily Traffic (AADT) exceeds 2,000 vehicles per day or the design traffic exceeds 1×10^6 Equivalent Standard Axle (a measurement that relates to the commercial vehicle content). Another qualifying criterion requires the points scored for the criterion relating to road condition to be greater than 700 points.

6. Project submissions are forwarded to MRWA and checked for omissions and errors in computations. The MRWA Pavement Branch audits submissions relating to Road Rehabilitation Projects and an independent auditor appointed by MRWA audits the Road Improvement Projects submission.
7. Final audited projects are then collated by MRWA and a priority listing based on the audited points score is developed and distributed to all Local Governments for review.
8. The Sub Groups of the MRRG each have technical meetings to discuss and approve projects, with recommendations from the Groups forwarded to the MRRG. The Shires of Kalamunda and Mundaring, Cities of Swan and Bayswater and Town of Bassendean form the Eastern Sub Group.
9. The MRRG considers funding submissions in accordance with the guidelines and makes recommendations to the State Road Funds to the Local Government Advisory Committee. The Minister for Transport ultimately approves the funding for the projects.

DETAILS

10. Road Improvement Projects

There are no proposed submissions under this category as there are no projects considered to be at a stage to comply with the project implementation and funding recoup criteria.

The key projects for the Shire are the upgrading to dual carriageway standard of Kalamunda Road (Fernan Road to Abernethy Road) and Abernethy Road (Avonside Crescent to Adelaide Street). The submission of these two projects is premature as a significant number of land acquisition and service issues need to be resolved in the first instance.

Road projects will be reviewed over the next year to determine any other suitable projects for submission as part of the 2019/2020 funding round.

11. Road Rehabilitation Projects

Talis Consultants were commissioned to investigate fifteen (15) road sections, undertake mechanical testing and prepare funding submissions for each site in accordance with the MRWA Guidelines. The list of sites was consolidated to ten (10) to achieve the best funding outcome. A list of the road rehabilitation projects which have been prepared for consideration by Council for submission to MRWA before the 28 April 2017 deadline is shown in Attachment 1, inclusive of site location plans.

12. Council's endorsement of these proposed projects is required to support the submissions for funding consideration.

13. Advice to local governments from MRWA is expected early in 2018 of the successful projects for the 2018/2019 financial year to enable inclusion in the annual Capital Works Budget.

STATUTORY AND LEGAL CONSIDERATIONS

14. Nil.

POLICY CONSIDERATIONS

15. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

16. Nil.

External Referrals

17. Nil.

FINANCIAL CONSIDERATIONS

18. The list of Road Rehabilitation Projects outlined in Attachment 1 indicates a total estimated MRRG contribution of \$1,733,967 to undertake all projects. This process to assess many road sections allows some flexibility to the Shire in determining its preferred projects for implementation based on resultant audited scores. This flexibility will enable the opportunity to maximise the MRRG contribution up to the \$750,000 annual limit.

19. As previously noted, the maximum annual grant allocation for local governments is \$750,000 for Road Rehabilitation Projects, with a condition of the grant requiring each local government to contribute at least one third of its own funding towards the project cost. On this basis, should the Shire be successful in achieving grant funding totalling in the order of \$750,000 as part of the 2018/2019 program, then it will need to contribute in the order of \$375,000 from its own sources.

20. The 2018/2019 year of the Shire’s current Long Term Financial Plan has an allocation of \$650,000 for MRRG Road Rehabilitation Projects, with a State Government grant allowance of \$400,000 and Shire contribution of \$250,000. This will need to be modified in accordance with the approved grant for 2018/2019.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 4.7 – To ensure the selection, maintenance, inspection, renewal and disposal of all categories of assets within the Shire is managed efficiently.

Strategy 4.7.1 Maintain, refurbish or upgrade existing infrastructure, including public buildings, parks, reserves, local roads, footpaths, cycle ways, verges and drainage networks to encourage increased utilisation and extension of asset life.

OBJECTIVE 6.8 – To ensure financial sustainability through the implementation of effective financial management, systems and plans.

Strategy 6.8.3 Access maximum levels of grants funding available through government and non-government sources.

Strategy 6.8.4 Provide effective financial services to support the Shire’s operations and to meet sustainability planning, reporting and accountability requirements

SUSTAINABILITY

Social Implications

22. Nil.

Economic Implications

23. The receipt of State Government funds as part of the MRRG program will reduce the requirement for municipal funding to rehabilitate the Shire’s road network.

Environmental Implications

24. Nil.

RISK MANAGEMENT CONSIDERATIONS

25.	Risk	Likelihood	Consequence	Rating	Action/Strategy
	The submissions are not endorsed and the opportunity is lost for a State Grant funding contribution towards the rehabilitation of the Shire's road network.	Unlikely	Major	High	Provide detailed project submissions in accordance with the grant conditions.

OFFICER COMMENT

26. The funding for Rehabilitation Road Projects in 2016/2017 was \$14,387,418 however, the funding allocation for 2017/2018 and 2018/2019 has not been set by the State Government.
27. The minimum audited point score in the draft 2017/2018 program is 845 and based on similar funding allocation in 2018/2019 to that in 2016/2017 and with a \$750,000 funding cap, it is likely that the Shire may be successful in receiving approval for a number of projects with State Government grant funding totalling in the order of \$750,000.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Endorses the submission of the projects, shown on Attachment 1, to Main Roads WA for grant funding consideration as part of the 2018/2019 Metropolitan Regional Road Group – Rehabilitation Projects Program.

Moved:

Seconded:

Vote:

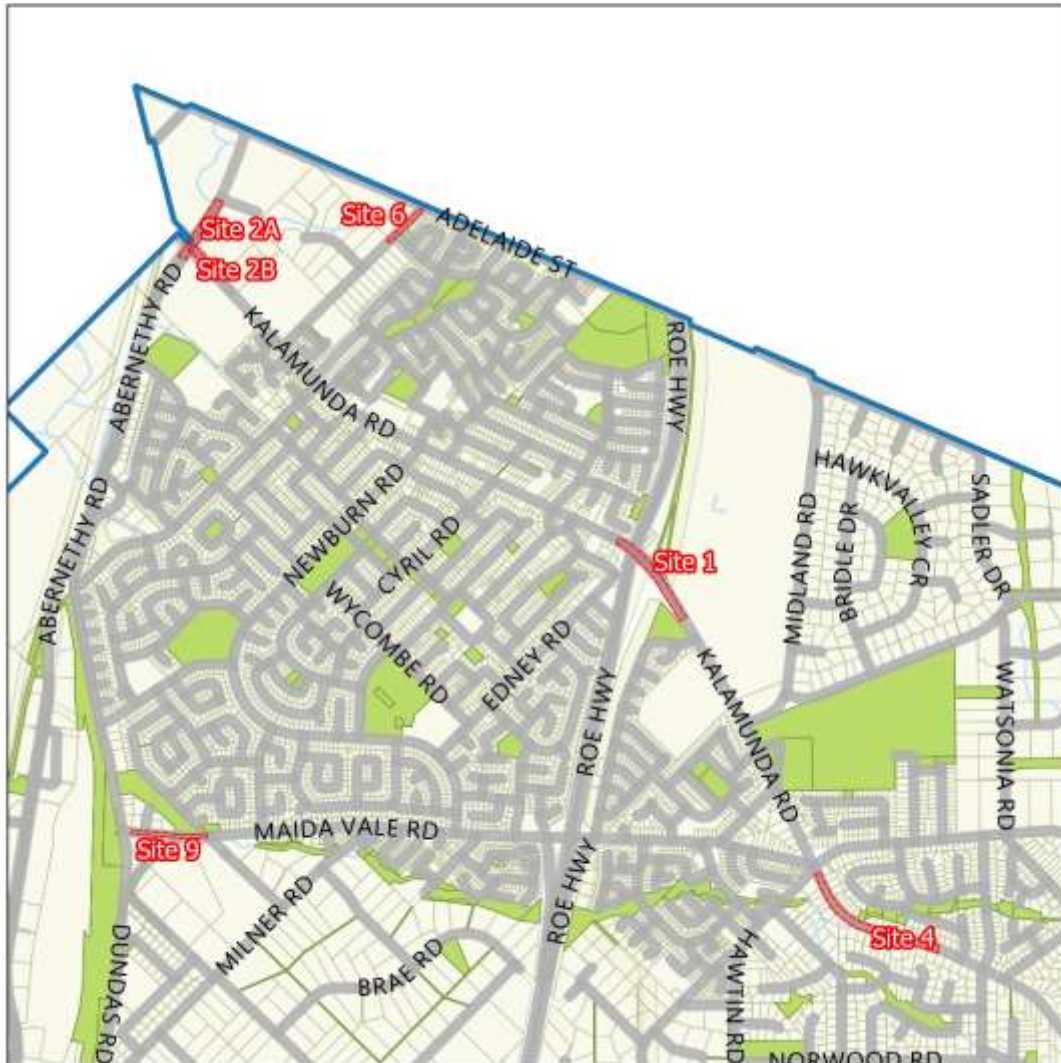
Attachment 1

Metropolitan Regional Roads Group Program – 2018/2019

Road Rehabilitation Projects

Site	Location	Recommended treatment	MRRG contribution	SoK Contribution	Total Project cost
1	Kalamunda Road, east and west at Roe Highway	Stabilised foamed bitumen pavement with asphalt surface.	\$290,267	\$145,133	\$435,400
2A	Abernethy Road, north and south at Kalamunda Road	Stabilised foamed bitumen pavement with asphalt surface.	\$312,800	\$156,400	\$469,200
2B	Kalamunda Road, east of Abernethy Road	Stabilised foamed bitumen pavement with asphalt surface.	\$259,933	\$129,967	\$389,900
3	Welshpool Road, north and south at Crystal Brook Road	Mill out surface and replace base and asphalt	\$78,067	\$39,033	\$117,100
4	Kalamunda Road, west of Terrigal Place to Hawtin Road	Stabilised foamed bitumen pavement with asphalt surface.	\$431,933	\$215,967	\$647,900
6	Stirling Crescent, Benson Way to Adelaide St	Stabilised foamed bitumen pavement with asphalt surface.	\$75,800	\$37,900	\$113,700
8	Canning Road, Orrangedale Rd to Pomeroy Rd	Corrector and asphalt overlay	\$49,267	\$24,633	\$73,900
9	Maida Vale Road, Dundas Rd to Raven St	Asphalt overlay	\$34,667	\$17,333	\$52,000
10	Canning Road, north and south of Welshpool Rd, and Welshpool Road, west of Canning Rd	Stabilised foamed bitumen pavement with asphalt surface.	\$167,533	\$83,767	\$251,300
12	Kalamunda Road roundabout at Boonooloo and Elizabeth	Mill out surface and replace asphalt	\$33,701	\$16,850	\$50,551
<i>Total all projects</i>			\$1,733,967	\$866,984	\$2,600,951

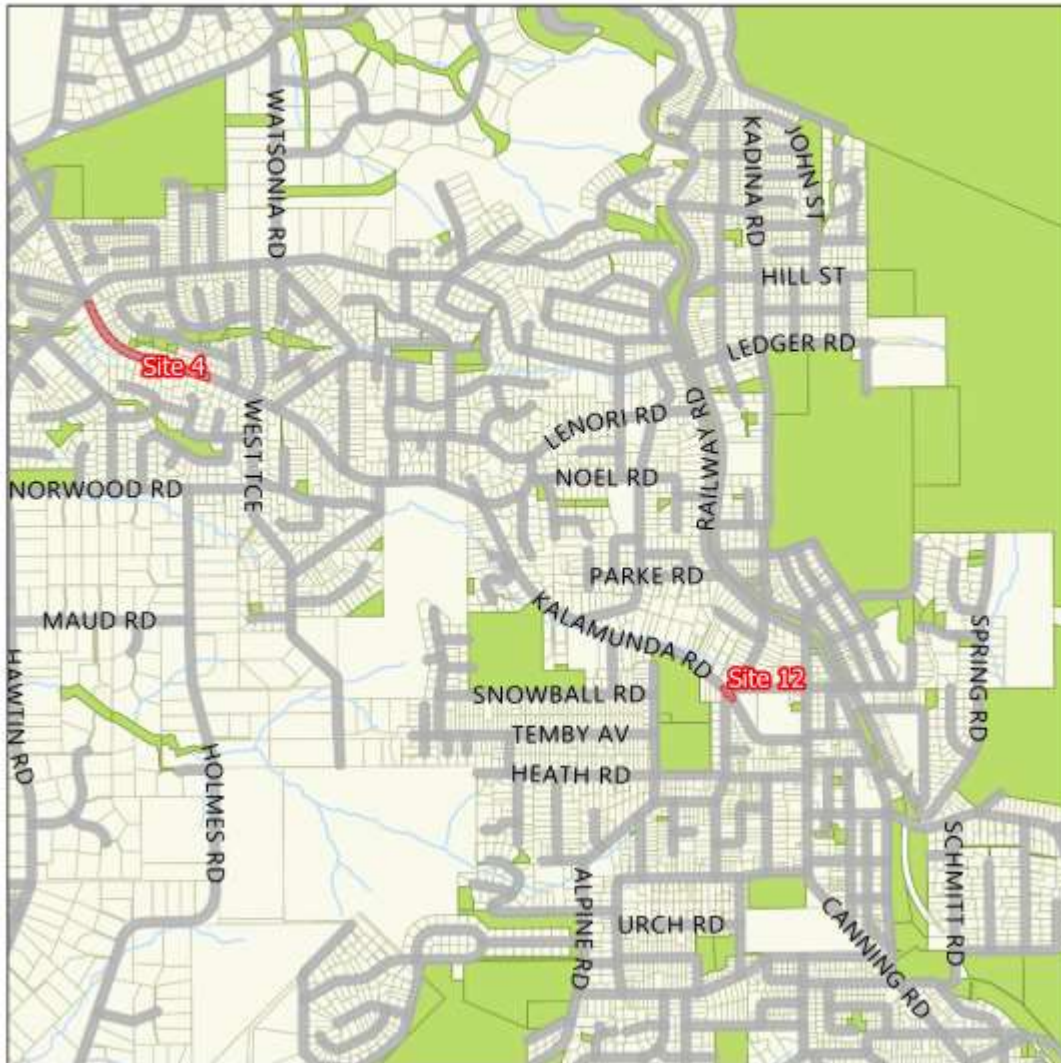
Site Locations - High Wycombe



Site Locations - Lesmurdie

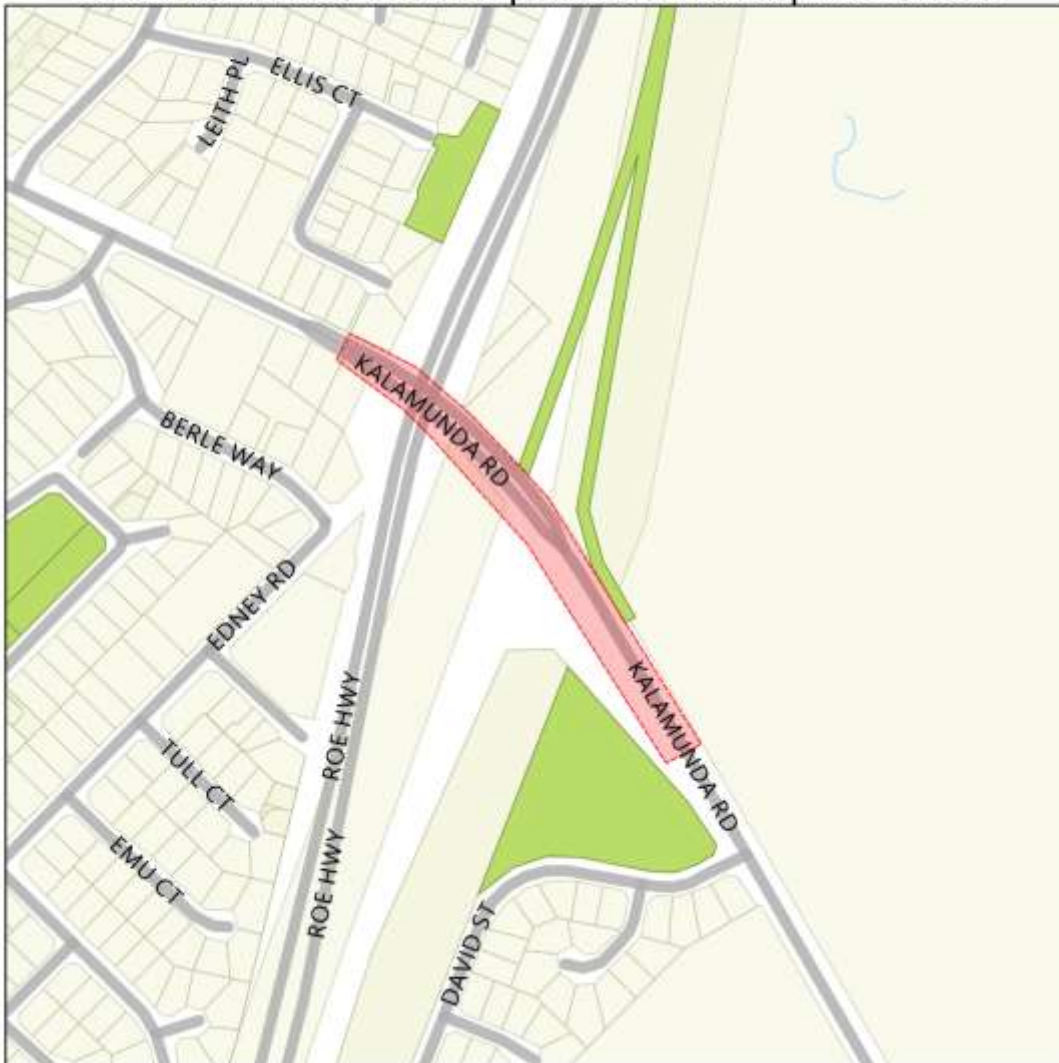


Site Locations - Kalamunda



Site 1: Kalamunda Road, east and west at Roe Highway

Stabilised foamed bitumen pavement with asphalt surface

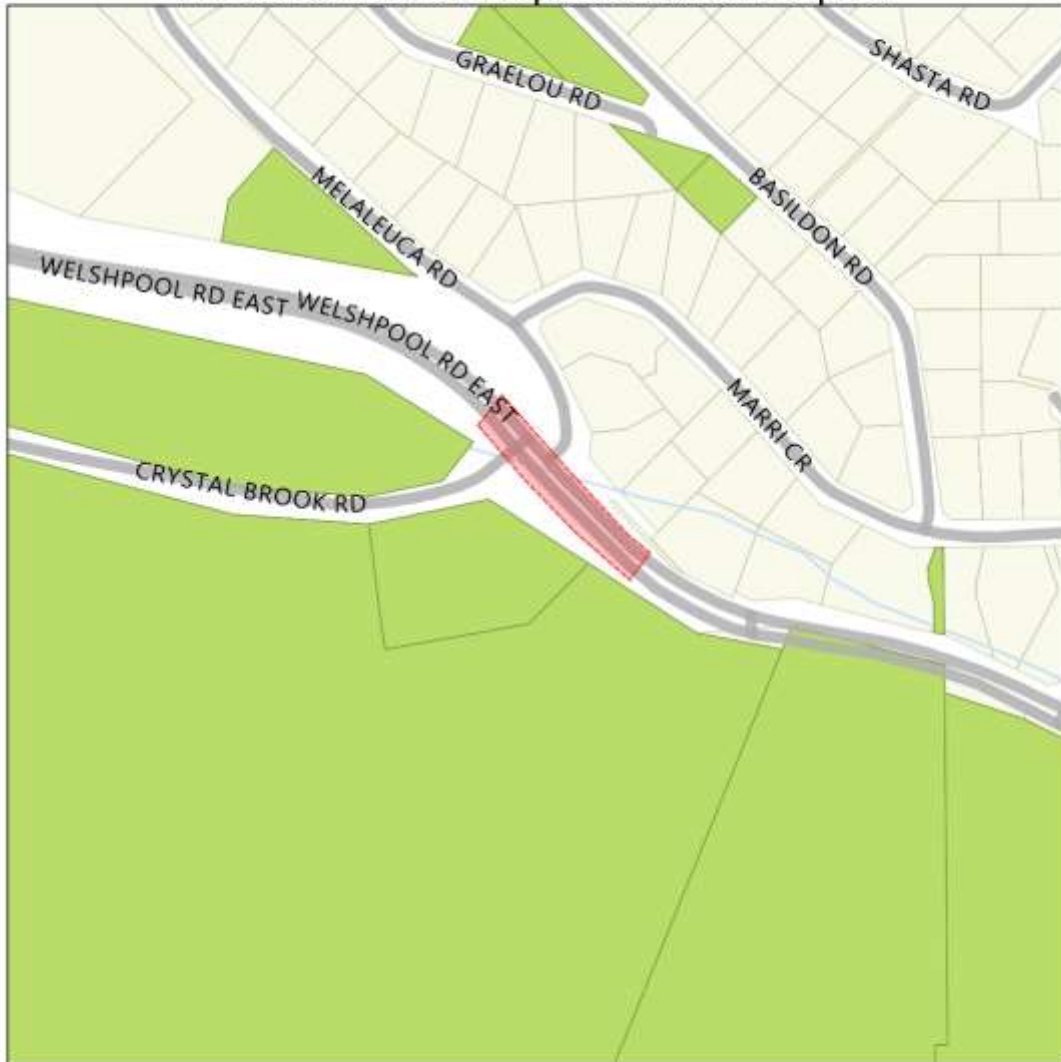


Site 2A: Abernethy Road, north and south at Kalamunda Road
Site 2B: Kalamunda Road, east at Abernethy Road
Stabilised foamed bitumen pavement with asphalt surface



Site 3: Welshpool Road, north and south at Crystal Brook Road

Mill out surface and replace base and asphalt



Site 4: Kalamunda Road, west of Terrigal Place to Hawtin Road

Stabilised foamed bitumen pavement with asphalt surface



Site 6: Stirling Crescent, Benson Way to Adelaide St

Stabilised foamed bitumen pavement with asphalt surface



Site 8: Canning Road, Orangedale Rd to Pomeroy Rd

Corrector and asphalt overlay



Site 9: Maida Vale Road, Dundas Rd to Raven St

Asphalt overlay



Site 10A: Canning Road, north and south of Welshpool Rd
Site 10B: Welshpool Road, west of Canning Rd
Stabilised foamed bitumen pavement with asphalt surface



Site 12: Kalamunda Rd, Elizabeth St/Boonooloo Rd Roundabout

Mill out surface and replace base and asphalt



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

10.3.5 Extraordinary Vacancy – Postponement of Election

Previous Items	Nil
Responsible Officer	Chief Executive Officer
Service Area	Governance, Strategy & Legal Services
File Reference	OR-ELN-001
Applicant	N/A
Owner	N/A

EXECUTIVE SUMMARY

1. To consider seeking the approval of the WA Electoral Commissioner to postpone the Election for the Extraordinary Vacancy in the North Ward following the resignation of the sitting councillor, Simon Di Rosso, until the ordinary Election Day on 21 October 2017.
2. Due to the timing of the vacancy the legislation provides for the vacancy to remain unfilled.
3. It is recommended that Council seek the approval of the WA Electoral Commissioner to postpone the election until the 2017 Ordinary Election day.

BACKGROUND

4. Section 4.8 of the *Local Government Act 1995* (the Act) provides that in the event of the office of councillor becoming vacant under sections 2.32 or 2.33 of the Act, an election to fill the office is to be held.

5. Section 4.17 (2) of the Act provides:-

If a member's office becomes vacant under section 2.32 —

- (a) after the third Saturday in January in the election year in which the term of the office would have ended under the Table to section 2.28; but,

- (b) before the third Saturday in July in that election year

the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.

DETAILS

6. The vacancy in the office of councillor occurred pursuant to section 2.32 (e) of the Act, if the member becomes the holder of any office or position in the employment of the local government.
7. In accordance with Item 4 of the Table to section 2.28 (2) of the Act, the term of office would have expired on the ordinary election day in 2017.

STATUTORY AND LEGAL CONSIDERATIONS

8. Sections 2.28, 2.32, 4.8 and 4.17 of the *Local Government Act 1995*

POLICY CONSIDERATIONS

9. Nil

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

10. Nil

External Referrals

11. Advice has been sought from the WA Electoral Commission on the cost for conducting an extraordinary election.

FINANCIAL CONSIDERATIONS

12. The WA Electoral Commission has advised that the cost for conducting an extraordinary election as a postal vote would be in the vicinity of \$28,000 based on a 30% participation rate and with the election day being a normal business day.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

OBJECTIVE 6.1: To ensure a highly effective and strategic thinking Council sets direction and works for the good of the community at all times.

SUSTAINABILITY

Social Implications

14. If the vacancy remains until the 2017 Ordinary Election day, it could be perceived that the North Ward would be under represented. However it is considered that the remaining councillors could adequately represent the ward.

Economic Implications

15. Nil

Environmental Implications

16. Nil

RISK MANAGEMENT CONSIDERATIONS

17.	Risk	Likelihood	Consequence	Rating	Action/Strategy
	Postponement of the election for the extraordinary vacancy is not accepted.	Unlikely	Moderate	Low	Ensure there is an awareness of the timing, cost and short time a member would have if an extraordinary election is held.

OFFICER COMMENT

18. Although it could be argued that the postponement of the election will deny electors of the North Ward full representation on Council, the ward is still adequately served by the remaining two members.
19. The statutory requirements for the conduct of an election requires a minimum lead up time of 70 days and the earliest date an election could have been held would be 8 July 2015. This would result in the new member having a term of just three months before having to contest an election again.
20. It is therefore considered appropriate that the election be postponed until the ordinary election day in October 2017.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Pursuant to section 4.17 (2) of the *Local Government Act 1995*, seeks the approval of the WA Electoral Commissioner to allow the vacant office of councillor in the North Ward to remain vacant until the ordinary election day in October 2017.

Moved:

Seconded:

Vote:

10.3.6 CONFIDENTIAL ITEM – Consideration of Tenders - Cloud Migration Strategy (e-Quote 04-2017)

Reason for Confidentiality *Local Government Act 1995 S5.23 (2) (c) – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."*

Previous Items

Responsible Officer

Director Corporate & Community Services

Service Area

Corporate Support

File Reference

e-Quote 04-2017

Applicant

N/A

Owner

N/A

Confidential Attachment 1

Tender Evaluation Report – e-Quote 04-2017

Reason for Confidentiality

Local Government Act 1995 S5.23 (2) (c) – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."

Confidential Attachment 2

Cloud Migration Strategy by STAR Consulting

Reason for Confidentiality

Local Government Act 1995 S5.23 (2) (c) – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."

Confidential Attachment 3

Cost modelling comparing the two Information Communications Technology options

Reason for Confidentiality

Local Government Act 1995 S5.23 (2) (c) – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."

11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12.0 QUESTIONS BY MEMBERS WITHOUT NOTICE

Questions taken on Notice 27 March 2017

Rubbish at Lions Lookout (Cr Tracy Destree)

- Q. My concern is we now have an increased population and usage in that area and therefore an increase in the amount of waste being created, at the moment that is being managed by the Kalamunda Lions Volunteers. Could the Shire look into what requirement there is under the permit, or alternatively could the Shire provide daily clean up?
- A. The Shire provides and services three general waste bins at the lookout. There has been no specific indication regarding excess littering in the area. If there are littering issues at the lookout the Shire can organise for the Rangers to make a regular patrol of the area to create a visual deterrent. At this stage we have not received any litter complaints. This matter has been followed up with Cr Destree to provide additional information.

Strategic Community Plan (Cr Tracy Destree)

- Q1. In relation to the item that was raised earlier about the Strategic Community Plan, we have talked about having a consultation process come to Council. I would like to clarify if this is still the case or could we get some information advising what the steps are of consultation to ensure they fully engage the advisory Committee where appropriate?
- A1. The Shire's Community Engagement Strategy is currently being updated to strengthen the use of advising committees. The Report will come to Council in June 2017.

13.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

14.0 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY DECISION

15.0 MEETING CLOSED TO THE PUBLIC

16.0 CLOSURE