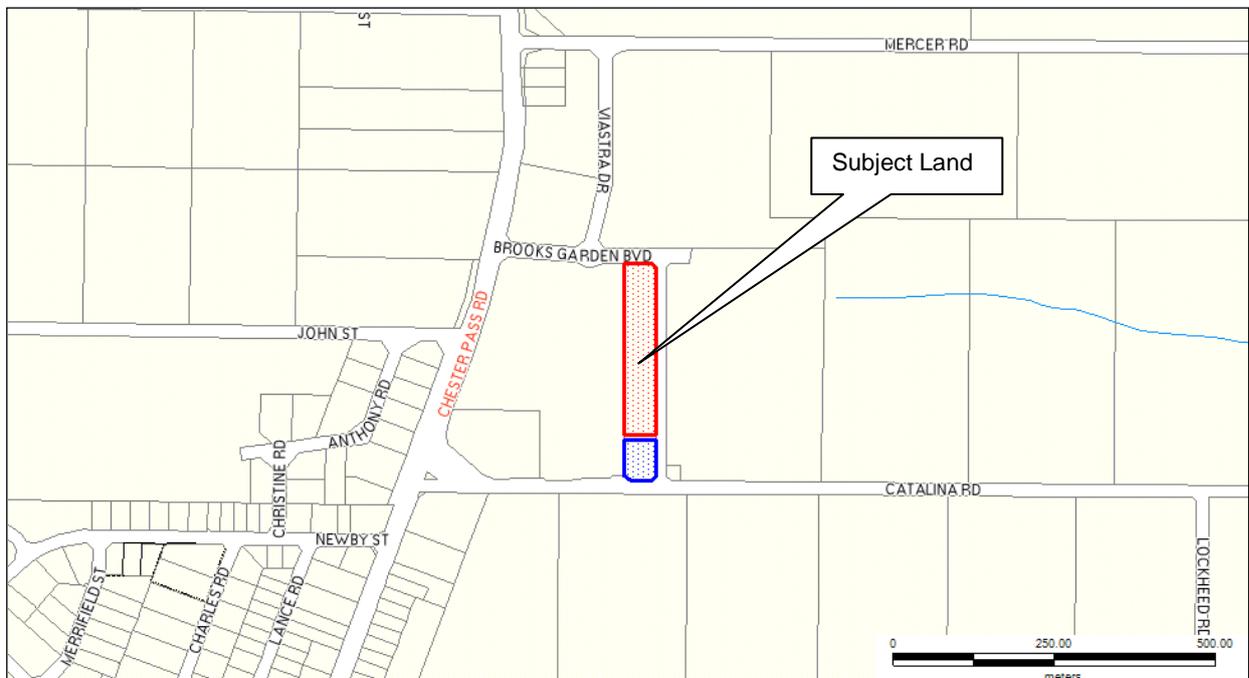


2.3: DEVELOPMENT APPLICATION – 86 X GROUPED DWELLINGS – 35 CATALINA ROAD, LANGE

Land Description	: Lot 1005 (35) Catalina Road, Albany
Proponent	: Taylor Burrell Barnett Town Planning & Design
Owner	: King Open Pty Ltd (controller acting)
Business Entity Name	: LM Investment Ltd
Directors	: Eghard van der Hoven
Attachments	: Planning Report, Plans and Visual Perspectives
Appendices	: Acoustic Report and Engineers Servicing Report Copy of submissions Proponent's response to submissions made
Councillor Workstation	: Legal Advice x 2
Responsible Officer(s)	: E/Director Planning & Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- Grouped Dwelling proposal of 86 units arranged in six distinct groups at an approximate R50 density.
- The Mixed Business Zone in Town Planning Scheme No. 3 does not identify the acceptability/permmissibility of 'Grouped Dwellings', however this is clearly intended within the adopted Catalina Central Planning Framework (Structure Plan and Precinct Plan).

CEO:	RESPONSIBLE OFFICER:
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**ITEM 2.3: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council ISSUE a Notice of Planning Scheme Consent for 86 ‘Grouped Dwellings’ at 35 Catalina Road, Lange, subject to the following conditions:

1) Prior to the issuing of a building licence

- A. A schedule of external materials and finishes shall be submitted to and approved in writing by the City of Albany.**
- B. A landscaping plan showing full details of both hard and soft landscaping shall be submitted to and approved in writing by the City of Albany.**
- C. The location of the crossover and means of access to the unit at the southeast corner of the development (Unit 1), closest to the intersection of Catalina Road and Stirling View Drive, will be repositioned to the satisfaction of the City of Albany.**
- D. A stormwater management plan is to be submitted to and approved by the City of Albany. Such plan shall be designed and certified by a suitably qualified practicing Civil Engineer.**
- E. Intersection treatment designs for the Catalina Road/Stirling View Drive and Brooks Garden Boulevard/Stirling View Drive intersections are required to be submitted to and approved by the City of Albany. Such plans are to be designed and certified by a suitably qualified practicing engineer with traffic engineering expertise.**
- F. Detailed engineering plans identifying all works to be undertaken within Brooks Garden Boulevard, Catalina Road and Stirling View Drive road reserves (such as the installation of on-street parking bays, drainage works, dual use paths and intersection treatments) are required to be submitted to and approved by the City of Albany.**
- G. The dual use paths surrounding the development should be increased in width to 2.5 metres.**
- H. A dust management plan is to be submitted to and approved by the City of Albany and be complied with throughout the construction of the development.**
- I. The proponent is required to provide evidence that a restrictive covenant pursuant to Section 150 of the *Planning and Development Act 2005*, preventing direct motor vehicle access onto Catalina Road and Brooks Garden Boulevard benefiting the local government has been lodged on the Certificates of Title of the subject land. The full expense for such restrictive covenant, compliance shall be borne by the landowner.**

2) Prior to occupancy of the development

- A. The following works are to be completed to the satisfaction of the City of Albany:**
 - i. Landscaping works in accordance with the approved landscaping plan**

(Condition 1B);

- ii. **The stormwater drainage system in accordance with the approved stormwater management plan (Condition 1D);**
 - iii. **All works within the road reserve in accordance with the approved engineering drawings (Conditions 1E and 1F).**
- B. The new crossover(s) being constructed to the City of Albany's specifications, levels and satisfaction in accordance with drawing no. 97024 1/3. A permit from the City of Albany is required prior to any work being carried out within the road reserve.**
- C. The approved vehicular parking, manoeuvring and circulation areas indicated on the approved plan being constructed, properly drained and sealed to the satisfaction of the City of Albany.**
- D. All pedestrian access-ways within the subject land being constructed drained, landscaped and provided with lighting at the landowners cost to the satisfaction of the City of Albany.**
- E. Street lighting is to be provided at the Developer's cost to the satisfaction and specification of the City of Albany.**
- F. A solid wall 1.8m in height (as per the elevations submitted on Plan SD13 revision B) is to be constructed on the western boundary adjacent to the shopping centre for noise attenuation purposes.**
- G. All boundary fencing to the boundary with Stirling View Drive shall be visually permeable above a height of 1.2m above natural ground level.**
- H. All parking spaces within the development being marked out and maintained in good repair thereafter.**

BACKGROUND

1. The subject site is a long, narrow, relatively flat, north-south orientated lot located to the east of the Brooks Garden Shopping Centre. The lot is split in two by a pedestrian access way towards the southern end of the lot. The northern part of the lot is 13,173m² in area and the portion south of the pedestrian access way is 3,118m² in area, giving a total lot area of 16,291m². The lot is zoned Mixed Business under Town Planning Scheme No. 3.
2. There is an anomaly with the zoning table of Town Planning Scheme No. 3 in so much as the permissibility of residential type uses is not defined, with the zoning table left blank against these uses.
3. Clause 3.3 of the Scheme details the meaning behind the symbols in the development table and the permissibility of the uses within the zones. Clause 3.3 reads:

The symbols used in the cross reference in Table No. 1 following clause 3.9 and in the table appended to clause 3.7 have the following meanings:

"P" - A use that is permitted under this Scheme;

- “AA” - *A use that is not permitted unless planning consent to it is granted by the Council after notice has been given in accordance with Clause 5.1.4.*
- ”A” - *A use that is not permitted unless approval is granted by the Council;*
- “IP” - *A use that is not permitted unless such use is incidental to the predominant use as decided and approved by the Council;*
- “X” - *A use that is not permitted.*

4. Nowhere within the Scheme is there an explanation for a blank entry within the zoning table, so it is unclear how a use with a blank entry for the zone is to be considered. For the Mixed Business zone there are four blank entries against dwelling type uses.

5. However, Clause 3.12 of the Scheme provides some assistance on this matter and reads:

Those areas zoned as ‘Mixed Business’ on the Scheme Map shall be subject to specific precinct plans as specified in clause 5.22 of the Scheme.

It should be noted that the above reference to Clause 5.22 should now read Clause 5.25 due to amendments inserting additional clauses without the cross-referencing being corrected.

6. Clause 5.25 details the requirements for development within the Mixed Business Zone as follows:

The following provisions shall apply generally to all land included in the Mixed Business Zone.

- *No person shall carry out any development within the Mixed Business Zone unless such development is in accordance with a Precinct Plan which has first been adopted by Council.*
- *A Precinct Plan may be prepared by the council, or by any other person who may then submit the Precinct Plan to the Council for its approval and adoption.*
- *‘Office’ developments are to be permitted only as a use incidental to the predominant land use on a site and are not to occupy an area exceeding 200 sq. metres.*
- *Development of a Discount Department Store is not permissible.*

Council may require the preparation of a Structure Plan for larger mixed business areas showing the intended general development within the zone. The Structure Plan area will be divided into Precincts with a Precinct Plan to be prepared over each.

In general, a Precinct Plan may include the following;

- *The proposed use of land within the precinct;*
- *The movement network including location of roads, pedestrian and cycle paths and car parking areas;*
- *Built Form and design elements.*

In approving a Precinct Plan over an area, Council may also require, at its discretion, the preparation of detailed Design Guidelines. The detailed Design Guidelines may be required to show or otherwise describe the following;

- *Setbacks and height*
- *Building form, treatment and bulk*
- *Access and parking*
- *Windows, openings and façade treatments*
- *Loading*
- *Landscaping and public art*
- *Materials and colour*
- *Signage*

The following provisions shall apply to the land identified as the Catalina Central Mixed Business Zone:

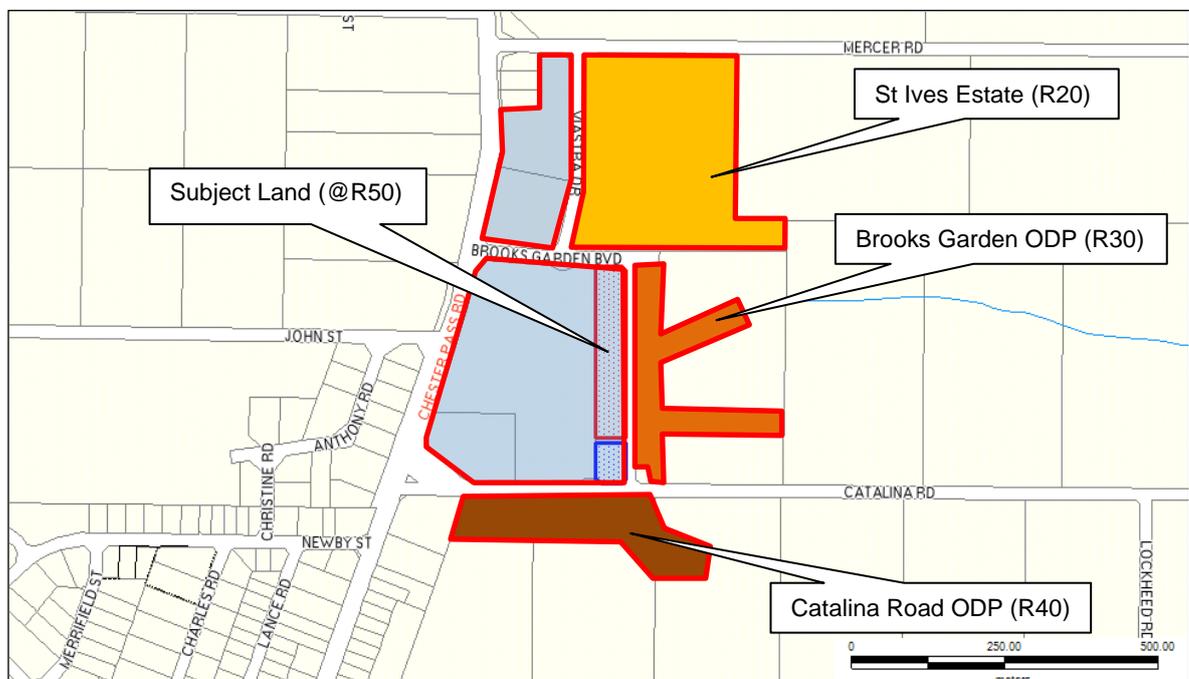
- *Preparation of a Stormwater Management Plan, to the satisfaction of Council, will be required prior to development (including subdivision).*
- *No direct access to Chester Pass Road will be permitted from any lot.*
- *No development is to be undertaken within the Catalina Central Mixed Business zone without arrangements being made to the satisfaction of the City of Albany and Main Roads Western Australia for the creation and construction of the re-aligned Catalina Road as indicated on the scheme map. A minimum separation distance of 170 metres is to be achieved between Newby Street and the re-aligned Catalina Road.*
- *The cost of all road works (including land requirements) associated with access to the site, including the realignment of Catalina Road and the provision of deceleration lanes on Chester Pass Road, is to be met by the developer.*
- *All development is to be in accordance with a structure plan adopted by Council.*

7. It is therefore considered that where a blank appears within the Mixed Business Zone column of the zoning table, one should refer to any adopted precinct plan for the relevant area to determine the permissibility of that use. The proponent has provided two legal opinions on this matter which draw the same conclusion.
8. To satisfy the requirements of Clauses 3.12 and 5.25 Council has adopted the Catalina Central Planning Framework as a precinct plan under Clause 6.9 of the Scheme.
9. The subject site falls within Precinct 1 of the Catalina Central Planning Framework. Section 4.1.2 of the Framework clearly refers to Grouped Dwellings as a proposed use within the precinct plan. Furthermore, Plan 4 shows the subject site as a Special Development Area and details requirements for residential development on the site.

10. Accordingly, Grouped Dwelling development (as proposed) can be considered for this site.
11. This application is referred to Council in accordance with the Planning Processes Guidelines as the proposal seeks consent for development of 86 Grouped Dwellings. Any Grouped Dwelling proposal exceeding 25 units is required to be referred to Council for determination.

DISCUSSION

12. Having established that Grouped Dwelling development can be considered on this site, the specifics of this proposal must be considered. As the lot is within the Mixed Business zone there is no residential density coding applied and density is not covered in the Catalina Central Planning Framework. However, given the site adjoins and forms part of a significant neighbourhood centre a higher density of development is appropriate.
13. With the proposed 86 units over a lot area of 16,291m², an average of 189.4m² of land per unit is achieved. This equates to a density similar to the R50 density which identifies an average of 180m² (which is considered to be a medium density under the R-Codes). To put this in context, the St Ives Retirement Village is being developed at an R20 density. The land to the east is proposed to be developed to a mix of R20 and R30 density, with the R30 area being directly opposite. The land to the south side of Catalina Road, within the Catalina Road Outline Development Plan (ODP) is mostly an R20 density with pockets of R40 envisaged opposite the shopping centre on the south side of Catalina Road. The map below identifies the existing or proposed residential densities within the immediate vicinity of the site.



14. Council has also previously supported an increase in density immediately adjacent to the Spencer Park neighbourhood shopping centre with densities of R60 and R80. Given the subject land will be the closest residential development to the Brooks Garden neighbourhood shopping centre it is considered that a density comparable to the R50 code is an appropriate level of density making the most efficient use of the land.
15. In order to assess the development against the R-Codes the R50 density code has been used as a guide as identified in the following table.

Assessment against the Acceptable Development Criteria of the Residential Design Codes (R-Codes)

Criteria	Codes Requirement	Compliance
Setback of building generally (using R50 as guide)	<ul style="list-style-type: none"> 4m average primary street setback, with 2m minimum setback. 	Yes, meets average setback and no encroachments are less than 2 metres from boundary.
Minor incursions into the street setback area	<ul style="list-style-type: none"> Porch, balcony, verandah, chimney etc not to project more than 1m into the street setback. Such projections not to exceed 20% of the frontage. 	Not Applicable. No such features proposed.
Setback of garages and carports	<ul style="list-style-type: none"> Behind setback line Garages setback 4.5m from primary street or 3m where parallel to street 	Direct access garages are setback 5.5m and meet acceptable standard, however parallel garages are setback 2m (refer Paragraph 17).
Surveillance of the street	<ul style="list-style-type: none"> One habitable room window has clear view of street 	Yes. All dwellings facing Stirling View Drive and private internal access ways have at least one habitable room window facing street/access way. Some units are located behind units facing the street and internal access ways and these units would not technically meet this requirement. Consideration under the performance criteria required (refer Paragraph 18 and 19).
Street walls and fences	<ul style="list-style-type: none"> Front walls and fences within the primary street setback area being visually permeable above 1.2m above natural ground level. 	Yes, open style fencing to primary street to provide passive surveillance.

Criteria	Codes Requirement	Compliance
Sight lines at vehicle access points and street corners	<ul style="list-style-type: none"> Walls & fences truncated or no higher than 0.75m within 1.5m of where wall/fence adjoins vehicle access points where a driveway meets a public street and where two streets intersect. 	No, within Village 1 the unit closest to Catalina Road has open railing fence up to 1m high immediately adjacent to driveway (refer Paragraph 20).
Garage doors	<ul style="list-style-type: none"> Garage doors and supporting structure not to exceed 50% of the frontage 	Yes, only single garages proposed with five (5) facing the primary street.
Building setback from the boundary	<ul style="list-style-type: none"> In compliance with R-Codes table based on wall length and height with or without major openings. Generally 1 – 1.5m 	General setback is greater than 1.5m. However, garages along the west boundary are located on the boundary as part of the acoustic boundary treatment. Refer paragraph 21.
Buildings on boundary	<ul style="list-style-type: none"> Walls built up to a boundary behind the front setback line within the following limits, subject to the overshadowing provisions of design element 6.9: ... iii) in areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for two-thirds the length of the balance of the boundary behind the front setback to one side boundary only. 	The garages referred to above are on the rear boundary, but otherwise comply with this requirement.
Open Space (areas not covered by buildings)	<ul style="list-style-type: none"> 45% minimum open space. 	Yes, 45% equates to 7331m ² . The proposal gives 8644m ² of open space which equates to 53%.
Outdoor Living Areas	<ul style="list-style-type: none"> Minimum 16m² with minimum dimension of 4m. Directly accessible from a habitable room with two-thirds without roof covering. 	No, six(6) units facing Stirling View Drive have an area only 3m in depth towards the road although they exceed 4m in length (refer Paragraph 22).
Landscaping requirements	Landscaping of grouped dwelling common property and communal open spaces	

Criteria	Codes Requirement	Compliance
	<p>in accordance with the following:</p> <ul style="list-style-type: none"> • Street setback developed without parking, except visitor bays and with a maximum 50% hard surfaced; • Pedestrian paths providing wheelchair accessibility connecting all entries to buildings with the public footpath and parking areas; • Landscaping between each consecutive parking spaces; • Lighting to pathways, communal open space and parking areas; • Bin storage areas conveniently located and screened from view; • Retention in open space of trees greater than 3m in height; • Adequate sight lines for pedestrians and vehicles; • Clear line of sight between communal open space and at least two habitable room windows; • Clothes drying areas which are secure and screened from view; • Unroofed visitor's parking bays effectively screened. 	<ul style="list-style-type: none"> • No, 50% hard surface is exceeded (refer Paragraph 23). • Yes, differing surface treatment denotes pathways. • Yes. • Not shown, but can be conditioned. • Yes. • Not applicable as no existing trees onsite. • No, the close proximity of the crossover for Unit 1 from intersection of Catalina Road and Stirling View Drive is of concern. This can be addressed through the application of a condition. • Yes. • Yes. • Locations of parking and landscaping considered appropriate to meet this requirement.
Parking (onsite & offsite)	<ul style="list-style-type: none"> • 2 parking spaces for 2 and 3 bedroom dwellings with one for exclusive use 	<ul style="list-style-type: none"> • No. 154 bays have been provided on site for resident parking which is 8 bays

Criteria	Codes Requirement	Compliance
	<p>of that dwelling. A total of 152 bays needed for 76 of these dwelling types. One parking space per Single bedroom dwellings. A total of 10 bays required for these 10 dwelling types. A total of 162 bays required. Visitor parking at a rate of one space per four dwellings which equates to 22 visitor bays. A total of 184 parking bays are required.</p> <ul style="list-style-type: none"> • Some or all of the required parking spaces may be located off-site, where the parking is sufficiently close to ensure use by residents and/or visitors. 	<p>short, however an additional 31 bays are provided on the street which delivers a total of 185 bays meeting the overall requirements of 184 bays. Each unit has one dedicated space. As a portion of the parking requirement has been achieved via on street parking Council discretion is required to consider parking provision as discussed in Paragraph 26.</p> <ul style="list-style-type: none"> • This is considered to comply as on-street bays are within close proximity of units given narrow width of subject land.
Vehicular access	<ul style="list-style-type: none"> • Minimum width of 4m where the number of dwellings served is five or more; • Designed to allow vehicles to pass in opposite directions at one or more points. 	<ul style="list-style-type: none"> • Minimum width of 4 metres achieved. • In excess of 6 metres at various points to allow vehicles to pass in opposite directions.
Pedestrian access	<ul style="list-style-type: none"> • Communal access serving 10 dwellings or more to have a separate pedestrian path minimum 1.2m wide and barrier free; • No closer than 3m to a wall with a major opening, unless screened. 	<ul style="list-style-type: none"> • Yes, demarcated through different surface treatment. • Where the path is close to units there is a minimum setback 1.5-2m that will be landscaped.
Excavation or Fill	<ul style="list-style-type: none"> • Within street alignment and building or 3m of street alignment or 1m of a common boundary, not to exceed 0.5m 	<ul style="list-style-type: none"> • Yes, no significant filling proposed as working with minor natural slope. Minimal levelling may be required.

Criteria	Codes Requirement	Compliance
Building Height	<ul style="list-style-type: none"> Category B of the R-Codes (buildings to be less than 9m in height to gable and 6 m to eaves or 7m with a concealed roof such as parapet). 	<ul style="list-style-type: none"> Yes, development proposed is all regular proportion single storey units with roof height of 5.2m and internal ceiling heights of 2.7m.
Solar access for adjoining sites	<ul style="list-style-type: none"> Development designed so its shadow cast at midday on 21 June does not exceed 50% of any one adjoining residential lot. 	<ul style="list-style-type: none"> Yes, this is single storey development on a large lot bounded by public roads and the shopping centre service road. There are no adjoining residential lots.
Stormwater disposal	<ul style="list-style-type: none"> Where conditions allow to be retained onsite directed to garden areas, sumps and rainwater tanks. 	<ul style="list-style-type: none"> Each unit is proposed with a rainwater tank. Onsite storage pits are also proposed.
Essential facilities	<ul style="list-style-type: none"> Minimum 4m² storage area with minimum dimension of 1.5m; Adequate clothes drying area screened from view from street 	<ul style="list-style-type: none"> Yes, each unit has an external lockable storage area. Each unit is provided with space for clothes drying in a private area.

16. There are parts of the R-Codes where this proposal does not meet the acceptable development criteria and consideration under the performance criteria or associated relaxations are required.

Setback of garages and carports

17. Some garages are orientated parallel to Stirling View Drive and setback 2m rather than 3 metres as specified under the acceptable criteria of the R-Codes. It should be noted that there are only three such occurrences in the 340m frontage of the subject lot. With significant distances and landscaping between these garage side walls, it is considered that the three parallel garages would not detract from the streetscape or the appearance of the dwellings in the street. Given the overall development pattern proposed these garages will not obstruct views of the dwellings from the street or vice versa. This is considered by staff to comply with the performance criteria of this element of the R-Codes.

Surveillance of the street

18. The intention of this element is to ensure security or the perception of being observed whilst on the street or in communal areas. With the layout of this higher density development, some units are located to the rear of other units without direct line of sight to the public road or communal street.

19. Although these units do not contribute directly to surveillance of the street, the other units within the development are considered to provide adequate surveillance, such that staff consider the performance criteria is satisfied.

Sight lines at vehicle access points and street corners

20. The unit proposed in the southeast corner of the subject site (Unit 1) is the only area of non-compliance with the acceptable development criteria of this element of the R-Codes. Although having said this with the boundary fence proposed as an open style railing and no landscape planting indicated behind the railing, visibility would be acceptable to meet the performance criteria requirement.

Buildings setback from the boundary / Buildings on boundary

21. The only elements of the development that do not meet standard boundary setbacks required under the R-Codes are the garages positioned along the western boundary. However, as part of noise attenuation measures identified in the Catalina Central Planning Framework, a solid wall is proposed along most of this boundary to help shield the residential development from noise associated with the shopping centre. Having the garage walls as part of this required boundary treatment makes effective use of space onsite and enhances the amenity and privacy of occupiers of the development. This meets the performance criteria of the R-Codes.

Outdoor living areas

22. Six of the eighty-six units proposed have outdoor living areas that do not meet the minimum 4m length/width requirement, having dimensions of 8m x only 3m. As the other dimension exceeds the 4m minimum and the overall area is in excess of the 16m² of space required it is considered that the areas are capable of use in conjunction with a habitable room and therefore meets the performance criteria of this element of the R-Codes.

Landscaping requirements

23. More than 50% of the street setback of common property is hard surfaced because the common property in question is the access legs serving the development. This is mostly due to the shape of the lot presenting its primary frontage to Stirling View Drive. Although more than 50% of the common property is hard surfaced, this is more than offset by the soft landscaped garden areas of the units that are visible from the street. This meets the needs of the residents and contributes significantly to the streetscape and therefore meets the performance criteria of the R-Codes in this respect.

Traffic Considerations and Parking

24. The City's officers have concerns over the location of the driveway for Unit 1 being too close to the intersection of Catalina Road and Stirling View Drive and have recommended the driveway is repositioned further to the north. The proponents have advised they are agreeable to this and requested that a re-design be conditioned as a requirement on any approval.

25. The City's officers have also requested that the identified public footpaths be widened to 2.5m dual use paths and appropriate intersection treatments be designed for the Catalina Road/Stirling View Drive and the Brooks Garden Boulevard/Stirling View Drive intersections. Again the proponents are liaising with the City on these requirements and have requested these be the subject of appropriate conditions.
26. In relation to parking it is considered reasonable that 31 parking bays are located on the street to provide visitor parking. The R-Codes do allow on-street parking bays to be included in the overall parking calculation if Council is supportive of such parking. In this instance the bays will assist in providing a traffic calming function to reduce vehicle speeds on Stirling View Drive which is a relatively flat and straight road and together with parking bays on site meets the overall parking requirement of 184 bays.

Noise Attenuation

27. The Catalina Central Planning Framework requires a minimum separation of 27 metres between the shopping centre and residential development on the subject land. The residential development is setback 30.3 metres from the rear wall of the shopping centre and meets this requirement. An acoustic assessment submitted by Herring Storer Accoustics which involved the monitoring of noise associated with the adjacent loading dock revealed that compliance with the regulation noise levels as per the *Environmental Protection (Noise Regulations) 1997* would be achieved. Further mitigation measures including the construction of a solid 1.8m high wall would have the effect of lowering noise levels further. Double glazing of windows is not considered necessary based on the acoustic assessment.

GOVERNMENT CONSULTATION

28. The development proposal is consistent with the Catalina Central Planning Framework which has previously been considered by all relevant government agencies.

PUBLIC CONSULTATION / ENGAGEMENT

29. Given the scale of the development, wide public consultation was undertaken with letters sent to all landowners within 500m of the site. A total of 36 consultation letters were sent out on 7 July 2011. In addition, an advertisement for the proposal appeared in the Public Notices section of the Albany Advertiser on 14 July 2011. Any submissions or responses commenting on the proposal were to be received by 4 August 2011.
30. Two responses were received; one on behalf of Centro (shopping Centre operators) and the other from a local landowner.
31. The submission on behalf of Centro, whilst not objecting to the proposed development, seeks assurances that this development will not impact on the future development of the neighbouring shopping centre site. This relates to the minimum 27m setback separation distance between the shopping centre and any adjoining residential development. This requirement is contained within the Catalina Central Planning Framework, but clarifies that the setback must be considered at the time of building the shopping centre site. Therefore the design and positioning of any further shopping centre facilities must take this into account and allow for the residential development.

32. The submission from the local landowner queries the suitability of residential development on this site as well as raising concerns with the integrity of the noise assessment. The submission further raises the issue of stormwater runoff and the existing impacts of the attenuation basin as part of the existing drainage system dealing with runoff downhill from this site.
33. Since the inception of the Catalina Central Planning Framework it is clear that medium density residential development has been intended for this site. The location of medium density residential development in close proximity to neighbourhood centres is an established planning objective.
34. In relation to noise issues, an acoustic consultant did visit the site and recorded the noise levels associated with the unloading activities at the shopping centre. The consultant found that the noise associated with the shopping centre as outlined by the shopping centre manager and measured on site during the 29 and 30 March 2011 would comply with the regulation noise levels.
35. The issue of stormwater and pre-development flows from the site will need to be addressed via the stormwater management plan which will be undertaken by a qualified civil engineer for this development. The provision of water tanks and onsite infiltration will retain a significant amount of stormwater on site, with the remaining water being directed into the existing drainage system. The consultant engineer have provided the following commentary in relation to the stormwater issues raised in this submission:

“The original stormwater management plan was undertaken by Arup and indicated separate catchment areas in the Brooks Garden development. This report was subsequently reviewed by Opus at the request of Council and accepted by Council.

The issue of stormwater quantity increasing as development proceeds on Brooks Garden site is correct but this additional stormwater is attenuated in the existing pond. The outflow from this pond is controlled and does not change only that it will discharge for a longer period once the development has been completed.”

STATUTORY IMPLICATIONS

36. As explored in the background section at the start of this report the permissibility symbol for ‘Grouped Dwellings’ within the Mixed Business zone is missing from the zoning table of Town Planning Scheme No. 3. However in the absence of a permissibility symbol, the clauses relating to the Mixed Business Zone within the Scheme (Clauses 3.12 and 5.25) as outlined above, empower a Precinct Plan (the Catalina Central Planning Framework) to identify land use mix. The Catalina Central Planning Framework has always identified grouped dwellings on the subject site. The proponent has provided two legal opinions to this effect.
37. Clause 5.4 of the Scheme details the matters to be considered by Council and states:

- 5.4 *The Council in considering an application for planning consent is to have due regard to such of the following matters as are in the opinion of the Council relevant to the use or development the subject of the application:*
- (f) *any Town Planning Scheme Policy adopted by the Council under clause 6.9, and any other plan or guideline adopted by the Council under the Scheme;*
 - (i) *the compatibility of a use or development with its setting;*
 - (o) *the relationship of the proposal 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 proposal;*
 - (p) *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring, and parking of vehicles;*
 - (y) *any relevant submission received on the application;*
 - (zb) *any other planning consideration the Council considers relevant.*

STRATEGIC IMPLICATIONS

38. This item relates directly to the following element of the City of Albany Strategic Plan (2011-2021):

Key Focus Area

Sustainability and Development

Community Priority

A sustainable future

Proposed Strategy

Advocate for an affordable housing supply.

POLICY IMPLICATIONS

39. Council has adopted the Catalina Central Planning Framework as a precinct plan policy under Clause 6.9 of the Scheme.
40. This policy clearly indicates that a grouped dwelling development is intended for this site. This proposal meets the aims, objectives and intentions of the Catalina Central Planning Framework.

RISK IDENTIFICATION & MITIGATION

41. The risk identification and categorisation relies on the City’s Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
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<p><i>Should Council decide not to endorse the recommendation, the proponent may lodge an application for review to the State Administrative Tribunal.</i></p>	<p><i>Likely</i></p>	<p><i>Insignificant</i></p>	<p><i>Low</i></p>	<p><i>Entirely dependent on Council.</i></p>
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FINANCIAL IMPLICATIONS

42. The appropriate planning fee has been paid by the proponent and staff have processed the proposal within existing budget lines.

LEGAL IMPLICATIONS

43. Should Council refuse the development the proponent has the ability to seek review of Council’s decision at the State Administrative Tribunal (SAT) which would involve legal costs for the City.
44. The one factor affecting the proposal that is not expressly clear is the permissibility of ‘Grouped Dwellings’ in the Mixed Business zone of Town Planning Scheme No. 3, where a blank entry appears in the zoning table. Legal opinions provided by the proponent advises that in the absence of a permissibility symbol the Catalina Central Planning Framework, which represents the adopted Precinct Plan for the purposes of the Scheme should be used to guide Council’s discretion in this instance. The Catalina Central Planning Framework identifies grouped dwellings over the subject land.

ALTERNATE OPTIONS

45. Council has the ability to approve or refuse the development, in addition to modifying or adding any of the proposed conditions within the officer recommendation.

SUMMARY CONCLUSION

46. This application is for a grouped dwelling development at an approximate density equivalent to R50. Given the proximity of the development to the Brooks Garden neighbourhood shopping centre, it is considered that the density envisaged for the site is appropriate and is not out of keeping with the R40 and R30 density planned to the south and east of the subject land which are further removed from the shopping centre.
47. Subject to such conditions the proposal is considered acceptable and is recommended for approval.

<p>Consulted References</p>	<p>Residential Design Codes of Western Australia Town Planning Scheme 3 Catalina Central Planning Framework Liveable Neighbourhoods 2007</p>
<p>File Number (Name of Ward)</p>	<p>A209460 (Yakamia Ward)</p>
<p>Previous Reference</p>	<p>Nil</p>