

Development & Asset Services Committee Meeting

Minutes for Monday 3 April 2017

CONFIRMED



**shire of
kalamunda**

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MINUTES

1.0 OFFICIAL OPENING

The Presiding Member opened the meeting at 6.33pm, and welcomed Councillors, Staff and Members of the Public Gallery.

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Councillors

Andrew Waddell JP	(Shire President) North West Ward
Sara Lohmeyer	North West Ward
Tracy Destree	North Ward
Simon Di Rosso	(Presiding Member) North Ward
Michael Fernie	South East Ward
John Giardina	South East Ward
Geoff Stallard	South East Ward
Allan Morton	South West Ward
Brooke O'Donnell	South West Ward
Noreen Townsend	South West Ward

Members of Staff

Rhonda Hardy	Chief Executive Officer
Natalie Martin Goode	Director Development Services
Dennis Blair	Director Asset Services
Gary Ticehurst	Director Corporate & Community Services
Darrell Forrest	Manager Governance, Strategy & Legal Services
Peter Varelis	Manager Strategic Planning
Jordan Koroveshi	Senior Strategic Planning Officer
Rob Korenhof	Manager Asset Delivery
Andrew Fowler-Tutt	Manager Approval Services
Donna McPherson	Executive Research Officer to Chief Executive Officer
Carrie Parsons	Manager Customer & Public Relations

Members of the Public 4

Members of the Press 1

2.2 Apologies

Councillors

Sue Bilich	North Ward
Dylan O'Connor	North West Ward

Members of Staff

2.3 **Leave of Absence Previously Approved** Nil.

3.0 PUBLIC QUESTION TIME

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

3.1 Nil.

4.0 PETITIONS/DEPUTATIONS

4.1 Nil.

5.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 That the Minutes of the Development & Asset Services Committee Meeting held on 7 March 2017, as published and circulated, are confirmed as a true and accurate record of the proceedings.

Moved: **Cr Sara Lohmeyer**

Seconded: **Cr Geoff Stallard**

Vote: **CARRIED UNANIMOUSLY (10/0)**

6.0 ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

6.1 Nil.

7.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

7.1 **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".

8.0 DISCLOSURE OF INTERESTS

8.1 Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (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. (Section 5.70 of the *Local Government Act 1995*.)

8.1.1 Nil.

8.2 Disclosure of Interest Affecting Impartiality

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

8.2.1 Cr John Giardina disclosed an interest affecting impartiality regarding item 16 - Change of Use - Office (Former Bank) to Restaurant and associated works - Lot 1 (21) Haynes Street, Kalamunda as he knows the applicant and purchases home gas from a company that the applicant owns.

8.2.2 Cr Michael Fernie disclosed an interest affecting impartiality regarding item 16 - Change of Use - Office (Former Bank) to Restaurant and associated works - Lot 1 (21) Haynes Street, Kalamunda as one of the partners and family of the applicant are friend of his.

9.0 REPORTS TO COUNCIL

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

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

14. Support for Local Planning Scheme No. 3 Amendment 75 – Forrestdale North

Previous Items	OCM 54/2016
Responsible Officer	Director Development Services
Service Area	Strategic Planning
File Reference	PG-LPS-003/075
Applicant	N/A
Owner	Various
Attachment 1	Advertised Amendment Document
Attachment 2	Schedule of Submissions
Attachment 3	Modified Amendment Document
Attachment 4	Forrestdale North District Structure Plan (Map)

EXECUTIVE SUMMARY

1. The purpose of this report is to provide Council the opportunity to support Amendment 75 to Local Planning Scheme No. 3 (the Scheme) to rezone the Forrestdale North Stages 2 and 3 from Light Industry, Industrial Development and Special Rural to Urban Development.
2. The only change proposed to the advertised Amendment is to include additional text requiring further detailed environmental studies at the request of the Office of Environmental Protection Authority (OEPA).

BACKGROUND

3. Land Details:

Land Area:	Approximately 138 Ha
Local Planning Scheme Zone:	Light Industry, Industrial Development & Special Rural
Metropolitan Regional Scheme Zone:	Urban

4. Locality Plan



5. Council at the Ordinary Meeting held 26 April 2016 resolved to initiate the Amendment for the purposes of public advertising. Subsequently, the Amendment was advertised for 42 days from 6 January 2017 to 17 February 2017.
6. Under the Metropolitan Region Scheme (MRS), all the subject properties are zoned Urban.
7. Under the Scheme, all properties located within Stage 2 are either zoned light industry or industrial development, while all properties located within Stage 3 are zoned Special Rural.
8. The Scheme requires a structure plan be prepared on Urban Development zoned land prior to subdivision and development.
9. The Western Australian Planning Commission (WAPC) wrote on 7 August 2014 recommending the Shire explore options for commercial and residential uses around the proposed train station rather than industrial. On 9 August 2014, the Minister for Transport released a statement informing the public of the final rail route for the Forrestfield Airport Link. The WAPC also recommended the Shire undertake district-level structure planning to identify the best land use opportunities for the area.
10. The Forrestfield North District Structure Plan was approved by the WAPC in September 2016.
11. Council at the Ordinary Meeting held 27 February 2017 appointed The Planning Group to prepare the detailed Local Structure Plans (LSPs) for the precincts within the Forrestfield North District Structure Plan. The LSPs are expected to be presented to Council for the purposes of public advertising late in 2017.

DETAILS

12. The Amendment and Plan as advertised are included as (Attachment 1) detailing and illustrating the proposed zoning changes.
13. The Amendment as advertised proposed the following textual modifications to the Scheme:
 - Modification of Schedule 11 Part 2 to refer to the subject land as Urban Development rather than Industrial Development; and
 - Removal of Schedule 11 Part 2 paragraph (ii).
14. The Amendment is required to ensure the Scheme aligns with the MRS and provides for a consistent land use planning framework:

Metropolitan Region Scheme	Urban
Local Planning Scheme 3	Urban Development
Forrestfield North DSP	Residential, Commercial etc.

STATUTORY AND LEGAL CONSIDERATIONS

15. The Amendment was proposed to follow the 'basic amendment' statutory process as per the *Planning and Development (Local Planning Schemes) Regulations 2015*, but was required by the WAPC to follow the 'standard amendment' process due to the changes proposed being considered a significant departure from the existing land use.

POLICY CONSIDERATIONS

16. The Amendment was advertised in accordance with the Shire's Local Planning Policy – Public Advertising of Planning Proposals.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

17. Internal referrals were not required for this type of administrative amendment as staff had previously been involved in other planning processes for the Forrestfield North District Structure Plan.

External Referrals

18. Prior to public advertising, the Amendment was presented to the OEPA which proposed additional textual amendments as follows:
- “(ii) Future structure planning for this area must ensure:
- The protection of declared rare flora, associated habitat, threatened fauna habitat, and low representation vegetation complexes in appropriately sized retention areas for conservation purposes. These retention areas shall be informed by Level 2 Flora and Vegetation and Fauna Surveys in accordance with EPA Guidance Statements 51 and 56 (or as revised), and targeted for Declared Rare Flora and threatened fauna, and associated habitat. The retention area size, location, protection and management mechanism shall be subject to OEPA advice prior to the WAPC endorsement of the structure plan.
 - All future subdivision and development proposals must be consistent with the retention areas agreed under the above point.”

This change has been incorporated in the Modified Amendment (Attachment 3).

19. The Amendment was then advertised for 42 days from 6 January 2017 to 17 February 2017 in a local newspaper, online and through the post to affected landowners. Previously, the District Structure Plan had been advertised, as had the Metropolitan Region Scheme amendment to rezone the land to Urban.

20. The Shire received six submissions:
- two submissions in support of the Amendment,
 - one submission requesting a modification to include an additional property (15 Raven St, High Wycombe),
 - one submission from EPA requesting a modification (detailed above), and
 - two submissions objecting to the Amendment.
21. The submission requesting a modification is related to a transitional impact of the Bush Forever classification on the land. In this case, the submitter's property is classed as Bush Forever and zoned Rural under the Metropolitan Region Scheme (MRS).
22. The Bush Forever classification constrains the development of land in order to protect and enhance native vegetation. The submitter expressed, since Bush Forever was applied, the land has not been purchased by the State Government nor have the landowners been compensated for the loss in development potential. The trigger for compensation is reserving the land for Parks and Recreation, but the land has remained Rural under the MRS.
23. The Shire supports the State Government either purchasing the land, compensating the landowners, or removing the Bush Forever classification. Previously, the Shire has written to the Department of Planning requesting a resolution of this issue, which is consistent with the approach taken in Western Australia. The Department of Planning has acknowledged but not resolved the issue.
24. At this stage in the planning process, the land has been excluded from the Amendment as a zoning of Urban Development would be in conflict with the current MRS Rural zone. Furthermore, the Bush Forever overlay would not permit any development even if the Department of Planning approved a rezoning to Urban Development. For this reason, no change is recommended to the Amendment as a result of this submission.
25. The remainder of the submissions are summarised and have responses within (Attachment 2).

FINANCIAL CONSIDERATIONS

26. Administrative expenses are covered within the existing budget.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

Strategy 4.1.1 Develop, implement and review strategic land-use plans and policies which guide the location and sustainability of industrial, commercial and residential areas within the Shire.

SUSTAINABILITY

Social Implications

28. The planned development of the area for urban land uses through the preparation of a Structure Plan will enable some landowners to progress with the development of the land independently of others. The Shire acknowledges that this may have some amenity implications for landowners who wish to remain on their properties in the short term but it does not diminish their right to stay.

Economic Implications

29. The planned urban area will have economic benefits for future developers given the proximity of the land to existing industrial and commercial areas and associated infrastructure and utilities. The area will also be beneficial for the Shire in respect of its economic development, creation of jobs and demand for housing close to transport.

Environmental Implications

30. Lot 12 Ibis Place has a Vegetation Conservation Notice placed over a portion of the land. Notice is effective for 10 years, starting on the 1 February 2011. There is a number of requirements to be met under the Notice and this land will be extensively monitored and managed over this period to enable the regrowth of the original vegetation. Regardless, the land can be zoned Urban Development and protected through other mechanisms.

RISK MANAGEMENT CONSIDERATIONS

- 31.
- | Risk | Likelihood | Consequence | Rating | Action/Strategy |
|--|------------|-------------|--------|--|
| Residents are affected by a loss of amenity. | Possible | Moderate | Medium | Through detailed structure planning and design guidelines, amenity, connectivity and local services can be improved, not reduced. |
| The scheme zoning remains unchanged | Unlikely | Moderate | Low | The Amendment is required to facilitate the detailed planning for Forrestfield North and ensure the Shire's Scheme aligns with the MRS. For the land zoning to remain unchanged would be procedurally incorrect and likely result in the WAPC approving the Amendment in any case. |

OFFICER COMMENT

32. Consistency with planning framework

The Shire was unable to rezone the land to Urban Development under the Scheme until the WAPC had approved the MRS rezoning to Urban. During this time, the Shire prepared the Forrestfield North District Structure Plan.

33. Usually, a rezoning under the MRS to Urban would automatically rezone the Shire's Scheme to Urban Development. In this case, however, the Minister for Planning decided to require a separate amendment because "the OEPA has advised of the need for scheme provisions to address environmental matters."

34. The advertised Amendment did not provide any provisions regarding environmental protection. The Modified Amendment now includes an additional provision ensuring all environmental issues will be addressed through the structure planning process. This is outlined in Schedule 11 Part 2, as follows:

"(ii) Future structure planning for this area must ensure:

- The protection of declared rare flora, associated habitat, threatened fauna habitat, and low representation vegetation complexes in appropriately sized retention areas for conservation purposes. These retention areas shall be informed by Level 2 Flora and Vegetation and Fauna Surveys in accordance with EPA Guidance Statements 51 and 56 (or as revised), and targeted for Declared Rare Flora and threatened fauna, and associated habitat. The retention area size, location, protection and management mechanism shall be subject to OEPA advice prior to the WAPC endorsement of the structure plan.
- All future subdivision and development proposals must be consistent with the retention areas agreed under the above point."

35. The Urban Development zone has the following objectives in the Scheme:

To provide orderly and proper planning through the preparation and adoption of a Structure Plan setting the overall design principles for the area.

To permit the development of land for residential purposes and for commercial and other uses normally associated with residential development.

36. The Shire considers the intent of this rezoning to support the objectives of the Urban Development zone. Since the District Structure Plan is finalised, the Shire will progress detailed planning by initiating the preparation of Local Structure Plans for the area.

Voting Requirements: Simple Majority

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).

Moved: **Cr Geoff Stallard**

Seconded: **Cr Andrew Waddell**

Vote: **CARRIED UNANIMOUSLY (10/0)**

Attachment 1

Support for Scheme Amendment 75 – Forrestfield North
Advertised Amendment Document

LOCAL PLANNING SCHEME NO. 3

Amendment No. 75



FORM 2A

Planning and Development Act 2005 (as amended)

RESOLUTION TO PREPARE AMENDMENT TO LOCAL PLANNING SCHEME

SHIRE OF KALAMUNDA LOCAL PLANNING SCHEME NO. 3

AMENDMENT NO. 75

RESOLVED that the local government, in pursuance of Part 5 of the *Planning and Development Act 2005* (as amended), amends the above Local Planning Scheme by:

3. Considers Amendment No. 75 to Local Planning Scheme No. 3 as a basic amendment under Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The amendment will have minimal effect on the scheme or landowners in the scheme area as the land has already been rezoned to Urban under the MRS. This scheme amendment will ensure consistency between the Scheme and the MRS.
4. Pursuant to Section 75 of the Planning and Development Act 2005 preparing Amendment No. 75 to Local Planning Scheme No. 3 as below:
 - a) Modifying Schedule 11 Part 2 to read:

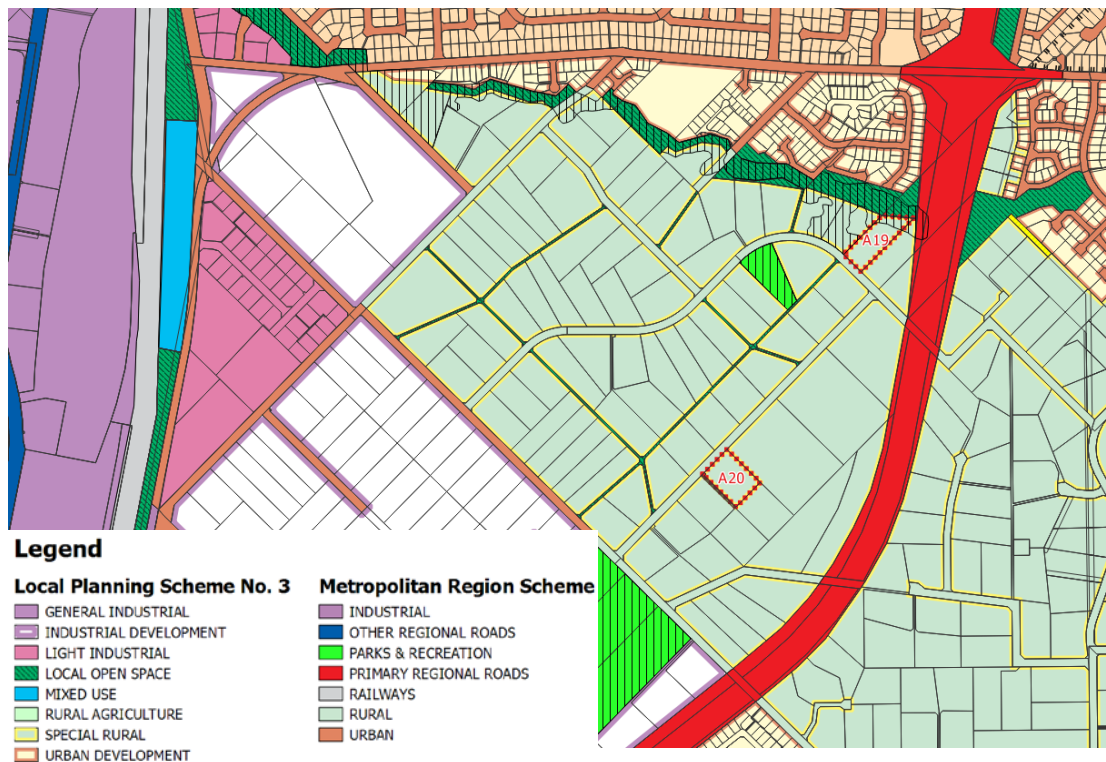
"In respect of the Urban Development Zone;"
 - b) Deleting Schedule 11 Part 2 paragraph (ii); and
 - c) Modifying the Local Planning Scheme Map from Light Industry, Industrial Development and Special Rural to Urban Development as per Attachment 1.
5. Forwards the proposed Amendment 75 to Local Planning 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;
6. Pursuant to Regulation 58 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, once approved by the Environmental Protection Authority, forward Amendment No. 75 to the Western Australian Planning Commission for its consideration.

Dated this day of **2016**

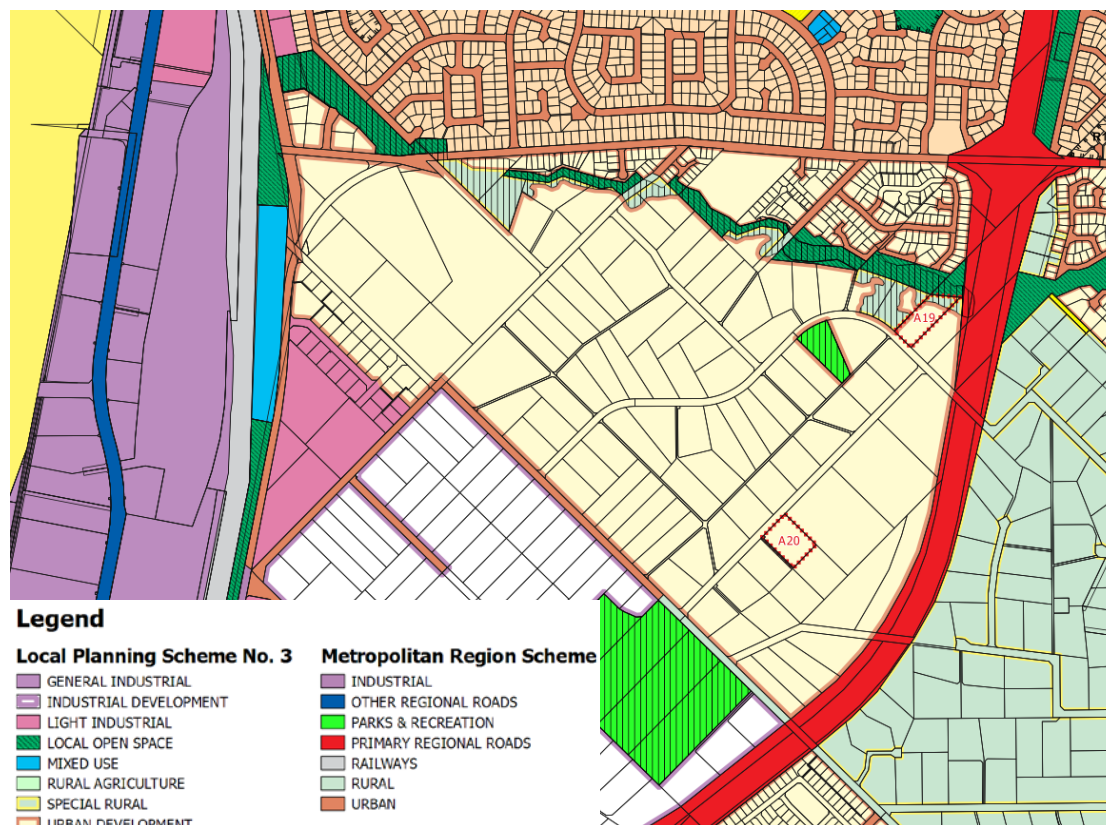
CHIEF EXECUTIVE OFFICER

Attachment 1

Existing Local Planning Scheme 3 Zoning



Proposed Local Planning Scheme 3 Zoning



Attachment 2

Support for Scheme Amendment 75 – Forrestfield North

Schedule of Submissions

No.	Submitter	Comment	Shire Response
1	A7248	Support.	Noted.
2	A152429	<p>Requests their land to be included in the Urban Development Zone.</p> <p>Expressed frustration with the Bush Forever designation over their land in that the owners have not yet been compensated for the land.</p>	<p>While the property is Rural under the Metropolitan Region Scheme, a rezoning under the Shire's Local Planning Scheme No. 3 to Urban Development cannot be supported.</p> <p>The Shire acknowledges this issue as a large burden on landowners and has previously had discussion and correspondence with the Department of Planning. There has been no resolution yet, but the Shire continues its discussions at an officer level to encourage the Department of Planning to fairly compensate affected landowners. Additional comment in main report.</p>

No.	Submitter	Comment	Shire Response
3	Environmental Protection Authority	<p>To ensure the protection and management of these significant values, the Shire of Kalamunda Local Planning Scheme 3 Schedule 11 High Wycombe Development Area 2 (DA2) area be modified to include the amendment area. The Schedule 11 DA2 scheme text also be modified to require future structure planning for this area to ensure:</p> <ul style="list-style-type: none"> • The protection of declared rare flora, associated habitat, threatened fauna habitat, and low representation vegetation complexes in appropriately sized retention areas for conservation purposes. These retention areas shall be informed by Level 2 Flora and Vegetation and Fauna Surveys in accordance with EPA Guidance Statements 51 and 56 (or as revised), and targeted for Declared Rare Flora and threatened fauna, and associated habitat. The retention area size, location, protection and management mechanism shall be subject to OEPA advice prior to the WAPC endorsement of the structure plan. • All future subdivision and development proposals must be consistent with the retention areas agreed under the above point. 	Noted. The modification has been made to the Modified Amendment document (Attachment 3).
4	APT Parmelia Pty Ltd	In principle support. Has gas infrastructure assets in the Forrestfield North area and would like to be involved in the local structure planning to ensure safety and mitigate risks to people and development in the vicinity of the pipeline.	Noted. Local Structure Planning will comply with all State Development Control Policies.

No.	Submitter	Comment	Shire Response
5	A99902	<p>Objects due to concerns regarding asbestos and other contaminants in the former Brand Road Landfill Site. Concerned that the site is not classified as contaminated by Department of Environment Regulation. Would like to know if the Shire has complied with the Contaminated Sites Act 2003, since there's no listing of the contaminated site. Also requests what sort of historical information or scientific testing was provided to the EPA for their consideration. Opposes previous submissions that seek to remove Bush Forever as the submitter believes those owners bought the properties knowing that there was a Bush Forever status applied to the land.</p>	<p>Noted. The former Brand Road Landfill Facility High Wycombe (comprising three lots fronting Brand Road, Brae Road and Smokebush Place) was classified by the DEC (now DER) in 2007 as 'possibly contaminated – investigation required'. This classification is not included in the DER public database.</p> <p>Current investigations involve ongoing monitoring works relating to ground water and landfill gas.</p> <p>This site would not be available, and is not suitable, for residential purposes. Through the Structure Planning process, the Shire will determine what, if any, use will be appropriate for the site.</p>
6	Freight and Logistics Council WA 1 Essex Street Fremantle	<p>Objects to the proposed rezoning, primarily with regard to the introduction of sensitive uses (residential) in close proximity to the existing marshalling yards.</p> <p>Requests the Shire to ensure the planning framework protects the residential amenity of the future community as well as rail and freight operations. Outlines deficiencies of the current <i>State Planning Policy 5.4 Road and Rail Transport Noise</i> and requests the Shire to exceed certain requirements of the Policy.</p>	<p>Noted. The Shire is committed to protecting the future residents from noise and vibration, and to protecting the future freight operations from encroaching urban development.</p> <p>The Shire has engaged a noise and vibration consultant to prepare design guidelines and help inform the local structure planning process. Further opportunities will arise to comment on specific requirements such as built form, setbacks, land use and topography. In this case, the Shire will likely seek to go beyond the requirements of the State Policy, pending results of the noise and vibration studies.</p>

Attachment 3

Support for Scheme Amendment 75 – Forrestfield North
Modified Amendment Document

LOCAL PLANNING SCHEME NO. 3

Amendment No. 75



Planning and Development Act 2005 (as amended)

RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME

SHIRE OF KALAMUNDA LOCAL PLANNING SCHEME NO. 3

AMENDMENT NO. 75

RESOLVED that the local government, in pursuance of Part 5 of the *Planning and Development Act 2005* (as amended), amends the above Local Planning Scheme by:

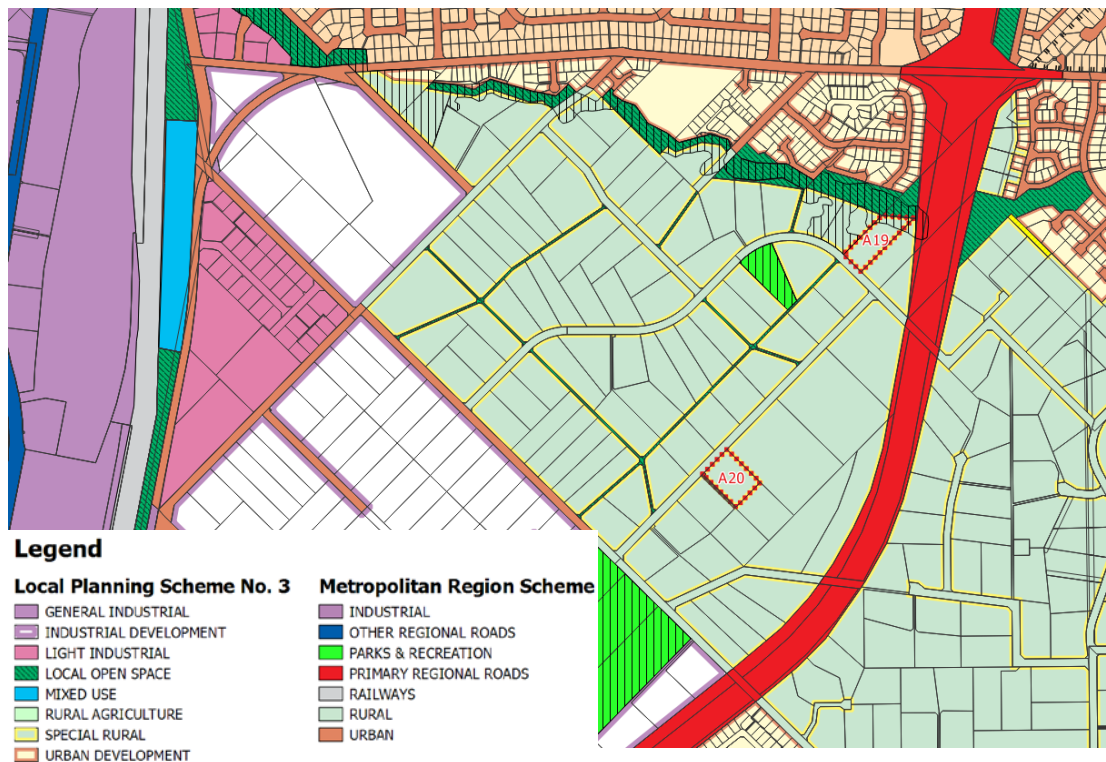
1. Modifying Schedule 11 Part 2 to read:

"In respect of the Urban Development Zone;"
2. Modifying Schedule 11 Part 2 paragraph (ii) to read:

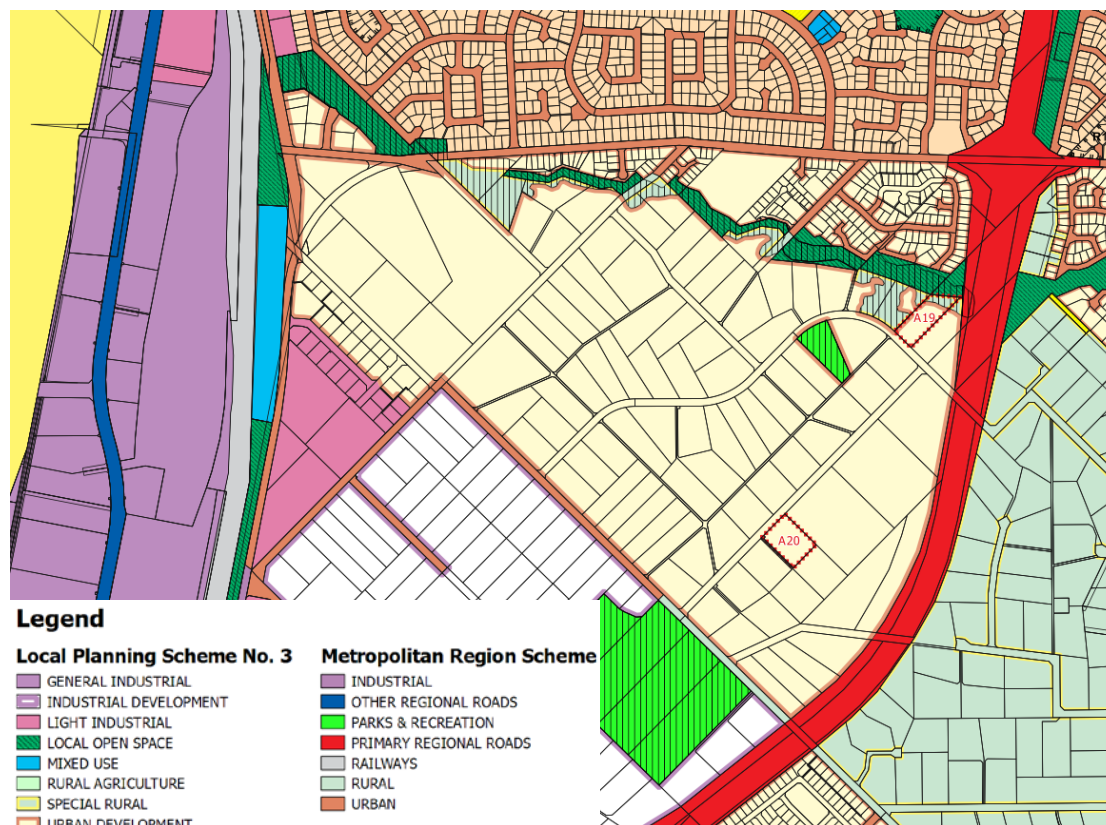
"(ii) Future structure planning for this area must ensure:
 - The protection of declared rare flora, associated habitat, threatened fauna habitat, and low representation vegetation complexes in appropriately sized retention areas for conservation purposes. These retention areas shall be informed by Level 2 Flora and Vegetation and Fauna Surveys in accordance with EPA Guidance Statements 51 and 56 (or as revised), and targeted for Declared Rare Flora and threatened fauna, and associated habitat. The retention area size, location, protection and management mechanism shall be subject to OEPA advice prior to the WAPC endorsement of the structure plan.
 - All future subdivision and development proposals must be consistent with the retention areas agreed under the above point."
3. Modifying the Local Planning Scheme Map from Light Industry, Industrial Development and Special Rural to Urban Development as per Attachment 1.

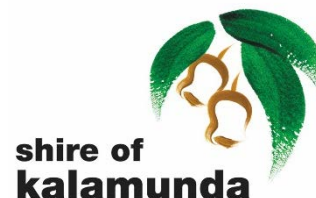
Attachment 1

Existing Local Planning Scheme 3 Zoning



Proposed Local Planning Scheme 3 Zoning





LOCAL PLANNING SCHEME NO. 3

Amendment No. 75

COUNCIL ADOPTION FOR ADVERTISING

Adopted for advertising by resolution of the Council of the Shire of Kalamunda at the Ordinary Meeting of the Council held on the 26 April 2016.

.....
SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDED/SUBMITTED FOR APPROVAL

Supported for submission to the Minister for Planning for approval by resolution of the Shire of Kalamunda at the Ordinary Meeting of the Council held on the 24 April 2017 and the Common Seal of the Shire of Kalamunda was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

WAPC RECOMMENDED/SUBMITTED FOR APPROVAL

.....
DELEGATED UNDER S.16 OF
THE *PLANNING AND DEVELOPMENT ACT 2005*

DATE.....

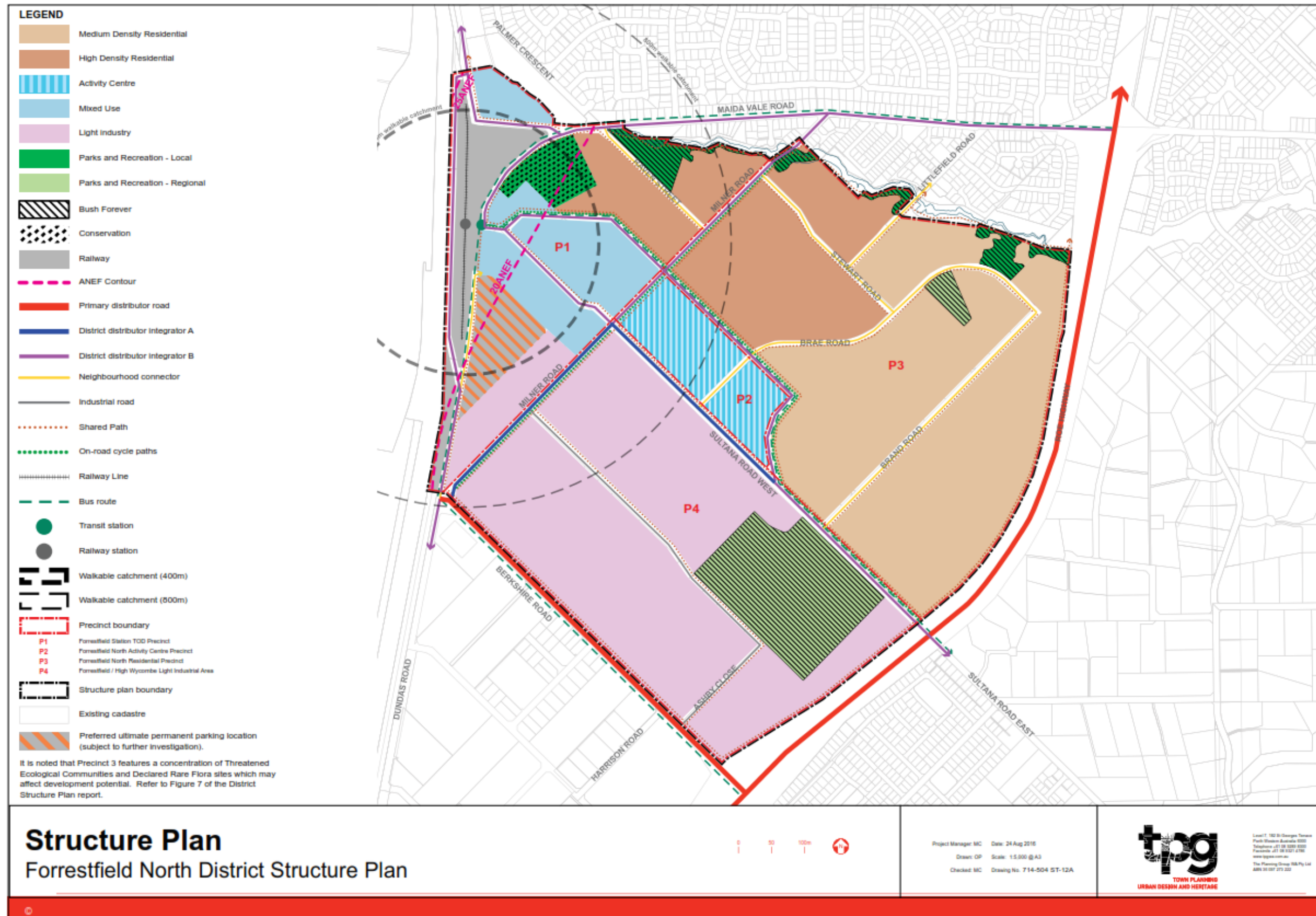
APPROVAL GRANTED

.....
MINISTER FOR PLANNING
S.87 OF THE *PLANNING AND DEVELOPMENT ACT 2005*

DATE.....

Attachment 4

Support for Scheme Amendment 75 – Forrestfield North Forrestfield North District Structure Plan (Map)



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

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

Previous Items	N/A
Responsible Officer	Director Development Services
Service Area	Strategic Planning
File Reference	PG-LPS-003/083
Applicant	NA
Owner	Various
Attachment 1	Amendment Form 2A
Attachment 2	Scheme Amendment 83 Text
Attachment 3	Summary of Changes to Current Scheme Text

EXECUTIVE SUMMARY

1. The purpose of this report is to adopt, for advertising, Local Planning Scheme No. 3 (LPS 3) Amendment 83.
2. Amendment 83 proposes to incorporate changes to the Model Scheme Text and the new Deemed Provisions as set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) into LPS3.
3. While there are a significant number of changes in Amendment 83, all of the changes are administrative in nature and do not alter the existing powers or responsibilities of the Shire.

BACKGROUND

4. **Land Details:**

Land Area:	Entire Scheme Area
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5. The existing LPS 3 is based on the Model Scheme Text as set out in the *Town Planning Regulations 1967*. The Model Scheme Text lists the generic parts and provisions that should be included in every local planning scheme and provides flexibility in certain provisions to add specific requirements for different scheme areas.
6. The Regulations replaces the *Town Planning Regulations 1967*. In the Regulations, a new Model Scheme Text was introduced along with a series of 'Deemed Provisions'.
7. The new Model Scheme Text is generally similar to the previous Model Scheme Text; some provisions have been reworded for clarity or moved to more appropriate locations but the power and responsibility of the Shire has not been altered. Some parts of the Model Scheme Text have now been removed and inserted as Deemed Provisions.

8. The Deemed Provisions are a set of provisions that replace any similar provisions in all local governments' schemes automatically. These provisions replace a number of parts of LPS 3 with generic requirements that cannot be amended or superseded by any conflicting provisions. The Deemed Provisions apply to policy creation, heritage matters, structure plan processes, development approval processes, bushfire management, and enforcement.
9. While the Deemed Provisions cannot be superseded, the Regulations do give the Shire the ability to supplement the Deemed Provisions with requirements that apply on top of, and not conflicting with, the Deemed Provisions.
10. The Western Australian Planning Commission (WAPC) requires all local governments to accord with the new Model Scheme Text and to remove any conflicting or obsolete provisions from their existing Local Planning Schemes.
11. Since the Deemed Provisions were gazetted in October 2015, readers have been required to reference both the Shire's existing LPS 3 and the Deemed Provisions. This creates a cumbersome process especially where there may be conflicting provisions. In those cases, the Shire must respond to enquiries on how to interpret the conflicts.

DETAILS

12. Proposed Amendment 83 is a redrafting of the entire LPS 3 to:
 1. Reformat in accordance the new Model Scheme Text;
 2. Remove obsolete provisions replaced by Deemed Provisions; and
 3. Include supplemental provisions.
13. Model Scheme Text
Reformatting LPS 3 to match the Model Scheme Text consisted of taking the Model Scheme Text from the Regulations and filling in any areas that required customisation. This included objectives of the Scheme, names of zones, the land use permissibility table, development requirements, custom schedules, and other general requirements.
14. In conducting the formatting, a number of existing provisions in LPS 3 did not have a similar provision in the Model Scheme Text to replace it. In some cases, those provisions were considered redundant and removed, or they were transferred to a Schedule. Redundant provisions were only removed where they are covered by a separate piece of legislation or policy, or they are not within the Shire's jurisdiction to enforce. Effectively, the power of the Scheme has not been reduced through any modification made in Amendment 83. A summary of the changes to the existing LPS 3 is detailed in (Attachment 3)
15. The Model Scheme Text portion is included in (Attachment 2) as Volume 1 of LPS 3.
16. The existing and new Schedules are included in (Attachment 2) as Volume 2 of LPS 3.

17. Deemed Provisions
The Deemed Provisions came into effect in October 2015. At the time of gazettal, some changes to the planning process occurred. The Deemed Provisions largely consist of administrative requirements such as which authority is responsible for determining applications, planning processes, and advertising requirements. The Deemed Provisions have been used by the Shire since October 2015. The purpose of Amendment 83 with regard to Deemed Provisions is to simply remove the conflicting provisions from LPS 3 as they are no longer of any effect.
18. The Deemed Provisions portion is included in (Attachment 2) as Volume 3 of LPS 3. The Deemed Provisions are not modified in any way but are included within the Scheme Text for the convenience of readers, rather than having to refer to the Regulations as a separate document.
19. Supplemental Provisions
Supplemental Provisions are provisions that are currently within LPS 3 that do not fit within the new Model Scheme Text but should apply on top of Deemed Provisions.
20. Two Supplemental Provisions have been included in Amendment 83. The first is to retain existing Schedule 5 by adding it to the requirements of Deemed Provisions Clause 61 'Development for which planning approval not required'. The Deemed Provisions do not allow any Supplemental Provisions that conflict with its requirements. Since Schedule 5 'Exempt Advertisements' adds to Clause 61, without conflicting, it may be converted into a Supplemental Provision.
21. The second Supplemental Provision is the 'Unkempt Land' provision from clause 5.22 of LPS 3. This provision is not provided for within the Model Scheme Text or the Deemed Provisions, so it is now a Supplemental Provision under clause 85A, which comes under the 'Enforcement – Misc.' division of the Deemed Provisions.
22. Since there can be no modifications made to the Deemed Provisions, all Supplemental Provisions are under the new Schedule 1 of LPS 3 (Attachment 2).
23. Mapping Changes
Some administrative mapping changes will be required as all special areas such as heritage precincts, development areas, water catchments are now classed as Special Control Areas in Part 5 of (Attachment 2) Volume 1.

STATUTORY AND LEGAL CONSIDERATIONS

24. Regulation 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) requires a resolution of a local government to prepare a Local Planning Scheme amendment as well as a justification for the type of amendment (basic, standard or complex).

25. Following preparation, the amendment must be referred to the Environmental Protection Authority for their comment before being advertised for 42 days.

POLICY CONSIDERATIONS

26. P-DEV 45 – Public Notification of Planning Proposals is relevant. Refer to 'External Referrals' below for further discussion.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

27. The proposed Amendment 83 was referred to all the planning officers to use and test for the past three months. There were only some minor administrative changes required.

External Referrals

28. If Council decide to prepare the proposed amendment for advertising, it will be submitted to the Environmental Protection Authority for their comment and then advertised for public comment for 42 days as per the requirements of regulation 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
29. The extent of advertising is proposed to be a notice in the newspaper and advertising on the Shire's website. The Public Notification policy requires letters in a 100m radius of the affected area. In this instance, the entire Scheme area is affected by the change; however, given that the amendment is largely administrative, no letters are proposed to be sent.

FINANCIAL CONSIDERATIONS

30. Administrative expenses are covered by current operating expenditure.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

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

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

Strategy 4.1.1 Develop, implement and review strategic land-use plans and policies which guide the location and sustainability of industrial, commercial and residential areas within the Shire.

SUSTAINABILITY

Social Implications

32. The new format of LPS 3 through Amendment 83 may cause some confusion for residents and other stakeholders initially. However, all planning staff are aware and knowledgeable of the changes and can answer any enquiries. Furthermore, staff have conducted investigations of other local governments who have recently adopted similar amendments. The format of Amendment 83 is similar to other local governments and can be considered as the format with which the Department of Planning is most comfortable. This format will also be employed during the formation of the Local Planning Scheme Review.

Economic Implications

33. Nil.

Environmental Implications

34. Nil. The same protection is granted for environmental assets as previously.

RISK MANAGEMENT CONSIDERATIONS

- 35.
- | Risk | Likelihood | Consequence | Rating | Action/Strategy |
|---|------------|---------------|--------|---|
| Efficiency of LPS3 is compromised | Likely | Moderate | High | Incorporate the updated deemed provisions into the Shire's LPS3. |
| Delays with State Government could cause administrative issues. | Possible | Insignificant | Low | Engage early with State Government to ensure an agreed approach is taken. |

OFFICER COMMENT

36. Amendment 83 is considered an omnibus amendment to LPS 3 that redrafts the entire document. However, all of its changes are administrative in nature, meaning no part of the amendment removes or modifies any power or responsibility of the Shire as it currently exists.
37. Following Amendment 83, a number of further amendments will be proposed individually to make changes to certain provisions that are not considered administrative in nature. By excluding these changes from Amendment 83, the process should run efficiently with few issues.

These amendments include but are not limited to:

- Changing definitions of land uses;
- Reconciling zones;
- Modifying land use permissibility;
- Removing redundant additional/special use zones; and
- Moving some provisions to policy.

38. Other amendments are currently in the process of being advertised or gazetted. As these progress, Amendment 83 will be updated to reflect any changes following the advertising process.
39. Aligning LPS 3 with the Model Scheme Text and the Deemed Provisions will simplify the preparation of the future Local Planning Scheme No.4 (LPS 4). The preparation of LPS 4 will look at a number of further amendments that will include administrative and complex changes to align with the planning initiatives foreshadowed in the new Local Planning Strategy. Preparation of the new Local Planning Strategy is currently underway with the first draft scheduled to be finalised in the first half of 2018.
40. In progressing Amendment 83, the Shire will become one of a few local governments in Western Australia that has undertaken the significant task of aligning LPS 3 with the updated state government planning framework in accordance with the Regulations.

A query from Cr Michael Fernie was clarified on this item before the vote took place.

Voting Requirements: Simple Majority

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.

Moved: **Cr Noreen Townsend**

Seconded: **Cr Michael Fernie**

Vote: **CARRIED UNANIMOUSLY (10/0)**

Attachment 1

Preparation of Amendment 83 to LPS 3 – Omnibus Model and Deemed
Amendment Form 2A

LOCAL PLANNING SCHEME NO. 3

Amendment No. 83

Omnibus amendment to incorporate changes to Model Scheme Text and to remove obsolete provisions due to gazettal of Deemed Provisions.



Planning and Development Act 2005

RESOLUTION TO PREPARE AMENDMENT TO LOCAL PLANNING SCHEME

SHIRE OF KALAMUNDA LOCAL PLANNING SCHEME NO. 3
AMENDMENT NO. 83

RESOLVED that the local government pursuant to section 75 of the *Planning and Development Act 2005* (as amended), amend the above Local Planning Scheme by:

1. Deleting provisions from Local Planning Scheme No. 3 that have been superseded by the deemed provisions in Schedule 2 of *Planning and Development (Local Planning Schemes) Regulations 2015*;
2. Restructuring the remaining provisions of Local Planning Scheme No. 3 to fit within the new format of the Model Scheme Text as at Schedule 1 of *Planning and Development (Local Planning Schemes) Regulations 2015*, as per Attachment 2;
3. Correcting administrative and editorial errors throughout Local Planning Scheme No. 3; and
4. Modifying the Scheme map to accord with the new Special Control Area numbers, identified in Part 5 of Attachment 2.

The Amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason:

- a) The amendment is any other amendment that is not a complex or basic amendment.

Dated this day of **2017**

CHIEF EXECUTIVE OFFICER



LOCAL PLANNING SCHEME NO. 3

Amendment No. 83

COUNCIL ADOPTION FOR ADVERTISING

Adopted for advertising by resolution of the Council of the Shire of Kalamunda at the Ordinary Meeting of the Council held on the 24 April 2017.

.....
SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDED/SUBMITTED FOR APPROVAL

Supported for submission to the Minister for Planning for approval by resolution of the Shire of Kalamunda at the Ordinary Meeting of the Council held on the XXXX 2017 and the Common Seal of the Shire of Kalamunda was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

WAPC RECOMMENDED/SUBMITTED FOR APPROVAL

.....
DELEGATED UNDER S.16 OF
THE *PLANNING AND DEVELOPMENT ACT 2005*

DATE.....

APPROVAL GRANTED

.....
MINISTER FOR PLANNING
S.87 OF THE *PLANNING AND DEVELOPMENT ACT 2005*

DATE.....

Attachment 2

Preparation of LPS 3 Amendment 83 – Deemed Provisions and New Model Scheme Text

Scheme Amendment 83 Text

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

Attachment 3

Preparation of LPS 3 Amendment 83 – Deemed Provisions and New Model Scheme Text

Summary of Changes to Current Scheme Text

Original Provision	Original Wording/Purpose	New Provision	New Wording/Purpose
Part 1	Introductory Statements	Part 1 - Model	Identical
1.7	How definitions work, conflicts between definitions.	Deleted	Not in model or deemed provisions. Superseded by <i>Interpretations Act 1984</i> .
Part 2	Local Planning Policy Framework	Part 2 - Deemed	Identical
Part 3	Reserves	Part 2 - Model	Identical
Part 4	Zones and the Use of Land	Part 3 - Model	Objectives of zones updated as per model. New zones are introduced but not used anywhere in the Scheme area. All previous zonings are kept as is with the except of Private Clubs and Institutions which now incorporates Places of Worship in the name of the zone. Introduced 'I' use for incidental development where it would not otherwise be permitted.
4.11	Termination of a non-conforming use	Part 3 – 22(3)	Ability still exists to terminate as per this provision. However, the provision itself is not required and not in the model or deemed provisions.
5.1-5.8, Table 3	General Development Requirements	Part 4 – Model, Schedule 8	Removed redundant and obsolete clauses and put in table format.
Table 2	Site Requirements for different zones	Schedule 7	Identical
5.9-5.22	General requirements for different zones and areas	Clause 32 Table – Model, Schedule 9-11	Removed superseded provisions and converted to table and Schedule 9-11.
6.1	Special Control Areas	Part 5 – Model Schedule 6	Identical – Except all SCAs are now shown on the map as SCA and differentiated in the text at Clause 36 table.
6.2-6.2.3	Development Areas	Part 5 – Model Part 4 – Deemed	Structure Plans no longer need a development area. They must be zoned a development zone (Urban

Original Provision	Original Wording/Purpose	New Provision	New Wording/Purpose
			Development, Industrial Development). SCAs can require a structure plan still.
6.2.3-6.2.8	Structure Plans and Detailed Area Plans	Part 4, Part 5 and Part 6 – Deemed	Superseded by deemed provisions. Changes to operation and assessment process.
6.3-6.4	Design of Particular Areas	Part 5 – Model Schedule 6	Converted to Special Control Areas, provisions moved to Schedule.
6.5	Development Contribution Areas	Clause 27 – Model Schedule 6	SPP 3.6 is now read as part of the Scheme. Negating the need for these provisions.
Part 7	Heritage Protection	Part 3 – Deemed	Superseded by deemed provisions. Some slight changes to terminology.
Part 8	Development of Land	Part 7 – Deemed Schedule 1 – Supplemental Provisions	Superseded by deemed provisions. No significant changes. Included further exemptions from planning approval in Schedule 1
Part 9	Applications for Planning Approval	Part 8 – Deemed	Superseded by deemed provisions. Now called development approval. No significant changes.
Part 10	Procedure for dealing with applications	Part 9 – Deemed	Superseded by deemed provisions. No significant changes.
Part 11	Enforcement and Administration	Part 10 – Deemed	Superseded by deemed provisions. No significant changes. Provisions that have been removed still exist through the <i>Planning and Development Act 2005</i> .
Schedule 1	General and Land Use Definitions	Part 6 – Model, Part 1 – Deemed	No land uses from LPS 3 have been removed. Some general definitions from the model have been added. No new land uses have been added. Only Storage and Warehouse have been combined
Remaining Schedules	Development Contributions, Special Use, Additional Use, Forms etc.	Schedules, Forms now in Part 11 – Deemed.	Identical except for updated references to clauses

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

Cr John Giardina disclosed an interest affecting impartiality in this item as he knows the applicant and purchases home gas from a company that the applicant owns.

Cr Michael Fernie disclosed an interest affecting impartiality in this item as one of the partners and family of the applicant are friend of his.

16. Change of Use - Office (Former Bank) to Restaurant and associated works - Lot 1 (21) Haynes Street, Kalamunda

Previous Items	N/A
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	HY-02/021
Applicant	M. Zurzolo
Owner	Dalewest Holdings Pty Ltd, LMA Family Trust, CRG Family Trust and Soolaro Property Trust
Attachment 1	Site Plan
Attachment 2	Basement Floor Plan
Attachment 3	Ground Floor Plan
Attachment 4	First Floor Plan
Attachment 5	Elevation 1
Attachment 6	Elevation 2
Attachment 7	Site Photos

EXECUTIVE SUMMARY

1. The purpose of this report is to consider a development application for a proposed change of use from office to 'restaurant' at Lot 1 (21) Haynes Street, Kalamunda.
2. A Restaurant is a 'P' (Permitted) use within the District Centre zone, and as such would not normally require a development approval on the provision any works being undertaken are internal only. However, in this instance minor external works are proposed and therefore planning approval is required.
3. The development application is seeking Council approval for a dispensation in the required number of car parking bays (50 car parking spaces required, 21 provided). Under the requirements of Local Planning Policy DEV41 – Framework for Assessing Requests for Variation of the number of Car Parking Bays, a shortfall in parking bays may only be approved by Council.
4. The applicant has submitted due to the size of the lot and the current structural requirements of the property no additional bays can be created. The applicant further states it is expected due to the nature of the proposal there will be a high turnover in the provided bays, and it is expected there will be no strain placed on parking availability. Reciprocal parking arrangements are also confirmed with the Mitre 10 and Auto One land owners formal agreement to utilise their parking after their trading hours.
5. The Recommendation is to approve the application for the change of use with the shortfall in parking bays, subject to appropriate conditions.

BACKGROUND

6. **Land Details:**

Land Area:	884.425 m ² 0.08844 ha
Local Planning Scheme Zone:	District centre
Metropolitan Regional Scheme Zone:	Urban

7. The site was previously operating as the Commonwealth Bank but has since been vacated for a period of time.

8. The subject site comprises:

- A two (2) storey vacant commercial building; and
- A car parking area comprising 19 16 basement bays and 5 bays at ground level.

9. Previous approvals for the site have included modifications and signage associated with the previous use of the building as a bank and associated offices.

10. In February 2017, Council resolved (OCM 03/2017) to approve an application for a Change of Use (Health/Fitness Centre) at Lot 14 (12) Mead Street, Kalamunda with dispensation for 50 car parking bays.

11. **Locality Plan:**



DETAILS

12. The application seeks approval to retrofit the existing two (2) storey commercial building for use as a restaurant. Total patronage capacity is expected to be in the vicinity of a maximum of 200 people. Refer Attachments 1,2,3,4, 5 and 6.

In summary, the application proposes the following elements:

- Retrofitting of the existing commercial building (Bank). Proposed new alfresco dining terrace, new exit door and emergency stairs, bin screening wall, partial painted facade, new colour scheme, internal refurbishment and the installation of a new signage.

- The existing building takes the form of a two (2) storey commercial building with a basement level of car parking and a total GLA of 743.46m² broken down as follows:
 - The basement comprised of Fifteen (15) car parking bays (inclusive of 1 disabled bay), and Bay 15 being a "small car only" parking bay.
- The ground floor has a GLA of 448.45m² comprised a 211m² for seated restaurant, 65m² kitchen, 10.5m² Office, store room 59.8m², ablution facilities 9.9m² and 22.75m² freezer and cool room facilities and 62m² of external outdoor terrace area with seating for 52 patrons.
- The ground floor also consists of Six (6) car parking spaces as well as a loading area accessible from the Right of Way (R.O.W)
- The First floor has a GLA of 295.01m² comprised of a 49.76m² of storage, 35.91m² of ablutions, 35.34m² of plant room and 174m² which is to remain as office use (currently vacant)
- A total of 21 car parking spaces (inclusive of one disabled bay).
- Vehicular access will be achieved through an existing vehicle crossover from Central Road (ROW) access.
- The proposed restaurant is intended to operate between the hours of 7am and 12 midnight, Tuesday to Sunday.

13. The applicant acknowledges that there is a shortfall in the required number of parking bays on site, and has provided the following justification as to why such a shortfall should be considered by Council:

1. Full occupation is very unlikely with an average of 65-75% highest occupancy more likely, equating to a requirement of 38 parking bays, leaving a shortfall of approximately 17 bays at peak times which are likely to be at night and on weekends.
2. The applicant has stated that they undertook their own survey at 7.45pm on Saturday 14th January 2017 on a warm clear night revealed 35 available parking bays within 100m of the subject site and a further 167 bays within 200m of the site.
3. Due to the nature of the proposed use it is expected the bays will have a high turnover rate as patrons are expected to attend for an average of one hour; and
4. Existing parking can be used to cover potential overflow. Due to the nature of operation it is expected that the number of patrons will alternate per day and relieve the potential strain on parking that may be caused by standard business hours operation.

STATUTORY AND LEGAL CONSIDERATIONS

Local Planning Scheme No. 3

14. Clause 4.2.3 (Objectives of the Zones – Commercial Zones: District Centre) of Local Planning Scheme No. 3 ('the Scheme') stipulates that the objectives for areas zoned District Centre are as follows:

- To promote, facilitate and strengthen the District Centres as the major focus of activity, particularly for shopping, business, professional, civic, cultural, entertainment facilities and related employment opportunities.
- Provide for medical and other health related services.

- Allow for the establishment of uses which would co-exist with the District Centre's activities whilst recognising a limited level of residential activities in the District Centre.
- Achieve safety and efficiency in traffic and pedestrian circulation.
- Ensure that the scale, size, design and location of buildings are compatible with the existing development in the District Centre.

15. Under the Scheme the proposed Change of Use is defined as follows:
"restaurant means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons and the term shall include a licenced restaurant."

16. In accordance with Table 1 (Zoning Table) of the Scheme, the proposed land use of "Restaurant" is a 'P' (Permitted) use within the District Centre zone.

17. Where the car parking rates are concerned, Table 3 of the Shire of Kalamunda Local Planning Scheme No. 3 ('the Scheme') sets car parking standards determined by the proposed use. In summary, the applicant is seeking a dispensation of 29 car parking bays as follows:

Use	Car Parking Standards	Deemed to Comply Provision	Provided	Dispensation
Restaurant	1 bays per 5 patrons	Proposed Patron = 200 50 car parking spaces	21 car parking bays	29 car parking bays

18. Clause 3.8.2 (Car Parking Requirements) of the Scheme stipulates :
"The local government may apply at its discretion, a greater or lesser requirement for car parking than that stipulated as the minimum requirement in Table 3, if in its opinion the proposed use is likely to demanded a greater or lesser need for car parking bays having due regard to the scale and nature of the intended use or uses"

19. Clause 3.8.3 (Reciprocal Parking) of the Scheme stipulates:
"Local government may vary the parking requirements as specified in Table 3 for any zone when it is considered reasonable to do so by the recognition of reciprocal arrangements for parking or access or circulation. In making its decision on application for such recognition, the local government shall take into consideration the following matters:
i. The nature of the proposed development in relation to the existing or future development of any land within the immediate vicinity of the subject land;
ii. The hours of normal operation of the intended use and abutting land uses; and
iii. Any such matters as the local government considers relevant, including any legal agreements between affected landowners."

20. Clause 3.8.4 (Cash in Lieu of Parking) of the Scheme stipulates the applicant may, if the local government so agrees propose to provide cash in lieu of car parking. However for cash in lieu to occur it must be initiated by the applicant.
21. For Council to accept cash in lieu funds for the purpose of providing a public car park, it presupposes that Council has adopted a plan which establishes how and where the funds are to be expended. At present no plan has been adopted and therefore Council would not be in a position to accept such funds.

Planning and Development (Local Planning Schemes) Regulations 2015

22. In considering an application for planning approval, Clause 67 of the Regulations (Matters to be Considered by Local Government) requires Council to have due regard to a number of matters, including:
- The compatibility of the development within its setting.
 - The preservation of amenity in the locality.
 - Any Local Planning Policy adopted by the local government.
23. In the event that Council does not support the proposed development, there is a right of review (appeal) to the State Administrative Tribunal under Part 14 of the *Planning and Development Act (2005)*.

POLICY CONSIDERATIONS

Shire of Kalamunda Local Planning Policy DEV 41 – Framework for Assessing Requests for Variation to the Number of Car Parking Bays

24. Shire of Kalamunda *Local Planning Policy DEV41 – Framework for Assessing Requests for Variation to the Number of Car Parking Bays* stipulates that a reduction in parking will only be considered by Council and not under delegation and the proximity of public parking areas only will be considered in District zoned land. The Policy further states that Council may approve a variation in parking if:
- "The circumstance of a development justify such a variation and there will not be any resultant lowering of safety, convenience and amenity standards, it may permit a reduction in the number of car parking spaces required by Table 3 of Local Planning Scheme No. 3"*

Shire of Kalamunda Town Centre Planning & Urban Design Guidelines

25. Part 1.6 (Detailing, Colours and Materials) of the Shire of Kalamunda Town Centre Planning & Urban Design Guidelines stipulates that where the following:
- "New buildings are not expected to imitate the materials, colours or finishes of the existing buildings of the locality. The emphasis is on the blending of new buildings with the best elements of the existing streetscape. A variety of materials and colours is encouraged, although large expanses of reflective glass are strongly discouraged."*

26. It is proposed that the existing brick building (refer Attachment 7) will retain the existing cream face brick, with the exception of the Haynes Street façade which will be rendered and painted to improve the building integration with the existing streetscape. In the event the application is supported by Council, the applicant will be required to submit a colour palette consistent with the town centre urban design guidelines.

Internal Referrals

27. The development application was internally referred to Health, Building, Environment and Assets with conditions recommended to be included within the Notice of Determination. No objections to the proposed use were raised to the proposal from the internal departments.

External Referrals

28. Having regard to Local Planning Policy P-DEV45- Public Notification of Planning Proposals, it was considered that the shortfall in parking was not considered significant in the context of the proposed operating hours, number of members and the opportunities for reciprocal parking adjacent to the site. On that basis no public advertising was required.

FINANCIAL CONSIDERATIONS

29. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

30. *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.

OBJECTIVE 4.3.2: Undertake efficient monitoring and compliance of building developments within the Shire.

SUSTAINABILITY

Social Implications

31. The restaurant will contribute to the vibrancy and diversity of Haynes Street as well as towards the Kalamunda District Centre.

Economic Implications

32. The existing building is presently vacant. A new restaurant within the Kalamunda District Centre will provide an economic stimulus to the town centre through new patrons visiting the area and through increased opportunities for local employment.

Environmental Implications

33. The proposal would be required to comply with the *Environmental Protection (Noise) Regulations 1997*.

RISK MANAGEMENT CONSIDERATIONS

34.

Risk	Likelihood	Consequence	Rating	Action/Strategy
Allowing dispensation for parking may impact upon the car parking supply in the surrounding area.	Unlikely	Moderate	Low	The operating hours of the proposed restaurant provides opportunities for reciprocal parking with adjoining land uses. The parking study undertaken by Shawmac in 2011 indicates that there is a surplus of car parking provided within the Shire of Kalamunda Town Centre.
Objections to the proposal from community and business interests	Possible	Moderate	Medium	Demonstrate the proposed restaurant is a 'P' permitted land use under the District Centre zone.
Lack of business investment in the town centre if the proposal is not supported	Possible	Significant	High	Demonstrate the proposal will provide an economic stimulus to the town centre through local employment opportunities and additional people visiting the town.

OFFICER COMMENT

35. The applicant is seeking approval for a change of use to allow for a restaurant which will necessitate some minor external changes to the building and dispensation for the required number of car parking bays under the Scheme.
36. Reference is made to "Parking Study, Kalamunda Town Centre" ('Parking Study') undertaken by Shawmac Consulting on behalf of the Shire of Kalamunda, dated 20 August 2011. The Parking Study found that Kalamunda Town Centre is well serviced by parking, with on the vast majority of occasions, supply outstripping demand. Overall the Study found that the car parking standards stipulated in the Scheme are;
- "considered conservative when applied to the Kalamunda Town Centre and as such may provide the opportunity for dispensation to apply a lesser rate"*
- "Based on the assessment, the parking determination rates adopted for the various land uses by the Shire of Kalamunda under the LPS3 would appear to be conservative and may provide an excess of parking to actual demand".*
37. The applicant is providing 21 bays in lieu of the 50 car parking bays required under the Scheme. The shortfall of 29 bays should be considered in the context of the following:
- Total maximum patron capacity of the restaurant is expected to be a maximum of 200 people with an anticipated capacity at a maximum of 75% during peak periods.
 - The opportunity of utilising reciprocal car parking within the Central Road/Central Mall car parking area, which provides 35 car parking spaces, which at the time of the Parking Study had an average occupancy of 64 per cent as well as agreement with the owners of Auto One and Mitre 10 providing for additional parking opportunities. Therefore in accordance with Clause 3.8.3 (Reciprocal Parking) of Local Planning Scheme No. 3 Council should give due regard to reciprocal parking at the adjacent Central Road/Central Mall car parking area.
 - A high level of connectivity using the public transport network via the Kalamunda Bus Station which is located a 186 metre walk from the subject site.
38. In regard to the agreement reached between the applicant and the owners of Mitre 10 and Auto One regarding additional parking opportunities, there is no requirement to have this agreement formalised through a condition of planning approval given the level of reciprocal parking available in the town centre.
39. Conditions relating to the hours of operation and maximum patron capacity have not been included as these will be controlled through separate health legislation, and included as advice notes to the recommended conditions of planning approval.

The Presiding Member advised there was an amendment in the report in paragraph 8 where it reads "A car parking area comprising 19 basement bays and 5 bays at ground level" the Presiding Member advised this has been amended to "A car parking area comprising 16 basement bays and 5 bays at ground level".

Voting Requirements: Simple Majority

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.

Moved: **Cr Tracy Destree**

Seconded: **Cr Geoff Stallard**

Vote: **CARRIED UNANIMOUSLY (10/0)**

Site Plan



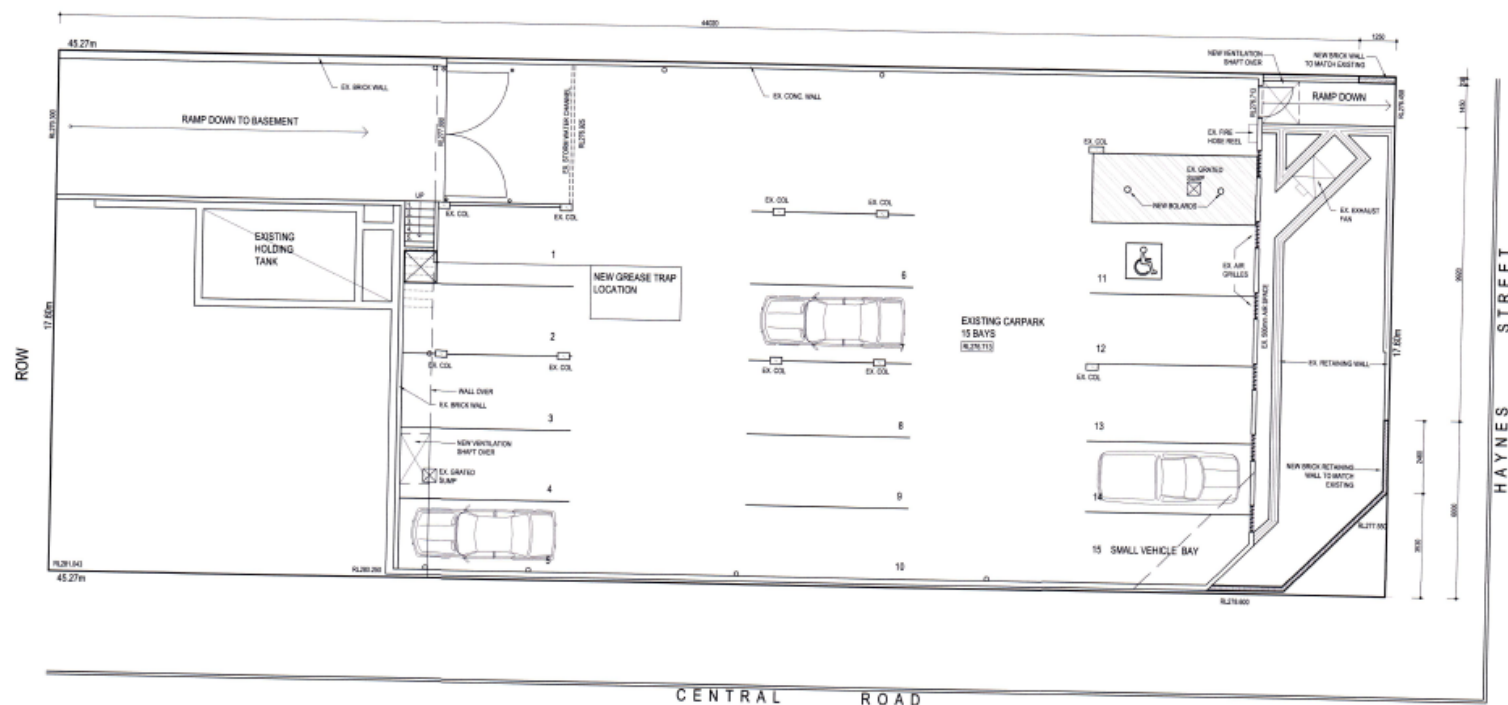
BUILDING
DE SAGNE

JOB No: 5178
SHEET 1 OF 10
DATE: 15 DEC 2016
SCALE: as noted

Attachment 2

Lot 14 (21) Haynes Street, Kalamunda. Change of Use – Office (Former Bank) to Restaurant and associated works.

Basement Floor Plan



BASEMENT FLOOR PLAN

REFURBISHMENT OF EXISTING BUILDING -
RESTAURANT
ADDRESS:
21 HAYNES STREET
KALAMUNDA

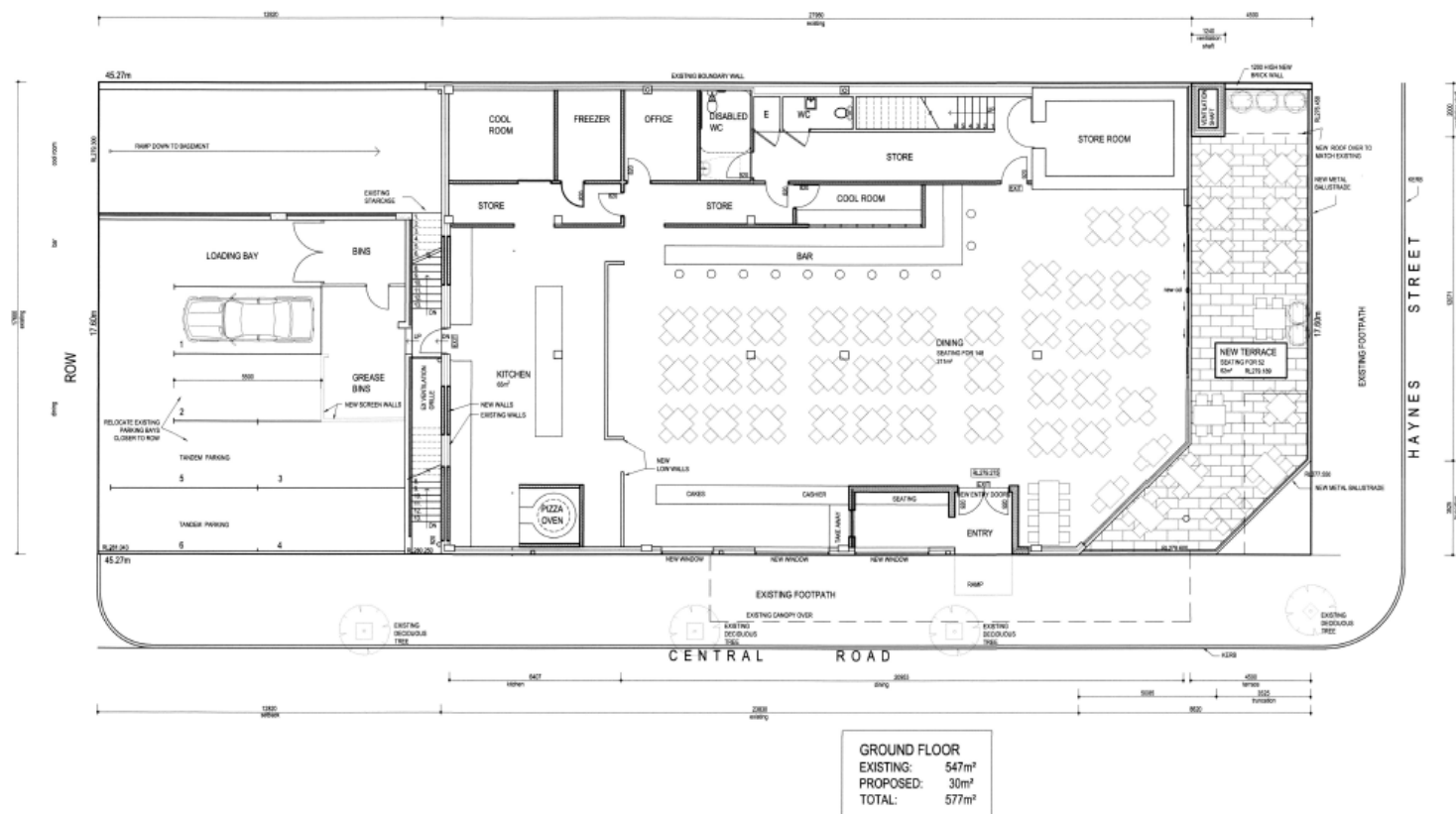
L. MARCHESANI & ASSOCIATES
DESIGNERS & DRAFTING
17 OAKWOOD AVE
WOODLANDS TEL 9344 5622



JOB No: 5178
SHEET: 2 OF 10
DATE: 15 DEC 2016
SCALE: 1:100
DRAWN: L.M.

Attachment 3

Lot 14 (21) Haynes Street, Kalamunda. Change of Use – Office (Former Bank) to Restaurant and associated works.
Ground Floor Plan




PROPOSED GROUND FLOOR PLAN

OPTION 2

REFURBISHMENT OF EXISTING BUILDING - RESTAURANT ADDRESS: 21 HAYNES STREET KALAMUNDA	L. MARCHESANI & ASSOCIATES DESIGNERS & DRAFTING 17 OAKWOOD AVE WOODLANDS TEL 8344 5622	 BUILDING SURVEYORS ASSOCIATION	JOB No: 5178 SHEET 5 OF 10 DATE: 15 DE 2016 SCALE: 1:100 DRAWN: L.M.
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First Floor Plan

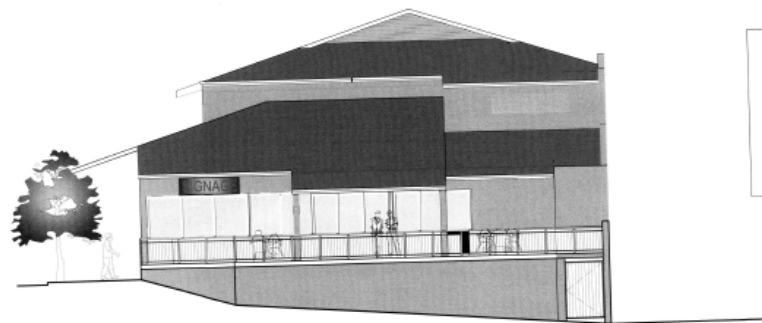


REFURBISHMENT OF EXISTING BUILDING - RESTAURANT ADDRESS: 21 HAYNES STREET KALAMUNDA	L. MARCHESANI & ASSOCIATES DESIGNERS & DRAFTING 17 OAKWOOD AVE WOODLANDS TEL 9344 5622	 BUILDING DESIGNERS & DRAFTING	JOB No: 5178 SHEET 7 OF 10 DATE 16 DEC 2011 SCALE: as noted DRAWN: L.M.
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Attachment 5

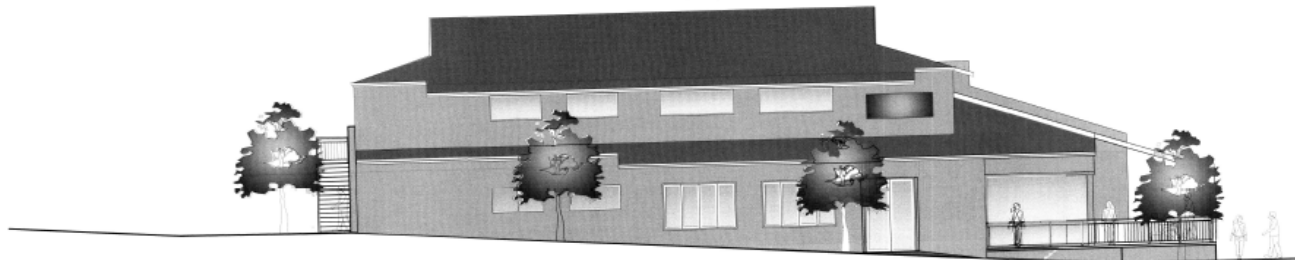
Lot 14 (21) Haynes Street, Kalamunda. Change of Use – Office (Former Bank) to Restaurant and associated works.

Elevation Plan 1



HAYNES STREET ELEVATION

SCHEDULE OF FINISHES	
ROOF:	SAND BANK COLORBOND TO MATCH EXISTING.
WALLS:	FACE BRICK TO MATCH EXISTING & NEW RENDER PAINTED IN DULUX REGENCY WHITE.
BALUSTRADING:	STAINLESS STEEL
WINDOWS:	BLACK POWDER COATED
FLOOR TILES:	TO TERRACE - LIGHT COLOURED CONCRETE



CENTRAL STREET ELEVATION

OPTION 2

REFURBISHMENT OF EXISTING -
RESTAURANT
ADDRESS:
21 HAYNES STREET
WOODLANDS

L. MARCHESANI & ASSOCIATES
DESIGNERS & DRAFTING
17 OAKWOOD AVE
WOODLANDS TEL 9344 5622

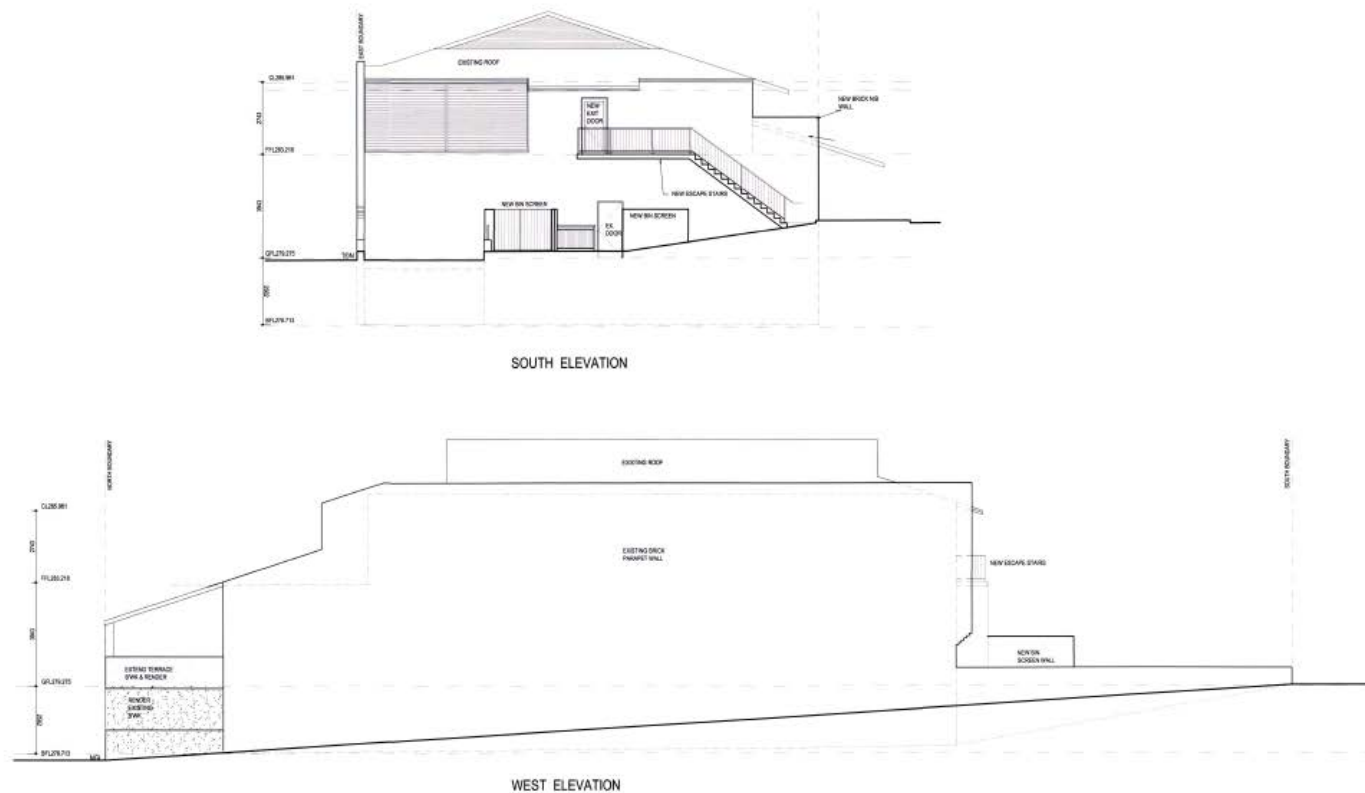


JOB No: 5178
SHEET 10 OF 10
DATE: 15 DEC 2016
SCALE: 1:100
DRAWN: L.M.

Attachment 6

Lot 14 (21) Haynes Street, Kalamunda Change of Use – Office (Former Bank) to Restaurant and associated works.

Elevation Plan 2



OPTION 2

REFURBISHMENT OF EXISTING BUILDING - RESTAURANT ADDRESS: 21 HAYNES STREET KALAMUNDA	L. MARCHESANI & ASSOCIATES DESIGNERS & DRAFTING 175 MAIN STREET OSBORNE PARK TEL 9344 5622	 BUILDING OF KALAMUNDA ASSOCIATION	JOB No: 5178 SHEET: 9 OF 10 DATE: 15 DEC 2016 SCALE: as noted DRAWN: L.M.
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Attachment 7 – Site Photographs

Lot 14 (21) Haynes Street, Kalamunda. Change of Use – Office (Former Bank) to Restaurant and associated works.
Site Photos



Haynes Street Elevation (Existing)



Haynes Street Elevation (Existing)



Central Mall Elevation (Existing)



Rear Elevation – Existing Ground Level Car Parking



Rear Elevation – Entrance to Basement Car Parking.

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

17. Consent to advertise new Local Planning Policies, P-DEV 60 - Design Advisory Committees and P-DEV 61 - Retention and Upgrade of Grouped Dwellings

Previous Items	NA
Responsible Officer	Director Development Services
Service Area	Approval Services
File Reference	OR-CMA-016
Attachment 1	Planning Policy P-DEV 60 - Design Advisory Committees
Attachment 2	Planning Policy P-DEV 61- Retention and Upgrade of Grouped Dwellings

EXECUTIVE SUMMARY

1. Council is requested to consider the following Planning Policies for the purpose of public advertising:
 - P-DEV 60 – Design Advisory Committees; and
 - P-DEV 61 – Retention and Upgrade of Grouped Dwellings.
2. P-DEV 60 has been prepared for the purpose of providing guidance relating to Design Advisory Committees (DACs), specifically the necessary framework for the structure and administration of the DAC.
3. P-DEV 61 has been written for the purposes of providing guidance relating to the retention and upgrade of existing dwellings when a group dwelling is to be retained as part of the development/subdivision application process.

BACKGROUND

4. The Shire periodically reviews, revokes, and adds new policies for the purpose of ensuring consistency and transparency in decision-making and to ensure Council has a clear and defensible position.
5. Council in November 2016 (OCM 60/2016) resolved to approve Scheme Amendment 84 to Local Planning Scheme No.3. The Amendment is currently with the Minister for Planning for final approval.

DETAILS

6. The following provides a brief summary of the purpose of each policy. Further details can be found in the policies themselves (Attachments 1 and 2).
7. **1 – Draft Planning Policy P-DEV 60: Design Advisory Committee ***
The draft policy will complement the proposed scheme provisions to create DAC's with the intent to guide the types of applications and matters to be considered by the DAC in more detail. The policy outlines the process for advertising, recruiting, and operating the DAC, as well as stating expectations of the DAC itself.

2 – Draft Planning Policy P-DEV 61: Retention and Upgrade of Grouped Dwellings *

To provide development controls and advice to applicants who are applying for a grouped dwelling development and to ensure consistent decision making while imposing conditions that will ensure retained dwellings are upgraded to a standard that is deemed appropriate for the Shire.

STATUTORY AND LEGAL CONSIDERATIONS

8. Local Planning Policies are created under Clause 3 (1) of the *Planning and Development (Local Planning Scheme) Regulations 2015* (the Regulations).
9. A Local Planning Policy does not bind the Shire in its application of discretion but must be given due regard. If a planning policy is inconsistent with the regulations and a scheme provisions, the regulations and scheme prevail.

POLICY CONSIDERATIONS

10. The proposed policies follow the adopted Council templates with some small modifications for improved structure, legibility and clarity.

INTERNAL REFERRAL

11. The draft policies were circulated to the Shire's Assets, Health, Building, and Environmental departments for comments and consideration.
12. No objections or comments to the proposed policies were received from the internal referral.

COMMUNITY ENGAGEMENT REQUIREMENTS

13. The proposed planning policies will be advertised for public comment for a period of 28 days, including a notice being placed in the local newspaper for two consecutive weeks in accordance with the provisions of Local Planning Policy DEV-45 – Public Notifications of Planning Proposals.

FINANCIAL CONSIDERATIONS

14. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

15. *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 4.3.1 Provide efficient building and development approval services to the community.

- Strategy 4.3.2 Undertake efficient monitoring and compliance of building developments within the Shire.
- Strategy 4.3.5 Incorporate best practice principles for designing out crime and encourage private developers and owners to do the same.

SUSTAINABILITY

Social Implications

16. If these draft policies are adopted, the Shire will have greater certainty when assessing different forms of development or compliance issues.
17. Additionally, the community will have access to more clarity and transparency in how the Shire and Council makes decisions, leading to improved outcomes and reduced timeframes.

Economic Implications

18. Nil.

Environmental Implications

19. Nil

RISK MANAGEMENT CONSIDERATIONS

- 20.
- | Risk | Likelihood | Consequence | Rating | Action/Strategy |
|--|------------|-------------|--------|---|
| One or more policies are not adopted resulting in a lack of guidance regarding the applicable Scheme provisions. | Unlikely | Moderate | Low | Demonstrate the importance of having sound and robust planning policies to support the Scheme when assessing development/ subdivision applications. |

OFFICER COMMENT

21. **P-DEV 60 – Design Advisory Committees**
The policy will support proposed scheme provisions and provide guidance for the establishment and operation of DACs within the Shire. The DACs will comprise suitably qualified professionals with contemporary experience in principally architecture and urban design that can provide advice on a range of complex and significant planning proposals in the Shire.

22. **P-DEV 61 – Grouped Dwelling Upgrades and Retention**
The proposed policy will provide guidance to required upgrading of existing dwellings that are proposed to be retained as part of the subdivision/development application process in accordance with the requirements of Clause 5.2.6 of the Residential Design Codes (the R Codes).
23. The requirement to upgrade the existing dwelling is not clearly defined under the relevant clause of the R Codes and therefore from a Shire perspective can be highly subjective. The policy will therefore assist the Shire and developers, by clearly defining the requirements in respect to the upgrade standards, as well as outlining unacceptable outcomes for grouped dwelling development (refer Attachment 1).

Voting Requirements: Simple Majority

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

Moved: **Cr Andrew Waddell**

Seconded: **Cr Sara Lohmeyer**

Vote: **CARRIED UNANIMOUSLY (10/0)**

Attachment 1

Consent to advertise new Local Planning Policies, P-DEV 60 - Design Advisory Committees and P-DEV 61 - Retention and Upgrade of Grouped Dwellings

Planning Policy P-DEV 61 – Retention and Upgrade of Grouped Dwellings

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

Attachment 2

Consent to advertise new Local Planning Policies, P-DEV 60 - Design Advisory Committees and P-DEV 61 - Retention and Upgrade of Grouped Dwellings

Planning Policy P-DEV 60 - Design Advisory Committees

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

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

18. CONFIDENTIAL ITEM - Shire Contaminated Sites Database

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.'*

Previous Items	OCM 145/2016
Responsible Officer	Director Development Services
Service Area	Community Safety and Compliance Services
File Reference	EV-PNC-009
Applicant	N/A
Owner	N/A

Confidential Attachment 1 Legal opinion – 2 parts

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.'*

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&A 18/2017)

That Council:

1. Directs the Chief Executive Officer to undertake the following:
 - Include a statement in the orders & requisitions report regarding contaminated sites and advising of the links to the Department of Environmental Regulation & Landgate databases.
 - Provide updates on development applications received, for contaminated sites through the Councillors Information Bulletin when necessary.

Moved:

Seconded:

Vote: **LAPSED**

As the Officer Recommendation Lapsed Cr Michael Fernie moved an alternative recommendation to defer this item to the next Development & Asset Committee Meeting in May 2017.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&A 18/2017)

That Council:

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

Moved: **Cr Michael Fernie**

Seconded: **Cr Tracy Destree**

Vote: **CARRIED UNANIMOUSLY (10/0)**

This report item has been circulated to all Councillors under separate cover and was discussed at point 15 of the Agenda.

10.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 Nil.

11.0 QUESTIONS BY MEMBERS WITHOUT NOTICE

This question was raised at the Development & Asset Services Committee Meeting – 7 March 2017 and was taken on notice.

11.1 Immunisation (Cr Geoff Stallard)

Q. Kalamunda has been named as an area with a low rate of childhood immunisation, what are we doing about it as a Council?

A. The Shire's Health Promotion Officer has established partnerships with local immunisation experts and professionals (Community Health Nurses, Immunisation Coordinator of the Kalamunda area, Immunisation Alliance of Western Australia and Zig Zag Early Years Partnership Group), who work directly with families and assist in the delivery of health promotion messages to target groups.

Initial discussions have included the development of a series of media releases and detailed research into identifying if the current low immunisation rate in the five-year-old age group are the result of complacency or vaccine hesitancy. Likewise, further investigates of low immunisation rates, especially in the one-year-old age group in Wattle Grove is linked to language/cultural barriers within the English-as-a-second-language population or vaccine hesitancy.

12.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

12.1 Learning Centre – (Cr John Giardina)

Q. Can I please have an update on the Learning Centre?

A. The Director Asset Services advised the building had been inspected to determine the structural integrity. It appears from the initial investigation that it may not be as serious as originally thought, Further investigations will be undertaken. In the meantime the facility will remain closed.

12.2 Learning Centre – (Cr Geoff Stallard)

Q. Is the Shire aware of what materials have been used within the building?

A. The Director Asset Services advised the Shire will endeavour to pursue further investigations to determine how much timber was used in the building.

13.0 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY DECISION

13.1 Nil.

14.0 TABLED DOCUMENTS

14.1 Nil.

15.0 MEETING CLOSED TO THE PUBLIC

15.1 Meeting Closed to the Public

That the meeting be closed to the public to discuss Confidential Item D&A 18. (provided under separate cover).

Moved: **Cr Tracy Destree**

Seconded: **Cr Brooke O'Donnell**

Vote: **CARRIED UNANIMOUSLY (10/0)**

The meeting closed at 6.45pm. All member of the public left the public gallery.

15.2

Voting Requirements: Simple Majority

OFFICER RECOMMENDATION (D&A 18/2017)

That Council:

1. Directs the Chief Executive Officer to undertake the following:
 - Include a statement in the orders & requisitions report regarding contaminated sites and advising of the links to the Department of Environmental Regulation & Landgate databases.
 - Provide updates on development applications received, for contaminated sites through the Councillors Information Bulletin when necessary.

Moved:

Seconded:

Vote: **LAPSED**

As the Officer Recommendation Lapsed Cr Michael Fernie moved an alternative recommendation to defer this item to the next Development & Asset Committee Meeting in May 2017.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&A 18/2017)

That Council:

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

Moved: **Cr Michael Fernie**

Seconded: **Cr Tracy Destree**

Vote: **CARRIED UNANIMOUSLY (10/0)**

15.3 Meeting Reopen to Public

That the meeting reopen to the public following consideration of confidential item D&A 18 (provided under separate cover).

Moved: **Cr Brooke O'Donnell**

Seconded: **Cr John Giardina**

Vote: **CARRIED UNANIMOUSLY (10/0)**

The meeting reopened to the public at 6.50pm, as no members of the public returned to the meeting the Presiding Member did not read the resolutions.

16.0 CLOSURE

- 16.1 There being no further business the Presiding Member declared the meeting closed at 6:52pm.

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

Signed: _____
Presiding Member

Dated this _____ day of _____ 2017