

# Development & Infrastructure Services Committee Meeting

Minutes for Monday 5 November 2012



**shire of  
kalamunda**

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## MINUTES

### 1.0 OFFICIAL OPENING

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

### 2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

#### 2.1 Attendance

##### Councillors

Donald McKechnie	(Shire President) North Ward
Sue Bilich	North Ward
Margaret Thomas	(Presiding Person) North Ward
Allan Morton	South West Ward
Noreen Townsend	South West Ward
Justin Whitten	South West Ward
Geoff Stallard	South East Ward
John Giardina	South East Ward
Frank Lindsey	South East Ward
Martyn Cresswell	North West Ward
Dylan O'Connor	North West Ward

##### Members of Staff

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

**Members of the Public** 4

**Members of the Press** 1

#### 2.2 Apologies

##### Councillors

Bob Emery	North West Ward
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#### 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 & Infrastructure Services Committee Meeting held on 2 October 2012 are confirmed as a true and accurate record of the proceedings.

Moved: **Cr Geoff Stallard**

Seconded: **Cr John Giardina**

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

### **6.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

6.1 A Citizenship Ceremony is to be held on 7 November 2013, all Councillors are welcome.

6.2 There are still schools requiring Councillors to attend their awards nights, please could all Councillors check if they are able to assist the schools in their Wards.

### **7.0 MATTERS FOR WHICH MEETING MAY BE CLOSED**

#### **7.1 10. Motions Of Which Previous Notice Has Been Given**

Proposed Motion regarding Forensic Audit

Reason for Confidentiality – *Local Government Act 1995*: Section 5.23 (2) (a), "a matter affecting an employee or employees".

### **8.0 DISCLOSURE OF INTERESTS**

#### **8.1 Disclosure of Financial and Proximity Interests**

a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 5.65 of the *Local Government Act 1995*.)

b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the *Local Government Act 1995*.)

8.1.1 Nil.

## **8.2 Disclosure of Interest Affecting Impartiality**

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

8.2.1 Nil.

## **9.0 REPORTS TO COUNCIL**

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

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

**91. Proposed Local Planning Policy - Signage on Private Property**

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	OR-CMA-16
Applicant	N/A
Owner	N/A
Attachment 1	Proposed Local Planning Policy DEV 42 – Signage on Private Property

**PURPOSE**

1. To consider proposed Local Planning Policy DEV 42 – Signage on Private Property (“Policy”) and whether to advertise. Refer to proposed Local Planning Policy DEV 42 - Signage (Attachment 1).

**BACKGROUND**

2. Local Planning Scheme No. 3 (“the Scheme”) foreshadows the development of policies to guide decision-making.
3. The Policy Register is being reviewed and, where considered necessary, new policies are being presented for Council consideration.
4. Currently no location or structural requirements exist for signage which falls on private property and requires planning approval.
5. The Shire is currently reviewing the Signs Local Law however this shall only apply to signage on Shire property and public areas that are under the control, care and management of the Shire.

**DETAILS**

6. To consider the proposed Policy and whether to advertise for public comment.
7. The Policy stipulates the locational and structural requirements for signage on private property.
8. In response to a number of recent enquiries regarding the proliferation of election signage in the Shire. The proposed Policy includes provisions to control the display of posters or signs on behalf of candidates of political parties. The Shire sought legal advice in response to claims from a political party that Election signage is exempt from requiring approval from the Shire. The Shire was advised by its Solicitor that it has the responsibility to ensure that all signage on private property complies with the relevant legislation, and therefore planning consent is required for Election signage not exempt under the Scheme.

9. The Policy will be used in conjunction with the Scheme when assessing what impact signage will have on the amenity of an area.
10. The Signage Local Law is in the process of being reviewed and will deal with signage on land owned and/or under the care and control of the Shire. This will be brought to Council under a separate report.

#### **STATUTORY AND LEGAL IMPLICATIONS**

11. The Shire may prepare a Local Planning Policy in respect to any matter related to the planning and development of the Scheme area. Policies may apply to a particular class or matter and throughout the Scheme relate to one or more parts of the Scheme area.
12. A Local Planning Policy is not part of the Scheme and does not bind the Council in its decision making, however, Council is to have due regard to the Policy when making a decision.
13. Schedule 5 (Exempted Advertisements) of the Scheme will be amended to reflect when election signs are exempt from requiring planning consent. A separate report on this will be presented to Council at a future meeting.

#### **POLICY IMPLICATIONS**

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

#### **PUBLIC CONSULTATION/COMMUNICATION**

15. The Scheme prescribes the procedure for advertising a Local Planning Policy. It will be necessary to advertise the Policy once a week for two consecutive weeks in a newspaper circulating the District with a submission period of 21 days. The Policy will also be on display at the Administration office.
16. Following the advertising period, the proposed Policy will be presented to Council for consideration of adoption, with or without modification.

#### **FINANCIAL IMPLICATIONS**

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

#### **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

##### **Strategic Planning Implications**

18. The proposed Policy stipulates the Shire requirements which will be applied so that the amenity of an area is not significantly impacted by proposed signage on private property.

## Sustainability Implications

### Social Implications

19. Nil.

### Economic Implications

20. Nil.

### Environmental Implications

21. Nil.

## OFFICER COMMENT

22. The proposed Policy will assist in the procedural and governance aspects of the Shire's development control responsibilities when development consent is sought for signage which falls on private land. It is therefore recommended that the proposed Policy be advertised for public comment.

*Councillors discussed and queried a number of aspects of the proposed policy changes. A Councillor foreshadowed a motion to defer the item to enable changes to be made in the interim.*

*There was no Mover for the Recommendation and this Lapsed.*

<b>Voting Requirements: Simple Majority</b>
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## OFFICER RECOMMENDATION (D&I 91/2012)

That Council:

1. Endorses the draft Local Planning Policy DEV 42 – Signage on Private Property for the purpose of advertising, in accordance with clause 2.4 of Local Planning Scheme No. 3 (Attachment 1).

Moved:

Seconded:

Vote: **LAPSED**



<b>Voting Requirements: Simple Majority</b>
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**COMMITTEE RECOMMENDATION TO COUNCIL (D&I 91/2012)**

That Council:

1. Defer the Proposed Local Planning Policy – Signage on Private Property to the Ordinary Council Meeting 19 November 2012, with the intention of making changes in the interim.

Moved: **Cr Frank Lindsey**

Seconded: **Cr John Giardina**

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

## Attachment 1

### REGISTER OF COUNCIL POLICIES



<b>Title:</b>	<b>Signage on Private Property</b>		
<b>LPP No.:</b>	<b>DEV 42</b>		
<b>Date Adopted:</b>		<b>Date Last Reviewed:</b>	
<b>Related Policies</b>	Nil.		
<b>Legislation</b>	Shire's Local Planning Scheme No. 3		
	<p><b>1. BACKGROUND</b></p> <p>1.1 The purpose of this Policy is to ensure that the display of advertisements on private property within the Shire of Kalamunda does not adversely impact on the amenity of surrounding land while providing appropriate exposure for businesses, activities or services.</p> <p>1.2 Planning approval is required for all types of signage which is not exempted under Schedule 5 (Exempted Advertisements) of Local Planning Scheme No. 3.</p> <p><b>2. Advertisement Sign</b></p> <p>The term 'advertising sign' has the same meaning as 'advertisement' in Schedule 1 of The Shire of Kalamunda Local Planning Scheme (the Scheme) as follows:  <b>Advertisement:</b> means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising.</p> <p><b>3. ASSESSMENT CRITERIA</b></p> <p><b>3.1 Standards Common to all Signs</b></p> <p>All advertisement signs shall:</p> <ol style="list-style-type: none"> <li>Not pose a threat to public safety or health and shall not have any sharp or pointed projections below a height of 2.75 metres from ground level;</li> <li>Not extend beyond any property boundary of a lot, overhang or encroach onto any reserve, Shire verge or road reserve;</li> <li>Only advertise events, services or products associated on the lot where it is to be located;</li> <li>Not be in any position where it obstructs the view from a street or site lines for vehicles entering and departing the subject lot on which the sign is placed; and</li> <li>If illuminated: <ol style="list-style-type: none"> <li>use a low level of illumination and not cause a nuisance, by way of light spillage, to abutting sites.</li> <li>not comprise of flashing, pulsating, chasing or running lights.</li> <li>not interfere with or be likely to be confused with traffic control signals.</li> <li>have a minimum clearance of 2.75 metres from ground level.</li> </ol> </li> </ol>		

### 3.2 Display Home Signs

Display home signs shall:

- be provided in a ratio not exceeding 2m<sup>2</sup> per house in a centre with no individual sign exceeding 4m<sup>2</sup>; overall height of sign not to exceed 4m;
- not be illuminated after 9.00 pm; and
- be approved for a period not exceeding twelve months at any one time.

### 3.3 Hoardings

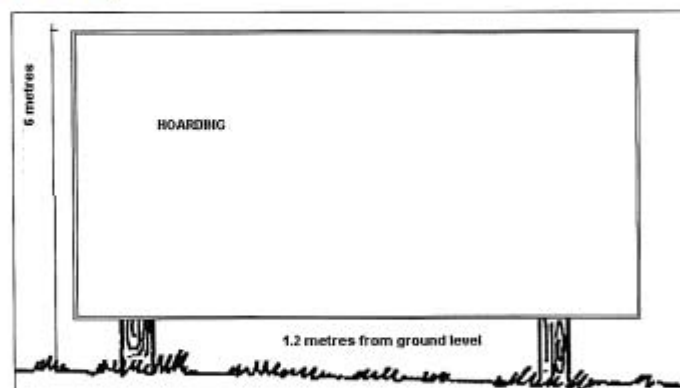
3.3.1 Hoardings shall not:

- be erected in a residential area;
- except with the specific approval of the Shire, be erected within 15m of any street or other public place and in any case not closer than its own height to a street or public place; and
- be of greater area than 22m<sup>2</sup>.

3.3.2 A licence issued in respect of a hoarding is valid in terms of the licence for a period to be set by the Shire, up to ten years.

3.3.3 The licence fee for a hoarding is an annual licence fee and is payable annually so long as the hoarding is maintained with the approval of the Shire.

#### Example Only



### 3.4 Horizontal Signs

3.4.1 A horizontal sign shall:

- afford a minimum headway of 2.75m;
- be fixed parallel to the wall of the building to which it is attached; and
- conform as to depth to the following table –

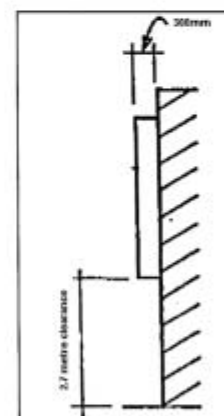
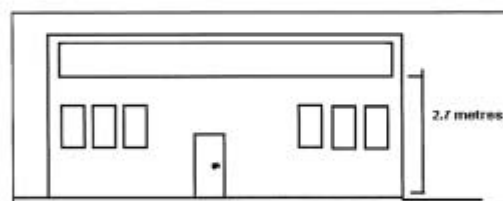
Minimum Distance of Sign above street		Maximum Depth of Sign
Less than	7.5 m	600 mm
7.5 m	to 9 m	750 mm
9 m	to 12 m	1 m

The increase above 12m should be 150mm in depth for each 300mm in height to a maximum of 4.5m;

- not project more than 600mm from the wall to which it is attached; and

- e) not be within 600mm of either end of the wall to which it is attached, unless the end of the sign abuts against a brick, stone or cement corbel, pier or pilaster which is at least 225mm wide and projects at least 25mm in front of and 75mm above and below the sign.
- 3.4.2 Notwithstanding the provisions of paragraph (c) of this policy 3.6.1, the Shire may permit an increase of not more than fifty per cent of the depths therein mentioned in any part or parts of a sign to permit the inclusion therein of a motif or capital letter.
- 3.4.3 There shall be not more than one line of horizontal signs facing any one street on any building.
- 3.4.4 The name of the building, owner or occupier may be shown on the facade of a building but:
- unless otherwise specifically approved by the Shire, only one such name shall be placed on any facade;
  - the letters of the name shall not exceed 1.2m in height;
  - the letters shall be of metal or other incombustible material; and
  - the letters shall not be lit or illuminated unless all illuminated lettering has been specifically approved by the Shire.

Example Only



### 3.5 Illuminated Signs

Every illuminated sign shall:

- have any boxing or casing in which it is enclosed constructed of incombustible material;
- have its electrical installation constructed and maintained to the satisfaction of the State Energy Commission or the appropriate electricity supply authority and in accordance with the S.A.A. Code 3000 - 1976.
- be maintained to operate as an illuminated sign; and
- not have a light of such intensity or colour as to cause annoyance to the public and not interfere with traffic control lights.



### 3.6 Information Panels

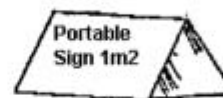
The Shire may provide information panels or bays of varying sizes and charge fees for the inclusion of advertisements in such panels or bays.

### 3.7 Portable Signs -

A portable sign shall -

- a) Not exceed 1 metre in height;
- b) Not exceed 1 metre in area;
- c) Be placed so not to be hazardous to, or impede vehicular traffic or pedestrian traffic;
- d) Be sound construction and maintained in good condition; and
- e) Be so constructed or anchored to prevent them becoming hazardous during strong winds.

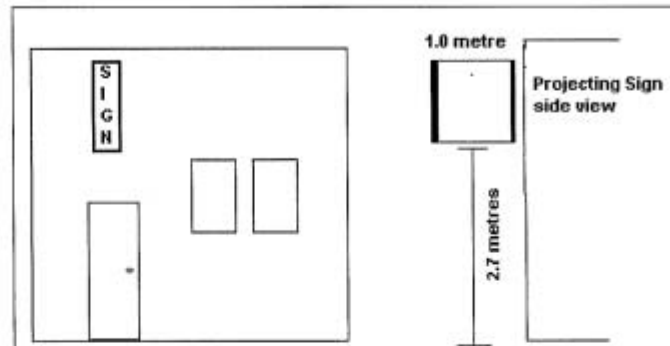
Example Only



### 3.8 Projection Signs

- 3.8.1 No person shall project by light any sign being a photographic or other image which can be seen from any street, way, footpath, or other public place onto any building, screen or structure without a written licence issued by the Shire, nor without the consent of the owner of the building or structure.
- 3.8.2 No licence shall be issued by the Shire for a projection sign:
  - a) unless the building, screen or structure onto which it is proposed to project such sign or signs is specified in the application for such licence;
  - b) in respect of any such sign which when projected onto a building, screen or structure is more than 12m in width or 12m in height; and
  - c) unless the licence specifies the building, screen or structure onto which such sign may be projected.
- 3.8.3 Where it is proposed to project such signs onto a building, screen or structure in a series the Shire may issue one licence in respect of all the signs in that series provided that no sign or signs other than that or those in respect of which a licence has been issued shall be projected.
- 3.8.4 Where a licence has been issued by the Shire pursuant to this policy the sign or signs in respect of which it has been issued shall not be projected onto any building, screen or structure not specified in such licence.
- 3.8.5 The owner or occupier of any building, screen or structure shall not permit any sign or signs to be projected onto the same unless a licence has been issued pursuant to this policy.

Example Only



### 3.9 Pylon Signs

#### 3.9.1 A pylon sign shall:

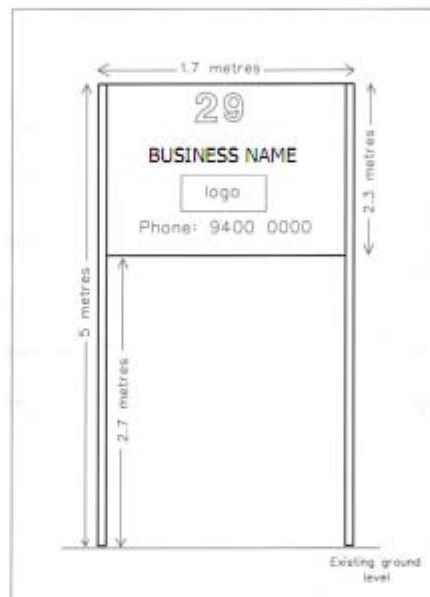
- a) have a minimum clearance of 2.75m
- b) not be more than 6m above the level of the ground immediately below it except in central business areas or large shopping complexes, as determined by the Shire;
- c) not exceed 2.5m measured in any direction across the face of the sign or have a greater superficial area than 4m<sup>2</sup> - except in central business areas or large shopping complexes, as determined by the Shire; such signs when erected must comply with the following -
  - i. be the motif or emblem of the centre.
  - ii. only one such sign on any development.
  - iii. not exceed 10m<sup>2</sup> on any face.
  - iv. not be erected within a distance equal to its own overall height from any street or right of way.
- d) not project more than 1m over any street;
- e) be supported on one or more piers or columns of brick, stone, concrete or steel of sufficient size and strength to support the sign under all conditions;
- f) where a pylon sign is supported on two or more piers or columns the space between the piers or columns shall not be wholly or partly filled in with any material below 2.75m above ground level;
- g) not be within 1.8m of the side boundaries of the lot on which it is erected unless the lot on which the pylon sign is erected abuts an intersecting street or right of way, when the Shire may authorise the erection of the sign at a lesser distance than 1.8m; and
- h) not have any part thereof less than 6m from any part of another sign erected on the same lot.

#### 3.9.2 Where more than one pylon sign is proposed to be erected on a lot on which unit factories or small shops are erected or are to be erected the Shire may require all the pylon signs to be incorporated into one sign complying with the following:

- a) initial approval is to be given to the pylon sign framework together with one or more sign infills;
- b) an application is to be submitted and approval given for each additional infill;

- c) all infills are to be of an equal size and space is to be provided for one infill for each shop or unit on the lot;
- d) where the Shire requires signs to be combined the total area of the infill signs specified under policy 5.11.1; and
- e) may be increased by up to 50 per cent, i.e. to a maximum of 6m<sup>2</sup>.

Example Only



### 3.10 Roof Signs

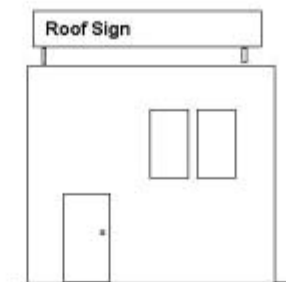
3.10.1 A roof sign shall:

- a) not at any point be within 4m of the ground;
- b) not extend laterally beyond the external walls of the building; and
- c) comply as regards height above ground and height of sign with the following table:

Height of Main Building above Ground Level at Point where Sign is to be fixed.		Maximum Height of Sign	
4 m	and under	5 m	1.25 m
5 m	and under	6 m	1.8 m
6 m	and under	12 m	3 m
12 m	and under	18 m	5 m
18 m	and under	24 m	6 m
24 m	and upwards		7 m

3.10.2 When ascertaining the height of the main building above ground level for the purpose of this policy, any part of the roof at the point where the sign is to be erected that is provided solely for the purpose of architectural decoration shall be disregarded.

Example Only



**3.11 Tethered Signs**

**3.11.1 Tethered Signs shall:**

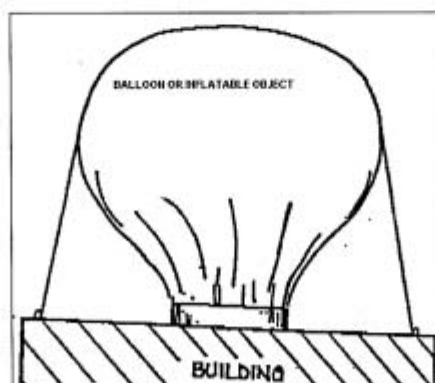
- a) be located wholly within the boundaries of the lot;
- b) have a maximum vertical dimension of 0.75 metres and a maximum area of 2sqm;
- c) not be greater than 8m from natural ground level;
- d) be limited to a maximum of one sign per street frontage on any one lot; and
- e) not be within 10m of a pylon sign.

**3.11.2 Notwithstanding the provisions of sub-clause 3.11.1, tethered signs which consist of balloon type or inflatable objects shall:**

- a) not exceed 7m in diameter or 9m in height; and
- b) not be displayed for more than 14 days in aggregate for any one calendar year.

Furthermore, the applicant is required to provide to the Shire prior to erecting such a sign, a certificate from a Structural Engineer certifying that the connection of the balloon type object to the building or lot is of a structurally sound design.

Example Only





### 3.12 Tower Signs

A tower sign shall not, unless otherwise specially approved by the Shire -

- a) indicate or display any matter other than the name of the owner or occupier of the land or premises on which the mast, tower or chimney stack is erected;
- b) if illuminated, be a flashing sign;
- c) exceed in height one-sixth of the height of the mast, tower or chimney stack on which it is placed;
- d) exceed in width the width or diameter of the mast, tower or chimney stack on which it is placed; and
- e) extend laterally beyond any part of the mast, tower or chimney stack on which it is placed.

### 3.13 Verandah Signs

#### 3.13.1 Signs Above Verandah Fascia's

Signs comprising free standing lettering only may be erected above the outer fascia of a verandah parallel to the kerb, if the lettering does not exceed 400mm in height and is mounted on a base of at least 75mm in width.

#### 3.13.2 Signs on Verandah Fascia's

A sign fixed to the outer or return fascia of a verandah -

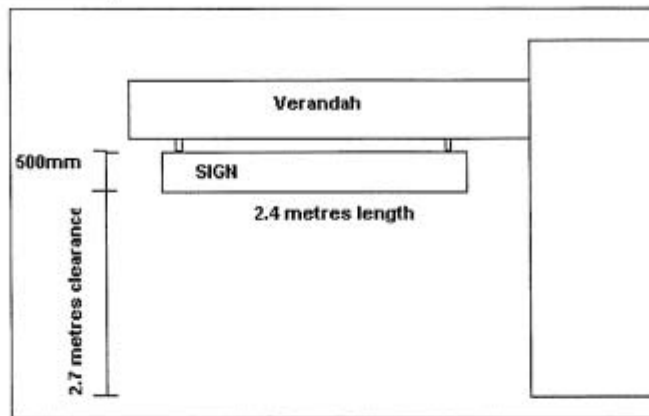
- a) shall not exceed 600mm in depth;
- b) shall not project beyond the outer metal frame or surround of the fascia; and
- c) if an illuminated sign may be of changing colours but shall not emit a flashing light.

#### 3.13.3 Signs under Verandahs

A sign under a verandah shall -

- a) afford a headway of at least 2.75m or, when approved by the Shire, 2.4m;
- b) not exceed 2.4m in length or 500mm in depth;
- c) not weigh more than 50 kg;
- d) not, if it exceeds 300mm in width, be within 1.4m, or where it does not exceed 600mm in width be within 1m of the side wall of the building, measured along the front of the building before which it is erected;
- e) not, if it exceeds 300mm in width, be within 2.75m, or where it does not exceed 300mm in width be within 1.75m of another sign under that verandah;
- f) be fixed at right angles to the front wall of the building before which it is erected except on a corner of a building at a street intersection where the sign may be placed at an angle with the wall so as to be visible from both streets;
- g) be so placed that the centre of its base longitudinally is equidistant from the outer edge of the verandah and the vertical plane of the shop front directly opposite the end of such sign; and
- h) not be constructed of shatterable material.

Example Only



### 3.14 Vertical Signs

3.14.1 A vertical sign shall -

- a) afford a minimum headway of 2.75m;
- b) subject to 5.17.2, not project more than 1m from the face of the building to which it is attached;
- c) subject to 5.17.3, not be within 1.75m of either end of the wall to which it is attached;
- d) be of a height of at least twice its width;
- e) not project more than 1m above the top of the wall to which it is attached nor more than 1m back from the face of that wall;
- f) not be within 4m of another vertical sign on the same building;
- g) not be placed on a corner of a building, except at a street intersection where it may be placed at an angle with the walls so as to be visible from both streets; and
- h) except with special permission of the Shire not exceed 1m in width exclusive of the back projection.

3.14.2 Where a vertical sign is affixed to the face of a building that is set back beyond the face of another building which is situated less than 3 metres from the side wall of the first building, the sign may project 500mm further than the distance prescribed by paragraph (b) of 5.17.1 or the distance by which the building to which it is affixed is set back beyond the face of the other, whichever is the lesser.

5.14.3 Where a building to which a vertical sign is to be affixed is set back from the boundary or abuts on an intersecting street or right of way, the Shire may authorise the affixing of the sign.

### 3.15 Window

Window Signs shall not cover more than 50% of the glazed area of any one window or exceed 10.0m<sup>2</sup> in area in aggregate per tenancy on a lot whichever is greater.

### **3.16 Election and Political Signs**

For Federal, State and Local Government elections and candidates for any elected office, Council supports the controlled display of posters or signs on behalf of candidates or political parties that comply with the following criteria:

- (a) Approval for the sign has been granted under Local Planning Scheme No. 3.
- (b) The sign may only be placed on private property and only where permission is given for the sign to be there by the landowner.
- (c) Only one election sign is permitted per property.
- (d) Signs should not exceed 6sqm in area.
- (e) Signs will only be approved for the period following the issue of the writs up to the election date and will be required to be removed within 14 days after the relevant Local, State or Federal election day.
- (h) Signs must be placed such that they do not compromise the safety of pedestrians and/or do not obstruct the view of drivers.
- (i) Signs are not permitted in or on a vehicle, trailer or caravan parked at the same location for more than 24 hours.
- (j) Signs must not be internally or indirectly illuminated, move, flash, rotate or reflect so as to be a distraction to drivers.
- (k) The landowner or party responsible for the sign must maintain the sign and ensure that pedestrian and driver safety is maintained while the sign is in place.

### **4. VARIATION OF STANDARDS**

If it is established to the satisfaction of the Shire that a particular standard or provision contained within this Policy is unreasonable or undesirable in the particular circumstances of the case, the Shire may at its discretion, vary the standard or provision.

The Shire may only vary a standard or provisions where it is satisfied that:

- (a) Approval of the variation will not set an undesirable precedent;
- (b) The applicant demonstrates exceptional circumstances warranting support for a variation; and
- (c) Approval of the application is in accordance with variations to site and development requirements contained within the Shire of Kalamunda Local Planning Scheme No. 3 (Section 5.6).

Applications for variation of standards shall include a sign strategy for the whole of the subject site.

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

**92. Amendment No. 44 to Local Planning Scheme No. 3 – Lots 100 (73) and 101 (93) First Avenue, Bickley – Rezone from Special Rural to Residential Bushland R5**

Previous Items	OCM 148/2008, OCM 19/2012
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	PG-LPS-003/044
Applicant	Sandra Bransby Planning and Construction Consultant
Owner	K Fletcher, P Ambrose, R and S Mills
Attachment 1	Locality Plan
Attachment 2	Current and Proposed Scheme Zoning Map
Attachment 3	Submission Table
Attachment 4	Consultation Plan

**PURPOSE**

1. To consider submissions received and whether to adopt Amendment No. 44 to Local Planning Scheme No. 3 ("the Scheme") to allow for the rezoning (from Special Rural to Residential Bushland R5) for Lots 100 (73) and 101 (93) First Avenue, Bickley. Refer to the Locality Plan (Attachment 1) and the Current and Proposed Scheme Zoning Map (Attachment 2).

**BACKGROUND**

**2. Land Details:**

Aggregate Land Area:	2.4 hectares
Local Planning Scheme Zone:	Special Rural
Metropolitan Region Scheme ("MRS") Zone:	Urban

3. Surrounding properties are zoned Special Rural and Residential Bushland R5 under the Scheme, and to the west is Regional Reserve (Parks and Recreation).
4. In November 2008, Council resolved (Resolution OCM 148/2008) to support an amendment in principle, to rezone Lot 100 (73) and 101 (93) First Avenue, Bickley from Special Rural to Residential R5. Council also resolved that the proposal will be reconsidered upon the formal advertising of the amendment to the Metropolitan Region Scheme.
5. In March 2012, Council resolved (En Bloc Resolution OCM 19/2012) to initiate Amendment No. 44 to the Scheme.



6. In May 2012, the Minister for Planning approved an amendment to the Metropolitan Region Scheme to rezone the subject properties from Rural to Urban.

#### **DETAILS**

7. It is proposed that the properties be rezoned from Special Rural to Residential Bushland R5.
8. If the Amendment is ultimately approved by the Minister for Planning the properties will have the potential to be subdivided into 11 freehold lots in total.
9. Reticulated water is currently available to the subject property and an effluent disposal system will be required on site.
10. It should be noted that issues relating to lot and road configurations, retention of native vegetation and bush fire mitigation measures will be addressed at the subdivision stage if the amendment is approved by the Minister for Planning.

#### **STATUTORY AND LEGAL IMPLICATIONS**

11. The *Town Planning Regulations 1967* and *Planning and Development Act 2005* establish procedures relating to amendments to local planning schemes. Ultimately the amendment will be determined by the Minister for Planning.

#### **POLICY IMPLICATIONS**

12. Nil.

#### **PUBLIC CONSULTATION/COMMUNICATION**

13. The proposal was advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*, which involved a local public notice in a paper circulating the District, a sign being erected on site and the proposal being referred to affected landowners for comment.
14. During the formal advertising period three non-objections and one submission providing comment on the amendment were received by the Shire. Refer to the Submission Table (Attachment 3) and Consultation Plan (Attachment 4).
15. The submitter who provided comments on the amendment raised concerns regarding existing road drainage along First Avenue being insufficient and that future development of the lots would increase stormwater runoff into the existing drainage system.

#### **FINANCIAL IMPLICATIONS**

16. Costs incurred through advertising of the amendment are covered in the current budget.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

### Strategic Planning Implications

17. Nil.

### Sustainability Implications

#### Social Implications

18. Nil.

#### Economic Implications

19. Nil.

#### Environmental Implications

20. Prior to the Amendment being advertised it was assessed by the Environmental Protection Authority and no environmental concerns were raised. Notwithstanding this advice, matters around vegetation retention will be considered at the subdivision application stage in accordance with Clause 5.9 of the Scheme.

### OFFICER COMMENT

21. The Metropolitan Region Scheme Amendment to rezone the properties to Urban was approved by the Minister for Planning in May 2012; therefore the Scheme is required to be amended as proposed.
22. The proposed zoning would form a “rounding off” of the Residential Bushland zoning to the end of First Avenue. Importantly the proposal does not prejudice planning initiatives under the draft Local Planning Strategy.
23. In regard to drainage concerns raised, future subdivision of the land will require all stormwater drainage to be contained on site. This matter will be addressed in more detail at the subdivision stage if the amendment is approved by the Minister for Planning.
24. Considering the above, and that Council initiated the Amendment, it is recommended that Council adopts the Amendment.

*Additional information had been forwarded to Councillors by Memorandum prior to this meeting together with an updated Submission Table (Attachment 3).*

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<b>Voting Requirements: Simple Majority</b>
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**COMMITTEE RECOMMENDATION TO COUNCIL (D&I 92/2012)**

That Council:

1. Notes the submissions received in response to Amendment No. 44 to Local Planning Scheme No. 3.
2. Adopts the amendment to Local Planning Scheme No. 3 in accordance with the following:

<p>PLANNING AND DEVELOPMENT ACT 2005</p> <p>RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME</p> <p>SHIRE OF KALAMUNDA</p> <p>LOCAL PLANNING SCHEME NO. 3</p> <p>AMENDMENT NO. 44</p> <p>Resolved that the Council in pursuance of Part 5 of the Planning and Development Act 2005 amend the above Local Planning Scheme by:</p> <ol style="list-style-type: none"><li>1. Rezoning Lot 100 (73) and 101 (93) First Avenue, Bickley from Special Rural to Residential Bushland R5.</li></ol>
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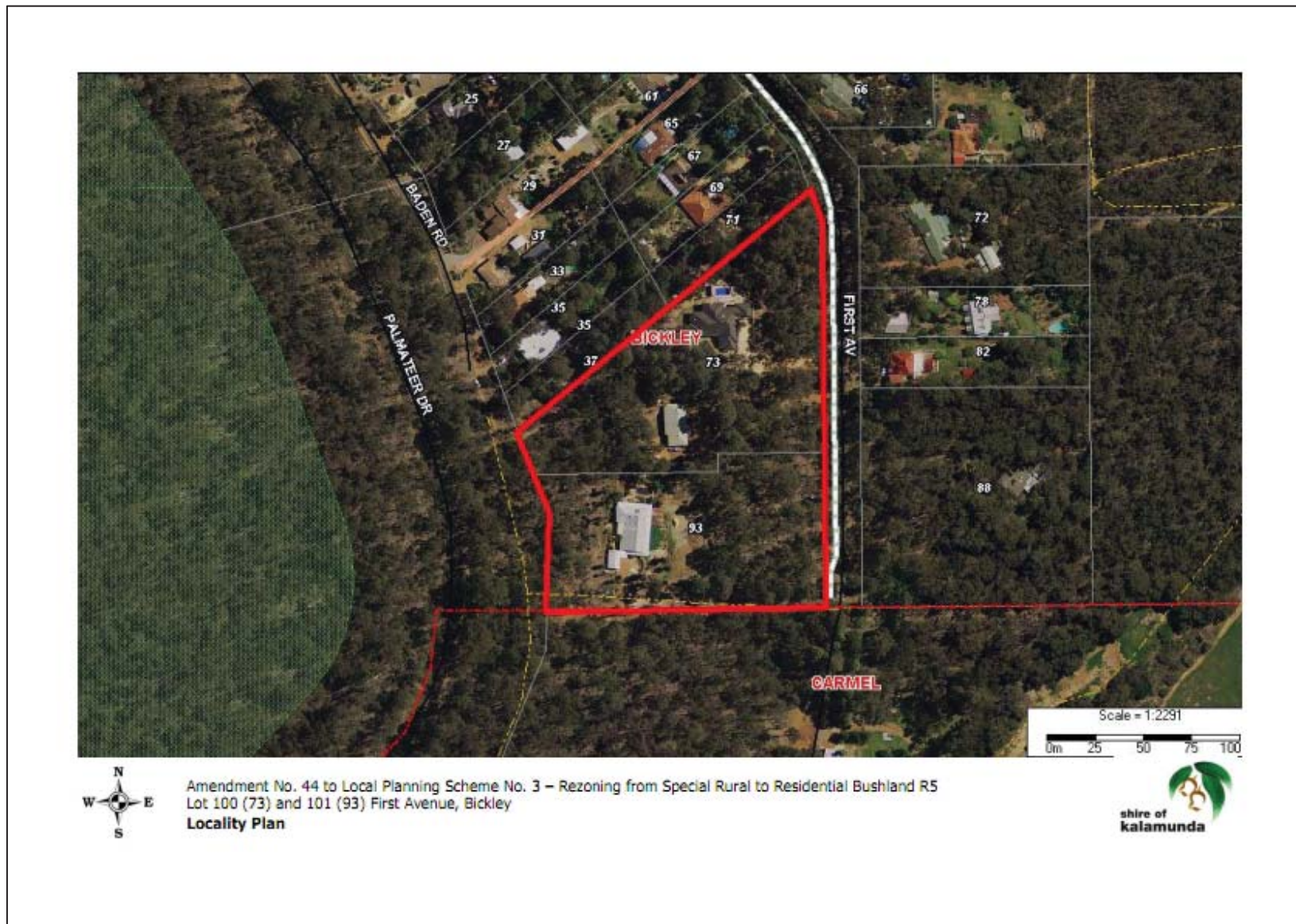
3. Amends the Scheme Zoning Map accordingly.
4. Duly executes the Amendment documents and forwards them and submissions received to the Minister for Planning requesting final approval be granted.

Moved: **Cr John Giardina**

Seconded: **Cr Frank Lindsey**

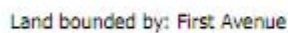
Vote: **CARRIED UNANIMOUSLY (11/0)**

## Attachment 1





**Current and Proposed Scheme Zoning Map**  
**Shire of Kalamunda, Local Planning Scheme No 3, Amendment No 44**



- SHIRE OF KALAMUNDA  
LOCAL PLANNING SCHEME NO. 3  
(DISTRICT SCHEME)

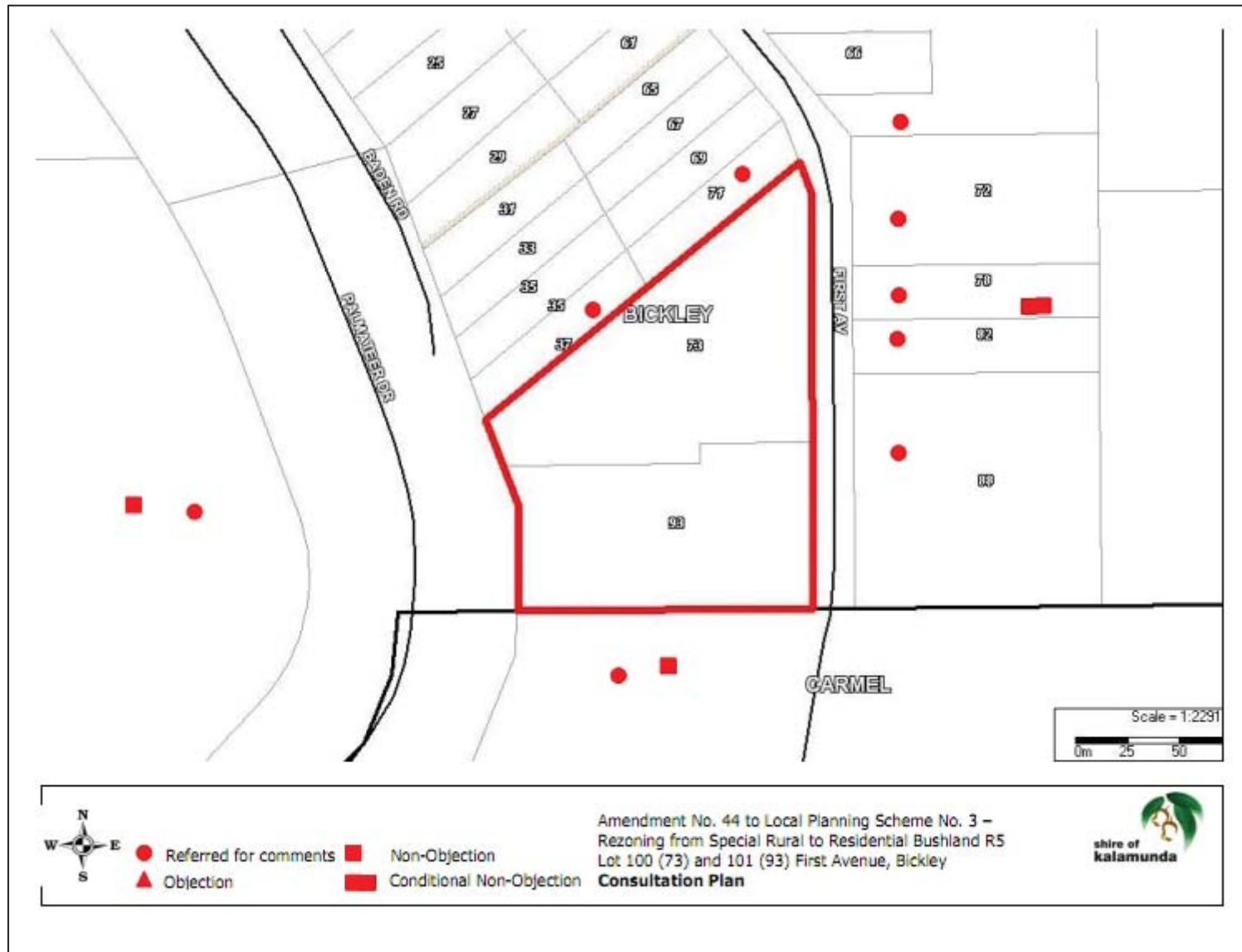
**Attachment 3 (Updated)**

**Amendment No. 44 to Local Planning Scheme No. 3 –  
Lot 100 (73) and 101 (93) First Avenue, Bickley –  
Rezoning from Special Rural to Residential Bushland R5  
Submission Table**

	Details	Comment	Staff Comment
1.	Western Power Locked Bag 2520 PERTH WA 6000	No Objection  Overhead powerlines and underground cables are adjacent and traversing across the property therefore prior to any works commencing consideration is to be given to the Worksafe Regulations.	Noted.
2.	Water Corporation PO Box 100 LEEDERVILLE WA 6902	No Objection  A DN100 reticulation main size main is located in Baden Road and First Avenue. A main extension will be required along First Avenue. The mains in both roads should be joined to create security of supply.	Noted.
3.	R Aves 78 First Avenue BICKLEY WA 6076	Comment on the proposal  a) Road drainage on First Avenue is currently insufficient.	a) Noted.

		b) Would like to see kerbing and proper drainage put in place as the clearing of the land and additional driveways would see water runoff increase.	b) Noted. Issues relating to drainage will be dealt with at the subdivision stage if the amendment is approved by the Minister for Planning.
4.	Australasian Conference Association Ltd PO Box 134 GOSNELLS WA 6990	No objection	Noted.
5.	Department of Environment and Conservation 275 Allan Road MUNDARING WA 6073	<p>Comment on the proposal</p> <p>a) The DEC notes that the properties fall within a known breeding and possible feedback habitat for the threatened Carnaby's cockatoo, Baudin's cockatoos and Forest red-tailed black cockatoos.</p> <p>b) Any subdivision proposal should be referred to the Commonwealth for assessment under the Environmental Protection and Biodiversity Conservation Act 1999.</p> <p>c) The DEC recommends that the over storey vegetation within the lots be protected wherever possible.</p> <p>d) Vegetation clearing should only be for building envelopes and essential site works where these cannot be placed in a previously cleared area.</p>	<p>a) Noted.</p> <p>b) Noted. The WA Planning Commission will be responsible for referring any subdivision application received for the properties to the Commonwealth.</p> <p>c) Noted.</p> <p>d) Noted.</p>

#### Attachment 4



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

**93. Lot 7 (7) Emanuel Court, Wattle Grove – Proposed Scheme Amendment – Additional Use (Art Gallery)**

Previous Items	OCM 44/2012
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	EM-01/007
Applicant	L Di Franco
Owner	P and F Di Franco
Attachment 1	Locality Plan
Attachment 2	Site Plan
Attachment 3	Consultation Plan

**PURPOSE**

1. To consider the submissions received and whether to recommend final approval for Amendment No. 47 to Local Planning Scheme No. 3 ("the Scheme") to allow for an Additional Use (Art Gallery) at Lot 7 (7) Emmanuel Court, Wattle Grove. Refer (Attachment 1) for Locality Plan.

**BACKGROUND**

2. In May 2012, Council resolved (Resolution OCM 44/2012) to initiate Amendment No. 47 to the Scheme.
3. **Land Details:**

Land Area:	1.1715 hectares
Local Planning Scheme Zone:	Special Rural
Metropolitan Regional Scheme Zone:	Rural

4. The property contains a dwelling, outbuildings and a small amount of fruit trees.

**DETAILS**

5. It is proposed to amend the provision of the Scheme by adding an Art Gallery to Schedule 2 - Additional Uses for the subject site.
6. The Shire has been provided with an indicative plan of the proposed use including the type of operation, operating hours and location of built form. However, if the amendment is approved, the development would be subject to planning consent prior to operation in which these details may be altered.

7. The Art Gallery would showcase local and Australian artists and artisans including that of the operator of the gallery.
8. The proposal would involve the construction of a 30sqm outbuilding located adjacent to the existing dwelling. Refer to (Attachment 2) for Site Plan.
9. It is envisaged that the gallery would operate for no more than two days a week, preferably opening during the week. Clients would attend the property via prior appointment only.
10. The art gallery would be operated by those living on the property, with no other employees required.

#### **STATUTORY AND LEGAL IMPLICATIONS**

11. The subject site is zoned Special Rural under the provisions of the Scheme and the land use Art Gallery is an 'X' (prohibited use) in a Special Rural zone.
12. The *Town Planning Regulations 1967* and *Planning and Development Act 2005* establish procedures relating to amendments to local planning schemes. If Council resolves to adopt the proposed amendment, then ultimately the amendment will be determined by the Minister for Planning.

#### **POLICY IMPLICATIONS**

13. Nil.

#### **PUBLIC CONSULTATION/COMMUNICATION**

14. The proposal was advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*, which involved two local public notices in a paper circulating the District, a sign being erected on site and the proposal being referred to affected landowners for comment. Refer to the Consultation Plan (Attachment 3).
15. During the formal advertising period, four non-objections were received by the Shire.

#### **FINANCIAL IMPLICATIONS**

16. Nil.

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## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

### Strategic Planning Implications

17. This proposal is consistent with the objectives stated in the Shire of Kalamunda Cultural Plan 2006 which aims “to facilitate and support sustainable local business activity and tourism initiatives that generate local employment opportunities within the Shire of Kalamunda and that add to the lifestyle choices and prosperity of its residents.”

### Sustainability Implications

#### Social Implications

18. Potential impacts on the amenity of the adjoining landowners is unlikely given that visitors will attend on an appointment basis only.

#### Economic Implications

19. Nil.

#### Environmental Implications

20. Nil.

### OFFICER COMMENT

21. If the amendment is successful, it would still be necessary for the applicant to seek planning consent prior to the use being undertaken. All matters considered when assessing a proposal, including public consultation where necessary and referral to statutory authorities, would be undertaken at the development application stage. The use would be listed as “D” uses, meaning that the art gallery would not be permitted unless planning approval is granted.
22. Due to the scale of the proposed Art Gallery it is unlikely that any impacts would occur on the neighbouring properties. As such it is recommended that Council adopts the amendment.

<b>Voting Requirements: Simple Majority</b>
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### COMMITTEE RECOMMENDATION TO COUNCIL (D&I 93/2012)

That Council:

1. Notes the submissions received in response to Amendment No. 47 to Local Planning Scheme No. 3.



2. Adopts the amendment to Local Planning Scheme No.3 in accordance with the following:

PLANNING AND DEVELOPMENT ACT 2005  
RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME  
SHIRE OF KALAMUNDA  
LOCAL PLANNING SCHEME NO. 3  
AMENDMENT NO. 47

Resolved that the Council in pursuance of Part 5 of the Planning & Development Act 2005 amends the above Town Planning Scheme by inserting into Schedule 2- Additional Uses of the Scheme Text:

Under column "Description of Land":

7 EMANUEL COURT, WATTLE GROVE

Under Column "Additional Use":

Art Gallery

Under 'column conditions'

An Art Gallery is not permitted unless approved by Council ("D")

3. Amends the Scheme Zoning Map accordingly.
4. Duly executes the Amendment documents and forwards them and submissions received to the Minister for Planning requesting final approval be granted.

Moved: **Cr Donald McKechnie**

Seconded: **Cr Justin Whitten**

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



## Attachment 1

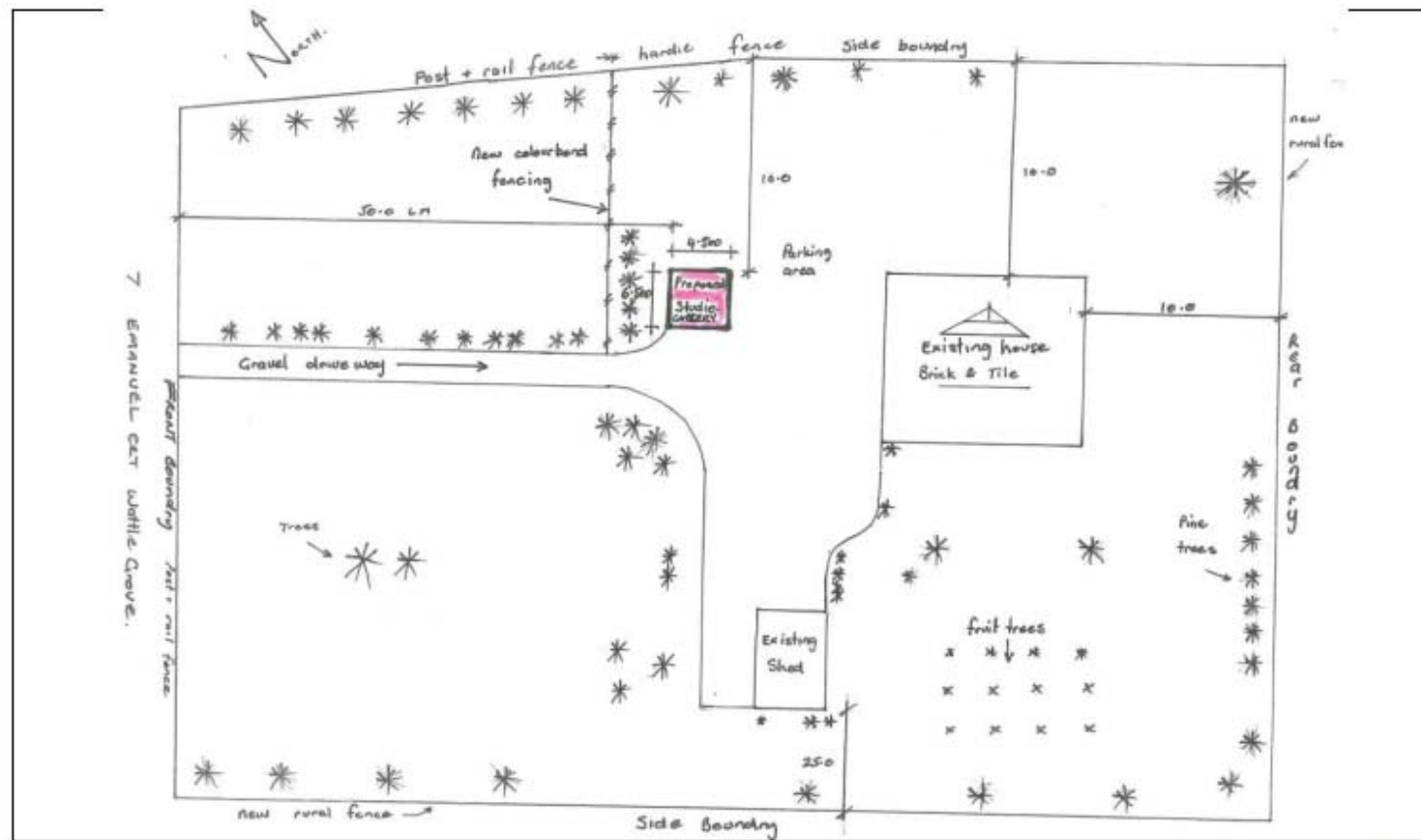


Local Planning Scheme No. 3 Amendment – Additional Use (Art Gallery)  
Lot 7 (7) Emanuel Road, Wattle Grove  
**Locality Plan**

Scale = 1:3383  
0m 50 100 150



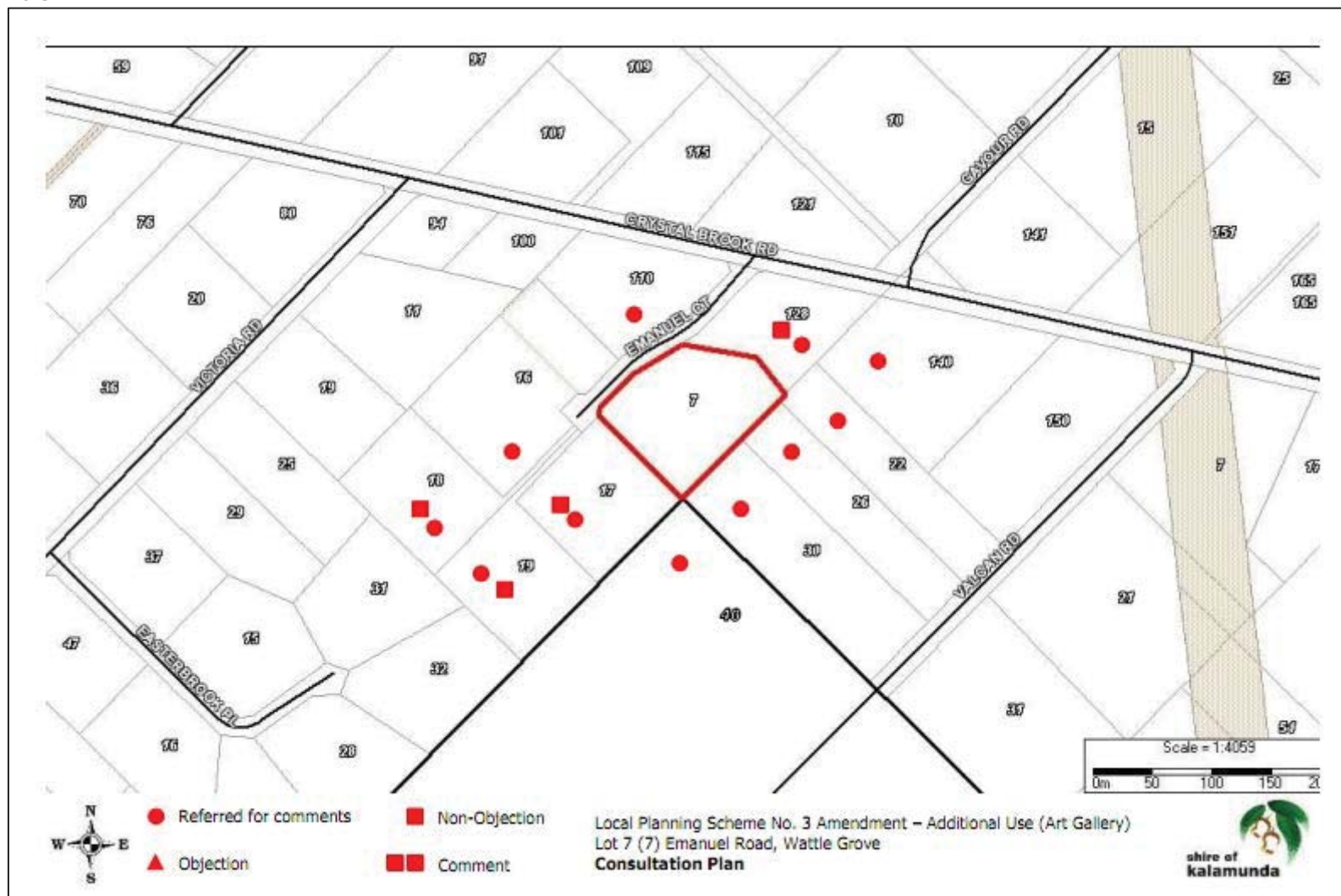
## Attachment 2



Local Planning Scheme No. 3 Amendment – Additional Use (Art Gallery)  
Lot 7 (7) Emanuel Road, Wattle Grove  
**Site Plan**



### Attachment 3



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

**94. Additional General Industry Building – Lot 90 (24) and Lot 91 (44)  
Chisholm Crescent, Kewdale**

Previous Items	OCM 23/08
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	CH-08/044
Applicant	Fero Group Pty Ltd
Owner	Pinewood Investments Pty Ltd
Attachment 1	Locality Plan
Attachment 2	Site Plan
Attachment 3	Floor Plan
Attachment 4	Elevations
Attachment 5	Photograph of the Property from Chisholm Crescent

**PURPOSE**

1. To consider a planning application to construct an additional general industry building at Lot 90 (24) and Lot 91 (44) Chisholm Crescent, Kewdale. Refer to (Attachments 1 to 4).
2. The applicant is seeking dispensation from Council for the required number of car parking bays on site.

**BACKGROUND**

**3. Land Details:**

Land Area:	4.8ha
Local Planning Scheme Zone:	General Industry
Metropolitan Region Scheme Zone:	Urban

4. The property contains buildings and associated car parking used in conjunction with a galvanising and steel fabrication business.
5. In March 2008, Council resolved (Resolution OCM 23/08) to approve an application to build an office and factory at the property to be used by a galvanising and steel fabrication business.
6. A railway abuts the west (rear) boundary and an easement for the Parmelia High Pressure Gas Pipeline goes through the property.



## DETAILS

7. Details of the application are as follows:
- An additional hot dip galvanising building is proposed to be built and used in conjunction with the galvanising and steel fabrication business currently operating on site.
  - The building is proposed to have a total floor area of 7,379sqm, a wall height of 17m and a roof height of between 15.6m and 19m above the natural ground level.
  - One hundred and fifty two car parking bays are proposed to be available.
  - Fifty one of the car bays are proposed to be provided on the south west portion of Lot 90 Chisholm Crescent, which if the application is approved by Council, is proposed to be amalgamated with Lot 91 Chisholm Crescent.
  - The applicant has advised that at any one time there will be 94 staff on site.
  - Access to the building is proposed via the existing access way on Lot 91.

## STATUTORY AND LEGAL IMPLICATIONS

### Local Planning Scheme No. 3

8. Clause 4.2.3 (Objectives of the Zones – Industrial Zones) of Local Planning Scheme No. 3 ("the Scheme") stipulates the following are objectives of the General Industry zone:
- *"To provide for a wide range of manufacturing or associated industrial uses and services whilst allowing for a limited range of non-industrial uses where ancillary to predominant industrial uses."*
  - *"To ensure that the movement of goods and services in and out of the zone causes minimal impact on the nearby area directly accessing the regional road system."*
9. Under the Zoning Table (Table 1) of the Scheme the use "Industry - Light" is classed as being a "P" use in the General Industry zone meaning the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.

10. Table 2 of the Scheme stipulates the following for properties zoned General Industry:

	<b>Scheme Requirement</b>	<b>Proposed</b>
<b>Front Setback</b>	15m Minimum	142m
<b>Side Setback</b>	0m	28.8m
<b>Rear Setback</b>	0m	6m
<b>Site Coverage</b>	60% Maximum	51%
<b>Landscaping Strip (Road Frontage)</b>	3m Minimum	Nil

11. The car parking requirements for the use Industry - Light stipulated under Table 3 (Car Parking Requirements) of the Scheme are as follows:

<b>Scheme Parking Requirements</b>	<b>Aggregate Area</b>	<b>Bays Required</b>	<b>Bays Provided</b>
2 bays per 100sqm of industrial area, or 1 bay per employee plus 2 visitor bays, whichever is greater.	25,677sqm	514 bays minimum	152 bays
	<b>Number of Staff</b>		
	94	94 bays minimum	
<b>Total</b>		514 bays minimum	152 bays

12. If the application was approved by Council there will be a shortfall of 362 car bays on site.
13. Clause 5.8.2 of the Scheme stipulates that Council may, at its discretion, apply a greater or lesser requirement for parking than that stipulated in the Scheme, if the proposed use is likely to demand a greater or lesser need for car parking bays, having regard to the scale and nature of the intended use.
14. In considering an application for planning approval, Clause 10.2 of the Scheme (Matters to be Considered by Local Government) requires Council to have due regard to number of matters, including:
- The compatibility of the development within its settings.

- The likely effect of the scale and appearance of the proposal.
- Whether the proposed means of access and egress from the property are adequate.

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

## **POLICY IMPLICATIONS**

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

## **PUBLIC CONSULTATION/COMMUNICATION**

17. There is no Scheme requirement for the proposal to be advertised.
18. The application was referred to the Department of Planning for comment due to the proposed building’s proximity to the Parmelia high pressure gas pipeline, and advised that an AS 2885 Risk Assessment will be required if the application is approved, prior to the development being constructed. This is to be undertaken in consultation with the APA Group.
19. The application was also referred to the Department of Environment and Conservation for comment due to the nature of the operation, and it had no objection to the proposal.

## **FINANCIAL IMPLICATIONS**

20. Nil.

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

### **Strategic Planning Implications**

21. Nil.

### **Sustainability Implications**

#### Social Implications

22. Nil.

#### Economic Implications

23. Nil.

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Environmental Implications

24. Nil.

**OFFICER COMMENT**

25. The proposal complies with the Scheme requirements with the exception of the car parking requirements.
26. It is proposed that 152 car bays be available on site in lieu of the 514 car bays required by the Scheme for an operation of this size.
27. The Scheme allows Council to consider a lesser parking requirement if, in its opinion, the proposed use is likely to demand a lesser need for parking bays having due regard to the nature of the intended use and potential impact on future development of the locality.
28. Whilst the shortfall in the number of parking bays is significant it is considered acceptable given the business employs 94 staff on site. Moreover, the number of staff proposed is reflective of industry requirements for this type of building/activity. Accordingly, the proposed number of bays is considered sufficient to address any potential future change in the land tenure.
29. When viewing the property it was also noted that no landscaping strip exists along the front boundary of the property which is a requirement of the Scheme and is shown on the site plan previously approved by Council.
30. If the application is approved by Council a landscaping plan will be required to be submitted to and approved by the Shire prior to the building licence being issued. The applicant will also be advised that a risk assessment will be required to be prepared in consultation with the APA Group prior to the development being constructed.
31. Considering the above, it is recommended that Council approves the application.

*A Councillor queried whether, in view of the discrepancy between the number of car bays provided and those required under the Local Planning Scheme, there could be a cash in lieu payment. The Acting Chief Executive Officer confirmed that there would not be as the owners were able to provide parking adequate for the purpose of their business. Cash in lieu must be used for public parking in the same locality; there is currently no appropriate land available to meet this criterion.*

<b>Voting Requirements: Simple Majority</b>
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**COMMITTEE RECOMMENDATION TO COUNCIL (D&I 94/2012)**

That Council:

1. Approves the application dated 17 September 2012 for an additional general industry building to be built at Lot 90 (24) and Lot 91 (44) Chisholm Crescent, Kewdale, subject to the following conditions:



- a. Lot 91 and Lot 90 Chisholm Crescent, Kewdale, being amalgamated as shown on the approved site plan.
- b. The provision and maintenance of a total of 152 car spaces including a minimum of one disabled bay.
- c. All car parking being contained on site.
- d. All car parking bays and vehicle access ways being line marked, sealed and drained prior to the occupation of the building and maintained thereafter by the landowner to the satisfaction of the Shire.
- e. A detailed landscaping plan being submitted and approved by the Shire prior to the building licence being issued.
- f. The landscaping on the approved landscaping plan being planted prior to occupation, and maintained thereafter by the landowner to the Shire's satisfaction.
- g. No loading or unloading of vehicles is to occur that interferes with the parking of vehicles in the car park by visitors and employees. All car parking bays in the car park are to be made available at all times for the parking of vehicles by employees and visitors.
- h. The external colour and material details of the proposed building blending with existing development on the property.
- i. Colour and material details of the proposed development are to be submitted to and approved by the Shire.
- j. Stormwater being contained on site to the satisfaction of the Shire.

Moved: **Cr Allan Morton**

Seconded: **Cr Noreen Townsend**

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

**Against**  
**Cr Sue Bilich**

**CARRIED (10/1)**

## Attachment 1



Additional General Industry Building  
Lot 91 (44) Chisholm Crescent, Kewdale  
Locality Plan



Part LOT 90  
(To Be Amalgamated  
with Lot 89)  
0.3674ha

RAILWAY RESERVE LAND

RAILWAY RESERVE LAND

PROPOSED GALV PLANT  
(7.37ha)

LOT 91  
4.8671ha

EXISTING HOT DIP GALV  
(To Be Replaced)  
(Underground Support) (3.74ha)

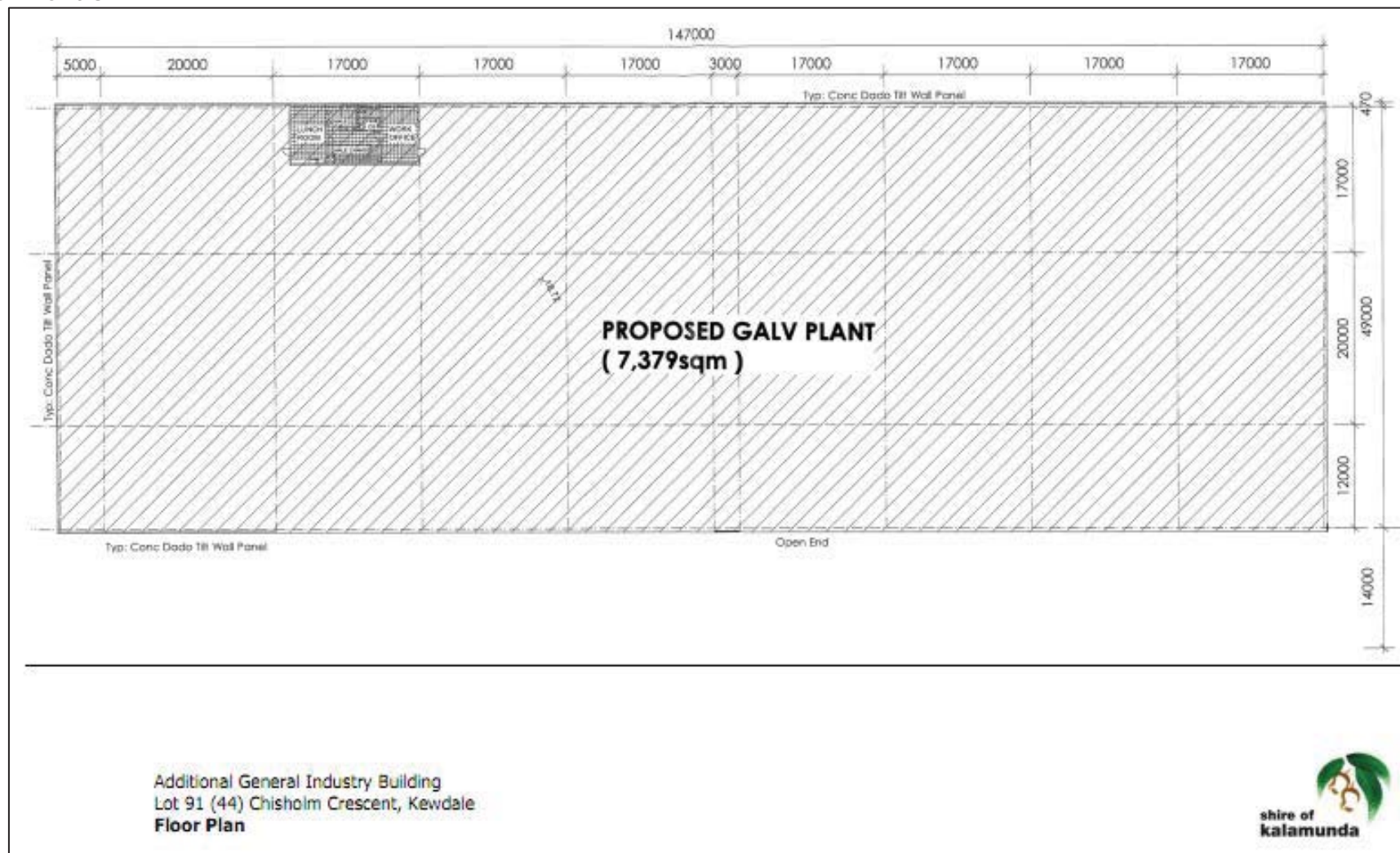
EXISTING STEEL FABRICATION  
(Underground Support) (3.34ha)

EXISTING PAINT SHOP  
(Underground Support) (4.30ha)

CHISHOLM CRESCENT

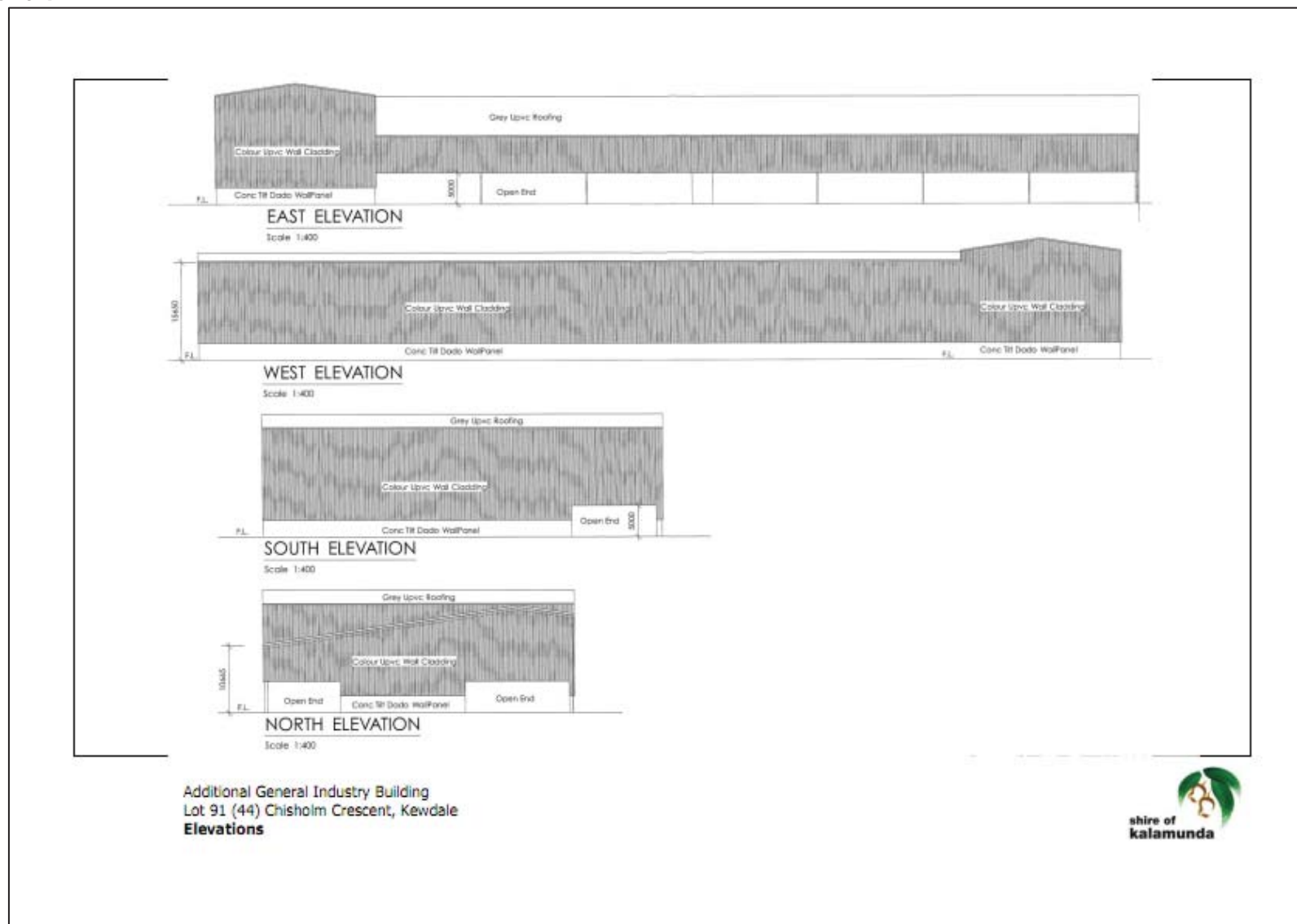
CHISHOLM CRESCENT

### Attachment 3





## Attachment 4



## Attachment 5



Additional General Industry Building  
Lot 91 (44) Chisholm Crescent, Kewdale  
**Photograph of the Property from Chisholm Crescent**





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

**95. Additional Motor Vehicle Sales Building – Lot 331 (789) Abernethy Road, Forrestfield**

Previous Items	Nil
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	AB-03/789
Applicant	Meyer Shircore and Associates
Owner	Major Holdings Pty Ltd
Attachment 1	Locality Plan
Attachment 2	Site Plan
Attachment 3	Floor Plan
Attachment 4	Elevations
Attachment 5	Photograph of the Property Along Abernethy Road

**PURPOSE**

1. To consider a planning application to build an additional motor vehicle sales building at Lot 331 (789) Abernethy Road, Forrestfield. Refer to (Attachments 1 to 5).
2. The applicant is seeking Council approval to allow for dispensation for the required number of parking bays.

**BACKGROUND**

**3. Land Details:**

Land Area:	4.8ha
Local Planning Scheme Zone:	General Industry
Metropolitan Region Scheme Zone:	Urban

4. The property contains buildings and associated car parking and trade display areas used in conjunction with a motor vehicle sales business.

**DETAILS**

5. Details of the application are as follows:
  - Motor vehicle sales building is proposed to be built and used as a truck pre-delivery check area.
  - The building is proposed to have a total floor area of 2,965sqm, a wall height of 6.5m and a roof height of 7.2m above the natural ground level.
  - It is proposed that 100 car parking bays be available.

- The applicant has advised that at any one time there will be 95 staff on site.
  - Access to the building is proposed via the existing 10m wide easement in gross along the north (side) boundary.
6. Under Schedule 1 (Land Use Definitions) of Local Planning Scheme No. 3 ("Scheme") the use Motor Vehicle, Boat and Caravan Sales is defined as being the following:
- "Premises used to sell or hire motor vehicles, boats or caravans."*
7. In support of the request for dispensation for the number of car parking bays, the applicant has advised the following:
- "It should be noted that approximately 50% of staff come with either 2 or 3 people in each car and a further amount ride bicycles."*

## STATUTORY AND LEGAL IMPLICATIONS

### Local Planning Scheme No. 3

8. Clause 4.2.3 (Objectives of the Zones – Industrial Zones) of Local Planning Scheme No. 3 ("the Scheme") stipulates the following are objectives of the General Industry zone:
- *"To provide for a wide range of manufacturing or associated industrial uses and services whilst allowing for a limited range of non-industrial uses where ancillary to predominant industrial uses."*
  - *To ensure that the movement of goods and services in and out of the zone causes minimal impact on the nearby area directly accessing the regional road system."*
9. Under the Zoning Table (Table 1) of the Scheme the use "Motor Vehicle, Boat and Caravan Sales" is classed as being a "P" use in the General Industry zone meaning the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.
10. Table 2 of the Scheme stipulates the following for properties zoned General Industry:

	<b>Scheme Requirement</b>	<b>Proposed</b>
<b>Front Setback</b>	15m Minimum	107m
<b>Side Setback</b>	0m	10m
<b>Rear Setback</b>	0m	54m
<b>Site Coverage</b>	60% Maximum	47%
<b>Landscaping Strip (Road Frontage)</b>	3m Minimum	9.5m

11. The car parking requirements for the use Motor Vehicle, Boat and Caravan Sales stipulated under Table 3 (Car Parking Requirements) of the Scheme are as follows:

<b>Scheme Parking Requirements</b>	<b>Display Area</b>	<b>Bays Required</b>	<b>Bays Provided</b>
1 bay for every 100sqm display area plus 1 bay for every employee	4,525sqm	45 bays minimum	100 bays
	<b>Number of Staff</b>		
	95	95 bays minimum	
<b>Total</b>		140 bays minimum	100 bays

12. If the application was approved by Council there will be a shortfall of 40 car bays on site.
13. Clause 5.8.2 of the Scheme stipulates that Council may, at its discretion, apply a greater or lesser requirement for parking than that stipulated in the Scheme, if the proposed use is likely to demand a greater or lesser need for car parking bays, having regard to the scale and nature of the intended use.
14. In considering an application for planning approval, Clause 10.2 of the Scheme (Matters to be Considered by Local Government) requires Council to have due regard to number of matters, including:
- The compatibility of the development within its settings.
  - The likely effect of the scale and appearance of the proposal.
  - Whether the proposed means of access and egress from the property are adequate.
15. If Council refuses the development, or imposes conditions that are not acceptable to the applicant, there is a Right of Review (appeal) to the State Administrative Tribunal.

## **POLICY IMPLICATIONS**

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

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## **PUBLIC CONSULTATION/COMMUNICATION**

17. There is no Scheme requirement for the proposal to be advertised.

## **FINANCIAL IMPLICATIONS**

18. Nil.

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

### **Strategic Planning Implications**

19. Nil.

### **Sustainability Implications**

#### Social Implications

20. Nil.

#### Economic Implications

21. Nil.

#### Environmental Implications

22. Nil.

## **OFFICER COMMENT**

23. The proposal complies with the Scheme requirements with the exception of the car parking requirements.
24. One hundred (100) car bays are proposed to be available on site in lieu of the 140 car bays required by the Scheme for an operation of this size.
25. In support of the request for dispensation for the number of car parking bays, the applicant has advised the following:
- "It should be noted that approximately 50% of staff come with either 2 or 3 people in each car and a further amount ride bicycles."*
26. The Scheme allows Council to consider a lesser parking requirement if, in its opinion, the proposed use is likely to demand a lesser need for parking bays having due regard to the nature of the intended use and potential impact on future development of the locality.
27. The proposed shortfall in car parking is considered acceptable as at any one time 95 staff will be on site. The number of staff proposed is reflective of Industry requirements for this type of building/activity and also the range of uses permitted under the zoning. Accordingly, the proposed number of bays is considered sufficient to address any potential future change in the land tenure.

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

<b>Voting Requirements: Simple Majority</b>
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**COMMITTEE RECOMMENDATION TO COUNCIL (D&I 95/2012)**

That Council:

1. Approves the application dated 28 September 2012 for an additional motor vehicle sales building to be built at Lot 331 (789) Abernethy Road, Forrestfield, subject to the following conditions:
  - a. The provision and maintenance of a total of 100 car spaces including a minimum of one disabled bay.
  - b. All car parking bays and vehicle access ways being maintained by the landowner to the satisfaction of the Shire.
  - c. No loading or unloading of vehicles is to occur that interferes with the parking of vehicles in the car park by visitors and employees. All car parking bays in the car park are to be made available at all times for the parking of vehicles by employees and visitors.
  - d. The external colour and material details of the proposed building blending with existing development on the property.
  - e. Colour and material details of the proposed development are to be submitted to and approved by the Shire.
  - f. Mechanical wash down bays must drain to a sewer via plate separator to the Water Corporation's requirement and must comply with the Department of Water: Water Quality Protection Note: Mechanical Equipment Wash-down.
  - g. Bunding is to be provided and maintained by the landowner to ensure that no detergent and degreaser used in in the wash bay enters the drainage system.
  - h. All car parking bays and vehicle access ways being line marked, sealed and drained prior to the occupation of the building and maintained thereafter by the landowner to the satisfaction of the Shire.
  - i. Stormwater being contained on site to the satisfaction of the Shire.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Justin Whitten**

Vote:

**For**

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

**Against**

**Cr Sue Bilich**

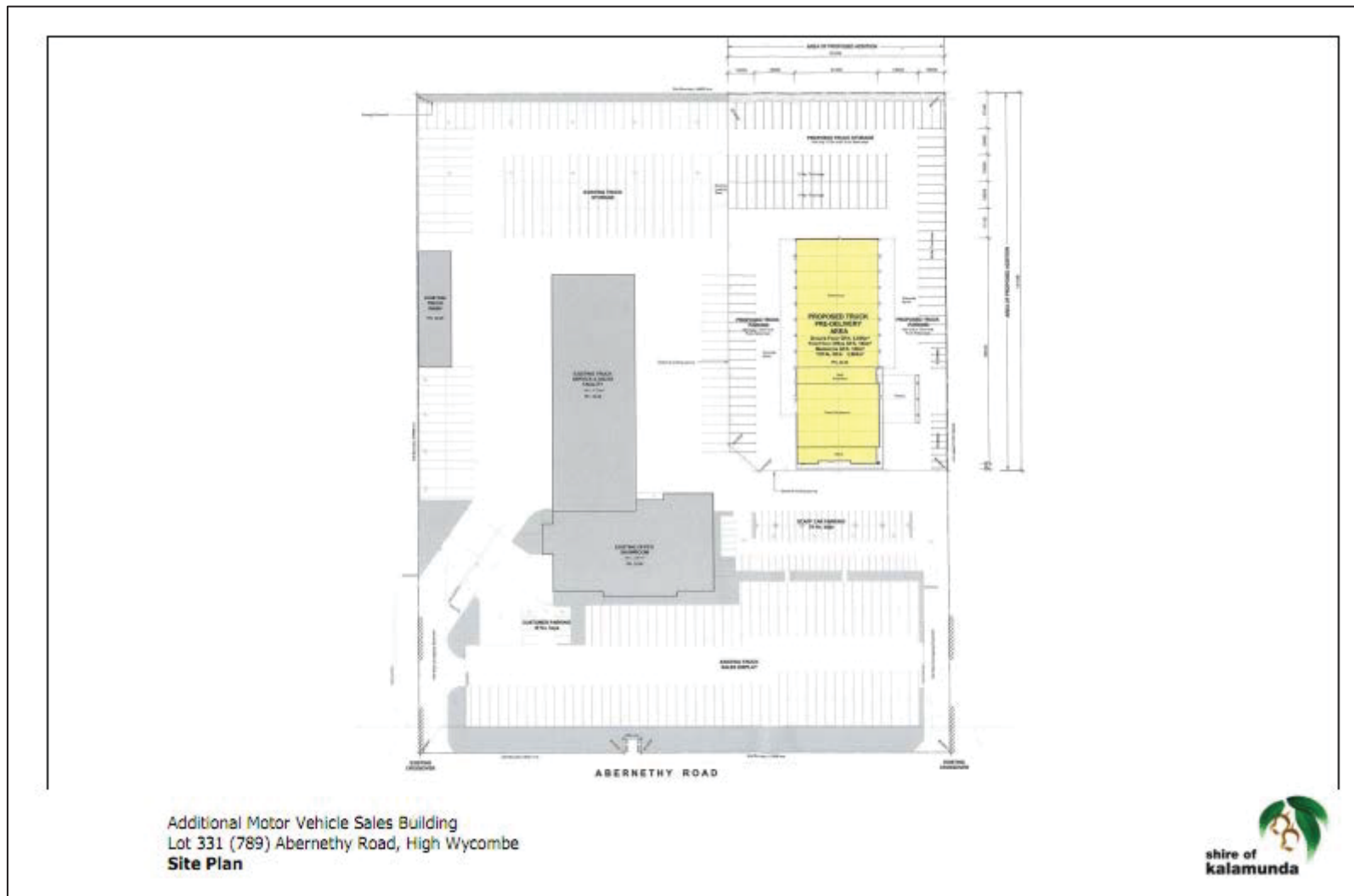
**CARRIED (10/1)**



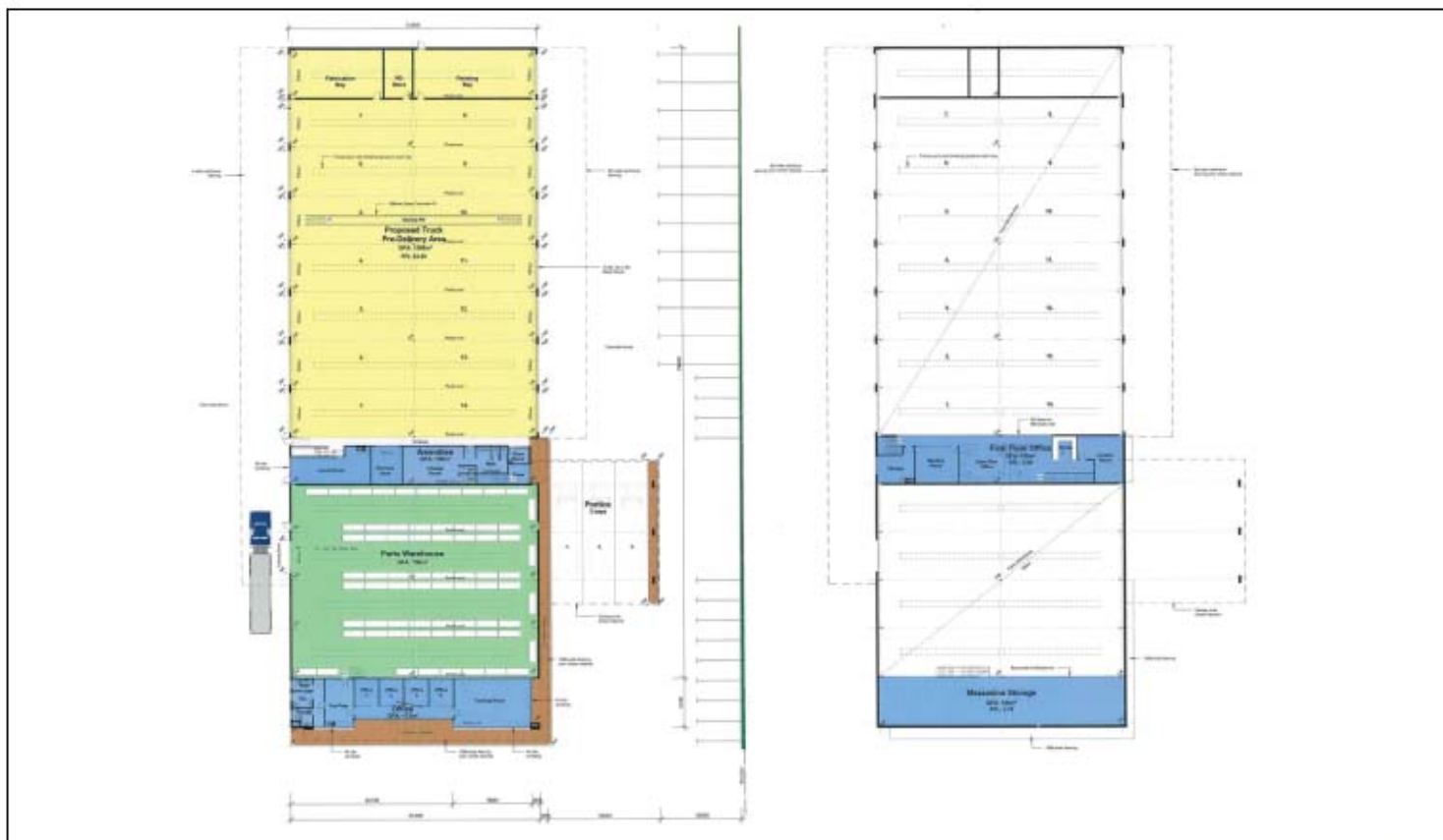
## Attachment 1



## Attachment 2



### Attachment 3



Additional Motor Vehicle Sales Building  
Lot 331 (789) Abernethy Road, High Wycombe  
**Floor Plan**

**NORTH ELEVATION**  
SCALE: 1" = 40'

**SOUTH ELEVATION**  
SCALE: 1" = 40'

**EAST ELEVATION**  
SCALE: 1" = 40'

**WEST ELEVATION**  
SCALE: 1" = 40'



shire of  
kalamunda



## Attachment 5



Additional Motor Vehicle Sales Building  
Lot 331 (789) Abernethy Road, High Wycombe  
**Photograph of the Property Along Abernethy Road**



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

**96. Right of Way (ROW) Closure - Winsor Road, between Lot 19 (32) and Lot 71 (34) Winsor Road**

Previous Items	OCM 29/2012
Responsible Officer	Director Development & Infrastructure Services
Service Area	Development Services
File Reference	
Applicant	Mr Mario Giglia
Owner	
Attachment 1	Site Plan
Attachment 2	Letter to Department of Planning & Infrastructure
Attachment 3	Proposed Land Distribution

**PURPOSE**

1. To consider the closure of a Right of Way ("ROW") between Lot 19 (32) and Lot 71 (34) Winsor Road and adjacent to the rear of Lot 2 (7) Robins Road, Kalamunda. (Attachment 1)

**BACKGROUND**

2. In May 2000, the ROW was offered to the previous owner of 34 Winsor Road. This offer lapsed on 2 June 2000.
3. In 2005, a portion of the ROW was offered to the owner of 7 Robins Road but was conditioned on the acceptance by the owner of 34 Winsor Road to purchase the remaining portion. The offer lapsed as the owner of 34 Winsor Road did not respond to the offer.
4. On 19 May 2009, the owner of 7 Robins Road, wrote to the Department of Planning & Infrastructure indicating their continued interest in the ROW and indicated that the owner of 34 Winsor Road had undertaken landscaping and other work on the ROW that gave the impression that the ROW was part of 34 Winsor Road. A copy of the letter was provided to the Shire (Attachment 2).
5. In July 2011, Mr Giglia of 34 Winsor Road made a request to purchase a portion of the ROW as he planned to undertake an extension that would have encroached on the ROW.
6. On 16 April 2012, Council recommended:-  
*That Council:*
  1. *Proceed to advertise the proposed closure of the Right of Way located between Lots 19 (32) and 71 (34) Winsor Road, Kalamunda in accordance with Section 58 of The Land Administration Act 1997.*
7. An advertisement was placed in the Echo of 2 June 2012



8. On 2 July 2012, the owner of 7 Robins Road, Kalamunda objected to the closure, citing the history of the previous attempts by them to purchase part of the ROW and indicating their continued interest in purchasing part of the ROW.

## **DETAILS**

9. The proposed closure has been advertised in accordance with *Section 58 of The Land Administration Act 1997*.
10. One objection has been received relating to the desire of the objector to purchase a portion of the ROW.
11. Council is required to endorse the closure. The sale of the land is a matter for the Minister to decide.

## **STATUTORY AND LEGAL IMPLICATIONS**

12. The proposed closure has been advertised as required under *Section 58 of the Land Administration Act 1997*.

## **POLICY IMPLICATIONS**

13. Nil.

## **PUBLIC CONSULTATION/COMMUNICATION**

14. The proposed closure has been advertised as required under *Section 58 of the Land Administration Act 1997*.

## **FINANCIAL IMPLICATIONS**

15. Nil.

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

### **Strategic Planning Implications**

16. The land is not required for any Shire purpose.

### **Sustainability Implications**

#### Social Implications

17. The closure of the ROW will not have any impact on the community.

#### Economic Implications

18. Nil.

---

Environmental Implications

19. Nil.

**OFFICER COMMENT**

20. Both owners of 7 Robins Road and 34 Winsor Road have indicated their interest in purchasing portions of the ROW. The owner of 32 Winsor Road has not objected to the closure of the ROW at any time during the past advertising.
21. The ROW is not necessary for public access to any of the adjoining properties. In addition, if subdivision was approved, alternative access solutions such as battle axe would be suitable and consistent with other properties in the area.
22. There are no services in the ROW and all utilities have advised that there is no objection to the closure and sale of the ROW.
23. The ROW has an area of 263sqm and it is possible to allow both interested properties to purchase equal portions of 131.5sqm (Attachment 3).

*Mario Giglia and Sandy King spoke for the Recommendation, however, although in favour of the closure of the Right of Way they have concerns with the proposed allocation of the land in the Right of Way. They believe it will provide for the subdivision of 7 Robins Road. Vehicle access along the Right of Way could cause annoyance to the owner of 33 Winsor Road from car lights shining in the main bedroom.*

*Councillors debated the Recommendation.*

<b>Voting Requirements: Simple Majority</b>
---

**COMMITTEE RECOMMENDATION TO COUNCIL (D&I 96/2012)**

That Council:

1. Recommend to the Minister that the closure of the Right of Way between Lots 19 (32) and 71 (34) Winsor Road, Kalamunda proceed in accordance with (Attachment 3).

Moved: **Cr Margaret Thomas**

Seconded: **Cr Donald McKechnie**

Vote: **For**  
**Cr Frank Lindsey**  
**Cr Geoff Stallard**  
**Cr Allan Morton**  
**Cr Noreen Townsend**  
**Cr Donald McKechnie**  
**Cr Margaret Thomas**

**Against**

**Cr John Giardina**  
**Cr Justin Whitten**  
**Cr Martyn Cresswell**  
**Cr Dylan O'Connor**  
**Cr Sue Bilich**

**CARRIED (6/5)**

Attachment 1



## Attachment 2

Manager  
Department for Planning and Infrastructure  
Land Asset Management Services  
PO Box 1575  
Midland  
WA 6936

7 Robins Road  
Kalamunda  
Western Australia  
6076

DOC No LT-92610



*Copy to Planning and Development Services, Shire of Kalamunda*

19 May 2009.

Dear Sir or Madam,

I refer to Right of Way, between numbers 32 and 34 Winsor Road, Kalamunda.

We have previously been offered the opportunity to purchase a part of the above Right of Way, however this was dependent upon a second party's agreement to purchase the other part. We were very keen to pursue the offer, however we were unable to proceed with the purchase as the second party involved – Mr M Giglia, of 34 Winsor Road, did not agree to purchase his part of the Right of Way.

At the time, his reason for not agreeing to the purchase was that he did not want a 'laneway' adjoining his property. It now appears that there were other motives.

Mr Giglia has recently cultivated the Right of Way. He has laid a lawn and has had mature trees removed. The land now appears very much to be part and parcel of 34 Winsor Road, especially as he has enclosed a section of the Right of Way off with a temporary barrier.

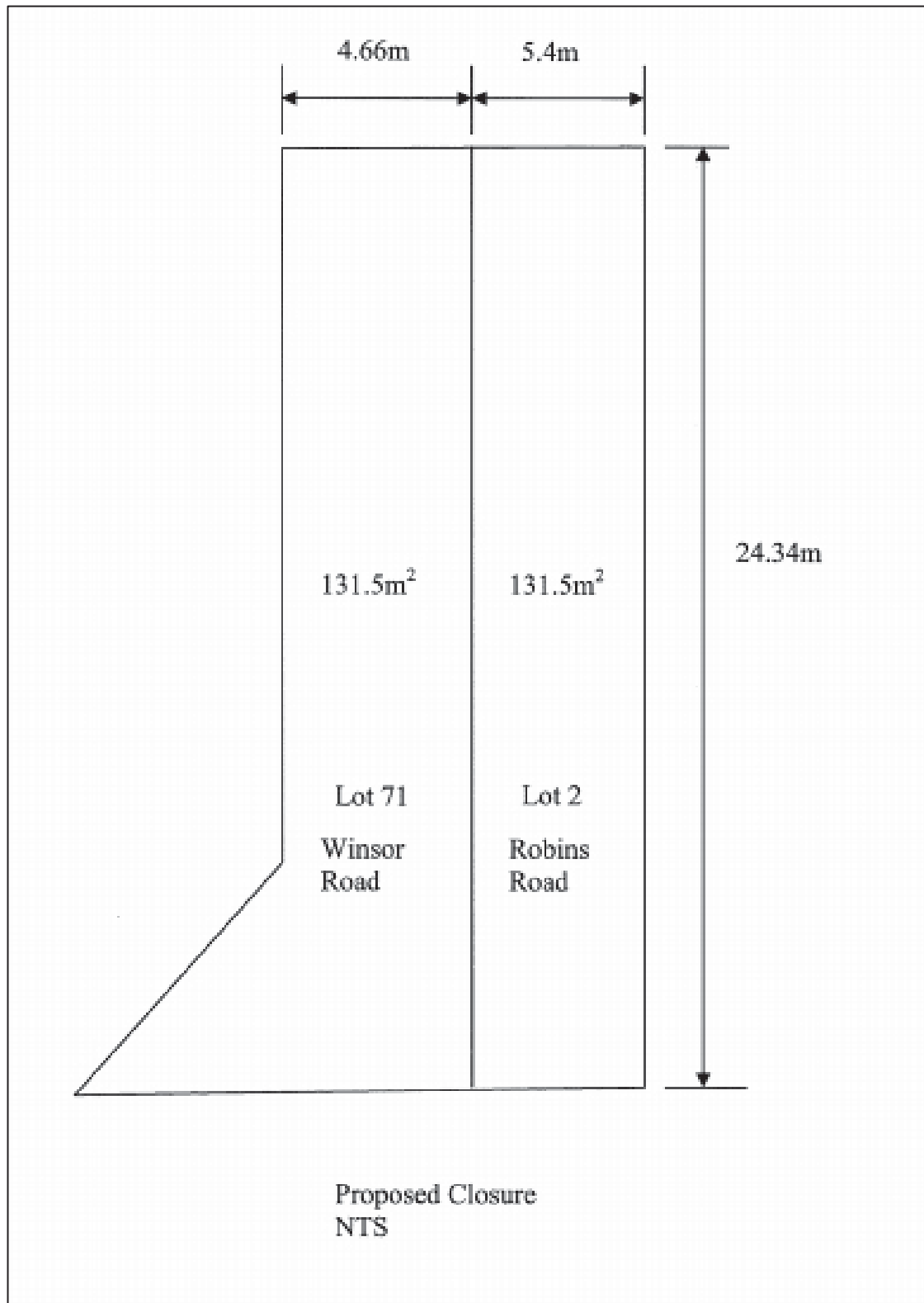
As a result of Mr Giglia's actions, the likelihood that we will be given the opportunity to purchase any part of the Right of Way is now virtually nil. Mr Giglia obviously has no intention to purchase any part of the Right of Way – he appears to have claimed it as his without having to outlay any costs. Should he decide to sell his property at 34 Winsor Road, any subsequent owners would be highly unlikely to want to purchase land that already appears to belong to them, thus impeding any prospects we might have had to purchase a share of the Right of Way.

We are investigating the legal implications, but in the meantime we would like your written assurance that, regardless of the expense, time, care or cultivation that is expended on the Right of Way, the land remains as a public access Right of Way until it is purchased privately and in agreement with all parties concerned. We also understand that we will continue to have access to the rear of our own property via the Right of Way while it remains a public access route.

Yours sincerely,

Mrs Marilyn and Mr Eric Coen.

### Attachment 3





## **10.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

### **10.1 Progress of Forensic Audit – Cr Dylan O'Connor**

That a confidential briefing be provided to Councillors on the progress of the internal investigation with respect to the Chief Executive Officer.

Reason for Confidentiality – *Local Government Act 1995*: Section 5.23 (2) (a), "a matter affecting an employee or employees".

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Noreen Townsend**

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

## **11.0 QUESTIONS BY MEMBERS WITHOUT NOTICE**

### **11.1 Cr Giardina – Policy of Giving Name when Answering the Telephone**

Q. Is it the Shire's policy for staff to give their name when answering the telephone, and if so could they be reminded of this?

A. The Acting Chief Executive Officer clarified that there was no policy to cover the answering of telephones. There is however preferred telephone etiquette and Staff can be reminded of this.

## **12.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

12.1 Nil.

## **13.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION**

13.1 Nil.

## **14.0 MEETING CLOSED TO THE PUBLIC**

14.1 **Meeting Closed to the Public**

<b>Voting Requirements: Simple Majority</b>
---

### Progress of Forensic Audit

That the meeting go behind closed doors for a confidential briefing regarding the progress of the internal investigation with respect to the Chief Executive Officer.

Moved: **Cr Justin Whitten**

Seconded: **Cr Allan Morton**

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

*The meeting closed to the public at 7.14pm, all staff except the Acting Chief Executive Officer and Director of Corporate & Community Services left the chambers.*

#### 14.2      **Suspension of Standing Orders**

<b>Voting Requirements: Simple Majority</b>
---

That in accordance with Clause 18.1 of the Standing Orders all clauses in the Standing Orders be suspended.

Moved:                      **Cr Martyn Cresswell**

Seconded:                **Cr Noreen Townsend**

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

*Standing Orders were suspended.*

#### 14.3      **Resumption of Standing Orders**

<b>Voting Requirements: Simple Majority</b>
---

That Standing Orders be resumed

Moved:                      **Cr Justin Whitten**

Seconded:                **Cr Noreen Townsend**

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

*Standing Orders resumed and the meeting proceeded.*

#### 14.4      **Meeting Reopened to the Public**

<b>Voting Requirements: Simple Majority</b>
---

That the meeting reopen to the public at 7.31pm.

Moved:                      **Cr Justin Whitten**

Seconded:                **Cr Martyn Cresswell**

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

**15.0 CLOSURE**

- 15.1 There being no further business the Chairman declared the meeting closed at 7.31pm.

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

Signed: \_\_\_\_\_  
Chairman

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2012