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Shire of Kalamunda

# Planning Services Committee

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Minutes for 12 July 2010



# SHIRE OF KALAMUNDA

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**Minutes of Planning Services Committee  
Held in the Council Chambers  
2 Railway Road, Kalamunda  
Monday 12 July 2010**

**1.0 OFFICIAL OPENING**

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

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

**2.1 ATTENDANCE**

**Councillors**

Donald McKechnie	(SHIRE PRESIDENT) NORTH WARD
Sue Bilich	NORTH WARD
Margaret Thomas	(CHAIRMAN) NORTH WARD
Maureen Robinson	SOUTH WEST WARD
Allan Morton	SOUTH WEST WARD
Noreen Townsend	SOUTH WEST WARD
Geoff Stallard	SOUTH EAST WARD
Frank Lindsey	SOUTH EAST WARD
Carol Everett	SOUTH EAST WARD
Peter Heggie	NORTH WEST WARD
Martyn Cresswell	NORTH WEST WARD
Dylan O'Connor	NORTH WEST WARD

**Members of Staff**

Kevin O'Connor	DIRECTOR OF COMMUNITY DEVELOPMENT
Clayton Higham	DIRECTOR OF PLANNING & DEVELOPMENT SERVICES
Mahesh Singh	DIRECTOR OF ENGINEERING SERVICES
Michelle Clark	EXECUTIVE ASSISTANT CHIEF EXECUTIVE OFFICER
Darrell Forrest	MANAGER GOVERNANCE
David Tomlinson	MANAGER STATUTORY PLANNING AND BUILDING
Andrew Fowler-Tutt	MANAGER STRATEGIC PLANING & SUSTAINABILITY
Simon Millar	MANAGER OPERATIONS
Hazel Smallwood	MANAGER CORPORATE SUPPORT
Sara Slavin	PERSONAL ASSISTANT DIRECTOR OF PLANNING & DEVELOPMENT SERVICES
Meri Comber	MINUTE SECRETARY

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**Members of Public** 120

**Members of Press** 1

2.2 Apologies

James Trail

CHIEF EXECUTIVE OFFICER

Bob Searle

DIRECTOR CORPORATE SERVICES

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 James Dean, 8 Flora Terrace, Lesmurdie.

Q. Regarding Item 47 on the Agenda, after this meeting if this is presented to the Minister and is passed, what is this Council going to do to stop this building?

A. Director Planning and Development replied, everyone in this state has a right to make an application for planning approval. The Minister has not dealt with appeals for many years, there is now a different process through the – State Administrative Tribunal.

**4.0 PETITIONS/DEPUTATIONS**

4.1 The Chairperson noted that on 15 June 2010 there was a Petition presented and accepted regarding Item 47 on this Agenda containing 1502 signatures.

4.2 A Councillor added a further Petition of over 800 signatures regarding Item 47 on this Agenda.

**5.0 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

**6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

6.1 That the Minutes of the Planning Services Committee Meeting held on 14 June 2010 be confirmed as a true and correct record of the proceedings.

Moved: Cr Maureen Robinson

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (12/0)**

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**7.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

- 7.1 A Citizenship Ceremony is to be held in the Council Function room on Wednesday 14 July 2010 7.30 pm, all Councillors are welcome to attend.
- 7.2 Commemorative Tree Planting is to take place on Saturday 17 July 2010. All Councillors are welcome to attend and may contact the Shire President if they wish to accompany him.

**8.0 MATTERS FOR WHICH MEETING MAY BE CLOSED**

Nil.

**9.0 DISCLOSURE OF INTERESTS**

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)

Nil.

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.

Nil.

**10.0 REPORT TO COUNCIL**

**Please Note:**

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

*Item 47 was tabled as the first item on the Agenda; there were 120 people in the gallery & overflow into the Function Room. The majority of whom left after the motion was passed.*

**MOTION**

**PS 50/2010**

Item 47, Lot 117, 159 Canning Road, Kalamunda be brought forward to being the first item on the Agenda.

Moved: Cr Donald McKechnie

Seconded: Cr Allan Morton

**CARRIED UNANIMOUSLY**

*Following the Resolution for Item 47 the following Motion was put.*

**MOTION**

**PS 51/2010**

Moved, that the Committee Meeting adjourn for 10 minutes to allow the gallery to vacate.

Moved: Cr Donald McKechnie

Seconded: Cr Sue Bilich

**CARRIED UNANIMOUSLY**

*The Committee adjourned at 7.30 pm and reconvened at 7.40, all Councillors and Staff who were in attendance prior to the adjournment returned.*

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**REPORTS**

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

**42. Shire of Kalamunda Health Local Laws 2001 Review**

Previous Items:	9.31 May 2010 PSC
Responsible Officer	Director, Planning & Development Services
File Reference:	LE-LOL-026
Applicant:	Shire of Kalamunda
Owner:	N/A
Attachments	Nil

**PURPOSE**

1. To provide Council with an update of the proposed action to be taken in regard to the resolution of the May 2010 OCM made with respect to the Shire of Kalamunda Health Local Laws 2001 review.

**BACKGROUND**

2. Council considered this matter in the May 2010 round of meetings and it was resolved "That the item be deferred to the July Planning Services Committee meeting subject to further advice being obtained and a Councillor forum being held."

**DETAILS**

3. At the May 2010 Planning Services Committee concerns were raised as to whether a more prescriptive approach would provide for the better control of nuisances caused by the keeping of poultry and roosters in residential areas.
4. Council resolved that the report to be withdrawn, further information provided, and a further report be provided to the Planning Services Committee for consideration.

**STATUTORY AND LEGAL IMPLICATIONS**

5. Local Government Act 1995  
Health Act 1911

**POLICY IMPLICATIONS**

6. Strategy 1.6.8 provides quality environmental and public health services which comply with and exceed relevant legislation.

**PUBLIC CONSULTATION/COMMUNICATION**

7. Nil

**FINANCIAL IMPLICATIONS**

8. The review allows Council to alter the amount of fee, charge or penalty that is set in the local law.

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**STRATEGIC AND SUSTAINABILITY IMPLICATIONS****9. Strategic Planning Implications**

- Nil

**10. Sustainability Implications  
Social Implications**

- Local law may impact upon the keeping of poultry in residential areas.

**Economic Implications**

- Nil

**Environmental Implications**

- Nil

**OFFICER COMMENT**

11. In response to the Council recommendation a discussion paper has been prepared for Councillors to consider a range of issues related to the keeping of poultry and roosters. This paper will be shortly provided to all Councillors.
12. A Councillors' forum will be held to seek comment and responses from Councillors on the questions raised in the discussion paper. It is anticipated that the forum will provide direction as to the preferred approach to be taken on the local laws.
13. This information will be provided to the Shire solicitors to prepare draft local laws that address Councillors' concerns. A further report will then be prepared for Council to re-consider the Shire of Kalamunda Health Local Laws 2001 review.

**COMMITTEE RECOMMENDATION TO COUNCIL PS 42/2010**

1. That Council endorses the proposed action in regard to the Shire of Kalamunda Health Local Laws 2001 review.

Moved: Cr Maureen Robinson

Seconded: Cr Peter Heggie

**CARRIED UNANIMOUSLY (12/0)**



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

**43. Local Planning Scheme No. 3 Amendment – Additional Use - Lot 501 (163) Railway Road, Gooseberry Hill**

Previous Items: RAI-/163  
Responsible Officer: Director, Planning and Development Services  
Service Area: Planning & Development Services  
File Reference: PG-PKG-002  
Applicant: C Cornelio and N Kovacs  
Owner: As above

Attachments: Attachment 1 – Locality Plan  
Attachment 2 – Scheme Zoning Map

**PURPOSE**

1. To consider an amendment to Local Planning Scheme No. 3 (LPS 3) to allow for an additional use (shop) at Lot 501 (163) Railway Road, Gooseberry Hill. Refer **(Attachment 1.)** for the locality plan.

**BACKGROUND**

2. In May 1988 Council resolved (Resolution RA-/163) to refuse an application to change the use of the single dwelling on the subject lot (formerly Lot 63 Railway Road) to an Arts and Craft Centre, due to the following reasons:
  - a) The land is currently zoned Residential;*
  - b) The location of the existing building is not considered appropriate as a shop due to its near zero setback and lack of parking facilities; and*
  - c) The proposal is contrary to orderly and proper planning principles."*
3. In the refusal letter it was also advised that:

*"From Council's records, it would appear that the old cottage, the subject of this application, was once used as a shop but was never zoned as such. The subject land was zoned Residential in the 1963 Town Planning Scheme and under the circumstances no non-conforming use rights exist for Lot 63."*
4. The property contains a single dwelling and a cottage which are to be retained as part of the application. The cottage is proposed to be used as a shop. The property adjoining the north boundary is zoned Commercial, and the other adjoining lots are zoned Residential. Direct access to the subject property is obtained from Railway Road via a single crossover.

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## DETAILS

5. The applicants are seeking approval to allow for the additional use – Shop on the subject lot.
6. With regard to the proposed shop, the following information has been provided:
  - The hours of operation are to be Monday and Friday 10am to 2pm, Saturdays 10am to 3pm and Sunday 10am to 1pm. These may change should demand increase.
  - There are proposed to be four employees on site at any one time, those residing on site and two local artists.
  - Clients will be able to visit at any time during the hours of operation.

## STATUTORY AND LEGAL IMPLICATIONS

7. The *Town Planning Regulations 1967* establish procedures relating to amendments to local planning schemes. If Council decides to initiate the proposed amendment, then ultimately the amendment will be determined by the Minister for Planning.
8. If Council does not initiate the amendment, the process ceases and there is no Right of Review (appeal) to the State Administrative Tribunal. If the proposal progresses to the Minister's determination, irrespective of the Minister's decision, there is no Right of Review.
9. The land use 'Shop' is defined by Local Planning Scheme No. 3 (LPS 3) as being:

*"premises used to sell goods be retail, hire goods, or provide services of a personal nature (including a hairdresser and beauty therapist) but does not include a showroom or fast food outlet."*
10. Under the Zoning Table of LPS 3 the use Shop is listed as an 'X' use in the Residential zone, meaning the use is not permitted. Refer (***Attachment 2.***) for current Scheme Zoning Map.
11. Clause 4.2 of LPS 3 states that the objectives of the Residential zoned areas are the following:
  - To provide primarily for single residential development whilst allowing for a range of residential densities in order to encourage a wide choice of housing types within the Shire; and
  - To facilitate a range of accommodation styles and densities to cater for all community groups inclusive of the elderly, young people in transition and the handicapped.

## POLICY IMPLICATIONS

12. Nil.

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## **PUBLIC CONSULTATION/COMMUNICATION**

13. If the amendment is initiated by Council, the Amendment would be formally advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*.
14. The amendment would be required to be advertised in the form of a notice being published in a district and State wide newspaper. The applicant would also be requested to arrange for a sign advertising the proposal, to be erected on the subject lot.

## **FINANCIAL IMPLICATIONS**

15. If the amendment is adopted there will be a cost involved, however this would be recouped from the applicants.

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

16. **Strategic Planning Implications**
  - Nil
17. **Sustainability Implications**
  - Social implications**
    - Nil
  - Economic Implications**
    - Allowing such uses creates the potential to provide additional employment opportunities within the district.
    - Minimal modifications to the existing structures and infrastructure on site will be required.
  - Environmental Implications**
    - Nil

## **OFFICER COMMENT**

18. The applicant's justification in favour of a shop being considered as an additional use on the property, is the following:
  - *"The shop would provide variety to the local community.*
  - *Make use of a main public transport route with a bus stop nearby.*
  - *Have great exposure on a principle road, encouraging passers by to stop and investigate the area.*
  - *Compliment and benefit the shops next door.*
  - *Be presented in a restored fashion.*
  - *Provide selling space for local art and crafts, promoting local talent."*

- 
19. Clients will be able to visit the shop at any time during the hours of operation therefore there is the potential for there to be inadequate space on site for vehicles to park resulting in parking along the adjoining verge.
  20. The proposal would also potentially fragment and affect the cohesiveness of the existing shopping centre on the lot adjoining the north (side) boundary of the subject lot.
  21. It is considered that the proposal is ad hoc and not in keeping with proper and orderly planning of commercial developments. Proposals for retail facilities would usually be considered in broader strategic terms, such as a retail analysis for the locality justifying an increase in floor area. For this reason it is recommended that the request for the additional use 'Shop' at the subject lot, not be supported by Council.
  22. Nicola Kovacs, 163 Railway Road spoke against the Recommendation.

#### **COMMITTEE RECOMMENDATION TO COUNCIL PS 43/2010**

1. That Council does not initiate the amendment to allow for an additional use (shop) at Lot 501 (163) Railway Road, Gooseberry Hill, as the proposal is contrary to orderly and proper planning principles.

Moved: Cr Maureen Robinson

Seconded: Cr Peter Heggie

**For the Recommendation**

**Against the Recommendation**

Cr Carol Everett  
Cr Frank Lindsey  
Cr Allan Morton  
Cr Maureen Robinson  
Cr Peter Heggie  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Sue Bilich  
Cr Donald McKechnie  
Cr Margaret Thomas

Cr Geoff Stallard  
Cr Noreen Townsend

**CARRIED (10/2)**

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

**44. Local Planning Scheme No. 3 Amendment - Initiation of Rezoning from Urban Development to Private Clubs and Institutions - Lot 1 (33) Berkshire Road, Forrestfield**

Previous Items: PS 2/2010

Responsible Director, Planning and Development Services

Officer:

Service Area: Planning Development Services

File Reference: BR-08/033

Applicant: Gray and Lewis

Owner: Hillside Church Care Services

Attachments: Attachment 1 – Locality Plan, Page 3

Attachment 2 – Current Zoning Map, Page 4

Attachment 3 - Modified Structure Plan – Forrestfield Urban Area U7,  
Page 5

**PURPOSE**

1. To consider a proposal to initiate an amendment to Local Planning Scheme No. 3 (LPS 3) to rezone Lot 1 (33) Berkshire Road, Forrestfield, from Urban Development to Private Clubs and Institutions. Refer **(Attachments 1 and 2)** for Locality Plan and Current Zoning Map.

**BACKGROUND**

2. In February 2010 Council resolved to adopt a modification to the Forrestfield Urban Area U7 Structure Plan for the subject lot to be amalgamated with Lot 301 (45) Berkshire Road, Forrestfield.
3. On 17 May 2010 the WA Planning Commission endorsed the modified structure plan and approved an application to amalgamate Lots 1 and 301 Berkshire Road. Refer **(Attachment 3.)** for endorsed structure plan.
4. Under Local Planning Scheme No. 3, the subject lot is zoned Urban Development, and Lot 301 is zoned Private Clubs and Institutions.
5. The subject lot contains a single dwelling and associated outbuildings and Lot 301 has been developed as the Waldrige Retirement Village.
6. Due to the original structure plan not allowing for access to 350 Hawtin Road through 33 Berkshire Road and subsequent modifications to the structure plan, a cul-de-sac will now exist on 350 Hawtin Road should the property be redeveloped. An access road through 33 Berkshire Road is no longer possible due to the use and layout proposed on the property.

**DETAILS**

7. The applicant is seeking approval to rezone the subject lot from Urban Development to Private Clubs and Institutions to facilitate the future expansion of the retirement village on Lot 301. The number of additional aged person dwellings will be determined at the development and subdivision stages of the planning process.

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## STATUTORY AND LEGAL IMPLICATIONS

8. The *Town Planning Regulations 1967* establish procedures relating to amendments to local planning schemes. If Council decides to initiate the proposed amendment, then ultimately the amendment will be determined by the Minister for Planning.
9. If Council does not initiate the amendment, the process ceases and there is no Right of Review (appeal) to the State Administrative Tribunal. If the proposal progresses to Ministerial determination, irrespective of the Minister's decision, there is no Right of Review.

## POLICY IMPLICATIONS

10. *Draft Liveable Neighbourhoods Policy 3* is an integrated planning and assessment policy to assist with the design and assessment of structure and subdivision plans to guide urban development within metropolitan and regional Western Australia.
11. The Shire's *Aged Accommodation Strategy (June 2008)* states that by 2030 one in three people will be over 55 years old, with almost half of this population over 70 years old. The ageing population of the Shire will place increasing demand on the provision of suitable accommodation within the Shire. The planned expansion of the Waldrige Retirement Village will assist in addressing the anticipated demand for aged person dwellings.

## PUBLIC CONSULTATION/COMMUNICATION

12. If the amendment documents are adopted by Council, the Amendment will be formally advertised in accordance with the provisions of the *Town Planning Regulations 1967*, without reference to the Western Australian Planning Commission.

## FINANCIAL IMPLICATIONS

13. There will be a cost involved in the advertising of the proposed amendment, however this is covered in the adopted budget.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

14. **Strategic Planning Implications**
  - The subject property abuts a Private Clubs and Institutions zoned property and is within close proximity to commercial premises (shops).
15. **Sustainability Implications**
  - The proposed rezoning will allow for the additional development of aged person dwellings associated with the Waldrige Retirement Village, which will help address a well documented need for such housing within the Shire.

**Economic Implications**

  - It is efficient to use existing infrastructure to accommodate new development.

**Environmental Implications**

Some vegetation may be removed as part of any future development of the site. The extent of the vegetation will be assessed at the development or subdivision stage.

**OFFICER COMMENT**

16. The proposed amendment is consistent with the intent of *Draft Liveable Neighbourhoods Policy 3* prepared by the WA Planning Commission and the structure plan, in providing for a range of housing types in close proximity to commercial and community activities, and has no impact on the surrounding area.
17. The proposed zoning will allow for all of the subject lot to be developed for aged person dwellings.
18. In summary, the proposed rezoning readily integrates with the adjoining development on Lot 301, and will help address a well documented need for aged person dwellings within the Shire. On this basis, it is recommended that the proposed rezoning be supported.

**COMMITTEE RECOMMENDATION TO COUNCIL PS 44/2010**

1. That Council initiates an 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. 26

Resolved that the Council in pursuance of Part 5 of the Planning and Development Act 2005 amend the above Local Planning Scheme by:

Rezoning Lot 1 (33) Berkshire Road, Forrestfield, from Urban Development to Private Clubs and Institutions.

In accordance with the Scheme Amendment Map.

Subject to amendment documents and the required administration fee being submitted, the documents being adopted by Council and the Amendment being formally advertised in accordance with the provisions of the *Town Planning Regulations 1967*, without reference to the Western Australian Planning Commission.

Moved: Cr Donald McKechnie

Seconded: Cr Peter Heggie

**CARRIED UNANIMOUSLY (12/0)**

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

**45. Local Planning Scheme No. 3 Amendment – Initiation of text Amendment in relation to Special Rural and Rural Composite Zone Development Requirements**

Previous Items: Nil  
Responsible Officer: Director, Planning and Development Services  
Service Area: Planning Development Services  
File Reference: PG-LPS-003  
Applicant: Nil  
Owner: N/A

Attachments: Nil

**PURPOSE**

1. To consider initiating an amendment to Local Planning Scheme No. 3 (LPS 3) text relating to the development requirements for Special Rural and Rural Composite zoned properties.

**BACKGROUND**

2. Matters dealing with the development requirements of Special Rural and Rural Composite zoned properties are dealt with under clause 5.10.2 and 5.14.2 of LPS 3.
3. Currently LPS 3 exempts the need to gain planning consent for single dwellings, including extensions, ancillary outbuildings and swimming pools (with certain savings) in zones where a dwelling can be considered, except within a Special Rural and Rural Composite zone.

**DETAILS**

4. In order to be consistent across all relevant zones, it is proposed that LPS 3 be amended to exempt the need to gain planning consent for dwellings and outbuildings in Special Rural and Rural Composite zones.
5. Should this occur then planning approval will only be required for single dwellings, including extensions, ancillary outbuildings and swimming pools if they do not comply with other Scheme provisions such as setbacks. All other land uses would require planning consent regardless as to whether or not they comply with LPS 3 and Policy.
6. It is recommended that the following clauses be deleted from LPS 3, and the remaining clauses be renumbered accordingly:

*"5.10.2 Land Use and Development*

- (ii) Planning approval is required for all developments including a dwelling house and outbuildings.*
- (iii) No building shall be constructed unless the external materials shall be of colour and material as approved by the local government.*



The above clause relates to the Special Rural Zone.

*5.14.2 Land Use and Development*

- (i) *Planning approval is required for all developments including a dwelling house and outbuildings.*
- (ii) *No building shall be constructed unless the external materials shall be of colour and texture as approved by the local government."*

The above clause relates to the Rural Composite zone.

## **STATUTORY AND LEGAL IMPLICATIONS**

- 7. The *Town Planning Regulations 1967* establish procedures relating to amendments to local planning schemes. If Council decides to initiate the proposed amendment, then ultimately the amendment will be determined by the Minister for Planning.

## **POLICY IMPLICATIONS**

- 8. Nil

## **PUBLIC CONSULTATION/COMMUNICATION**

- 9. Should the amendment documents be adopted by Council, the Amendment will be formally advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*, without reference to the Western Australian Planning Commission.
- 10. The amendment will be advertised in the form of a notice being published in a newspaper circulated within the district only, due to not being related to any specific lot.

## **FINANCIAL IMPLICATIONS**

- 11. There will be a cost involved in the advertising of the proposed amendment; however this is covered in the adopted budget.

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

- 12. **Strategic Planning Implications**  
The amendment will assist in the procedural aspects of the Shire's development control responsibilities.
- 13. **Sustainability Implications**
  - Social implications**
    - Nil
  - Economic Implications**
    - Nil
  - Environmental Implications**
    - Nil

**OFFICER COMMENT**

14. Planning approval will only be required to be sought and obtained from the Shire should a proposal within a Special Rural or Rural Composite zoned area not comply with LPS 3 and/or policy requirements.
15. Should a development require planning approval, it will be assessed in accordance with the provisions of the Scheme, including clause 10.2 which includes the impact a development will have on the amenity of an area.
16. Given the above, it is recommended that Council initiates the amendment.

**COMMITTEE RECOMMENDATION TO COUNCIL PS 45/2010**

1. That Council initiates 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.

Resolved that Council, in pursuance of Part 5 of the Planning and Development Act 2005, amends the above Local Planning Scheme by:

- a) Deleting the following clauses:

*"5.10.2 Land Use and Development*

- (ii) Planning approval is required for all developments including a dwelling house and outbuildings.*
- (iii) No building shall be constructed unless the external materials shall be of colour and material as approved by the local government.*

*5.14.2 Land Use and Development*

- (i) Planning approval is required for all developments including a dwelling house and outbuildings.*
- (ii) No building shall be constructed unless the external materials shall be of colour and texture as approved by the local government."*

- b) The remaining clauses be renumbered accordingly.

Moved: Cr Frank Lindsey

Seconded: Cr Carol Everett

**CARRIED UNANIMOUSLY (12/0)**

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

**46. Local Planning Scheme No. 3 Amendment – Initiation of rezoning from Urban Development to Light Industry and Modification to Scheme Text - Lots 4, 9, 11, 12 Ibis Close, Lot 7 Raven Street, Lots 5 & 6 Sultana Road West and Lots 1 and 7 Milner Road, High Wycombe**

Previous Items: Not applicable  
Responsible Officer: Director Planning & Development Services  
Service Area: Planning & Development Services  
File Reference: PG-LPS-003/023  
Applicant: Not applicable  
Owner: Various

Attachments: Attachment 1 – Locality Plans Pages 6 & 7  
Attachment 2 – Proposed Forrestfield Industrial Area, Page 8

### **PURPOSE**

1. To consider initiating an amendment to Local Planning Scheme No. 3 (LPS 3) to rezone the subject sites (the land) from “Urban Development” to “Light Industry”. Refer **(Attachments 1a & 1b.)** - Locality Plan. It is also proposed to insert provisions into LPS relating to the preparation of a Structure Plan for the land.

### **BACKGROUND**

2. The land is currently zoned Urban Development under LPS 3 having been rezoned from Rural upon gazettal of LPS 3 in 2007 forming a cell ostensibly for residential development. Prior to any development or subdivision occurring within the cell, it is necessary for the preparation and adoption of a Structure Plan.
3. A Structure Plan was submitted in 2007 and advertised for public comment. Due to the land potentially containing a Threatened Ecological Community (TEC) it is a LPS 3 provision that a vegetation management plan be prepared to the requirements of the Environmental Protection Authority.
4. Prior to the vegetation management plan being prepared a portion of the cell containing the TEC was substantially cleared of vegetation. The clearing was investigated by the Environmental Protection Authority. This precluded the Environmental Protection Authority from providing further environmental advice in relation to the Structure Plan. Effectively, this caused the Structure Plan to be held in abeyance.
5. Since the submission of the Structure Plan, Council has considered broader strategic planning objectives for High Wycombe and Forrestfield for the land south of Poison Gully to Berkshire Road and between Roe Highway and Dundas Road as part of the extension of the Forrestfield Industrial Area, identified under the Kewdale Hazelmere Integrated Master Plan 2006. Refer **(Attachment 2.)** – Proposed Forrestfield Industrial Area.

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6. With the continued potential expansion for industrial uses, the land is increasingly being isolated as an appropriate residential area and will effectively be completely surrounded by Industrial land. As such, it is considered that rather than retain the land for residential purposes, and thus potentially diminish its amenity through the encroachment of industrial development, that it would be best utilised for future industry itself.

#### **DETAILS**

7. It is proposed that the land be rezoned from Urban Development to Light Industry. The lots have a combined total of 22.061 hectares and are mostly under developed.
8. It is also proposed that existing specific provisions within the Scheme relating to environmental considerations be amended by deleting the reference to Urban Development and replacing it with Light Industry and including provisions relating to the preparation of a Structure Plan.

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

9. The *Town Planning Regulations 1967* establish the procedures relating to amendments to local planning schemes. If Council decides to initiate the amendment, then ultimately it will be determined by the Minister for Planning. If the matter proceeds to the Minister's determination, there is no Right of Review, irrespective of the Minister's decision.
10. As the land is already zoned Urban, there will not be a need to amend the Metropolitan Region Scheme.
11. The proposed Scheme amendment will need to include provisions for the subject land under Part 6 – Special Control Areas of the Scheme which will provide the necessary statutory basis for the preparation of a structure plan for the subject land.

#### **POLICY IMPLICATIONS**

12. Nil

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

13. Prior to Council formally considering the Amendment, owners within the subject land area were advised of the Shire's intent to propose rezoning the land to Light Industry.
14. If the Amendment is initiated by Council, following consent from the Environmental Protection Authority, it will be formally advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*. Land owners and occupiers within the subject land and nearby affected owners will be contacted in writing as well as notices being placed on site and in a newspaper circulating in the District.

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**FINANCIAL IMPLICATIONS**

15. Nil at this stage. If the Amendment proceeds preparation of the documents and statutory advertising will be undertaken by Planning & Development Services.

**STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

16. **Strategic Planning Implications**
- If implemented, the proposal will form a rounding off of the substantive future industrial area proposed for the Forrestfield and High Wycombe localities.
17. **Sustainability Implications**
- Social Implications**
- Nil at this stage. Future zoning of nearby land for industrial purposes would impact on the amenity of the subject land if it were developed for residential purposes. Rezoning of the land for industrial purposes will mitigate the need to consider the need for buffers or land use interfaces which are considered undesirable in this potential situation. As opposed to the land being developed for residential purposes, it is unlikely that existing dwellings will be retained once development occurs.

**Economic Implications**

- If developed for Industrial purposes, the land will form part of a strategic industrial area providing employment opportunities for the community.

**Environmental Implications**

- Nil at this stage. If the land is rezoned, it will be necessary for the preparation of a Structure Plan which, amongst other matters, will address the TEC based on advice from the Environmental Protection Authority. It is possible that a portion of the land would need to be set aside for conservation under a tenure yet to be determined. It should be noted that all environmental constraints are not known at this stage but will be borne out through the amendment and Structure Planning procedures if the proposal proceeds. Specific environmental studies, such as ground water monitoring would be undertaken as part of the Structure Planning process.

**OFFICER COMMENT**

18. Since the land was rezoned in 2007 for Urban Development, there has been significant strategic planning for nearby land holdings. Given the progression thus far in the proposed Forrestfield Industrial Area and its effective encroachment towards the Urban Cell it is considered that zoning the subject land for future industrial use provides the best planning outcome.

**COMMITTEE RECOMMENDATION TO COUNCIL PS 46/2010**

1. That Council initiates an 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. 23

Resolved that the Council in pursuance of Part 5 of the Planning & Development Act 2005 amends the Local Planning Scheme by:

Rezoning Lots 4, 9, 11 & 12 Ibis Close, Lot 7 Raven Street, Lots 5 & 6 Sultana Road West and Lots 1 & 7 Milner Street, High Wycombe from Urban Development to Light Industry.

Insert an additional provision in the Scheme as follows:

- 6.1.4 No development and/or subdivision shall commence or be carried out within the Light Industrial Area bound by Milner Road, Sultana Road West, Maida Vale Road and Raven Street, High Wycombe until a Structure Plan is prepared in accordance with Clause 6.2 – Development Areas, of the Scheme.

That the Scheme map be modified to identify the subject site with the annotation 'DA'.

Delete clause 6.2.10 of the Scheme and replace with the following clause

- 6.2.10 In respect of the Light Industry zone generally bounded by Milner Road, West Sultana Road, Dundas Road and Maida Vale Road, the Structure Plan for this area shall ensure the protection of the threatened ecological community in the area of Lot 12 (11) Ibis Place, High Wycombe, for conservation purposes. The boundary of the threatened ecological community shall be defined from botanical survey by a suitably qualified botanist and may extend beyond the lot boundary. In addition, a vegetation management plan shall be prepared and implemented. The management plan and boundary determination shall be completed on advice of the Department of Environment and Conservation and to the requirements of the Environmental Protection Authority, prior to determination of the Structure Plan.

Delete Part 2: Milner Road, High Wycombe from Schedule 11 - Development Areas and replace with:

In respect of the Light Industry zone generally bounded by Milner Road, West Sultana Road, Dundas Road and Maida Vale Road, the Structure Plan for this area shall ensure the protection of the threatened ecological community in the area of Lot 12 (11) Ibis Place, High Wycombe, for conservation purposes. The boundary of the threatened ecological community shall be defined from botanical survey by a suitably qualified botanist and may extend beyond the lot boundary. In addition, a vegetation management plan shall be prepared and implemented. The management plan and boundary determination shall be completed on advice of the Department of Environment and Conservation and to the requirements of the Environmental Protection Authority, prior to determination of the Structure Plan.

Moved: Cr Donald McKechnie

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (12/0)**

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*This item was tabled as the first item on the Agenda; there were 120 people in the galley & overflow into the Function Room. The majority of whom left after the motion was passed. There was a 10 Minute Adjournment at 7.30pm to allow people to leave the gallery. The meeting reconvened at 7.40pm.*

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

#### **47. Lot 117 (159) Canning Road, Kalamunda– Redevelopment of Hare Krishna Temple**

Previous Items: Nil  
Responsible Officer: Director, Planning & Development Services  
Service Area: Planning & Development Services  
File Reference: CN-01/159  
Applicant: S R M Bhamidipati  
Owner: Haladhar Holdings Pty Ltd

Attachments: Attachment 1 – Locality Plan, Page 9  
Attachment 2 – Artist Impression, Page 10  
Attachment 3 – Site Plan, Page 11  
Attachment 4 – Ground Floor Plan, Page 12  
Attachment 5 – Upper Storey Floor Plan, Page 13  
Attachment 6 – Elevations, Page 14  
Attachment 7 – Elevations, Page 15  
Attachment 8 – Consultation Plan, Page 16  
Attachment 9 – Submission Table, Pages 17-25

#### **PURPOSE**

1. For Council to consider an application for the redevelopment of an existing Place of Worship (Hare Krishna Temple) on Lot 117 (159) Canning Road, Kalamunda. Refer **(Attachment 1)** for Locality Plan.
2. The application is referred to Council due to the public interest generated and on the basis that the applicant is seeking dispensation for the required number of car bays under the provisions of Local Planning Scheme No. 3 (LPS 3).

#### **BACKGROUND**

3. The subject lot is a Local Reserve – Public Purpose (Church) under the provisions of LPS 3 and currently contains a place of worship and associated car parking. Access to the lot is obtained via two separate crossovers on Canning Road, and mature landscaping exists along the front boundary of the lot which is to be retained.
4. Surrounding lots contain single storey dwellings with the exception of the rear lot which is currently vacant and Local Open Space. It should be noted that the owners of the subject lot also own the lot adjoining the north (side) boundary (155 Canning Road) which contains a single dwelling.



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## DETAILS

5. The proposal is for the redevelopment of the existing place of worship on the lot, which includes the following modifications:
- A double storey extension to the rear of the existing place of worship with a total floor area of 640sqm.
  - The extension is to include a kitchen, multi purpose room (for teaching programs and internal meetings), a shop and a new main entry on the ground floor, and a dining room on the upper floor;
  - The extension (excluding the spiral towers) is proposed to be 9m in height from the natural ground level;
  - Spiral towers are proposed to be constructed at the front of the building (between 11.5m to 17.2m in height) and at the rear of the building (between 11.6m to 12.5m); and
  - A new entrance gate is proposed adjacent to the north (side) boundary, which will be 7.5m in height.

Refer to **(Attachments 2-7)** for an artist's impression of the proposal, a site plan, floor plans and elevations.

6. The operating times of the temple are as follows:

Monday to Saturday

- 4.30am – Early service
- 5am – Private meditation
- 7am – Morning service
- 7.45am – Morning scripture lesson (finishing 8.30am)
- 6pm – Evening service
- 7pm – Evening scripture lesson (finishing 7.30pm)

Sundays

- 4.30pm to 8pm – The main program for congregation

7. The applicant is proposing a total of sixty (**60**) parking bays in lieu of one hundred and eighty nine (**189**) bays required under the provisions of LPS 3, a shortfall of one hundred and twenty nine (**129**) bays.
8. The building is to be setback 18.6m from the front boundary, 13.1m from the south boundary, 12.8m from the north boundary and 28.4m from the rear boundary.
9. The applicant's justification in favour of the proposed redevelopment is the following:
- *"The use as a place of worship has been established within its setting for over thirty years. The proposed style, form and bulk of the additions to the existing building are compatible with its identity as a place of worship, denoting particular cultural origins and assimilation into contemporary context."*

- *It is anticipated that congregational migration to and from the temple site will be similar in volume to its previous function as a Gospel Hall. Hare Krishna Sunday Feast Programs are conducted weekly and open to the public, which embraces social and community interaction.*
  - *Local amenity is generally not impacted by the proposal and therefore preserved. Visually, the proposed additions and embellishments are mostly obscured by the existing established trees at the front of the property. The proposed entry gates announce the temple to the street and give a hint of the architecture beyond.*
  - *The capacity of the facility is unchanged from its current status, therefore no significant increases in traffic generation are expected, except for on the occasion of a couple of major festivals each year, akin to Christmas and Easter, when increased attendance occurs."*
10. In addition to the above, the applicant has also advised the following:
- That the week day services are currently attended by approximately 6 people, and the Sunday service is currently attended by approximately 100 to 150 people, and this will remain unchanged;
  - No calls to prayer or bell ringing will occur prior to or after services; and
  - The dining room will not be open when services are occurring.

## STATUTORY AND LEGAL IMPLICATIONS

### 11. Local Planning Scheme No. 3

Clause 3.4 of LPS 3 stipulates the following with regard to the use and development of Local Reserves:

*"3.4.1 A person must not –*

*use a Local Reserve; or*

*commence or carry out development on a Local Reserve,*

*without first having obtained planning approval under Part 9 of the Scheme.*

*3.4.2 In determining an application for planning approval the local government shall have regard to -*

*the matters set out in clause 10.2; and*

*the ultimate purpose intended for the Reserve."*

12. Under clause 5.8.2 of LPS 3 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 regards to the scale and nature of the intended use.

13. In considering an application for planning approval, clause 10.2 of LPS 3 requires the Shire to have due regard to a number of matters, including:

- (i) the compatibility of a use or development within its settings;*
- (n) the preservation of the amenity of the locality;*
- (o) relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (y) any relevant submissions received on the application."*

14. LPS 3 parking standards for the use Place of Worship are as follows:

<b>LPS 3 Parking Requirements</b>	<b>Aggregate Net Lettable Area (NLA)</b>	<b>Bays Required</b>	<b>Bays Provided</b>
1 bay for every 5sqm of NLA	944sqm	189	60

Based on LPS 3 car parking requirements, the proposed development requires one hundred and eighty nine (**189**) bays. Sixty (**60**) parking bays are proposed to be provided, a shortfall of one hundred and twenty nine (**129**) bays.

15. LPS 3 does not contain site requirements (e.g. setbacks) for properties zoned as Local Reserve.

16. Health (Public Buildings) Regulations 1992

The building is currently approved to accommodate 450 people. Should the proposed redevelopment be approved by Council, then in accordance with the Regulations, up to 562 people can be allowed in the place of worship at any one time based on the principle that the following can be accommodated in the following areas of the building:

- Temple area – 450 people;
- Multipurpose room – 62 people

Dining room – 50 people

17. 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**

18. Nil

### **PUBLIC CONSULTATION/COMMUNICATION**

19. The proposal was advertised to adjoining property owners for comment due to the scale of the proposed development potentially having an impact on the amenity of the locality and due to the car parking variation, and thirty two (32) objections and 2 non-objections were received. Any submissions received after the advertising have not been included in this report. Seven of the submissions received were from properties outside of the advertisement area and are therefore not shown on the consultation plan. Refer to **(Attachments 8 and 9)** for the consultation plan and submission table.
20. In summary, the main concerns raised during advertising were:
- The potential increase in noise and traffic levels;
  - Current parking issues getting worse;
  - The scale of the proposal being out of character for the area; and
  - Nearby residents losing their privacy.

### **FINANCIAL IMPLICATIONS**

21. Nil

### **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

22. **Strategic Implications**
- The purpose of the subject Local Reserve is for the use Place of Worship.
23. **Sustainability Implications**
- Social**
- The proposed redevelopment will allow for more patrons to attend services and the dining facilities.
- Economic**
- Nil
- Environmental**
- Nil

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**OFFICER COMMENT**24. Car Parking

The applicant is seeking Council approval for dispensation for the prescribed car parking requirement under the Scheme. The applicant is proposing **60** bays in lieu of **189** bays required under the Scheme, a shortfall of **129** bays with no additional space apparent on site to provide additional bays.

25. LPS 3 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.

26. Under the provisions of LPS 3 as well as the policy for the framework for assessing requests for variation of the number of car parking bays, it is stipulated that the applicant needs to provide advice about the prospective tenant as to their current and future parking needs whilst seeking a dispensation.

27. The applicant has advised that the week day services are currently attended by approximately 6 people, and the Sunday service is currently attended by up to **150** people, and this will remain unchanged.

28. The Shire has received concerns from residents in the past regarding vehicles belonging to patrons attending services at the place of worship, parking along the adjoining verge obstructing the sightline of drivers leaving nearby properties. A Traffic Impact Assessment was requested to demonstrate what impact if any, the proposal would potentially have on the local area, however this was not provided.

29. The proposed two storey extension at the rear of the existing building will occupy approximately 473sqm of an unmarked area currently used for car parking purposes.

30. One of the main functions of Hare Krishna temples is that those who do and do not attend services are able to use the dining room facilities when the place of worship is open. In addition to this a shop is proposed to be available on site, which will sell items associated with the religion.

31. The current place of worship is currently approved to accommodate 450 people. Should the proposed redevelopment be approved by Council, then in accordance with the Regulations, up to 562 people can be allowed in the place of worship at any one time based on the principle that the following can be accommodated in the following areas of the building:

- Temple area – 450 people;
- Multipurpose room – 62 people
- Dining room – 50 people

- 
32. On the basis of the potential capacity of the building and the limited proposed parking it is believed that the lack of parking facilities will present a problem should the development proceed.
33. Appearance of Redevelopment  
The proposed redevelopment includes the following:
- The extension (excluding the spiral towers) is proposed to be 9m in height from the natural ground level;
  - Spiral towers which are bright gold in colour, are proposed to be constructed at the front of the building (between 11.5m to 17.2m in height) and at the rear of the building (between 11.6m to 12.5m); and
  - A new entrance gate is proposed adjacent to the north (side) boundary, which will be 7.5m in height.
34. Surrounding residential properties contain single storey dwellings. The properties adjoining the subject lot will only be screened from the proposed redevelopment by the existing 1.8m high dividing fencing. No additional landscaping is proposed.
35. The design proposed includes balconies fronting the north and side boundaries of the lot. Despite there being no legislation with regard to overlooking issues from non-residential development, the affect on amenity is required to be considered under clause 10.2 of LPS 3. No screening methods are proposed along the balconies.
36. It is considered that the proposal does not conform to the objectives of the LPS insofar as the scale, bulk and design of the building is substantially different to that in the immediate locality and that there is a significant shortfall in the required number of parking bays. It is recommended that the application is refused.
37. The Chairperson invited those who wished to speak on the item to come forward and the following people made statements.
38. Mr Philip Thompson, architect spoke against the motion on behalf of the applicant regarding 159, Canning Road, Kalamunda.
39. Ms Jane Kandhai, 29 Tuart Road, Lesmurdie spoke against the Motion on behalf of the applicant regarding 159 Canning Road, Kalamunda.
40. The Chairperson agreed that Ms Kandhai could ask questions as she had missed Question Time due to the speakers in the public gallery not being loud enough. Ms Kandhai asked the following questions:
1. With reference to the Purpose of the Report – why did the Shire allow for a three week advertising period and directly consult with more residents than just the direct and immediate neighbours?
  2. Could this be the underlying cause for the increased public interest?

3. What policies are in place to ensure that advertising of all applications being addressed within the Shire of Kalamunda are treated in a consistent and fair manner?
4. The advertising was conducted for the “Development of Hare Krishna Temple” and did not correctly reflect the purpose of the application, is it possible that the responses received is a reflection of biasness due to a religious issue and not for the proposed development?
5. Why did the Officer not correctly reflect the purpose of the application as stated by the applicant on the MRS Form 1 in the advertising of the application and in the Report before Council?
6. Why did the Officer fail to consult with the applicant prior to changing the description of proposed development as stated on the MRS Form 1?
7. Why wasn't the applicant formally provided with the opportunity and invited to comment on the submissions received for inclusion in the report in order to provide a balanced report?
8. Why has the officer incorrectly stated that the applicant is seeking dispensation on the number of parking bays when the applicant has not been advised of a shortfall of car parking bays as mentioned in the Report?
9. What is the full definition of NLA under the Scheme?
10. What is the legislative frame-work forming the basis for the assessment of the proposed modification to the existing structure as outlined in the MRS Form 1?
11. Given that there are fifty (50) recognised Places of Worship within the Shire of Kalamunda – what are the Council adopted policies and applicable legislation that exist to ensure that the processing of all applications are treated in a transparent and equitable manner?
12. Why has the officer failed to include in the Report the current traffic situation – i.e. the Place of Worship is approved for 450 people capacity and there are no known traffic issues associated with access to the site?
13. What formed the statutory basis for the officer's suggestion to the applicant for the provision of a Traffic Impact Assessment?
14. Are there any traffic generation rates set for Places of Worship in Australia?
15. Could Council provide a list of Traffic Impact Assessment imposed on other Places of Worship within the Shire?

At this point the Chairperson advised the speaker her time had expired. Ms Kandhai requested her additional questions also be tabled; the Chairperson acceded to the request and the following questions were tabled:

16. Is the road wide enough for passing of turning vehicles in the vicinity of the subject lot?
17. What is the crash statistics for the area in the vicinity of the subject lot?
18. Under the WAPC guidelines what is the traffic requirement for a proposal of this size?
19. With reference to the Report under point 30, the Officer makes a statement about eating hall and shop – what does this have to do with the proposed development?
20. Whilst the Officer has mentioned the immediate locality is zoned residential under Local Planning Scheme 3 why has the officer failed to mention in the Report the proposal does conform with the intended zoning of the subject lot as a Place of Worship in its scale, bulk and design of the building?

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21. How did the Officer determine whether and how the temple could impact on the attractiveness and value of the other properties within the area?
  22. Why did the Officer's advice to the applicant about a shortfall of three (3) car parking bays not match that stated in the Report?
  23. What evidence does Council have of prior formal notification being given to the applicant for the alleged shortfall of one hundred and twenty nine (129) car parking bays?
  24. Can Council explain the sudden change in numbers?
  25. Are verge and on-street parking permitted within the Shire of Kalamunda?
  26. Can Council provide the calculation outlining how the NLA was determined?
  27. Under Local Planning Scheme No. 3, how many approvals have been granted dispensation under delegation and before Council for the shortfall car parking bays with the Shire of Kalamunda and what are the numbers that have been approved?
  28. Does all existing Places of Worship within the Shire meet the requirements of LPS no.3?
  29. What are the changes from the previous Town Planning Scheme compared to LPS no 3 for Place of Worship?
  30. What Council adopted Policy was used to determine the height limit for the proposal?
  31. Is it true that there are no territorial privacy laws in Australia?
  32. Could Council provide the checklist that was used for determine privacy as being an issue of concern?
  33. Can council provide a list of roofs and walls in height above 9m that exist within the Shire – e.g. other Places of Worship, Schools, any buildings within the Kalamunda Town Centre, Pub, and even private dwellings?
  34. What is Shire's limitation of towers?
  35. What formed the basis of Council approving the existing telecom tower, television tower, Western Power Transformer site at Wilkins Road and Lewis Road, the Peak Service Station as well as the Kalamunda Glades Shopping Centre and the roof height on no. 3 Pauline Avenue?
  36. What's the Shire' policy on entrance statements?
  37. How are entrance statements, building height, bulk and scale of a Place of Worship being assessed in a consistent and auditable manner within the Shire of Kalamunda?
  38. With reference to "y" in the Report – How does the Shire determine "relevancy"?
  39. How did the Officer determine whether and how the temple could impact on the attractiveness and value of the other properties within the area?
  40. Is it true that the Shire was given the first option to purchase the subject lot by the previous owners and that the Shire had declined the offer prior to it being placed on the market?
41. The Chairperson noted that these questions would be taken on notice but requested the Director of Planning and Development Services to give a brief response.
  42. Regarding the advertising period, the Direct Planning and Development Services answered that he requested the period be extended because he felt the initial letter to neighbours was inadequate in the way it described the proposal. He, therefore, requested a further letter be sent and the advertising period extended, also the sign had not been placed on site.



43. Regarding the traffic assessments; Director Planning and Development Services noted that this is a normal procedure with most Councils for any major development.
44. Mr Paul Kotsoglo, Director Planning Solutions spoke in favour of the Motion.
45. Ms Jessie Owen of Pauline Avenue, Kalamunda spoke in favour of the Motion.
46. Mr John Giardina of Glyde Road, Lesmurdie spoke in favour of the Motion.
47. A Councillor asked the Director of Planning and Development Services if there are any other regional or state headquarters of religious denominations within residential areas in the Shire of Kalamunda. This question was taken on notice.
48. A Councillor had circulated a Motion prior to the commencement of the meeting this was tabled when the Officer's Recommendation Lapsed.

**OFFICER RECOMMENDATION****PS 47/2010**

1. That Council refuses the application dated 12 February 2010 to redevelop the existing place of worship on Lot 117 (159) Canning Road, Lesmurdie, for the following reasons:
  - a) An insufficient number of parking bays as required under Local Planning Scheme No. 3 are provided on site.
  - b) The bulk, colours, scale and height of the proposal is incompatible with the built form of surrounding development and would not preserve the amenity of the locality.
2. Note the petition and advise the main petitioner of the Council's decision.

There was no Mover and the Recommendation **LAPSED**

**COMMITTEE RECOMMENDATION TO COUNCIL****PS 47/2010**

That Council:

1. Refuses the application dated 12 February 2010 to redevelop the existing place of worship on Lot 117 (159) Canning Road, Lesmurdie, for the following reasons:
  - (a) An insufficient number of parking bays as required under Local Planning Scheme No. 3 are provided on site.
  - (b) The bulk, colours, scale and height of the proposal is incompatible with the built form of surrounding development and would not preserve the amenity of the locality by virtue of:
    - (i) The potential increase in traffic as a result of the increased capacity of the proposed building and the attendant vehicle access and circulation problems as a result of the increased capacity and lack of on site parking;
    - (ii) The additional noise as a result of the potential increase in activity on the site;

- (iii) The proposed balconies along the northern, southern and western perimeter of the second floor of the temple will adversely affect the amenity of the area by reducing the privacy presently enjoyed by neighbouring properties
  - (iv) The imposing nature of the building and spiral towers by comparison with adjoining buildings and streetscape.
2. Note the petitions and advise the main petitioner of the Council's decision.

Moved: Cr Frank Lindsey

Seconded: Cr Geoff Stallard

**CARRIED UNANIMOUSLY (12/0)**

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

**48. Lot 49 (Reserve 47766) Elmore Way, High Wycombe- Expenditure of Cash-in-Lieu Funds**

Previous Items: N/A  
Responsible Officer: Director, Planning & Development Services  
Service Area: Planning Services  
File Reference: KL-02/530  
Applicant: Shire of Kalamunda  
Owner: Shire of Kalamunda

Attachments: Attachment 1 – Locality Plans, Pages 26 & 27  
Attachment 2 – Concept Development Plan, Page 28  
Attachment 3 – Works Schedule, Page 29

**PURPOSE**

1. To consider an allocation of cash-in-lieu funds for development public open space (POS) located on Lot 49 (Reserve 47766) Elmore Way, High Wycombe (***Attachments 1a. & 1b.***).

**BACKGROUND**

2. The subject Reserve forms part of the High Wycombe “Town Centre Concept” adopted by Council to guide commercial development, community infrastructure and aged persons’ housing. Refer (***Attachment 2.***) Concept Development Plan.
3. In conjunction with the “Town Centre Concept” the developer entered into a Deed of Agreement with the Shire which outlined certain obligations and agreements between the parties. In respect to cash-in-lieu of Public Open Space, the Deed states that the Shire would support an application by Mr Cinanni to use the funds for the improvement or development of the POS and water feature.
4. The Deed includes a works schedule for the Public Open Space to be implemented by the developer. Refer (***Attachment 3.***) Works Schedule.

**DETAILS**

5. The cash-in-lieu payment for Public Open Space has been made by the developer. In accordance with legislation the Council must make application to the Minister for Planning for the expenditure of the funds in the development of Public Open Space.
6. The cash-in-lieu amount is \$278,988.00.

**STATUTORY AND LEGAL IMPLICATIONS**

7. Sections 153 and 154 of the Planning & Development Act 2005 contain provisions under which a cash payment can be made by the subdivider to the relative Local Government Authority in lieu of providing land for open space.

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8. Planning Policy DC 2.3 – Public Open Space in Residential Areas established the requirements of the WAPC for POS and the provision of land for community facilities in residential areas. The policy requires that 10% of the gross subdivisible area shall be given up free of cost by the subdivider for POS and that expenditure of cash in lieu funds must be directed to the locality where the funds were raised.

#### **POLICY IMPLICATIONS**

9. The Cash-in-lieu Application Process Policy was adopted at Council's Ordinary meeting on 19 April 2010 and is intended to provide clear guidelines and consistency in the provision of cash-in-lieu funds for the community, inclusive of an application process for project proposals.

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

10. Nil.

#### **FINANCIAL IMPLICATIONS**

11. Subject to Ministerial approval, the cash-in-lieu funds will be expended in the Public Open Space as part of the Schedule of Works as agreed to by Council.

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

12. *Shire of Kalamunda Strategic Plan 2009-2014*

*1.3.3 Effective management of recreational open space requirements to maintain the feeling of a community and family friendly atmosphere; and*

*1.3.5 Development of active & passive recreational facilities based on evidence supported evaluation and environmentally sustainable principles.*

#### **OFFICER COMMENT**

13. Expenditure of the cash-in-lieu funds in the Public Open Space has been agreed to by Council under the Deed of Agreement. It is recommended that Council request Ministerial approval for the expenditure of the funds.

#### **COMMITTEE RECOMMENDATION TO COUNCIL**

**PS 48/2010**

1. That Council endorses a request to the Minister for Planning to approve the expenditure of \$278,988.00.

Moved: Cr Carol Everett

Seconded: Cr Dylan O'Connor

**CARRIED UNANIMOUSLY (12/0)**

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

#### **49. Proposal for Domestic Cat Control Legislation – Consultation Paper**

Previous Items:	Nil
Responsible Officer	Director Community Development
Service Area:	Community Development
File Reference:	RA-ANC-003
Applicant:	N/A
Owner:	N/A
Attachments	Attachment 1 - Consultation Paper Executive Summary, Page 30 Attachment 2 - Consultation Feedback Form, Page 33

#### **PURPOSE**

1. To consider making a response to the State Government proposal to introduce Domestic Cat Control Legislation.

#### **BACKGROUND**

2. The subject of domestic cat control legislation has been under consideration for a number of years. Whilst the State Government has not introduced any State-wide legislation at this point, a number of Local Governments have adopted various Cat Control Local Laws.
3. The overarching objective for introducing cat legislation is to reduce the number of stray (unowned) cats in Western Australia. This will be achieved through
  - Encouraging responsible pet ownership behaviour by members of the community that own cats or look after a cat in some way; and
  - The implementation of cat control legislation across the whole State.

#### **DETAILS**

4. The Department of Local Government has recently released a Consultation Paper "*Proposal for Domestic Cat Control Legislation*" (June 2010), and is now seeking feedback from key stakeholders and members of the community on the proposals outlined in the paper, by 30 July 2010.
5. A copy of the Consultation Paper Executive Summary (***Attachment 1***) highlights that Local Governments will be required to administer and enforce the legislation, which includes the following mandatory elements:
  - Identification in the form of microchipping and/or collars and tags;
  - Registration; and
  - Sterilisation.

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6. The Impact Analysis (Section 4) of the paper attempts to identify the costs and benefits of the various cat control options under consideration.
  7. It is noted under Section 4.1.1. *Identification*, (Local Government Costs), that implicit in the proposal to require cats to be identified is the role and associated resource implications of Local Governments being required to seize and impound unowned cats, in addition to the Local Government's willingness to enforce the provisions.
  8. It appears that while there is a consensus on the requirement and benefits of micro-chipping, the main reason for compulsory registration is to provide a source of revenue for Local Governments to off-set some of their costs.
  9. The Tasmanian Government has recently introduced cat control legislation and will not be requiring compulsory registration. The discussion paper released prior to their legislation being developed, identified that with a requirement for microchipping, there were no additional benefits from registration in relation to the control of cats.

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

10. The Shire of Kalamunda does not have any Cat Control Local Laws or Policies in relation to this issue.
11. If or when the proposed option for State-wide legislation is introduced, with all or some of the three key provisions included, the Shire of Kalamunda will be required to implement and enforce the provisions of the State legislation in their local communities.

#### **POLICY IMPLICATIONS**

12. Nil.

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

13. The Department of Local Government *Proposal for Domestic Cat Control Legislation* Consultation Paper (June 2010) was released to the public and Local Governments on 9 June 2010. A copy of the paper was emailed to Councillors on 11 June 2010 by the Manager of Governance, a hard copy has also been circulated to Councillors.
14. Shire Officers have consulted with various Local Governments, Western Australia Local Government Association (WALGA) and the WA Rangers Association in order to obtain an industry wide view of the proposed new legislation.

15. WALGA will be submitting their own submissions and have invited feedback from Local Government members by 8 July 2010.

## FINANCIAL IMPLICATIONS

16. If the legislation as proposed is introduced, significant once-off and ongoing costs will be imposed on Local Government through its role in administering and enforcing the provisions of the proposed new legislation. For example, Local Governments will be responsible for managing any registration process including the maintenance of relevant databases. In addition, Local Governments will be expected to seize and impound unregistered or unidentified cats.
17. Costs may be incurred through the purchase of equipment and the requirement for officers to undergo training and accreditation.
18. Other costs that would most likely be incurred by Local Government are:
- Education and Public Awareness
  - Handling queries and complaints
  - Re-homing and euthanizing
  - Processing of registration fees, fines and penalties
  - Subsidy for the sterilisation of cats.
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19. The impounding of cats may require additional pound facilities, or for arrangements with providers to be negotiated.
20. Based on information provided by those Councils that have cat control Local Laws and provide a level of enforcement, the following cost estimates have been established:
- |                          |  |
|--------------------------|--|
| • Additional Ranger      | \$64,000   |
| • Administration FTE 0.5 | \$28,000   |
| • Training               | \$2,500 (Including current Ranger staff)   |
| • Cattery                | \$80,000   |
| • Vehicle and canopy     | \$50,000 (Plus annual operating costs \$7,500)                                   |
| • Equipment              | \$7,000 (Microchip reader, cat traps x 6, transfer kennels x 3, protective wear) |
| • Vet Services           | <u>\$3,500</u> (euthanasia, sterilisation subsidies)                             |
| TOTAL SET-UP COSTS       | \$235,000  |

Ongoing operating costs are estimated to be approximately \$110,000.

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21. Although the consultation paper states there may be an argument for the State Government to contribute to the initial set-up costs and training, it is the ongoing administration and enforcement that would significantly impact on Council's future operating budgets.

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

22. **Strategic Planning Implications**

- Nil.

23. **Sustainability Implications**  
**Social Implications**

- Proposed Legislation has potential to reduce the number of stray (unwanted) cats and encourage responsible pet ownership.

**Economic Implications**

- Compulsory micro-chipping, sterilisation and registration of cats will impact mostly on low income earners and pensioners, particularly those with multiple cats.

**Environmental Implications**

- Proposed Legislation has potential to reduce the impact of unowned cats on the natural environment and wildlife.

## **OFFICER COMMENT**

24. A compulsory registration element to the legislation will not achieve the main objective which is to reduce the number of stray cats in WA. It will only identify registered cat owners on a cat database.
25. Compulsory sterilisation may benefit the Community with the following:
- Reduce wandering and fighting with neighbours cats
  - A reduction in litter numbers
  - Risk the spread of infectious disease
  - Urine spraying on other properties or climbing scratch damage to vehicles
  - Noise complaints generated by mating at night
26. Education is essential as it can highlight to cat owners the health benefits of sterilisation and also show them what impact large cat numbers can have on our society and environment.
27. This proposal is not one that has been driven by the community, or by Local Government. This can be borne out by the fact that only 19 of the 139 Local Governments have Cat Control Local Laws, indicating that this is not an issue that the community believe requires statutory intervention and enforcement.



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28. The benefits identified in the Consultation Paper are mostly assumptions, as there is no clear evidence to-date that suggests the proposed measures will in fact achieve the policy objectives.
29. Based on the information and research provided in the consultation paper, it would be the Officer's preference that Council provide the following comments in response to the consultation paper:
- a) That it is unreasonable to expect Local Government to incur significant additional costs to enforce legislation that is not needed and will not achieve the stated policy objective.
  - b) That Local Governments continue to promote responsible cat ownership by encouraging cat owners to have their cats sterilised and request that they keep their cats contained to the property at all times.
  - c) Owners should be required to permanently identify their cats by means of a collar with a tag securely attached or a microchip implanted containing contact information of the owner.
  - d) That Local Governments continue to encourage responsible cat ownership by residents, through educational and promotional programmes, and by subsidising sterilisation for cat owners in their districts.
30. Following the outcome of the consultation, if State Legislation is not introduced, there would be an opportunity for Council to consider the adoption of Cat Control Local Laws if there was to be strong community support for an enforcement approach.

#### **COMMITTEE RECOMMENDATION TO COUNCIL PS- 49/2010**

1. That the following comments and the Feedback Form (*Attachment 2*) be provided in response to the Domestic Cat Control Legislation Consultation Paper:
- a) That it is unreasonable to expect Local Government to incur significant additional costs to enforce legislation that is not needed and will not achieve the stated policy objective.
  - b) That Local Governments continue to promote responsible cat ownership by encouraging cat owners to have their cats sterilised and request that they keep their cats contained to the property at all times.
  - c) Owners should be required to permanently identify their cats by means of a collar with a tag securely attached or a microchip implanted containing contact information of the owner.
  - d) That Local Governments continue to encourage responsible cat ownership by residents, through educational and promotional programmes, and by subsidising sterilisation for cat owners in their districts.

Moved: Cr Carol Everett

Seconded: Cr Geoff Stallard

**CARRIED UNANIMOUSLY (12/0)**

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**11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**12.0 QUESTIONS BY MEMBERS WITHOUT NOTICE****12.1 Responses to Shire President's Dinner – Cr Donald McKechnie**

Q. Please could all Councillors give a response regarding their attendance by the end of the evening.

A. The Chairperson noted this request.

**12.2 Contentious Agenda Items – Cr Sue Bilich**

Q. Why are contentious items not placed as the first item on the Agenda?

A. Director Planning and Development Services noted that it was not up to his Officers to decide which items would be contentious, however, he will endeavour to have contentious items placed first on the Agenda in future.

**12.3 Feedback on new location of Plants for Residents – Cr Carol Everett**

Q, Could I please have some feedback on how the distribution of the Plants for Residents went at the new location in Jorgensen Park?

A. Director Planning and Development Services replied that this went very well and the location had worked well, there were more people than anticipated attended causing large queues. The venue will be reviewed prior to next year.

**13.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN****13.1 Road Planning (Cr Robinson)**

Q. Are we consulted, as a Shire, in the planning for main road activities that affect our Shire? What protection is there for the Shire that Main Roads are not going to continue to make access in and out of the foothills more difficult in the future?

A. Yes, generally Main Road WA consults the Shire if their actions impact the Shire. The recent case is the construction of Daddow Road Bridge. Main Roads is responsible for State Roads which include Roe Highway, Tonkin Highway and Welshpool Road between Tonkin Highway and Roe Highway. The Main Roads Act requires Local Government be consulted prior to making any improvements to Main Roads and Highways. All other roads are the responsibility of the Local Government. Main Roads is also responsible for designating road (including Local Government roads) for freight routes which can be used by heavy vehicles. The Canning Road and Welshpool Road link is designated grain freight route. Prior to designating this route, Main Road consulted the Shire and paid for the construction of passing lanes.

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**14.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION**

Nil.

**15.0 MATTERS CLOSED TO THE PUBLIC**

Nil.

**16.0 CLOSURE**

There being no further business, the Chairman declared the meeting closed at 8.00pm.

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

Signed.....Chairman

Dated this .....day of.....2010