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Shire of Kalamunda

# Planning Services Committee

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Minutes for 6 September 2010



# SHIRE OF KALAMUNDA

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**Minutes of Planning Services Committee  
Held in the Council Chambers  
2 Railway Road, Kalamunda  
Monday 6 September 2010**

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**1.0 OFFICIAL OPENING**

- 1.1 The Chairman opened the meeting at 6.31 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
Margaret Thomas	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	(CHAIRMAN) NORTH WEST WARD
Dylan O'Connor	NORTH WEST WARD

**Members of Staff**

James Trail	CHIEF EXECUTIVE OFFICER
Hazel Smallwood	ACTING DIRECTOR OF CORPORATE SERVICES
Darren Jones	ACTING DIRECTOR OF COMMUNITY DEVELOPMENT
Clayton Higham	DIRECTOR OF PLANNING & DEVELOPMENT SERVICES
Simon Miller	ACTING DIRECTOR OF ENGINEERING SERVICES
Michelle Clark	EXECUTIVE ASSISTANT CHIEF EXECUTIVE OFFICER
Darrell Forrest	MANAGER GOVERNANCE

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David Tomlinson	MANAGER STATUTORY PLANNING & BUILDING
Andrew Fowler Tutt	MANAGER STRATEGIC PLANNING & SUSTAINABILITY
Sara Slavin	OBSERVER
Donna McPherson	MINUTE SECRETARY

**Members of Public** Nil

**Members of Press** Nil

2.2 APOLOGIES

**Councillors**

Sue Bilich NORTH WARD

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 APPLICATIONS FOR LEAVE OF ABSENCE**

5.1 Nil.

**6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

6.1 That the Minutes of the Planning Services Committee Meeting held on 2 August 2010 be confirmed as a true and correct record of the proceedings.

Moved: Cr Martyn Cresswell

Seconded: Cr Geoff Stallard

**CARRIED UNANIMOUSLY (11/0)**

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

7.1 Nil.

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

8.1 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*).

9.1 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.

9.2 Nil.

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## 10.0 REPORT TO COUNCIL

### Please Note:

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

<u>Item No.</u>	<u>Page No</u>
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*Declaration of financial/conflict of interests to be recorded prior to dealing with each item.*

### **53. Policy Review - Appointment of Deputies under the *Health Act 1911***

Previous Items:	GSC 61/09
Responsible Officer	Director Planning and Development Services
Service Area:	Planning and Development Services
File Reference:	FI-RST-010
Applicant:	N/A
Owner:	N/A
Attachments	Attachment 1 - Appointment of Deputies under HLTH1 Attachment 2 - Amended policy

#### **PURPOSE**

1. To consider amending the existing policy (HLTH1) Appointment of Deputies under the *Health Act 1911* (***Attachment 1.***)

#### **BACKGROUND**

2. The policy was reviewed following Health Services move to Planning and Development Services Directorate and it is recommended that the policy is amended.

#### **DETAILS**

3. The objective of this policy is to allow nominated deputies to discharge the powers and functions of the local government under the *Health Act 1911*.

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

4. *Health Act 1911*, section 26.

#### **POLICY IMPLICATIONS**

5. Recommendation is to amend Policy (HLTH1).

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

6. Nil.

#### **FINANCIAL IMPLICATIONS**

7. Nil.

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**STRATEGIC AND SUSTAINABILITY IMPLICATIONS**8. **Strategic Planning Implications**

- Nil.

9. **Sustainability Implications****Social Implications**

- Nil.

**Economic Implications**

- Nil.

**Environmental Implications**

- Nil

**OFFICER COMMENT**

10. The purpose of this policy is to appoint the Chief Executive Officer, Director Planning and Development Services and the Manager Health Service as the local government's deputies so that Council does not need to deliberate on every action taken under the *Health Act 1911*.
11. Currently the Chief Executive Officer, Director Community Development and the Manager Health Service are nominated as deputies.
12. It is proposed to remove the position of Director Community Development from the policy and replace with Director Planning and Development Services.
13. The additions to the existing policy are shown in red, and deletions marked with a strikethrough. (***Attachment 2.***)

**COMMITTEE RECOMMENDATION TO COUNCIL****PS - 53/2010**

1. That Council adopts the revised Policy (HLTH1) Appointment of Deputies under the *Health Act* as shown in (***Attachment 2.***)

Moved: Cr Carol Everett

Seconded: Cr Frank Lindsey

**CARRIED UNANIMOUSLY (11/0)**



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

#### **54. Delegation - *Food Act 2008***

Previous Items:	GSC December 2009 Report 9.9 & OCM Resolution 159/09
Responsible Officer	Director Planning and Development Services
Service Area:	Planning and Development Services
File Reference:	LE-LIC-003
Applicant:	N/A
Owner:	N/A

Attachments	Attachment 1 - Prohibition Orders – Section 65 of the <i>Food Act 2008</i> Attachment 2 - Amended policy
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#### **PURPOSE**

1. To consider amending the existing delegation FOOD1 Prohibition Orders – Section 65 of the *Food Act 2008* (**Attachment 1**).

#### **BACKGROUND**

2. The delegation was reviewed following Health Services move to Planning and Development Services Directorate and it is recommended that the delegation be amended.

#### **DETAILS**

3. The objective of this delegation is to allow either the Chief Executive Officer or Director to issue a prohibition notice, as per Section 65 of the *Food Act 2008*, to a food business if an improvement notice has not been complied with or in order to prevent a serious danger to public health.

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

4. *Food Act 2008*, sections 65 and 118(2).

#### **POLICY IMPLICATIONS**

5. Nil.

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**PUBLIC CONSULTATION/COMMUNICATION**

6. Nil

**FINANCIAL IMPLICATIONS**

7. Nil

**STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

8. **Strategic Planning Implications**

- Nil

9. **Sustainability Implications**

**Social Implications**

- Nil

**Economic Implications**

- Nil

**Environmental Implications**

- Nil

**OFFICER COMMENT**

10. The purpose of this delegation is to delegate the power to issue prohibition orders under section 65 of the *Food Act 2008* to the Chief Executive Officer and the Director Planning and Development Services so Council does not need to deliberate on and issue prohibition notices.
11. To ensure a smooth flow in processes, it is desirable that the Director Planning & Development Services is empowered to issue prohibition orders.
12. It is recommended that Council amends the delegation under section 118(2) of the *Food Act 2008* relating to the issuing of prohibition orders by deleting the position of Director Community Development and replacing with the position of Director Planning and Development Services. (**Attachment 2.**)
13. The additions to the delegation are shown in red, and the deletions marked with a strikethrough.

**COMMITTEE RECOMMENDATION TO COUNCIL****PS - 54/2010**

1. That Council amends delegation FOOD1 Prohibition Orders- Section 65 of the *Food Act 2008*, as shown in (**Attachment 2.**)

Moved: Cr Carol Everett

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (11/0)**

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

**55. Local Planning Scheme 3 Amendment - Lot 608 (6) Dixon Road,  
Kalamunda - Local Open Space and Residential Boundary Realignment**

Previous Items:	N/A
Responsible Officer:	Director Planning & Development Services
Service Area:	Planning & Development Services
File Reference:	DX-01/006
Applicant:	Department of Housing
Owner:	Department of Housing

Attachments	Attachment 1 - Locality Plan Attachment 2 - Current Zoning Map Attachment 3 - Proposed Rezoning
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**PURPOSE**

1. For Council to consider a proposal to initiate an amendment to Local Planning Scheme No. 3 (LPS 3) to rezone small sections of Lot 608 (6) Dixon Road, Kalamunda between Local Open Space and Residential to modify the reserve boundary. Refer **(Attachments 1 and 2)** for Locality Plan and Current Zoning Map.

**BACKGROUND**

2. Under the provisions of the Scheme, approximately half of the subject lot is zoned Residential R30 and the other half is zoned Local Open Space.
3. The subject lot comprises a land area of 29,143sqm and is completely covered in mature vegetation. Surrounding lots contain residential housing (R30 and R5).
4. In March 2010, subdivision approval was issued by the Western Australian Planning Commission (WAPC) to divide the lot along the zone boundary and to delineate the road reserve. This would allow for grouped housing development in the future. The WAPC, at this time, requested that the Shire of Kalamunda initiate a scheme amendment to align the boundaries.

**DETAILS**

5. The new lot boundary does not follow the zone boundary exactly because the zone boundary is uneven and considered inappropriate for the future development of the land.
6. The applicant is seeking approval to rezone the small sections of land along the lot boundary to result in a straight and even lot boundary. Refer **(Attachment 3.)** for details.

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**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 would 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 Ministerial determination, irrespective of the Minister's decision, there is no Right of Review.

**POLICY IMPLICATIONS**

9. Nil

**PUBLIC CONSULTATION/COMMUNICATION**

10. 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.

**FINANCIAL IMPLICATIONS**

11. Nil

**STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

12. **Strategic Planning Implications**
  - Nil
13. **Sustainability Implications**
  - Social Implications**
    - The site is listed in the Department of Indigenous Affairs' Site Register; the proposal will be forwarded to their office for comment as a part of the consultation process.
  - Economic Implications**
    - Nil
  - Environmental Implications**
    - The vegetation was subject to a botanical survey in 1996 to determine the vegetation on site worthy of retention. The area zoned Local Open Space contains the significant vegetation.
    - The applicant is required to identify and protect any vegetation on the site worthy of retention prior to commencement of site works as a condition on the subdivision.

**OFFICER COMMENT**

14. The proposed amendment is a slight change in the zone boundary and has no impact on the surrounding area.
15. If the zone boundary remains as it is, and not contiguous with the new lot boundary, small sections of the predominantly Residential zoned lot will be subject to provisions of the Local Open Space reserve.

- 
16. Taking into consideration the above, it is recommended that the proposed rezoning be supported as it constitutes a good planning outcome.

**COMMITTEE RECOMMENDATION TO COUNCIL PS - 55/2010**

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.33

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

1. Rezoning a portion of Lot 608 (6) Dixon Road, Kalamunda from Local Open Space to Residential R30.
2. Rezoning a portion of Lot 608 (6) Dixon Road, Kalamunda from Residential R30 to Local Open Space.
3. Amending the Scheme Map accordingly.

Subject to amendment documents and the required administration fee being submitted, the documents being adopted by Council and the Amendment being formally advertised for 42 days 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 Noreen Townsend

**CARRIED UNANIMOUSLY (11/0)**

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

**56. Proposed Outbuilding (Shed) - Lot 87 (3) Coldwell Road (on the corner of Welshpool Road East), Wattle Grove**

Previous Items: Nil  
Responsible Officer: Director Planning and Development Services  
Service Area: Planning and Development Services  
File Reference: WL-10/003  
Applicant: Dale Design Service  
Owner: I Spanjich

Attachments: Attachment 1 - Locality Plan  
Attachment 2 - Site Plan  
Attachment 3 - Floor Plan  
Attachment 4 - Elevations  
Attachment 5 - Consultation Plan

#### **PURPOSE**

1. For Council to consider an application for a outbuilding (shed) with a footprint area of 327sqm on Lot 87 (3) Coldwell Road, Wattle Grove. Refer (**Attachments 1. – 4.**) for the Locality Plan, Site Plan, Floor Plan and Elevations.
2. The application is referred to Council on the basis that the floor area of the outbuilding exceeds 300sqm. Local Planning Policy DEV20 – Outbuildings stipulates that proposals for rural outbuildings with a floor area in excess of 300sqm are to be referred to Council for determination, therefore the subject application cannot be determined under delegation.

#### **BACKGROUND**

3. The subject lot is 1.4 hectares, zoned Special Rural, is currently vacant and falls within a 300m wide buffer for a nearby poultry farm. Mature landscaping exists along both frontages which is proposed to be retained.
4. Surrounding properties contain single dwellings and associated outbuildings, and Yule Brook goes through the adjoining property to the south-east.
5. In May 2010 planning approval was issued by the Shire to keep eight cows and six sheep on the subject lot.

#### **DETAILS**

6. The proposal is to construct an outbuilding (shed) which will have a footprint area of 327sqm and contain two mezzanines resulting in the structure having an aggregate floor area of 531sqm. Animal feed and machinery (a tractor, rotary hoe, slasher, organ drill for fences and a forklift to move the animal feed) will be stored in the proposed outbuilding.

7. The outbuilding is proposed to have a 6m wall height, a 7.28m ridge height and be constructed of shade grey Colorbond.

### STATUTORY AND LEGAL IMPLICATIONS

8. Clause 4.2.2 of Local Planning Scheme No. 3 (LPS 3) stipulates that an objective of the Special Rural zone is to:

*"Retain amenity and the rural landscape in a manner consistent with orderly and proper planning."*

9. In considering an application for planning approval, clause 10.2 of LPS 3 requires the Shire to have due regard to the following matters:

- (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;*
- (y) any relevant submissions received on the application;*
- (z) the comments or submissions received from any authority consulted."*

10. LPS 3 requirements for properties zoned as Special Rural are as follows:

Site Requirements	Required	Provided
Primary street setback	15m minimum	118m
Minor (Secondary) Street Setback	15m minimum	96m
Side setbacks	10m minimum	10m
Rear setbacks	10m minimum	10m

11. The proposed outbuilding falls within a 300m wide buffer for a nearby poultry farm. The proposed land use is permitted within the buffer by the State Planning Policy 4.1 – State Industrial Buffers, due to not being a sensitive land use.

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

12. Local Planning Policy DEV20 – Outbuildings stipulates that the maximum floor, roof and wall height restrictions only apply to domestic outbuildings on rural properties, and that rural outbuildings shall be determined on their merits.

- 
13. The proposed outbuilding is deemed to be rural due to being used to store animal feed and machinery associated with the maintenance of the property.

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

14. The proposal was advertised to nearby property owners for comment due to the floor area of the proposed outbuilding being in excess of 300sqm, and three non-objections and one objection was received. Refer **(Attachment 5)** for the Consultation Plan.
15. Concerns raised during advertising included:
- That the size of the proposed outbuilding would be most suited on an Industrial zoned property; and
  - The appearance of the property, should the outbuilding be constructed, would potentially be similar to that of an industrial area.

#### **FINANCIAL IMPLICATIONS**

16. Nil

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

17. **Strategic Implications**

- Nil

18. **Sustainability Implications**

**Social**

- Nil

**Economic**

- Nil

**Environmental**

- No native or protected vegetation is proposed to be removed.
- Stormwater will be contained on site so as not to enter Yule Brook which goes through the adjoining property to the south-east.

#### **OFFICER COMMENT**

19. Despite the height, scale and appearance of the outbuilding being excessive when compared with development on nearby properties, it is considered that the proposed outbuilding will not have a detrimental impact on the amenity of the local area due to:
- the structure being situated towards the rear of the 1.4 hectare property;
  - the outbuilding occupying less than 4% of the property;
  - the colour of the proposed materials blending with the surroundings; and
  - mature landscaping being retained along both street frontages.
20. Items and machinery to be stored in the outbuilding are considered acceptable due to being associated with the keeping of animals on the property, approved by the Shire previously.



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21. Should Council approve the application, it will be on the basis that items stored inside the outbuilding are used in conjunction with the maintenance of the subject property and the keeping of animals approved by the Shire previously. The applicant will be advised that further approval will be required from the Shire should he want to use the property for other than agricultural purposes.
  22. It is therefore recommended that the application be approved by Council.

**COMMITTEE RECOMMENDATION TO COUNCIL****PS - 56/2010**

1. That Council approves the application dated 20 July 2010 to construct a 531sqm outbuilding (shed) on Lot 87 (3) Coldwell Road, Wattle Grove, subject to the following conditions:
  1. The approved outbuilding is not to be used for habitation, commercial or industrial purposes.
  2. Items and machinery stored within the approved outbuilding are to be used in conjunction with the maintenance of the subject property and the keeping of the animals approved by the Shire, to retain the amenity of the local area.

Moved: Cr Allan Morton

Seconded: Cr Noreen Townsend

**For**

Cr Carol Everett  
Cr Frank Lindsey  
Cr Geoff Stallard  
Cr Allan Morton  
Cr Noreen Townsend  
Cr Peter Heggie  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Donald McKechnie  
Cr Margaret Thomas

**Against**

Cr Maureen Robinson

**CARRIED (10/1)**

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

**57. Draft Local Planning Strategy - Recommended Approval to Forward to WAPC for Consent to Advertise**

Previous Items:	September 2007
Responsible Officer	Director Planning & Development Services
Service Area	Planning and Development Services
File Reference:	
Applicant:	N/A
Owner:	N/A
Attachments	Attachment 1 - Draft Local Planning Strategy (Confidential)
	Attachments 2 & 3 Legal Advice McLeods (Confidential)
	Attachment 4 - Advice regarding Confidentiality and Council Decision Making Process (Confidential)

**PURPOSE**

1. To consider and endorse the Draft Local Planning Strategy (the Strategy) for the purpose of referring it to the Western Australian Planning Commission (the Commission) for certification for the purpose of public advertising.

**BACKGROUND**

2. The Shire of Kalamunda Local Planning Scheme No. 3 (the Scheme) was gazetted in March 2007. The current Scheme took 14 years to prepare, from 1993 to 2007 and was based on a Scheme Review Report rather than a Local Planning Strategy which is now required for scheme reviews that commenced after 1999.
3. Due to the period of time taken to finish the Scheme, Council, in July 2007 resolved to undertake the preparation of the Strategy for the whole Shire.
4. The Strategy process commenced with a series of planning workshops held in each ward in 2007 and 2008. The Land Planning Vision Workshops were designed to determine community Values, Concerns and Visions and have been included in the preparation of the Strategy document.
5. In May 2010, a preliminary draft of the Strategy was presented to the Councillors in a Councillor Forum in May 2010.

**DETAILS**

6. The Draft Strategy is a strategic plan to guide future development in the Shire to 2031 to align with the State Strategy Direction 2031 and beyond. The plan once endorsed, will be affected through changes to the Scheme and guide Policy development. Refer **(Attachment 1.)** Local Planning Strategy Report **(Confidential)**.

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7. The intent of this report is to seek Council support to forward the Strategy to the Commission for their approval to advertise it to the community. The Commission may require changes to be undertaken to the Strategy prior to formal advertising proceeding.

### STATUTORY AND LEGAL IMPLICATIONS

8. The preparation of a Local Planning Strategy is provided for in the *Planning and Development Act 2005* and the *Town Planning Regulations 1967* (as amended). These statutes set out precise procedures that Council is required to adhere to.
9. Due to the strategic nature of the Strategy and the potential changes to the commercial value of land to some property owners the issue of the handling of the Strategy document, including Council's decision making process and the release of the Strategy as a public document prior to the Commission reviewing the document and granting consent to advertise, were all considered at some length by staff.
10. To assist in this matter legal advice was sought. . Refer **(Attachments 2 & 3.)** Legal Advice **(Confidential)**.
11. In commencing the decision making process, Section 5.5 of the *Local Government Act 1995* provides that the Chief Executive Officer is to convene ordinary meetings of Council by giving at least 72 hours' notice of the date, time and place of the meeting and an agenda for the meeting.
12. In providing the Agenda and associated papers, the CEO is guided by Regulation 14 of the *Local Government [Administration] Regulations 1996* which provides:
  - (1) *A local government is to ensure that notice papers and agenda relating to any council or committee meeting and reports and other documents which:*
    - (a) *are to be tabled at the meeting; or*
    - (b) *have been produced by the local government or a committee for presentation at the meeting,*

*and which have been made available to members of the council or committee for the meeting are available for inspection by members of the public from the time the notice papers, agenda or documents were made available to the members of the council or committee.*
  - (2) *Nothing in sub regulation (1) entitles members of the public to inspect the information referred to in that sub regulation if, in the CEO's opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public under section 5.23(2).*
13. When considering if a meeting is to be closed, it is the Council which makes the decision as to whether the matter being discussed has elements that could constitute reasonable grounds for closing the meeting to the public.
14. Section 5.23 of the *Local Government Act 1995* provides that meetings of the council or a committee, to which power has been delegated, are to be generally open to the public. Certain exemptions to this requirement are provided in

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- subsection (2), including issues to do with staff, personal information about a person, information about trade secrets and information that has a commercial value to a person. Refer **(Attachment 4.)** Advice on the Confidentiality of Documentation and Council Decision Making Process **(Confidential)**.
15. Following the Council Meeting, Section 5.94 of the *Local Government Act 1995* provides that the public can inspect certain local government information, including "any notice papers and agenda relating to any Council or Committee meeting and reports and other documents that have been produced by a local government for presentation at a council or committee meeting....."
16. Section 5.95 of the *Local Government Act 1995* provides limits on right to inspect local government information. In particular subsection (3) provides that the right to inspect the information referred to in Section 5.94 Paragraph (p) of the *Local Government Act 1995*, does not apply if the meeting or the part of the meeting to which the information refers:
- *was closed to members of the public; or*
  - *in the CEO's opinion, could have been closed to members of the public but was not closed.*
17. In relation to the procedure that the Council is required to take in terms of endorsing the Strategy for referral to the Commission and the subsequent advertising of the document Regulations 12A and 12B of the Town Planning Regulations 1967 set out the requirements.
- 12A. *Local Planning Strategy*
- (1) *If a Scheme envisages the zoning or classification of land, the local government shall —*
    - (a) *prepare the Scheme Report under regulation 12 in the form of a Local Planning Strategy; and*
    - (b) *forward the Local Planning Strategy to the Commission.*
  - (2) *Without limiting the operation of subregulation (1), a local government may —*
    - (a) *prepare a Local Planning Strategy in respect of a Scheme approved by the Minister for which a Local Planning Strategy has not been prepared at any time it thinks fit; and*
    - (b) *forward the Local Planning Strategy to the Commission.*
  - (3) *A Local Planning Strategy shall —*
    - (a) *set out the long-term planning directions for the local government;*
    - (b) *apply State and regional planning policies; and*
    - (c) *provide the rationale for the zones and other provisions of the Scheme.*
  - (4) *If the Minister so approves, subregulation (1) does not apply in respect of a proposed town planning scheme where —*
    - (a) *the scheme was adopted by the local government before the coming into operation of the Town Planning Amendment*
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*Regulations 1999<sup>1</sup>; and*

- (b) *the local government has prepared a Scheme Report containing such information, and in such manner, as the Commission requires.*

*[Regulation 12A inserted in Gazette 22 Oct 1999 p. 5194-5.]*

**12B. *Advertisement and endorsement of, and publication of notice of, Local Planning Strategy***

- (1) *When the Commission has certified a Local Planning Strategy as being consistent with regulation 12A(3), the local government shall, in the case of a Local Planning Strategy prepared under regulation 12A(1), advertise the Local Planning Strategy as if it were part of the Scheme.*
- (2) *When the Commission has certified a Local Planning Strategy as being consistent with regulation 12A(3), the local government shall, in the case of a Local Planning Strategy prepared under regulation 12A(2) —*
- (a) *publish a notice of the Local Planning Strategy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area, giving details of —*
- (i) *where the Local Planning Strategy may be inspected; and*
- (ii) *in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;*
- (b) *forward a copy of the Local Planning Strategy to any other person or public authority which, in the opinion of the local government, has a direct interest in the Local Planning Strategy, for consideration and advice within a period (being not less than 21 days after the day on which the Local Planning Strategy is given to the person or body) specified by the local government;*
- (c) *take such other steps as the local government considers appropriate to give notice of the Local Planning Strategy; and*
- (d) *carry out such other consultation as the local government considers appropriate.*
- (3) *After the expiry of the period within which submissions may be made and advice given, the local government shall —*
- (a) *review the Local Planning Strategy in the light of any submissions made and advice received;*
- (b) *adopt the Local Planning Strategy with such modifications as it thinks fit to give effect to the submissions and advice; and*
- (c) *submit a copy of the Local Planning Strategy to the Commission for its endorsement.*

**POLICY IMPLICATIONS**

18. The preparation of a Local Planning Strategy requires the consideration of all local government planning policies and State planning policies. These are all examined

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in detail in the Strategy.

19. Directions 2031 is the State government's key strategic planning document which will guide the future development of Perth for the next 21 years. The Shire's Strategy reflects the key assumptions and themes identified in Directions 2031.

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

20. The Local Planning Strategy commenced with a series of six Land Planning Vision Workshops. One was conducted in relation to the Kalamunda Town Centre and one in each of the five wards at that time. In addition, questionnaire surveys were conducted via the media to canvass people who were not able to attend the workshops. The results of the workshops were circulated to all those who attended and additional feedback was sought.
21. Once the Commission has granted consent to advertise, the Strategy will be advertised in accordance with the *Town Planning Regulations 1967 (as amended)*. Advertising will include a 42 day public advertising period, public workshops for each of the ward areas and notices placed in the local and state newspapers.

#### **FINANCIAL IMPLICATIONS**

22. The 2010/2011 financial budget has allocated funds for the advertising of the Strategy.

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

23. **Strategic Planning Implications**
- The Strategic implications are considerable owing to the very nature of a strategic planning review.
24. **Sustainability Implications**
- Social Implications**
- The Strategy considers a number of social implications at a strategic level.
- Economic Implications**
- The economic impact of the proposed strategy is considerable and has been integrated with the Shire's Economic Development Strategy.
- Environmental Implications**
- The Strategy has regard to environmental and sustainability issues and strategic direction of the Shire.

#### **OFFICER COMMENT**

25. The Strategy is an important document which outlines the future strategic growth for the Shire. The document contains recommendations for a number of broad strategic and zoning changes which may result in a change to the commercial value of land to some property owners.
26. Importantly, the document endorsed by the Commission for the purpose of community consultation could be different to the draft document currently before

- the Council. It is the prerogative of the Commission to examine the document and request changes prior to it being endorsed for advertising. Any premature release of the document may create confusion within the Community as to which document is being considered.
27. For the above reasons, it is believed that the Council may wish for the draft document to remain confidential until such time as the Commission has endorsed its release for public advertising.
28. It is therefore recommended that the Council endorses the Strategy for the purpose of referring the document to the Commission for advertising and resolves that the Strategy remains a confidential document until it has been formally released for public comment following its certification by the Commission under the Town Planning Regulations.

### **MOTION**

1. That the meeting go behind closed doors to discuss the Confidential Attachments 2, 3 and 4 of the Planning Services Item 57 Draft Local Planning Strategy – Recommended approval to Forward to WAPC for Consent to Advertise in accordance with Section 5.23 of the *Local Government Act 1995*.

Moved: Cr Geoff Stallard

Seconded: Cr Frank Lindsey

#### **For**

Cr Carol Everett  
Cr Frank Lindsey  
Cr Geoff Stallard  
Cr Allan Morton  
Cr Noreen Townsend  
Cr Peter Heggie  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Donald McKechnie  
Cr Margaret Thomas

#### **Against**

Cr Maureen Robinson

**CARRIED (10/1)**

**The meeting close to the public at 6.40pm.**

### **MOTION**

1. That the Shire of Kalamunda Standing Orders be suspended to allow staff to provide new copies of Confidential Attachments 2, 3 and 4 of Planning Services Item 57 Draft Local Planning Strategy – Recommended approval to Forward to WAPC for Consent to Advertise to Councillors.

Moved: Cr Frank Lindsey

Seconded: Cr Carol Everett

#### **For**

#### **Against**

Cr Carol Everett  
Cr Frank Lindsey  
Cr Geoff Stallard  
Cr Allan Morton  
Cr Peter Heggie  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Donald McKechnie  
Cr Margaret Thomas

Cr Maureen Robinson  
Cr Noreen Townsend

**CARRIED (9/2)**

**Standing orders were suspended at 6.50pm.**

**MOTION**

1. That the Shire of Kalamunda Standing Orders be resumed following the provision of new copies of Confidential Attachments 2, 3 and 4 of Planning Services Item 57 Draft Local Planning Strategy – Recommended approval to Forward to WAPC for Consent to Advertise to Councillors.

Moved: Cr Geoff Stallard

Seconded: Cr Martyn Cresswell

**For**

Cr Carol Everett  
Cr Frank Lindsey  
Cr Geoff Stallard  
Cr Allan Morton  
Cr Peter Heggie  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Donald McKechnie  
Cr Margaret Thomas

**Against**

Cr Maureen Robinson  
Cr Noreen Townsend

**CARRIED (9/2)**

**Standing Orders resumed at 7.05 pm.**

**MOTION**

1. That the meeting be opened to the public following discussion of the Confidential Attachments 2, 3 and 4 of the Planning Services Item 57 Draft Local Planning Strategy – Recommended approval to Forward to WAPC for Consent to Advertise.

Moved: Cr Maureen Robinson

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (11/0)**

**The meeting opened to the public at 7.24 pm.**



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**COMMITTEE RECOMMENDATION TO COUNCIL PS - 57/2010**

1. That the Council:
  - a. Endorses the draft Local Planning Strategy for the purpose of referral to the Western Australian Planning Commission for its certification under Regulation 12A(3) of the *Town Planning Regulations 1967* for the Strategy to be advertised for public comment.
  - b. Resolves that the draft Local Planning Strategy remain a confidential document until it is certified by the Western Australian Planning Commission and released for public comment.

Moved: Cr Donald McKechnie

Seconded: Cr Frank Lindsey

**For**

Cr Carol Everett  
Cr Frank Lindsey  
Cr Geoff Stallard  
Cr Allan Morton  
Cr Noreen Townsend  
Cr Peter Heggie  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Donald McKechnie  
Cr Margaret Thomas

**Against**

Cr Maureen Robinson

**CARRIED (10/1)****11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

11.1 Nil.

**12.0 QUESTIONS BY MEMBERS WITHOUT NOTICE**12.1 Draft Local Planning Strategy – Recommended Approval to Forward to WAPC for consent to Advertise (Cr Noreen Townsend)

- Q. Could we please have a map of the Shire showing where all undeveloped Council Land is located?
- A. The Chief Executive Officer advised he is happy to try to provide the requested map. He explained an assessment is being undertaken of every piece of land, Crown or Freehold, within the Shire. This assessment is due to be completed by October / November and at this time it may be possible to provide a map of undeveloped land. A listing of this information is currently available and can be provided to Councillors.

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12.2 Draft Local Planning Strategy – Recommended Approval to Forward to WAPC for consent to Advertise (Cr Noreen Townsend)

Q. Can we please ensure in the future documents with changes are shown in italics and that all documents are page numbered?

A. The CEO agreed, and advised this would be implemented.

12.3 Draft Local Planning Strategy – Recommended Approval to Forward to WAPC for consent to Advertise (Cr Donald McKechnie)

Q. Can we be assured of getting a map when the assessment is finished?

A. The Chief Executive Officer advised that Councillors would be provided with a map/maps of the Shire showing the identified properties.

**13.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

13.1 Nil.

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

14.1 Nil.

**15.0 MATTERS CLOSED TO THE PUBLIC**

**15.1 Item 57. Draft Local Planning Strategy - Recommended Approval to Forward to WAPC for Consent to Advertise**

**Reason for Confidentiality** - *Local Government Act 1995* Section

5.23(2)(e) – “a matter if disclosed, would reveal –

- (i) a trade secret;
- (ii) information that has a commercial value to a person; or
- (iii) information about the business, professional, commercial or financial affairs of a person;

where the trade secret or information is held by, or is about, a person other than the local government.”

**COMMITTEE RECOMMENDATION TO COUNCIL PS - 57/2010**

1. That the Council:
  - a. Endorses the draft Local Planning Strategy for the purpose of referral to the Western Australian Planning Commission for its certification under Regulation 12A(3) of the *Town Planning Regulations 1967* for the Strategy to be advertised for public comment.
  - b. Resolves that the draft Local Planning Strategy remain a confidential document until it is certified by the Western Australian Planning Commission and released for public comment.

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Moved: Cr Donald McKechnie

Seconded: Cr Frank Lindsey

**For**

Cr Carol Everett  
Cr Frank Lindsey  
Cr Geoff Stallard  
Cr Allan Morton  
Cr Noreen Townsend  
Cr Peter Heggie  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Donald McKechnie  
Cr Margaret Thomas

**Against**

Cr Maureen Robinson

**CARRIED (10/1)**

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**16.0 CLOSURE**

There being no further business, the Chairman declared the meeting closed at 7:45pm.

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

Signed.....Chairman

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