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Shire of Kalamunda

# Planning Services Committee

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Agenda for 2 August 2010





## **NOTICE OF MEETING PLANNING SERVICES COMMITTEE**

Councillors,

Notice is hereby given that the next meeting of the Planning Services Committee will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on:

**Monday 2 August 2010 commencing at 6.30pm.**

For the benefit of Committee Members, staff and members of the public, attention is drawn to the following requirements as adopted by Council.

### **Open Council Meetings – Procedures**

1. Standing Committees are open to the public, except for Confidential Items listed on the Agenda.
2. Standing Committees have a membership of all 12 Councillors.
3. Unless otherwise advised a Committee makes recommendations only to Full Council (Held on the third Monday of each month at 6.30 pm).
4. Members of the public are able to ask questions at a Committee Meeting, however, the questions should be related to the functions of the Committee.
5. Members of the public wishing to make a comment on any Agenda item may request to do so by advising staff prior to commencement of the Committee Meeting.
6. Comment from members of the public on any item of the Agenda is usually limited to 3 minutes and should address the recommendations (at the conclusion of the report).
7. It would be appreciated if silence is observed in the gallery at all times except for Question Time.
8. All other arrangements are in general accordance with Council's Standing Orders, the Policies and decision of person Chairing the Committee or Council Meeting.
9. Members of the public who are unfamiliar with meeting proceedings are invited to seek advice at the meeting by signalling to a staff member.

James Trail  
**Chief Executive Officer**

27 July 2010

**\*\* Dinner will be served at 5.30pm \*\***

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## AGENDA

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### 1.0 OFFICIAL OPENING

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

### 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 Item 47. Lot 117 (159) Canning Road, Kalamunda – Redevelopment of Hare Krishna Temple – The following questions were asked by Ms Jane Kandhai (29 Tuart Road, Lesmurdie) at the Planning Services Committee meeting on July 12, 2010.

Q.1 *With reference to the Purpose of the Report – Why did the Shire allow for a three week advertising period and directly consult more residents than just the direct and immediate neighbours?*

A.1 The application was advertised to those landowners and occupants who the Shire considered to be potentially affected by the proposal, in accordance with clauses 9.4.2 and 9.4.3 of Local Planning Scheme No. 3 (LPS 3). Refer to the consultation plan included in the report presented to Council.

Please note that clause 9.4.3(a) of LPS 3 states that applications are to be advertised for no less than 14 days, no maximum amount of days is specified therefore the three week advertising period is permitted by the Scheme.

The Director of Development Services required the additional advertising time as the original advertising letter sent to nearby residents did not fully explain what was being proposed.

Q.2 *Could this be the underlying cause for the increased public interest?*

A.2 Applications where significant change is proposed will usually attract community interest.

Q.3 *What policies are in place to ensure that advertising of all applications being assessed within the Shire of Kalamunda are treated in a consistent and fair manner?*

A.3 In considering an application for planning approval, the Council is to have due regard to a number of matters including any relevant submissions received on the application.

Q.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? Why did the officer not correctly reflect the purpose of the application as stated by*

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*the applicant on the MRS form 1 in the advertising of the application and in the Report before Council?*

- A.4 The description by the applicant on the development application form was "Alterations & Additions to an existing Church". Neither advertising letter by the Shire used the term "Development of Hare Krishna Temple". The terms used in the Shire letters were "Proposed modification to the Hare Krishna Temple" "Proposed modifications to existing Place of Worship" (2<sup>nd</sup> letter). It is considered that either of the letters the Shire sent properly represents the intent of the proposal. The report title "Redevelopment of Hare Krishna Temple" is a matter of fact.
- Q.5 *Why did the officer fail to consult with the applicant prior to changing the description of the proposed development as stated on the MRS form 1?*
- A.5 It is the prerogative of the Local Authority to advertise the proposal in the most appropriate way in accordance with its statutory functions.
- Q.6 *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?*
- A.6 It is considered that the report was balanced and it is not a common procedure for the Shire to invite the applicant to comment on the submission prior to consideration by the Council.
- Q.7 *Why has the officer incorrectly stated that the applicant is seeking dispensation on the number of parking bays when the applicant had not been advised of a shortfall of car parking bays as mentioned in the Report?*
- A.7 In correspondence dated 13 April 2010 the applicant was advised of a shortfall of car parking on site and was requested to address this issue.
- Q.8 *What is the full definition of NLA under the Scheme?*
- A.8 Means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas:
- (a) all stairs, toilets, cleaner cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
  - (b) lobbies between lifts facing other lifts servicing the same floor;
  - (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
  - (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building.
- Q.9 *What is the legislative framework forming the basis for the assessment of the proposed modification to the existing structure as outlined in the MRS form 1?*
- A.9 The application was assessed in accordance with the requirements of LPS 3.
- Q.10 *Given that there are fifty (50) recognised Place of Worship within the Shire of Kalamunda – what are the Council adopted policies and*

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*applicable legislation that exist to ensure that the processing of all applications are treated in a transparent and equitable manner?*

- A.10 Refer to answer 9.
- Q.11 *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 the access to the site?*
- A.11 As no traffic impact assessment was provided by the applicant as requested, it was not possible to provide comment on the current traffic situation and what impact the increased vehicle movements would have on it.
- Q.12 *What formed the statutory basis for the officer's suggestion to the applicant for the provision of a Traffic Impact Assessment?*
- A.12 The Shire requires a traffic impact assessment to be provided for proposed developments which have the potential to affect current traffic volumes and movements, and pedestrian safety.
- Q.13 *Are there any traffic generation rates set for Place of Worship in Australia?*
- A.13 It will be the responsibility of a qualified Traffic Engineer to determine what the acceptable traffic volumes are for a site based on its layout, the local road infrastructure and accessibility, amongst other matters.
- Q.14 *Could Council provide a list of Traffic Impact Assessment imposed on other Places of Worship within the Shire?*
- A.14 No.
- Q.15 *Is the road wide enough for passing of turning vehicles in the vicinity of the subject lot?*
- A.15 This will be the responsibility of a Traffic Engineer to provide this information to the Shire.
- Q.16 *What is the crash statistics for the area in the vicinity of the subject lot?*
- A.16 Refer to response to previous question.
- Q.17 *Under the WAPC guidelines what is the traffic requirement for a proposal of this size?*
- A.17 No WAPC guidelines exist; refer to response to question 15.
- Q.18 *With reference 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?*
- A.18 Point 30 of the report presented to Council does not use the term "eating hall". Point 30 refers to dining hall and shop as shown on the plans and referenced in writing in the covering documentation.
- Q19. *Whilst the officer has mentioned the immediate locality is zoned residential under Local Planning Scheme No.3 why has the intended*

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*zoning of the subject lot as a Place of worship in its scale, bulk and design of the building?*

- A.19 The report identifies that the site is Reserved (not zoned) for Public Purpose (Church). It is a matter for Council under clause 3.4.2(b) of LPS 3 as to whether or not the use conforms to the ultimate purpose of the Reserve. The staff report did not suggest that the proposed use did not conform to the ultimate purpose intended for the Reserve. There is no correlation between the fact that the site is Reserved and the assessment of the building in terms of scale, bulk and design.
- Q.20 *How did the officer determine whether and how the temple could impact on the attractiveness and value of the other properties within the area?*
- A.20 The matters outlined under clause 10.2 of LPS 3 were considered when assessing the application, and how the scale, bulk, height and appearance of the proposal compares with current and possible future development on surrounding properties.  
The officer response on submissions relating to land values clearly states that this is not a valid planning consideration.
- Q.21 *Why did the officer's advice to the applicant about a shortfall of three (3) car parking bays not match the stated in the report?*
- A.21 Having further assessed the application it was determined that a greater shortfall of car parking would exist. The methodology of calculating the parking was revised during the assessment of the application prior to the matter being reported to Council.
- Q.22 *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?*
- A.22 None.
- Q.23 *Can Council explain the sudden change in numbers?*
- A.23 Refer to response for question 21.
- Q.24 *Are verge and on-street parking permitted within the Shire of Kalamunda?*
- A.24 In some circumstances based on the Shire's "Parking and Parking Facilities Local Law 2008".
- Q.25 *Can Council provide the calculation outlining how the NLA was determined?*
- A.25 The calculation was based on the definition of NLA (refer response for question eight).
- Q.26 *Under the Local Planning Scheme No.3 how many approvals have been granted dispensation under delegation and before Council for the shortfall car parking bays within the Shire of Kalamunda and what are the numbers that have been approved?*
- A.26 Numerous applications involving a shortfall of car parking have been approved and refused by Council in the past. Each application is assessed on its merit and whether the shortfall would have a significant impact on traffic and pedestrian safety.

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- Q.27 *Does (sic) all existing Places of Worship within the Shire meet the requirements of LPS No.3?*
- A.27 Shire staff has not researched whether or not all Places of Worship in the Shire comply with current or contemporaneous Scheme requirements. The vast majority, if not all, Places of Worship were developed under previous Local/Town Planning Schemes, therefore comparison with LPS 3 standards is considered irrelevant.
- Q.28 *What are the changes from the previous Town Planning Scheme compared to LPS No.3 for Place of Worship?*
- A.28 Under District Planning Scheme No. 2 the following provisions existed which differ to those enforced currently:
- a. A Special Purpose (Church/Convention) zone existed; and
  - b. No car parking requirements existed for the use Place of Worship.
- Q.29 *What Council adopted Policy was used to determine the height limit for the proposal?*
- A.29 No height limit exists for any development unless specified in LPS 3 or on a Detailed Area Plan, and no reference has been made to the proposed development exceeding any height limits in the report presented to Council.
- Q.30 *Is it true that there are no territorial privacy laws in Australia?*
- A.30 This is a matter the applicant should seek independent legal advice on.
- Q.31 *Could Council provide the checklist that was used for determine privacy as being an issue of concern?*
- A.31 When determining whether causal overlooking will be an issue, the size and location of a opening and/or congregation area greater than 0.5m off the proposed floor level, in relation to outdoor living areas and major opening greater than 0.5m from the floor level on nearby properties, is taken into consideration.
- Q.32 *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?*
- A.32 No.
- Q.33 *What's the Shire's limitation of towers?*
- A.33 Refer to response given to question 29.
- Q.34 *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 Ave?*

- A.34 The basis for dealing with the above would have been prevailing legislation at the time, including the Town Planning Scheme, the Metropolitan Region Scheme, the Residential Design Codes and the Public Works Act.
- Q.35 *What's the Shire's policy on entrance statements?*
- A.35 There is no planning policy that deals explicitly with entrance statements.
- Q.36 *How are entrance statements, building height, bulk and scale of a Palace of Worship being assessed in a consistent and audible manner within the Shire of Kalamunda?*
- A.36 All development proposals are based on their merits in accordance with LPS 3 requirements.
- Q.37 *With reference to "y" of the Report – How does the Shire determine "relevancy"?*
- A.37 In terms of submissions, it is a matter for Council to consider what is relevant guided by the principles of good and orderly planning as advised by its professional officers.
- Q.38 *How did the officer determine whether and how the temple could impact on the attractiveness and value of the other properties within the area?*
- A.38 Refer to response given to question 20.
- Q.39 *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?*
- A.39 Yes

#### **4.0 PETITIONS/DEPUTATIONS**

#### **5.0 APPLICATIONS FOR LEAVE OF ABSENCE**

#### **6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

- 6.1 That the Minutes of the Planning Services Committee Meeting held on 12 July 2010 are confirmed as a true and correct record of the proceedings.

Statement by Presiding Member

**"On the basis of the above motion I now sign the minutes as a true and accurate record of the meeting of 12 July 2010."**

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

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



**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)

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.

**10.0 REPORT TO COUNCIL**

Please Note:

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

<u>Report Number</u>	<u>Page Number</u>
50. Proposed Modified Planning & Development Policy - Framework for Assessing Requests for Variations to the Number of Car Parking Bays - Final Adoption...	10
51. Proposed Revocations of Planning and Development Policies - Various.....	13
52. Local Planning Scheme No. 3 - Text Amendment Relating to the Use of Front Setbacks in Commercial and Industrial Zones .....	19

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## REPORTS

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

### 50. «Subject»

Previous Items:	PS-20/2010«Sundry_1_Data»
Responsible Officer:	Director Planning and Development Services
Service Area:	Planning Development Services
File Reference:	OR-CMA-016«File_1»
Applicant:	N/A
Owner:	N/A
Attachment:	Attachment 1 - DEV41 - Framework for Assessing Requests for Variations to the Number of Car Parking Bays.

## PURPOSE

1. To consider whether to grant final adoption to the above Policy.

## BACKGROUND

2. Local Planning Scheme No. 3 (LPS 3) foreshadows the development of policies to guide decision-making.
3. The Policy Register is currently being reviewed and, where considered necessary, amendments and draft policies are being presented for Council consideration.
4. Amended and draft policies are being considered for a number of reasons including consistency with updated legislation and Shire functions, recognition of the changing needs of the community and potential ambiguity or interpretation issues.
5. At its meeting in April 2010, Council resolved to advertise modifications to policies relative to the Planning & Development Directorate.

## DETAILS

6. Local Planning Policy DEV41 - Framework for Assessing Requests for Variations to the Number of Car Parking Bays was advertised for public comment and is now before Council to consider final adoption. Refer to **(Attachment 1.)** for the draft modified policy DEV41 - Framework for Assessing Requests for Variations to the Number of Car Parking Bays.

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## **STATUTORY AND LEGAL IMPLICATIONS**

7. LPS 3 allows the Shire to prepare policies in respect to any matter related to the planning and development of the Shire. Policies may apply to a particular case or matter and throughout the Scheme area or in one or more parts of the Scheme area. The Scheme allows Council to amend or rescind its Planning Policies.
8. Clause 5.8.2 of LPS 3 allows Council to apply at its discretion, a greater or lesser requirement for car parking than that stipulated as the minimum requirement in Table 3 of the Scheme if, in its opinion, the proposed use is likely to demand a greater or lesser need for car parking bays having due regard to the scale and nature of the intended uses.
9. A Local Planning Policy is not part of the Scheme and does not bind the Council in its decision making, however, Council is to have due regard to the policy when making a decision.
10. Following the advertising of the policy, the Council may adopt the policy with or without modifications, or not proceed with the Policy. If Council resolves to adopt a policy, it publishes a notice in a newspaper circulating in the District. The policy will have effect upon publication of the notice.

## **POLICY IMPLICATIONS**

11. If Council adopts the local planning policy, it will be included in the Shire's Policy Register.

## **PUBLIC CONSULTATION/COMMUNICATION**

12. LPS 3 prescribes the procedure for advertising a Local Planning Policy. The policy was advertised once a week for two consecutive weeks in a newspaper circulating in the Scheme area and was on display at the Administration office.
13. At the end of the advertising period, no submissions had been received.

## **FINANCIAL IMPLICATIONS**

14. Should Council adopt the modified planning policy there will be a cost involved in the notice being published in a district newspaper, however this is covered in the adopted budget.

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

15. **Strategic Planning Implications**
  - The modified policy will assist in the procedural and governance aspects of the Shire's development control responsibilities.

**16. Sustainability Implications****Social implications**

- The modified policy stipulates Shire requirements which will be applied so that the amenity of an area is not significantly impacted by a proposed land use.

**Economic Implications**

- Nil

**Environmental Implications**

- Nil

**OFFICER COMMENT**

17. LPS 3 allows Council to apply, at its discretion, a greater or lesser requirement for car parking than that stipulated as the minimum requirement in Table 3 of the Scheme. The proposed amended Local Planning Policy DEV41 - Framework for Assessing Requests for Variations to the Number of Car Parking Bays - provides guidance on when this will be applied.

18. Since advertising the modified policy the following principle has been removed:

*"The Shire will generally not accept a reduction in the number of car parking bays required for speculative developments."*

This is because all applications will be assessed and determined on their merit and not using a theoretical approach.

19. The policy seeks to provide a balance between the needs of residents, as well as the need to retain the prevailing character of an area, without unreasonable intrusion. It will also assist in the procedural and governance aspects of the Shire's development control responsibilities. It is therefore recommended that it be granted final adoption.

**OFFICER RECOMMENDATION****PS 50/2010«Minute\_No»**

1. That modified Local Planning Policy DEV41 - Framework for Assessing Requests for Variations to the Number of Car Parking Bays is adopted and a notice to this effect be placed in a newspaper circulating in the district.

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

## 51. Proposed Revocations of «Subject»Various

Previous Items: N/A«Sundry\_1\_Data»  
 Responsible Officer: Director Planning and Development Services  
 Service Area: Planning Development Services  
 File Reference: OR-CMA-016«File\_1»  
 Applicant: N/A  
 Owner: N/A

Attachments:

- Attachment 1 - DEV 5 - Caravan Park Proposals
- Attachment 2 - DEV 8 - Delegation of Authority – Approval of Building Plans
- Attachment 3 - DEV11 - Delegation of Authority – Issue of Stop Work Orders
- Attachment 4 - DEV17 - Igloo/Tunnel House Applications
- Attachment 5 - DEV18 - Noise Attenuation for Buildings in the Proximity of Perth Airport
- Attachment 6 - DEV29 - Refund of Building Licence Fees
- Attachment 7 - DEV31 - Road Closure Procedures - Roads, Rights of Way and Pedestrian Access Ways
- Attachment 8 - DEV 33 - Signs – Display of Portable Signs
- Attachment 9 - DEV 34 - Signs – General
- Attachment 10 - DEV35 - Stormwater Drainage
- Attachment 11 - DEV40 - Boundary Retaining Walls on Residential Land

### PURPOSE

1. For Council to consider the revocation of various Planning Policies as contained in the Shire's Policy Register.

### BACKGROUND

2. The Policy Register is currently being reviewed and, where considered necessary, amendments and revocations for Council consideration are being recommended.
3. Revocations are being considered for a number of reasons including ambiguity, requirements outlined in certain policies being the same as other documents (e.g. *2008 Residential Design Codes*) or interpretation issues, and therefore, are not adding value to the existing legislative position.

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## DETAILS

4. Council is requested to consider revoking the following policies:
  - DEV 5 – Caravan Park Proposals (**Attachment 1**)
  - DEV 8 – Delegation of Authority – Approval of Building Plans (**Attachment 2**)
  - DEV11 – Delegation of Authority – Issue of Stop Work Orders (**Attachment 3**)
  - DEV17 – Igloo/Tunnel House Applications (**Attachment 4**)
  - DEV 18 – Noise Attenuation for Buildings in the Proximity of Perth Airport (**Attachment 5**)
  - DEV29 - Refund of Building Licence Fees (**Attachment 6**)
  - DEV 31 – Road Closure Procedures – Roads, Rights of Way and Pedestrian Access Ways (**Attachment 7**)
  - DEV 33 – Signs – Display of Portable Signs (**Attachment 8**)
  - DEV 34 – Signs – General (**Attachment 9**)
  - DEV35 – Stormwater Drainage (**Attachment 10**)
  - DEV40 – Boundary Retaining Walls on Residential Land (**Attachment 11**)
  
5. Caravan Park Proposals

The WA Planning Commission's Planning Bulletin no. 49 (February 2001) outlines the requirements for assessing applications on caravan parks which will also be required to comply with the provisions of the *Caravan Parks and Camping Grounds Act 1995* and the *Caravan Parks and Camping Grounds Regulations 1997*.
  
6. Table 1 (the Zoning Table) of Local Planning Scheme No. 3 (LPS 3) stipulates the zones within which the use would be considered.
  
7. Clause 5.21 of LPS 3 stipulates the development requirements and matters to be considered for such land uses, so that the use does not have a detrimental impact on adjoining lots.
  
8. Clause 10.2 of LPS 3 stipulates what matters the Shire is to take into consideration when determining planning applications, these include:
  - “(i) the compatibility of a use or development with its setting;*
  - (n) the preservation of the amenity of the locality; and*
  - (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.”*
  
9. The current policy DEV5 – Caravan Park Proposals simply repeats these requirements and does not add any further value to requirements for the assessment of such applications. The policy is therefore considered redundant and not required.

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10. Delegation of Authority – Approval of Building Plans and Issue to Stop Work Orders  
Local Planning Policies DEV8 and DEV11 outline the delegation issued to the Manager Building Services which is already listed in the Delegation Authority Register (PDA 1) current as at 21 June 2010. This advice is therefore in effect, a duplication of the delegated authority.
11. Igloo/Tunnel House Applications  
Such land uses are considered to be outbuildings, the requirements for which are stipulated under the Residential Design Codes (R-Codes) and Local Planning Policy DEV20 – Outbuildings.
12. Clause 10.2 of LPS 3 also stipulates what matters the Shire is to take into consideration when determining planning applications as stated previously in this report.
13. The current policy DEV17 – Igloo/Tunnel House Applications simply repeats these requirements and does not add any further value to requirements for the assessment of such applications. The policy is therefore considered redundant and not required.
14. Noise Attenuation for Buildings in the Proximity of Perth Airport  
The WA Planning Commission's State Planning Policy No. 5.1 – Land Use Planning In the Vicinity of Perth Airport stipulates requirements on the following matters:
- The design criteria for development in areas below 20 ANEF, between 20 and 25 ANEF and above 25 ANEF;
  - Residential density allocations;
  - Notification on titles;
  - Noise insulation methods; and
  - The implementation of the above matters.
15. Planning approvals issued for development within areas above 20 ANEF, include a condition requiring a notification be placed on the property Title notifying prospective owners of the noise impacts.
16. The design criteria and insulation methods are taken into consideration and relevant conditions imposed at the building licence application stage.
17. Clause 5.22 of LPS 3 outlines the requirements for notification to be placed on the Title of a property which falls within an area in excess of 20 ANEF.
18. The current policy DEV 18 – Noise Attenuation for Buildings in the Proximity of Perth Airport simply repeats these requirements and does not add any further value to requirements for the assessment of such applications. The policy is therefore considered redundant and not required.
19. Refund of Building Licence Fees and Road Closure Procedures – Roads, Rights of Way and Pedestrian Access Ways  
The subject policies provide no planning guidance or requirements. They only

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provide procedural advice for staff which is provided on information sheets.

20. Signs – General and Display of Portable Signs

The Shire's Signage Local Laws stipulate requirements for the size, location and amount of signage permitted depending on the type of signage proposed.

21. Where a provision of the policies DEV 33 – Signs – Display of Portable Signs and DEV 34 – Signs – General is inconsistent with a local law, the provision of the local law prevails.

22. The subject policies repeat local law requirements and do not add any further value to requirements for the assessment of such applications. The policies are therefore considered redundant and not required.

23. Stormwater Drainage – Subdivision Applications

The Institute of Public Works Engineering Australia Local Government Guidelines and Australian Standards outline the method, size and location requirements with regard to drainage.

24. Local Planning Policy DEV35 provides no planning guidance or requirements. It only provides procedure advice which is provided in an information sheet. Therefore this is a redundant policy.

25. Boundary Retaining Walls on Residential Land

The current policy DEV40 – Boundary Retaining Walls simply repeats the following requirements of the R-Codes:

- Setback requirements – clause 6.3.3, tables 1, 2a and 2b, and figure 3
- Site Work Requirements (Excavation of fill) – clause 6.6.1
- Visual Privacy – clause 6.8.1

26. Therefore the subject policy does not add any further value to requirements for the assessment of such applications, and is considered redundant and not required.

## **STATUTORY AND LEGAL IMPLICATIONS**

27. LPS 3 allows the Shire to prepare policies in respect to any matter related to the planning and development of the Shire. Policies may apply to a particular class or matter and throughout the Scheme relate to one or more parts of the Scheme area. The Scheme allows Council to amend or rescind its planning policies.

28. A Local Planning Policy is not part of the Scheme and does not bind the Council in its decision making; however, Council is to have due regard to the Policy when making a decision.

## **POLICY IMPLICATIONS**

29. If Council revokes the Policies, they will be removed from the Shire's Policy Register.



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**PUBLIC CONSULTATION/COMMUNICATION**

30. There is no Scheme requirement for the policies to be advertised prior to being revoked. Should Council revoke the policies, a notice of revocation will be published once a week for 2 consecutive weeks in a newspaper circulating in the Shire area, in accordance with clause 2.5(b) of Local Planning Scheme No.3.

**FINANCIAL IMPLICATIONS**

31. There will be a cost involved in publishing a notice of revocation, this is, however, covered in the adopted budget.

**STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

32. **Strategic Planning Implications**
- The removal of the policies will assist with determining applications.
33. **Sustainability Implications**
- Social implications**
- Nil
- Economic Implications**
- Nil
- Environmental Implications**
- Nil

**OFFICER COMMENT**

34. The subject local planning policies are redundant due to the requirements being already stipulated in either LPS 3, the R-Codes, State policies and Regulations as mentioned in the Details section of this report. It is therefore recommended that the policies be revoked by Council.

**OFFICER RECOMMENDATION****«Minute\_No» 51/2010**

1. That Council revokes the following planning policies in accordance with clause 2.5 of Local Planning Scheme No 3:
- DEV 5 – Caravan Park Proposals
  - DEV 8 – Delegation of Authority – Approval of Building Plans
  - DEV11 – Delegation of Authority – Issue of Stop Work Orders
  - DEV17 – Igloo/Tunnel House Applications
  - DEV 18 – Noise Attenuation for Buildings in the Proximity of Perth Airport
  - DEV29 - Refund of Building Licence Fees
  - DEV 31 – Road Closure Procedures – Roads, Rights of Way and Pedestrian Access Ways
  - DEV 33 – Signs – Display of Portable Signs

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- DEV 34 – Signs – General
  - DEV35 – Stormwater Drainage
  - DEV40 – Boundary Retaining Walls on Residential Land
2. A notice of revocation be published once a week for 2 consecutive weeks in a newspaper circulating in the Shire area.

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

**52. Local Planning Scheme No. 3 - Text Amendment Relating to the Use of Front Setbacks in Commercial and Industrial Zones**

Previous Items: Nil«Sundry\_1\_Data»  
Responsible: Director Planning and Development Services  
Officer:  
Service Area: Planning Development Services  
File Reference: PG-LPS-003«File\_1»  
Applicant: Nil  
Owner: N/A

Attachments: Nil

**PURPOSE**

1. For Council to consider initiating an amendment to Local Planning Scheme No. 3 (LPS 3) text relating to the use of street setback areas.

**BACKGROUND**

2. Currently clauses 5.15.3 (for commercial zones) and 5.16.1 (for industrial zones) stipulate that the land located between a street alignment and buildings shall not be used for any other purpose than one or more of the following:
  - i a means of vehicular or pedestrian access;
  - ii the daily parking of vehicles used by employees and customers;
  - iii the loading and unloading of vehicles; and
  - iv landscaping.
3. Clause 5.16.1 of LPS 3 also states the following:

*“No such area shall be used for the parking of vehicles displayed for sale or which are being wrecked or repaired, or for the stacking or storage of fuel, raw materials, products, or by-products, or wastes of manufacture.”*
4. Trade Display is a use class in LPS 3 which can currently be considered in Commercial and Industrial zoned areas, however clauses 5.15.3 and 5.16.1 of LPS 3 do not permit trade display to occur in street setback areas; a common occurrence in these zones due to the type of businesses which can be permitted.

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**DETAILS**

5. It is recommended that the following purpose for setback areas be added to clause 5.15.3 and 5.16.1 in LPS 3:  
*“(v) trade display.”*
6. It is also recommended that the following paragraph be deleted from clause 5.16.1:  
*“No such area shall be used for the parking of vehicles displayed for sale or which are being wrecked or repaired, or for the stacking or storage of fuel, raw materials, products, or by-products, or wastes of manufacture.”*
7. The following provision be included under clause 5.16.1 in place of the above paragraph:  
*“No such area shall be used for the storage of motor vehicles, machinery, equipment or materials which are being wrecked or repaired, or for the stacking or storage of fuel, raw materials, products or by-products or wastes of manufacture, other than as provided for under sub-paragraph (v) above.”*

**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. The use Trade Display is defined under Schedule 1 (Land Use Definitions) of LPS 3 as being:  
*“Premises used for display of trade goods and equipment for the purpose of advertisement.”*
10. Table 1 (the Zoning Table) of LPS 3 indicates that trade display would be considered by the Shire on District Centre, Commercial, Mixed Use, Light Industry or General Industry zoned properties.
11. Clause 10.2 of LPS 3 stipulates what matters the Shire is to take into consideration when determining planning applications, these include:  
*“(i) the compatibility of a use or development with its setting;*  
*(n) the preservation of the amenity of the locality; and*  
*(o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.”*

**POLICY IMPLICATIONS**

12. Nil

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**PUBLIC CONSULTATION/COMMUNICATION**

13. 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.
14. The amendment will be advertised in the form of a notice being published in a newspaper circulated within the district.

**FINANCIAL IMPLICATIONS**

15. 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**

16. **Strategic Planning Implications**  
The amendment will assist in the procedural aspects of the Shire's development control responsibilities.
17. **Sustainability Implications**  
**Social implications**
  - The proposed amendment will be applied so that the amenity of an area is not significantly impacted by a proposed land use.**Economic Implications**
  - Nil**Environmental Implications**
  - Nil

**OFFICER COMMENT**

18. Clauses 5.15.3 and 5.16.1 of LPS 3 currently do not permit trade display to occur in street setback areas despite being a common occurrence in Commercial and Industrial zoned areas due to the type of businesses permitted there (e.g. motor vehicle sales).
19. The main reasons for including the potential impact trade display will have on the amenity of an area, and the risk it poses to vehicular and pedestrian safety and movement.
20. Should LPS 3 be amended and trade display be permitted in the street setback areas of properties within a zone where such a use can be considered under Table 1 (Zoning Table), any planning application will be assessed in accordance with the provisions of the Scheme.
21. Such applications include those for the use class Trade Display and any business for which trade display is an incidental use (e.g. Motor Vehicle Sales), and these will be assessed against the provisions outlined under clause 10.2 of LPS 3 amongst

others.

22. Only those purposes listed under clause 5.15.3 of LPS 3 will be permitted within street setback areas, and items such as wrecked vehicles will be required to be relocated so as to be out of view from the street.
23. The proposed amendment will assist with the Shire's development control responsibilities, it is therefore recommended that Council initiates the amendment.

## OFFICER RECOMMENDATION

PS 52/2010«Minute\_No»

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 as follows:

- (a) Include the following purpose as highlighted, in clause 5.15.3 and 5.16.1:

- “(i) a means of vehicular or pedestrian access;*
- (ii) the daily parking of vehicles used by employees and customers;*
- (iii) the loading and unloading of vehicles;*
- iv) landscaping; and*
- (v) trade display.”*

- (b) Delete the following provision from clause 5.16.1 of Local Planning Scheme No. 3:

*“No such area shall be used for the parking of vehicles displayed for sale or which are being wrecked or repaired, or for the stacking or storage of fuel, raw materials, products, or by-products, or wastes of manufacture.”*

- (c) Include the following provision in clause 5.16.1:

*“No such area shall be used for the storage of motor vehicles, machinery, equipment or materials which are being wrecked or repaired, or for the stacking or storage of fuel, raw materials, products or by-products or wastes of manufacture, other than as provided for under sub-paragraph (v) above.”*

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

**12.0 QUESTIONS BY MEMBERS WITHOUT NOTICE**

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

13.1 Religious headquarters in the Shire of Kalamunda. (Cr Robinson)

Q.1 Are there any other regional or state headquarters of religious denominations within residential areas in the Shire of Kalamunda?

A.1 Shire staff are aware of the land uses that are defined as "Place of Worship" within the Shire, but not necessarily if they are considered to be regional or state headquarters by the individual organisations.

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

**15.0 MATTERS CLOSED TO THE PUBLIC**  
(Matters Behind Closed Doors)

**16.0 CLOSURE**