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Shire of Kalamunda

# Special Council Meeting

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Minutes for 25 June 2012



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## MINUTES

### 1.0 OFFICIAL OPENING

1.1 The Chairman opened the meeting at 6.30pm 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	(Chairman) (Shire President)	North Ward
Margaret Thomas		North Ward
Sue Bilich		North Ward
Justin Whitten		South West Ward
Noreen Townsend		South West Ward
Allan Morton		South West Ward
Geoff Stallard		South East Ward
Frank Lindsey		South East Ward
Bob Emery		North West Ward
Martyn Cresswell		North West Ward

##### Members of Staff

James Trail	Chief Executive Officer
Clayton Higham	Director Planning & Infrastructure Services
Rhonda Hardy	Director Corporate & Community Services
Peter Hayes	Manager Business & Strategy
Warwick Carter	Manager Economics Property & Procurement
Andrew Fowler-Tutt	Manager Development Services
Darrell Forrest	Manager Governance
Nina Lytton	Senior Planning Coordinator
Michelle Clark	Executive Assistant
Donna McPherson	Minute Secretary

**Members of the Public** 12

**Members of the Press** 1

#### 2.2 Apologies

John Giardina	(entered the meeting at 6.45pm)	South East Ward
Dylan O'Connor	(entered the meeting at 6.40pm)	North West Ward

#### 2.3 Leave of Absence Previously Approved

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**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 DISCLOSURE OF INTERESTS**

**5.1 Disclosure of Financial and Proximity Interests**

- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 5.65 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the *Local Government Act 1995*.)

5.1.1 Nil.

**5.2 Disclosure of Interest Affecting Impartiality**

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

5.2.1 Nil.

**6.0 REPORT TO COUNCIL**

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

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**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**
**6.1 Draft Structure Plan- Stage 1 of the Forrestfield/High Wycombe Industrial Area**

Previous Items	SCM-02/2012
Responsible Officer	Director Development and Infrastructure Services
Service Area	Development and Infrastructure
File Reference	PG-STU-028
Applicant	Shire of Kalamunda
Owner	Various
Attachment 1	Locality Plan
Attachment 2	Existing Local Planning Scheme No. 3 Zoning Map
Attachment 3	Stage 1 Draft Structure Plan
Attachment 4	Modifications to the Draft Structure Plan
Attachment 5	Submission table

**PURPOSE**

1. To consider whether to endorse a Draft Structure Plan for land bounded by Berkshire Road, Roe Highway, Sultana Road West and Milner Road, with the exception of Lots 223, 497, 498 and 499 Sultana Road West, Forrestfield.
2. The subject area represents Stage 1 of the proposed Forrestfield/High Wycombe Industrial Area ("Stage 1"). Refer to the Forrestfield/High Wycombe Industrial Area Locality Plan (Attachment 1).

**BACKGROUND**

3. The aggregate land area in Stage 1 is approximately 60 hectares. The land is zoned Industrial Development under the provisions of Local Planning Scheme No.3 and Urban under the provisions of Metropolitan Regional Scheme.
4. In November 2011, the Minister for Planning approved Amendment No. 34 to Local Planning Scheme No.3 ("the Scheme") to rezone Stage 1 from Special Rural to Industrial Development.
5. Stage 1 is shown as being a Development Area ("DA") on the Scheme Zoning Map. Refer to the Existing Local Planning Scheme No.3 Zoning Map (Attachment 2)
6. Council, at the Special Meeting on the 23 April 2012, endorsed the Draft Structure Plan for the purpose of public advertising.

**DETAILS**

7. The Draft Structure Plan for Stage 1 will allow for orderly and proper planning of the area by establishing the overall design principles for the area. Refer to the Draft Structure Plan (Attachment 3)

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8. The objectives of the Draft Structure Plan are:
    - To provide for a road and lot layout that optimises the existing road and services infrastructure.
    - To ensure that industrial development does not adversely impact on the amenity and safety of the adjoining land uses.
    - To provide a layout that meets the needs of landowners, allowing for flexibility in the design of sites and future subdivision and development of industrial land.
  9. The Draft Structure Plan permits the development and subdivision of the land for light industrial purposes, typically logistics and transport related activities.
  10. The Draft Structure Plan identifies the preferred land use arrangements and associated lot sizes and configurations, future road layout, traffic management measures and Developer Contribution Items relevant to the structure planned area. The design elements include:
    - Subdivision - No subdivision of lots less than 1 hectare will be permitted and no battleaxe subdivisions or development of land with battleaxe access will be accepted unless provided for in the Structure Plan.
    - Development Criteria - Land use permissibility, built form, vehicle access, landscaping and design guidelines.
  11. The Draft Structure Plan has been prepared in conjunction with the Draft Industrial Design Guidelines with the aim to promote industrial development of a high quality.
  12. Amendment No. 48 to Introduce Developer Contributions Provisions and a Developer Contribution Schedule into Local Planning Scheme No. 3 is currently being advertised concluding on 3 July 2012. The amendment will establish Scheme requirement for a Developer Contribution Plan which will be implemented in conjunction with the Structure Plan when adopted.

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

13. Section 6.2.4 of the Scheme stipulates the procedure to be followed when preparing a Structure Plan. If Council resolves to adopt the proposed Structure Plan, then ultimately it will be determined by the WA Planning Commission.
  14. Clause 4.2.4 (Industrial Zones) of the Scheme stipulates that the following are objectives of the Industrial Development zone:
    - To provide for orderly and proper planning through the preparation and adoption of a Structure Plan establishing the overall design principles for the area.
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- To permit the development of the land for industrial purposes and for commercial and other uses normally associated with industrial development.
15. Existing approved land uses on properties zoned Industrial development which were approved under the provisions of the previous zoning (Special Rural) will be permitted to remain, subject to complying with the conditions of approval, as non-conforming uses.
16. Clause 4.8 of the Scheme stipulates that a non-conforming use can continue indefinitely, but if the property was not used for a period exceeding 6 months, the non-conforming use status is lost and the property would be required to comply with the requirements of the new zoning.
- Clause 6.2.2 of the Scheme stipulates that the purpose of Development Areas (DA) is the following:
- “(a) To identify areas requiring comprehensive planning prior to subdivision and development; and*
- (b) To coordinate subdivision, land use and the development in areas requiring comprehensive planning.”*
17. Clause 6.2.2.1 of the Scheme stipulates that the Shire requires a Structure Plan for a DA, or for any particular part or parts of a DA, before recommending subdivision or approving development of land within the DA.
18. Schedule 11 of the Scheme describes the DAs and sets out the purpose and particular requirements that may apply to the DA. In this instance the Developer Contributions Schedule which establishes the proportional contributions to the cost of the common infrastructure.

## **POLICY IMPLICATIONS**

19. The Draft Structure Plan has been prepared in accordance with local structure plan requirements of the WA Planning Commission’s Draft Structure Plan Preparation Guidelines.
20. In support of the Draft Structure Plan a Transport Impact Assessment has been prepared in accordance with the requirements of the WA Planning Commission’s *Transport Assessment Guidelines for Developments – Volume 2: Structure Plans*. The scope of the report is to provide a detailed assessment of the following:
- Conduct an overview audit of the existing traffic infrastructure adjacent to and within the vicinity of the structure plan area and provide commentary on how these road networks meet their existing functions.
  - Make preliminary assessments on how the proposed structure plan land uses will impact these existing road networks.
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- Nominate any improvements required in the local transport network to cater for the needs of the proposed structure plan land uses and functions.
  - Produce a document which meets the requirements of the *Transport Assessment Guidelines for Developments – Volume 2: Structure Plans*.

## **PUBLIC CONSULTATION/COMMUNICATION**

21. The Draft Structure Plan was advertised for 21 days from 27 April 2012 to 18 May 2012. The plan was advertised via letters to the landowners, advertisement in local papers and on the Shire of Kalamunda's website.
  22. Twenty six submissions were received, comprising 17 submissions from landowners and the balance from government and non-government agencies. Refer (Attachment 4 - Submission Table).
  23. Of the 17 submissions received from the landowners or landowner agents, thirteen were non-objections (two of them conditional) and four were objections (one of them conditional).
  24. Following are the main issues raised in submissions objecting to the proposal:
    - Proximity of the new road will make a current house unliveable.
    - Milner Road should not be closed off and the option of a roundabout at the junction of Dundas, Milner and Berkshire Roads should be explored.
    - There are no benefits for current landowners- developing the land or selling the land are both financially unviable options, and waiting out is not attractive either.
    - If Milner Road is to be cul-de-sac, there should be no need for it to have a major road setback of 20m. In response to the submission a discussion was held with Department of Transport (DoT) to advise of the Shire's response.
  25. The following issues were raised in submissions that were conditional non-objections:
    - If Lots 5, 6 or 8 Ashby Close are developed independently, the draft Structure Plan does not allow for separate street access for each of them;
    - A proposed 20 metre setback to Roe Highway is too restrictive and unnecessary;
    - Lot 200 Sultana Road West has two road frontages with 20 metre setback on both the Shire should review Sultana Road West setback and change it to a secondary street setback of 10m.
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26. The comments from the government agencies are summarised as follows:
- Water Corporation reiterated their earlier advice related to the Amendment No. 34 and had no objections to the proposal.
  - Department of Transport (DoT) did not support the proposal until such time as the Transport Assessment addressing the requirements of the WAPC document Transport Assessment Guidelines for Developments – Volume Two Structure Plans has been provided. DoT requested additional pedestrian connection between Sultana Road West and Nardine Close in order to increase pedestrian permeability of the development. DoT also requested some modifications in terminology (“dual paths”- “shared paths”) and addition of further shared paths throughout the development to accommodate cyclists.
  - Department of Health had no objections to the proposal.
  - Main Roads WA did not support the proposal based on their request to produce additional transport information, relating to the Roe Highway and Berkshire Road intersection in order to establish the traffic impact as well as potential for inclusion of any works in the developer contribution schedule. In response to the submission a discussion was held with Main Roads to advise of the Shire’s response.
  - Department of Planning made a few preliminary comments, flagging the issues of potential future amalgamation of redundant battle axe driveways as well as a planning trigger for the ceding of the land necessary for the extension of Nardine Close.
  - Department of Environment and Conservation raised the following issues:
    - Flora and fauna study should be done for the area.
    - There are concerns regarding the interface of the Bush Forever site and industrial uses hard road edge along all of the boundaries of the site would be preferred. Masonry wall is not considered an appropriate interface.
    - Although the DEC Contaminated Sites Register does not show any contaminated sites in the area, due to the historic land use of marked gardens and orchards, appropriate contamination investigations as well as remediation should be done prior to the change of the land use.
    - Detailed soil investigation is recommended in relation to the risk of disturbing Acid Sulphate Soils.
    - Measures should be taken to provide appropriate interface between industrial land and surrounding, non-industrial land, to insure the amenity of the adjacent properties.
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## FINANCIAL IMPLICATIONS

27. Costs for the preparation of the document and public consultation were met through the Development and Infrastructure Services budget.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

### Strategic Planning Implications

28. Stage 1 is referenced in the State Government's Key Strategic Policy document *Directions 2031 and Beyond* (2010) and was originally identified under the Kewdale Hazelmere Integrated Master Plan (2006) as future development area given its key strategic location adjacent to Perth Airport, Forrestfield Marshalling Yards/Container Depot and key road freight routes of Roe Highway, Dundas Road, Abernethy Road and Tonkin Highway.
29. The Forrestfield/High Wycombe Industrial Area has been included as a priority key short term (developed in 0-4 years) non heavy industrial site in the recently released "Economic and Employment Lands Strategy: non-heavy industrial".

### Sustainability Implications

#### Social implications

30. The planned development of Stage 1 for industrial land use activity through the preparation of a Structure Plan will enable some landowners to progress with the development of the land independently of others.

#### Economic Implications

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

#### Environmental Implications

32. Lots 223, 497, 498 and 499 Sultana Road West, Forrestfield are identified as Bush Forever area and therefore set aside for Regional Park. Those Lots have been identified as such under the Structure Plan.
33. Bush Forever aims to conserve, where possible, at least 10% of each of the original 26 vegetation complexes of the Perth Metropolitan Region portion of the Swan Coastal Plain.

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34. The Draft Structure Plan and the Draft Design Guidelines deal with the issue of the Bush Forever site's interface with the surrounding industrial land uses in order to limit the potential littering of the site, limit readily available public access to the site and not compromise any established ecological linkages in the area. To this end improved fencing treatment and landscape buffer will form part of the management plan for the site.
35. The flora survey revealed that Lot 19 Berkshire Road contains vegetation of significance with Declared Rare Flora ("DRF") *Conospermum Undulatum* (Smokebush) being present on the site. It is proposed that the issue of DRF be dealt with at the subdivision/development application stage when the developer will need to seek approval to have the DRF relocated.

### OFFICER COMMENT

36. Though there were a small number of objections from affected landowners in the area, mainly concerned with the traffic arrangements the economic viability of the changes and the effect on their properties. In addition five government agencies did not support the structure plan. The majority of submissions however are supportive of the Draft Structure Plan.
37. In response to the comments received from government agencies the following is provided:

#### Traffic:

- The proximity of the intersection of Milner Road and Berkshire Road to Dundas Road / Berkshire Road intersection is considered to be a safety concern. The closing off of Milner Road will not only improve the safety of the above intersection but will also discourage vehicles using Milner Road as a shortcut to Roe Highway via Maida Vale Road. This will enhance the amenity of the area. In the second stage of the Structure Plan, it is proposed to improve the access by extending Sultana Road West to Dundas Road. The creation of a new intersection will improve the traffic flow and improve the access to and from Forrestfield industrial area.
- The traffic assessment required by the Department of Transport and Main Roads WA as per the WAPC guidelines has now been completed and forwarded to both departments. A copy will also be sent to the Commission for inclusion in the Draft Structure Plan.
- Both Government Departments have been advised that the additional traffic information and analysis has been prepared in accordance with their requirements. Both Main Road and DoT advised that their response would now be amended to reflect this.
- Comments received from the DoT in respect to the location of "Shared Paths" are acknowledged and it is recommended that changes be incorporated into the Draft Structure Plan.

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- No provision has been made for a pedestrian linkage between Sultana Road West and Nardine Close as it is not considered necessary and/or viable. The only pedestrian link available is the “Shared Path” along Milner Road. Consideration could be given to provision of controlled pedestrian access through the Bush Forever site at a later date.
  - No reference has been made in the Draft Structure Plan to the intersection of the Berkshire Road and Roe Highway as required by Main Roads WA for the following reasons:
    - The intersection in question is identified as part of the Primary Regional Road network and therefore is the responsibility of Main Roads WA and beyond the scope of the draft Structure Plan.
    - The expectation that the Developer Contributions Scheme will contribute towards any improvements to the intersection is unreasonable and beyond the financial scope of the Developer Contributions Plan. Such a contribution would render the Scheme financially unviable.
    - It is understood that the State Government has provided funding in the 2012/13 State Budget to provide the necessary funding for the upgrading to a fully signalised intersection. In discussion with Main Roads they acknowledged that the decision of the State Government to provide funding will be reflected in their revised comments back to the Shire on the Draft Structure Plan.

**Environment:**

- An environmental study detailing flora and vegetation was completed in 2008. The report forms part of the Draft Structure Plan.
- Fencing at the Bush Forever site boundaries that abut public roads is proposed to be pine posts and rails with a chainmesh infill between posts. It is not considered that hard edge roads on all the boundaries of Bush Forever site are feasible. Additional landscape buffer is proposed under the Draft Design Guidelines for those lots abutting the Bush Forever site. This will provide added level of protection to the Regional Reserve.
- Historic land use in the area (market gardens and orchards) and potential issue with contamination as well as the disturbance of the Acid Sulphate Soils is acknowledged. It is considered appropriate that the detailed investigation and/or remediation will be done at the subdivision/development stage.

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38. The Draft Structure Plan as well as the Draft Design Guidelines deal with ways of interfacing the industrial land uses with the adjoining non-compatible land uses. Considering that Stage 2 and particularly Stage 3 will follow in the short to medium term, in the interim period the issue of interface and possible diminished amenity of adjoining rural residential areas has to be addressed. To this end the Draft Structure Plan required an increased landscape buffer of 8m for all lots fronting Sultana Road West.
  39. Comments raised by landowners in respect to setback to Roe Highway and the use of battleaxe legs are noted. In respect to the first issue it is recognised that there is no planning merit in requesting a 20m setback to Roe Highway and therefore it is recommended that requirement be removed from the Structure Plan. In respect to the second issue it is acknowledged that without dual road frontage Lots 5, 6, and 8 on Ashby Close will have access issues if the affected lots are developed independently of each other. It is therefore recommended that Lots 5, 6 and 8 have a "C" notation placed on them allowing for a single shared industrial access leg to Ashby Close.
  40. The Traffic Impact Assessment builds on the existing traffic report prepared for Stage 1 and importantly provides an analysis and modelling of traffic movements associated with the future development of the subject land. The report recommends that consideration be given to the modification of the Berkshire Road and Dundas Road intersection to allow for left turn and right turn traffic movements from Dundas Road to Berkshire Road to improve the intersection controls in this location. In light of this comment it is recommended that the structure plan be modified to reflect this requirement. Works associated with this modification will need to be reflected in the Developer Contribution Plan.
  41. The Draft Structure Plan is consistent with the Amendment No. 34 to Local Planning Scheme No. 3 and the Scheme objectives for the Industrial Development zone.
  42. The Draft Structure Plan has been prepared in accordance with the Guidelines for drafting local structure plans and represents an appropriate strategic response in order to maximise new opportunities for strategically located industrial land.
  43. The Draft Structure Plan needs to be considered in conjunction with the Developer Contribution Plan and Scheme provisions that are currently being advertised as part of Scheme Amendment No. 48. The Contribution Plan responds to the multiple land ownership of the subject land and to significant improvements that will be required to the local infrastructure, in particular the improvements to the road system, new roads and drainage.
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44. The Draft Structure Plan for Stage 1 represents the first of three stages of developing Forrestfield/High Wycombe Industrial area. The plan has been prepared in response to the Shire's intent to oversee the development of a high standard, sustainable industrial area that will attract a range of business activities keen to locate in a key strategic industrial location.
45. Having regard to the above, it is recommended that Council endorses the Draft Structure Plan subject to modifications. Refer (Attachment 5 - Modifications to the Draft Structure Plan).

RESOLVED SCM 62/2012

That Council:

1. Endorses the Draft Structure Plan for Forrestfield/High Wycombe Industrial Area - Stage 1 subject to the following modifications:
- a. In the legend, change the term "Dual Use Path" to "Shared Path".
  - b. Related to the current battleaxe access driveway to Lots 5, 6 and 8 Ashby Close - remove annotation "B" and replace with "C".
  - c. Structure Plan Notes No. 5. and 6. to be modified to reflect the modification b.
  - d. Pedestrian paths on Sultana Road West, Nardine Close and new subdivisional road to be changed from "pedestrian path" to "shared path".
  - e. The 20 metre setback along the Roe Highway boundary to be removed.
  - f. Add notation "A1" to the intersection of Berkshire Road and Dundas Road and add to Structure Plan Notes - General – Notation "A1" depicts modification to the Berkshire Road and Dundas Road intersection to allow for a left turn and right turn traffic movements from Dundas Road to Berkshire Road.
  - g. That point 3 of the Structure Plan notes be amended to read "approximately" one hectare.
2. On inclusion of the required changes in the Draft Structure Plan it will be forwarded to the Western Australian Planning Commission for endorsement.

Moved: **Cr Donald McKechnie**

Seconded: **Cr Dylan O'Connor**

Voted: **CARRIED UNANIMOUSLY (12/0)**

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

**6.2. Local Planning Scheme No. 3 Amendment No. 46 - Rezone from Public Purpose to Mixed Use R60 and Residential R60 - Lot 106 (88) Hale Road, Forrestfield**

Previous Items	OCM 165/2010 and OCM 29/2012
Responsible Officer	Director Development and Infrastructure Services
Service Area	Development and Infrastructure Services
File Reference	PG-LPS-003/046
Applicant	Nil
Owner	Shire of Kalamunda
Attachment 1	Locality Plan
Attachment 2	Existing and Proposed Scheme Zoning Map
Attachment 3	Draft Local Planning Strategy Spatial Plan
Attachment 4	Forrestfield District Centre Structure Plan
Attachment 5	Submission Table

**PURPOSE**

- To consider submissions received and whether to adopt Amendment No. 46 to Local Planning Scheme No. 3 (“the Scheme”) to rezone a portion of Lot 106 (88) Hale Road, Forrestfield, from Public Purpose (Hall/Community Centre) to Mixed Use R60 and Residential R60. Refer to the Locality Plan (Attachment 1) and the Existing and Proposed Scheme Zoning Map (Attachment 2).

**BACKGROUND**

**2. Land Details:**

<b>Land Area (Parent Lot):</b>	1.8ha
<b>Land Area (Proposed to be Rezoned):</b>	5,957sqm for Residential purposes 2,007sqm for Mixed Use purposes
<b>Local Planning Scheme Zone:</b>	Local Reserve – Public Purpose (Hall/Community Centre)
<b>Metropolitan Regional Scheme Zone:</b>	Urban

- The subject property is currently zoned Public Purpose and is occupied by the Woodlupine Community Hall and associated car parking, and has frontage onto Hale Road and Woolworths Drive.



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4. In April 2012, Council resolved (Resolutions OCM29/2012) to adopt a Structure Plan for the Forrestfield District Centre which identifies the property as being an “Opportunity Site” which may be used for residential, commercial or mixed uses on the property and falls within a catchment area identified as being suitable for residential development with a density coding of up to R80. Refer to the Forrestfield District Centre Structure Plan (Attachment 4).
  5. In November 2010 Council resolved (Resolution OCM 165/2010) to adopt a Business Plan for the property which requires a portion of the property to be subdivided and rezoned for residential and commercial purposes.
  6. In April 2012 Council resolved (Resolution OCM 29/2012) to initiate Amendment No. 46 to the Scheme.

#### **DETAILS**

7. It is proposed to rezone the front portion of the property fronting Hale Road (2,007sqm) from Public Purpose (Hall/Community Centre) to Mixed Use R60, and the rear portion of the property (5,957sqm) to Residential R60.
8. Plans showing the redevelopment potential of the property are currently being prepared. A separate report on the plans will be forwarded to Council for its consideration.
9. The Woodlupine Community Hall and associated car parking is to be retained.

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

10. The *Town Planning Regulations 1967* and *Planning and Development Act 2005* establish procedures relating to amendments to local planning schemes. If Council resolves to adopt the proposed amendment, then ultimately the amendment will be determined by the Minister for Planning.
11. If a portion of the property is rezoned to Mixed Use R60, applications for land uses such as Aged/Dependent Dwellings, Child Care Premises, Consulting Rooms, Grouped Dwellings, Office and Restaurant can be considered, amongst others, subject to planning approval being obtained from the Shire.

#### **POLICY IMPLICATIONS**

12. *Liveable Neighbourhoods (January 2009)* 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.

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**PUBLIC CONSULTATION/COMMUNICATION**

13. The proposal was advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*, which involved a local public notice in a paper circulating the District, a sign being erected on site and the proposal being referred to affected landowners for comment.
14. During the formal advertising period four non-objections and two objections were received by the Shire. Refer to the Submission Table (Attachment 5). The primary concern raised in the objections questioned the sustainability of residential development on the subject lot.

**FINANCIAL IMPLICATIONS**

15. Nil.

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

16. The proposal conforms to the Shire's Draft Local Planning Strategy and Forrestfield District Centre Structure Plan for potential increases in residential densities and support of a wide range of retail and commercial premises.
17. The subdivision and development of the land assists the Shire in addressing its strategic goal to effectively plan for future community needs by providing higher density housing. It also addresses the anticipated increase in population identified in "*Directions 2031 and Beyond*" prepared by the WA Planning Commission, and included in the Local Planning Strategy.

**Sustainability Implications**Social Implications

18. Future residential development of the site may present opportunities for affordable housing in an area close to shopping, community and transport facilities.

Economic Implications

19. Nil.

Environmental Implications

20. Existing trees located on Hale Road will where possible be retained as part of the future development of the site.

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**OFFICER COMMENT**

21. The subject lot has been identified under the Shire's Draft Local Planning Strategy and Structure Plan for the Forrestfield District Centre with the latter as an "opportunity site" with a range of land use development options.
22. The proposed Mixed Use R60 and Residential R60 density coding is considered appropriate for the District Centre, close to transport commercial and community facilities. Importantly the R60 density coding will complement the range of densities that will be covered as part of the Local Housing Strategy for the surrounding residential area.
23. The proposed rezoning is also consistent with the state governments key strategic planning document Directions 2031 and Beyond in providing for residential development adjacent to activity centres.
24. Issues relating to lot and road configurations, and public open space, will be addressed at the subdivision stage if the amendment is ultimately approved by the Minister for Planning.
25. Considering the above, it is recommended that Council adopts the amendment.

**RESOLVED SCM 63/2012**

That Council:

1. Notes the submissions received in response to Amendment No. 46 to Local Planning Scheme No. 3.
2. Adopts the amendment to Local Planning Scheme No. 3 without modification, in accordance with the following:

<p style="text-align: center;">PLANNING AND DEVELOPMENT ACT 2005 RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME SHIRE OF KALAMUNDA LOCAL PLANNING SCHEME NO. 3 AMENDMENT NO. 46</p> <p>Resolved that the Council in pursuance of Part 5 of the Planning and Development Act 2005 amend the above Local Planning Scheme by:</p> <ol style="list-style-type: none"><li>1. Rezoning portion of Lot 106 (88) Hale Road, Forrestfield, from Public Purpose to Mixed Use R60 and Residential R60.</li></ol>
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3. Amends the Scheme Zoning Map accordingly.
4. Duly executes the Amendment documents and forwards them and submissions received to the Minister for Planning requesting final approval be granted.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Justin Whitten**

Vote: **CARRIED UNANIMOUSLY (12/0)**



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

**6.3. Adoption of the 2011/12 Budget to Correct a Rating Anomaly**

Previous Items	
Responsible Officer	Director Corporate and Community Services
Service Area	Financial Services
File Reference	
Applicant	N/A
Owner	N/A
Attachment 1	Statement of Comprehensive Income by Program
Attachment 2	Statement of Comprehensive Income by Nature and Type
Attachment 3	Statement of Cash Flows
Attachment 4	Rate Setting Statement
Attachment 5	Net Current Funding Position
Attachment 6	Note 8 – Rating Information
	Note 9 – Cash In Lieu of Rates
Attachment 7	Notes 14 – Note to the Statement of Cash Flows

**PURPOSE**

1. To adopt the Municipal Fund Budget for the year ended 30 June 2012, representing the Financial Year 2011/2012, together with supporting schedules including striking of the Municipal Fund Rates in order to correct a rating anomaly.

**BACKGROUND**

2. As a consequence of an assessment by the Department of Local Government ("the Department") of local government budgets for 2011/2012, it identified non-compliance with the differential rating provisions of the *Local Government Act 1995* (the Act) by some 22 local governments, including the Shire of Kalamunda.
3. The Department has sought remedial action to bring the rates levied by these local governments into line with the provisions of the Act.

**DETAILS**

4. The differential rating provisions of the Act include a number of requirements which must be met by a local government for the rates imposed to be validly levied.
5. One of these requirements is that Minimum Rates cannot be levied on more than 50% of the properties in each specific rating category. With respect to the Shire of Kalamunda this occurred in the Industrial – UV category.

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6. In order that this rating error can be corrected, the rates levied must be written out of the records and then re-imposed.
  7. The current provisions of the Act do not provide the Minister for Local Government or the Department with any flexibility to achieve the correction. The State Solicitor's Office advised the Department the only way this could be achieved was to have the rates quashed under Section 6.82 of the Act by an appropriate body with the relevant judicial powers.
  8. It was determined the relevant body was the State Administrative Tribunal ("SAT").
  9. Subsequently SAT quashed the rates levied by the Shire of Kalamunda for 2011/2012 on 8 June 2012.
  10. The Department has provided documented examples of the necessary resolutions and budget documents for Council to resolve this issue.

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

11. Section 6.35(5) OF the *Local Government Act 1995* – application of minimum rates.  
Section 6.3 of the *Local Government Act 1995* – Budget for other circumstances.

#### **POLICY IMPLICATIONS**

12. There are no policy implications from this issue.

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

13. Public consultation was not required for this matter.

#### **FINANCIAL IMPLICATIONS**

14. Projected Rate Revenue for the 2011/2012 financial year will decrease by \$1,454 as a consequence of correcting this rating anomaly.

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

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

15. Nil.

##### **Sustainability Implications**

###### Social Implications

16. Nil.

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Economic Implications

17. Nil.

Environmental Implications

18. Nil.

**OFFICER COMMENT**

19. The Shire created an Industrial Unimproved Value and a subsequent Industrial Unimproved Value - Minimum Rate within its differential rating categories.
20. Within these two categories the Shire has classified a total of two properties, both being small mining tenements. Given the low value of both these properties the Shire rated them both with the Industrial Unimproved Value - Minimum Rate at \$727 each.
21. Technically the Shire should have rated one at the Industrial Unimproved Value - Minimum Rate of \$727 and the other should have been rated according to its value multiplied by the rate in the dollar (i.e. \$ \$19207 X 0.02701 = \$518.78).
22. This would have then complied with Section 6.35(5) because there would not have been more than 50% of the total properties in the Industrial Unimproved category in the Industrial Unimproved Value - Minimum Rate category.
23. The Officer Recommendation incorporates the Resolutions supplied by the Department to resolve the rating issue.

RESOLVED SCM 64/2012

That Council:

1. Notes the State Administrative Tribunal has quashed the general rate imposed on 25 July 2011 in accordance with Section 6.82 of the *Local Government Act 1995*, as the Shire of Kalamunda had not obtained Ministerial approval for:
- a. The Industrial UV rate under Section 6.33(3) of the *Local Government Act 1995* which was more than twice the lowest General Rate.
  - b. The Industrial UV Minimum Payment under Section 6.35(5) which was imposed on more than 50% of properties in that differential rate group.



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2. Adopts the budget for 2011/2012 in accordance with Section 6.3 of the *Local Government Act 1995*, which:
- a. Subject to the modifications set out in Eesolution 3, is in the same form and manner as the annual budget adopted at the Council meeting held on 25 July 2011 (recorded as item SCM 101/2011 and included in Attachments to the minutes of that meeting, and tabled herewith) and subsequently amended through two budget reviews conducted in October 2011 and January 2012 and adopted by Council on 19 December 2011 and 26 March 2012 respectively (recorded as items OCM 200/2011 and (resolution number not recorded) and included in the minutes of those meetings, and tabled herewith).
  - b. Reduces the amount yielded by the general rate to \$23,843,017 which is \$1,454 less than the budget deficiency and within the statutory limit on the amount estimated to be yielded by the general rate provided for by Section 6.3 of the *Local Government Act 1995*.
3. Notes that the modifications referred to in Resolution 2 change the following schedules and notes:
- a. Statement of Comprehensive Income by Program
  - b. Statement of Comprehensive Income by Nature and Type
  - c. Statement of Cash Flows
  - d. Rate Setting Statement
  - e. Note 8 – Rating Information
  - f. Note 9 – Cash In Lieu of Rates
  - g. Notes 14 – Note to the Statement of Cash Flows
- So that these schedules and notes, as modified are in the form and manner set out in Attachments 1 to 7.
4. In accordance with Section 6.32(3)(b) of the *Local Government Act 1995*, imposes the following general rates and minimum payments :
- General Rates
- |                                    |                            |
|------------------------------------|----------------------------|
| General - Gross Rental Values(GRV) | 5.0665 cents in the dollar |
| Commercial – GRV                   | 5.3198 cents in the dollar |
| Industrial – GRV                   | 5.6744 cents in the dollar |
| General - Unimproved Values (UV)   | 0.2411 cents in the dollar |
| Commercial – UV                    | 0.2532 cents in the dollar |
| Industrial UV                      | 0.2701 cents in the dollar |
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Minimum Rates

General - Gross Rental Values (GRV)	\$648
Commercial – GRV	\$680
Industrial – GRV \$727	
General - Unimproved Values (UV)	\$648
Commercial – UV	\$680

5. Notes that resolutions 3 and 4 above are required to validate the general rate and minimum payments levied.
6. Under Section 6.12(b) of the *Local Government Act 1995* waives the rates levied on assessments A163806, 96 Kings Mill Road PICKERING BROOK and A178380, 16 Asher Road PAULLS VALLEY for the 2011/2012 year as a consequence of this reimposition.

Moved: Cr John Giardina

Seconded: Cr Margaret Thomas

Vote: **CARRIED UNANIMOUSLY/ABSOLUTE MAJORITY (12/0)**



**7.0 CLOSURE**

There being no further business, the Chairman declared the meeting closed at 6.59pm.

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

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

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