

## SHIRE OF KALAMUNDA

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## Minutes of Ordinary Meeting of Council Held in the Council Chambers 2 Railway Road, Kalamunda Monday 21 February 2011

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### 1.0 OFFICIAL OPENING

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

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

#### 2.1 ATTENDANCE

##### **Councillors**

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

##### **Members of Staff**

James Trail	CHIEF EXECUTIVE OFFICER
Steve Leeson	A/DIRECTOR OF CORPORATE SERVICES
Kevin O'Connor	DIRECTOR OF COMMUNITY DEVELOPMENT
Clayton Higham	DIRECTOR OF PLANNING & DEVELOPMENT SERVICES
Mahesh Singh	DIRECTOR OF ENGINEERING SERVICES
Darrell Forrest	MANAGER GOVERNANCE
Peter Hayes	MANAGER BUSINESS & STRATEGY
David Tomlinson	MANAGER STATUTORY PLANNING & BUILDING
Michelle Clark	EXECUTIVE ASSISTANT CHIEF EXECUTIVE OFFICER
Donna McPherson	MINUTE SECRETARY

**Members of Public** 15

**Members of Press** Kaitlyn Offer, Community Newspapers Group

#### 2.2 Apologies

Carol Everett SOUTH EAST 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 Public Gallery on matters relating to the functions of this meeting.

**Questions Taken on Notice Ordinary Council Meeting 21 December 2010  
(Response provided in writing)**

Valerie Markovic, 143 Bahen Road, Hackett Gulley

Where does Bahen Road stop?

The road reserve for Bahen Road stops just past the southeast lower boundary of house number 241 Bahen Road, Hackett Gulley.

What do the residents do when there is an emergency as there is no access out of Bahen Road when Mundaring Road is blocked off?

A decision on the need for evacuation within any location of the Shire will be given by the Hazard Management Authority (in the case of bushfire that will be FESA). Evacuation will occur in a planned and safe manner, coordinated by the Police.

3.1 Nil.

**4.0 PETITIONS/DEPUTATIONS**

4.1 Footpath Construction Lilian Road, Maida Vale

We, the undersigned, do not wish for a footpath to be constructed on Lilian Road, Maida Vale.

The petition containing 23 signatures was tabled at the meeting.

**5.0 APPLICATIONS FOR LEAVE OF ABSENCE**

5.1 Nil.

**6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING****6.1 Confirmation of Ordinary Council Meeting Minutes 20 December 2010**

RESOLVED OCM 01/2011

That the Minutes of the Ordinary Council Meeting of the Shire of Kalamunda held in the Council Chambers, 2 Railway Road, Kalamunda on 20 December 2010 be confirmed.

Moved: **Cr Maureen Robinson**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (10/0)**

## 7.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

### 7.1 Extraordinary Election North West Ward

The Shire President advised the meeting that an Extraordinary Election will be held for the vacancy which exists in the North West Ward on 24 March 2011. The WA Electoral Commission will conduct the election on behalf of the Shire of Kalamunda by postal vote. Voting slips will be sent to eligible electors commencing 1 March 2011. Two candidates have nominated, Mr Justin Whitten and Ms Toni Warden.

## 8.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

### 8.1 GSC21 Enterprise Agreement (2011-13)

CONFIDENTIAL ITEM

*Reason for Confidentiality*

Section s5.23 (2)(a) *Local Government Act 1995*. "A matter affecting an employee or employees."

### 8.2 GSC22 CEO Performance Review

CONFIDENTIAL ITEM

*Reason for Confidentiality*

Section s5.23 (2)(a) *Local Government Act 1995*. "A matter affecting an employee or employees."

### 8.3 CEOR 10.3.4 Employment of Director Corporate Services

CONFIDENTIAL ITEM **(Item to be provided under separate cover)**

*Reason for Confidentiality*

Section s5.23 (2)(a) *Local Government Act 1995*. "A matter affecting an employee or employees."

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

### 9.1 GSC20 Attendance at the 2011 National General Assembly of Local Government in Canberra by the Chief Executive Office and Shire President

Cr Donald McKechnie declared a Financial Interest as he is the attendee.

**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.

## 10.0 REPORTS TO COUNCIL

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

### 10.1 Planning Services Committee Report

#### **Withdrawn Items from Planning Services Report**

PSC03 withdrawn to amend Committee Recommendation to Council.

PSC04 withdrawn proposed amendment to Committee Recommendation to Council.

PSC05 withdrawn proposed amendment to Committee Recommendation to Council.

#### 10.1.1 Adoption of Body of Planning Services Report

RESOLVED OCM 02/2011

That the recommendations contained in the Planning Services Committee Report of the 7 February 2011, except withdrawn item PSC03, PSC04 & PSC05, be adopted.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Frank Lindsey**

Vote: **CARRIED UNANIMOUSLY (10/0)**

#### 10.1.2 PSC01 Planning & Urban Design Guidelines - Kalamunda Town Centre

EN BLOC RESOLUTION OCM 02/2011

1. That Council adopts the Planning and Urban Design Guidelines (Attachment 2) for the Kalamunda Town Centre for the purpose of public advertising, for a minimum period of four (4) weeks.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Frank Lindsey**

Vote: **CARRIED UNANIMOUSLY (10/0)**

#### 10.1.3 PSC02 Local Planning Scheme No. 3 Amendment No. 32 - Rezoning from Special Use (Business) to Residential R30 - Lot 1 (100) Wittenoom Road, High Wycombe

EN BLOC RESOLUTION OCM 02/2011

1. That Council adopts the amendment to Local Planning Scheme No. 3 in accordance with the following:

PLANNING AND DEVELOPMENT ACT 2005  
RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME  
SHIRE OF KALAMUNDA  
LOCAL PLANNING SCHEME NO. 3  
AMENDMENT NO. 32

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

1. Rezoning the north-west portion of Lot 1 (100) Wittenoom Road, High Wycombe from Special Use (Business) to Residential R30.

In accordance with the Scheme Amendment Map.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Frank Lindsey**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.1.4 PSC03 Lot 124 (18) Hawkvalley Crescent, Maida Vale - Parking of One Commercial Vehicle**

COMMITTEE RECOMMENDATION TO COUNCIL PS 03/2011

1. That Council approves the application dated 17 November 2010 to park one commercial vehicle, an unlicensed Mercedes Bus, on Lot 124 (18) Hawkvalley Crescent, Maida Vale (as shown on Attachment 4), subject to the following conditions:
  - a. Approval is given to park the unlicensed Mercedes Bus on the subject property for up to 2 years from the date of the approval. After which time, the vehicle is to be relocated or planning approval is to be obtained from the Shire for the vehicle to continue to park on the subject property.
  - b. When on the property the vehicle must, at all times, be parked in the approved location as shown on the approved site plan (Attachment 2), being 5m from the side boundary and 4m from the rear boundary.
  - c. The commercial vehicle is only to be operated and restored between the hours of 7.00am and 7.00pm Monday to Saturday and 9.00am to 5.00pm on Sundays and public holidays.
  - d. Approval of the parking activity does not include approval for the vehicle to be used for carrying persons for hire or reward.



- e. Only maintenance of a minor nature, such as servicing or wheel changing, is to be carried out on the subject property. No panel beating, spray painting or the removal of major body or engine parts is permitted.
- f. Washing of the commercial vehicle on the subject lot is to be limited to the use of water and mild detergent, but not involve the use of any solvents, degreasing substances, steam cleaning and any other processes which may cause pollution or degradation of the environment.
- g. The approval is personal to the applicant and shall not be transferred or assigned to any other person, property or commercial vehicle (including trailers).

A correction is required to be made to the Committee Recommendation to Council as the attachment number in Point 2 of the recommendation was recorded as Attachment 2 and should have been Attachment 4. Council voted on the amended recommendation.

RESOLVED OCM 03/2011

1. That Council approves the application dated 17 November 2010 to park one commercial vehicle, an unlicensed Mercedes Bus, on Lot 124 (18) Hawkvalley Crescent, Maida Vale (as shown on Attachment 4), subject to the following conditions:
  - a. Approval is given to park the unlicensed Mercedes Bus on the subject property for up to 2 years from the date of the approval. After which time, the vehicle is to be relocated or planning approval is to be obtained from the Shire for the vehicle to continue to park on the subject property.
  - b. When on the property the vehicle must, at all times, be parked in the approved location as shown on the approved site plan (Attachment 4), being 5m from the side boundary and 4m from the rear boundary.
  - c. The commercial vehicle is only to be operated and restored between the hours of 7.00am and 7.00pm Monday to Saturday and 9.00am to 5.00pm on Sundays and public holidays.
  - d. Approval of the parking activity does not include approval for the vehicle to be used for carrying persons for hire or reward.
  - e. Only maintenance of a minor nature, such as servicing or wheel changing, is to be carried out on the subject property. No panel beating, spray painting or the removal of major body or engine parts is permitted.

- f. Washing of the commercial vehicle on the subject lot is to be limited to the use of water and mild detergent, but not involve the use of any solvents, degreasing substances, steam cleaning and any other processes which may cause pollution or degradation of the environment.
- g. The approval is personal to the applicant and shall not be transferred or assigned to any other person, property or commercial vehicle (including trailers).

Moved: **Cr Margaret Thomas**

Seconded: **Cr Noreen Townsend**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.1.5 PSC04 Lot 62 (2/264) Kalamunda Road, Maida Vale – Change of Use (from Veterinary Centre to Health/Fitness Centre)**

COMMITTEE RECOMMENDATION TO COUNCIL (PS 04/2011)

1. That Council approves the application dated 8 November 2010 to change the use at Lot 62 (2/264) Kalamunda Road, Maida Vale, from a Veterinary Clinic to Health/Fitness Centre for up to two (2) employees and two (2) clients at any one time, subject to the following conditions:
  - a. The proposed use is to only operate between the hours of 6.00am and 9.00pm Monday to Friday, and 6.00am to midday on Saturdays.
  - b. Clients are to visit the property by prior appointment only.
  - c. No amplified music to be played prior to 6.00am or after 8.00pm.

There being no mover for the Committee Recommendation to Council it LAPSED.

Cr Bilich proposed an amendment to the Recommendation to remove Point c. and replace with an alternative point. This was seconded and put to a vote.

RESOLVED OCM 04/2011

1. That Council approves the application dated 8 November 2010 to change the use at Lot 62 (2/264) Kalamunda Road, Maida Vale, from a Veterinary Clinic to Health/Fitness Centre for up to two (2) employees and two (2) clients at any one time, subject to the following conditions:
  - a. The proposed use is to only operate between the hours of 6.00am and 9.00pm Monday to Friday, and 6.00am to midday on Saturdays.
  - b. Clients are to visit the property by prior appointment only.
  - c. Background music should not exceed 70 decibels.

Moved: **Cr Sue Bilich**

Seconded: **Cr Martyn Cresswell**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.1.6 PSC05 Richards Road and Warner Road, High Wycombe – Proposed Closure of Right of Way**COMMITTEE RECOMMENDATION TO COUNCIL (PS 05/2011)

1. That Council recommends to the Department of Planning that the request to close the Right of Way between Richards Road and Warner Road, High Wycombe, not be supported and the Right of Way remain open as it is considered to be of importance in the local pedestrian/cyclist network.

There being no mover for the Committee Recommendation to Council it LAPSED.

Cr O'Connor proposed an amended motion for consideration by Council to postpone the decision to close Richards Road and Warner Road High Wycombe to enable community consultation to be undertaken and the result be reported to Council.

RESOLVED OCM 05/2011

1. That the Richards Road and Warner Road, High Wycombe – Proposed Closure of Right of Way item be referred back to the April Planning Services Committee to enable the officers to undertake and report on further community consultation and consideration of the petition tabled at the Planning Services Committee on 7 February 2011.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Frank Lindsey**

Vote: **CARRIED UNANIMOUSLY (10/0)**

## 10.2 General Services Committee Report

### Withdrawn Items from General Services Report

- GSC07 absolute majority required.
- GSC08 absolute majority required.
- GSC09 to amend the recommendation.
- GSC12 absolute majority required.
- GSC14 for a vote to be recorded against the recommendation.
- GSC16 for a new motion to be put to the meeting.
- GSC17 for a vote to be recorded against the recommendation.
- GSC19 an amended motion be put to the meeting.
- GSC20 declaration of financial interest by Cr Donald McKechnie.
- GSC21 confidential item to be dealt with at 15.0 on the agenda.
- GSC22 confidential item to be dealt with at 15.0 on the agenda.
- GSC23 correction to Committee Recommendation to Council required.

### 10.2.1 Adoption of Body of General Services Report

#### RESOLVED OCM 06/2011

1. That the recommendations contained in the General Services Committee Report of the 14 February 2011, except withdrawn item GSC07, GSC08, GSC09, GSC12, GSC14, GSC16, GSC17, GSC19, GSC20, GSC21 GSC22, and GSC23 , be adopted.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

### 10.2.2 GSC01 Creditors' Accounts Paid During the Periods 1 December to 23 December 2010 and 5 January to 27 January 2011

#### EN BLOC RESOLUTION OCM 06/2011

1. That the list of creditors paid during the periods 1 December to 23 December 2010 (GS 1/2011, Attachment 1) and 5 January to 27 January 2011 (GS 1/2011, Attachment 2) be received by Council in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996 (Regulation 12)*.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.3 GSC02 Monthly Financial Statements for the Period ending 30 November 2010**EN BLOC RESOLUTION OCM 06/2011

1. That the monthly financial statements which comprise the Statement of Financial Position, Statement of Comprehensive Income by Nature and Type, Statement of Comprehensive Income by Program, Rate Setting Statement, Cash Flow Statement, Notes to and Forming Part of the Financial Report and Operating Budget Variance Analysis for the period ending 30 November 2010 (Attachment 1) be received.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.4 GSC03 Monthly Financial Statements for the Period ending 31 December 2010**EN BLOC RESOLUTION OCM 06/2011

1. That the monthly financial statements which comprise the Statement of Financial Position, Statement of Comprehensive Income by Nature and Type, Statement of Comprehensive Income by Program, Rate Setting Statement, Cash Flow Statement, Notes to and Forming Part of the Financial Report and Operating Budget Variance Analysis for the period ending 31 December 2010 (Attachment 1) be received.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.5 GSC04 Monthly Financial Statements for the Period ending 31 January 2011**EN BLOC RESOLUTION OCM 06/2011

1. That the monthly financial statements which comprise the Statement of Financial Position, Statement of Comprehensive Income by Nature and Type, Statement of Comprehensive Income by Program, Rate Setting Statement, Cash Flow Statement, Notes to and Forming Part of the Financial Report and Operating Budget Variance Analysis for the period ending 31 January 2011 (Attachment 1) be received.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.6 GSC05 Debtors and Creditors Reports for the Period ending 31 January 2011**EN BLOC RESOLUTION OCM 06/2011

1. That the outstanding debtors (Attachment 1) and creditors (Attachment 2) reports as at 31 January 2011 be received.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.7 GSC06 Rates Debtors Report for the Period ending 31 January 2011**EN BLOC RESOLUTION OCM 06/2011

1. That the rates debtors report as at 31 January 2011 (Attachment 1) be received.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.8 GSC10 Application to Keep More Than Two Dogs – 21 Calluna Way, Forrestfield**EN BLOC RESOLUTION OCM 06/2011

1. That Council, pursuant to Clause 3.2 of the Shire of Kalamunda Dogs Local Law 2010 made under Section 26(3) of the *Dog Act 1976*, grant an exemption to the applicant of 21 Calluna Way, Forrestfield to keep a third dog on this property.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.9 GSC11 Application to Keep More Than Two Dogs – 56 Fagin Way, Forrestfield**EN BLOC RESOLUTION OCM 06/2011

1. That Council, pursuant to Clause 3.2 of the Shire of Kalamunda Dogs Local Law 2010 made under Section 26(3) of the *Dog Act 1976*, grant an exemption to the applicant of 56 Fagin Way, Forrestfield to keep a third dog on this property.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.10 GSC13 Proposed Community Funding Policy**EN BLOC RESOLUTION OCM 06/2011

1. That Council adopts the Proposed Community Funding Policy (Attachment 1) for the purposes of advertising to seek public comment for a period of 21 days.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.11 GSC15 Adoption of Asbestos Management Policy – HR16**EN BLOC RESOLUTION OCM 06/2011

1. That Council adopts the Asbestos Management Policy HR16, as shown at (Attachment 1).

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.12 GSC18 Quarterly Progress Report**EN BLOC RESOLUTION OCM 06/2011

1. That Council endorses the Quarterly Progress Report for October – December 2010 and notes the significant progress that has been made on the actions and KPIs.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Maureen Robinson**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.13 GSC07 Budget Reallocation – Nature and Type and Program Classification**RESOLVED OCM 07/2011

1. That Council approve the reallocation within the Shire of Kalamunda 2010/2011 Budget to:
  - a. Include Public Open Space Funding of \$726,389 within the Statements of Comprehensive Income, as reflected on the adopted Rate Setting Statement.
  - b. Reclassify revenues and expenses within the Statement of Comprehensive Income by Nature and Type. (Attachment 1)
  - c. Reclassify revenues and expenses within the Statement of Comprehensive Income by Program. (Attachment 2)
  - d. Reclassify revenues and expenses within the Rate Setting Statement. (Attachment 3)
  - e. Reclassify receipts and payments within the Cash Flow Statement. (Attachment 4)

Moved: **Cr Maureen Robinson**

Seconded: **Cr Allan Morton**

Vote: **CARRIED UNANIMOUSLY/ ABSOLUTE MAJORITY (10/0)**



**10.2.14 GSC08 Budget Amendment – Road Construction New & Renewal**RESOLVED OCM 08/2011

1. That Council approve the amendment of the Shire of Kalamunda 2010/2011 Budget to:
  - a. Decrease expenditure in account 420914 from \$2,887,650 to \$2,315,700.
  - b. Increase expenditure in account 420904 from \$1,198,487 to \$1,770,437.

Moved: **Cr Allan Morton**

Seconded: **Cr Geoff Stallard**

Vote: **CARRIED UNANIMOUSLY/ABSOLUTE MAJORITY (10/0)**

**10.2.15 GSC09 Formal Proposal Dome Coffees Australia Pty Ltd – 31 (Lot 56) Canning Road Kalamunda (Kalamunda Police Station)**COMMITTEE RECOMMENDATION TO COUNCIL (GS 09/2011)

1. That the Formal Proposal submitted by Dome Coffees Australia Pty Ltd be accepted.
2. That the Shire of Kalamunda advises Dome Coffees Australia Pty Ltd of its intention to enter into a "Lease Agreement" subject to successful land acquisition from Departments of Lands, and Planning and Building approvals being given.
3. That subject to the required approvals being forthcoming from the Department of Lands, Council approves the Chief Executive Officer finalising a lease agreement between the Shire of Kalamunda and Dome Coffees Australia Pty Ltd which incorporates the terms and conditions outlined in (Confidential GS 9/2011/Attachment 1).
4. That the cost for sewer extension be considered for inclusion in the 2010/2011 Budget during the current Budget Review process.

Cr Lindsey proposed an amendment to the Committee Recommendation to Council removing reference to the terms and conditions to provide the CEO with greater power and flexibility in negotiating the lease agreement with the application. The amendment was accepted by the seconder and a vote taken.

RESOLVED OCM 09/2011

1. That the Formal Proposal submitted by Dome Coffees Australia Pty Ltd be accepted.
2. That the Shire of Kalamunda advises Dome Coffees Australia Pty Ltd of its intention to enter into a "Lease Agreement" subject to successful land acquisition from Departments of Lands, and Planning and Building approvals being given.
3. That subject to the required approvals being forthcoming from the Department of Lands, Council approves the Chief Executive Officer finalising a lease agreement between the Shire of Kalamunda and Dome Coffees Australia Pty Ltd.
4. That the cost for sewer extension be considered for inclusion in the 2010/2011 Budget during the current Budget Review process.

Moved: **Cr Frank Lindsey**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.2.16 GSC12 Falls Farm Management Committee – Nomination for Membership**RESOLVED OCM 10/2011

1. The Council accepts the resignation of John Everett.
2. That Council appoint the Lesmurdie Ratepayers Association Representative, Iris Jones, to the Falls Farm Management Committee.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Allan Morton**

Vote: **CARRIED UNANIMOUSLY/ABSOLUTE MAJORITY (10/0)**

**10.2.17 GSC14 Kalamunda Home and Community Care - Revised Business Case (2010-2014)**RESOLVED OCM 11/2011

1. That Council accepts the Kalamunda Home and Community Care Business Case (2010-2014) (Attachment 1).
2. That the Kalamunda Home and Community Care Services continue to be delivered as a Shire of Kalamunda Community Service.

3. That a separate Feasibility Study on the operation of the Meals on Wheels service be carried out over the next 12 months to determine the best service delivery model and the financial impacts of the service on the Shire of Kalamunda.
4. That the value of all Council contributions to the Kalamunda Home And Community Care service be identified in the Financial Statements, Reports and Budget of the Shire.

Moved: **Cr Allan Morton**

Seconded: **Cr Noreen Townsend**

Vote: For  
 Cr Frank Lindsey  
 Cr Geoff Stallard  
 Cr Allan Morton  
 Cr Maureen Robinson  
 Cr Noreen Townsend  
 Cr Dylan O'Connor  
 Cr Margaret Thomas  
 Cr Donald McKechnie

Against  
 Cr Martyn Cresswell  
 Cr Sue Bilich

**CARRIED (8/2)**

#### 10.2.18 **GSC16 Lilian Road, Maida Vale - Proposed Footpath**

##### COMMITTEE RECOMMENDATION TO COUNCIL (GS 16/2011)

1. That a footpath on Lilian Road, from Norwood Road to Hawtin Road, Maida Vale, be constructed, as provided in the 2010/11 Works Programme.

There being no mover for the Committee Recommendation to Council it LAPSED.

Cr Bilich proposed a motion that the item be deferred to allow further investigation of the suitability of a path on the road as a result of a further petition being presented.

##### RESOLVED OCM 12/2011

1. That the item be deferred.

Moved: **Cr Sue Bilich**

Seconded: **Cr Dylan O'Connor**

Vote: For  
Cr Frank Lindsay  
Cr Geoff Stallard  
Cr Allan Morton  
Cr Maureen Robinson  
Cr Noreen Townsend  
Cr Dylan O'Connor  
Cr Sue Bilich  
Cr Margaret Thomas  
Cr Donald McKechnie

Against  
Cr Martyn Cresswell

**CARRIED (9/1)**

**10.2.19 GSC17 Kalamunda Water Park Refurbishment**

COMMITTEE RECOMMENDATION TO COUNCIL (GS 17/2011)

That Council:

1. Notes the condition of Kalamunda Water Park and status of the current project.
2. Authorises additional works required to commission the slides and spa at an estimated additional cost of \$1.51M expended over two years (2010/11 and 2011/12).
3. Considers the programming of additional works estimated at \$3.5M, in future budgets between 2012/13 and 2015/16 financial years.
4. Request the funding of \$1.5M be through the Shire Land and Property Reserve Account and/or the sale of property identified in the Land Assessment Report.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Sue Bilich**

Cr Frank Lindsey proposed an amendment to the Committee Recommendation to Council. The change in wording to Point 4 was accepted by the mover and seconder and put to the vote.

RESOLVED OCM 13/2011

That Council:

1. Notes the condition of Kalamunda Water Park and status of the current project.

2. Authorises additional works required to commission the slides and spa at an estimated additional cost of \$1.51M expended over two years (2010/11 and 2011/12).
3. Considers the programming of additional works estimated at \$3.5M, in future budgets between 2012/13 and 2015/16 financial years.
4. Request the funding of \$1.5M be through the Shire Land and Property Reserve Account and/or the sale of freehold property surplus to requirements identified in the Land Assessment Report.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Sue Bilich**

Vote: For  
Cr Frank Lindsey  
Cr Geoff Stallard  
Cr Allan Morton  
Cr Noreen Townsend  
Cr Dylan O'Connor  
Cr Sue Bilich  
Cr Donald McKechnie  
Cr Margaret Thomas  
Cr Martyn Cresswell

Against  
Cr Maureen Robinson

**CARRIED/ABSOLUTE MAJORITY (9/1)**

**10.2.20 GSC19 Business Plan for a Major Land Transaction – 1 Cygnet Court and 21 Edney Road, High Wycombe**

COMMITTEE RECOMMENDATION TO COUNCIL (GS 19/2011)

1. That the Business Plan as presented in (Attachment 1) be adopted.
2. That the acquisition of 1 Cygnet Court by either land swap or purchase at 5% of unimproved value be negotiated with Department of Lands.
3. On completion of the acquisition process, an application for Approval of Freehold Subdivision be made to Western Australian Planning Commission for all that land comprising 1 Cygnet Court and 21 Edney Road in accordance with Subdivision Concept Option 9 of the Business Plan.

4. That cost of Land Purchase and Subdivision be provided for in the 2011/2012 Budget process.

Cr Lindsey proposed a change to the Committee Recommendation to Council. The amendment received a seconder. Council debated the amendment before a vote was taken.

MOTION

1. That the Business Plan as presented in (Attachment 1) be adopted.
2. That the acquisition of 1 Cygnet Court by either land swap or purchase at 5% of unimproved value be negotiated with Department of Lands.
3. On completion of the acquisition process, an application for Approval of Freehold Subdivision be made to Western Australian Planning Commission for all that land comprising 1 Cygnet Court and 21 Edney Road in accordance with Subdivision Concept Option 10 of the Business Plan.
4. That cost of Land Purchase and Subdivision be provided for in the 2011/2012 Budget process.

Moved: **Cr Frank Lindsey**

Seconded: **Cr Margaret Thomas**

Vote: For  
 Cr Frank Lindsey  
 Cr Geoff Stallard  
 Cr Martyn Cresswell  
 Cr Sue Bilich  
 Cr Margaret Thomas

Against  
 Cr Allan Morton  
 Cr Maureen Robinson  
 Cr Noreen Townsend  
 Cr Dylan O'Connor  
 Cr Donald McKechnie

**LOST (5/5) ABSOLUTE MAJORITY REQUIRED**

Cr Robinson moved the Committee Recommendation to Council. The Recommendation received a seconder and was put to the vote.

COMMITTEE RECOMMENDATION TO COUNCIL (GS 19/2011)

1. That the Business Plan as presented in (Attachment 1) be adopted.

2.	That the acquisition of 1 Cygnet Court by either land swap or purchase at 5% of unimproved value be negotiated with Department of Lands.
3.	On completion of the acquisition process, an application for Approval of Freehold Subdivision be made to Western Australian Planning Commission for all that land comprising 1 Cygnet Court and 21 Edney Road in accordance with Subdivision Concept Option 9 of the Business Plan.
4.	That cost of Land Purchase and Subdivision be provided for in the 2011/2012 Budget process.
Moved:	<b>Cr Maureen Robinson</b>
Seconded:	<b>Cr Noreen Townsend</b>
Vote:	<p><u>For</u>  Cr Allan Morton  Cr Maureen Robinson  Cr Noreen Townsend  Cr Martyn Cresswell  Cr Dylan O'Connor  Cr Donald McKechnie</p> <p><u>Against</u>  Cr Frank Lindsey  Cr Geoff Stallard  Cr Sue Bilich  Cr Margaret Thomas</p> <p><b>LOST (6/4) ) ABSOLUTE MAJORITY REQUIRED</b></p>

The meeting took advice from staff on representing a motion to Council once it has been lost. The meeting was advised the Standing Orders did not prevent a previously lost motion being represented at the meeting it was voted on and lost at. Cr Robinson moved the Committee Recommendation to Council and a vote was taken.

#### COMMITTEE RECOMMENDATION TO COUNCIL (GS 19/2011)

1. That the Business Plan as presented in (Attachment 1) be adopted.
2. That the acquisition of 1 Cygnet Court by either land swap or purchase at 5% of unimproved value be negotiated with Department of Lands.
3. On completion of the acquisition process, an application for Approval of Freehold Subdivision be made to Western Australian Planning Commission for all that land comprising 1 Cygnet Court and 21 Edney Road in accordance with Subdivision Concept Option 9 of the Business Plan.

4.	That cost of Land Purchase and Subdivision be provided for in the 2011/2012 Budget process.
Moved:	<b>Cr Maureen Robinson</b>
Seconded:	<b>Cr Noreen Townsend</b>
Vote:	<p><u>For</u>  Cr Allan Morton  Cr Maureen Robinson  Cr Noreen Townsend  Cr Martyn Cresswell  Cr Dylan O'Connor  Cr Donald McKechnie</p> <p><u>Against</u>  Cr Frank Lindsey  Cr Geoff Stallard  Cr Sue Bilich  Cr Margaret Thomas</p> <p><b>LOST (6/4 ) ABSOLUTE MAJORITY REQUIRED</b></p>

Cr Lindsey then proposed an amendment to the Committee Recommendation to Council. The amendment received a seconder. Cr Cresswell requested a change to Point 3 of the recommendation to place a restriction on R40 zoning to only be available to 55 years and over. The mover and seconder accepted this amendment. Councillor debated the amendment before it was put to a vote.

RESOLVED OCM 14/2011

1. That the Business Plan as presented in (Attachment 1) be adopted.
  2. That the acquisition of 1 Cygnet Court by either land swap or purchase at 5% of unimproved value be negotiated with Department of Lands.
  3. On completion of the acquisition process, an application for Approval of Freehold Subdivision be made to Western Australian Planning Commission for all that land comprising 1 Cygnet Court and 21 Edney Road in accordance with Subdivision Concept Option 10, where the R40 zoning in the business plan be restricted to 55 years and over.
  4. That cost of Land Purchase and Subdivision be provided for in the 2011/2012 Budget process.
- Moved: **Cr Frank Lindsey**
- Seconded: **Cr Margaret Thomas**



Vote: For  
Cr Frank Lindsey  
Cr Geoff Stallard  
Cr Noreen Townsend  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Sue Bilich  
Cr Margaret Thomas  
Cr Donald McKechnie

Against  
Cr Allan Morton  
Cr Maureen Robinson

**CARRIED (8/2) ABSOLUTE MAJORITY**

**10.2.21 GSC20 Attendance at the 2011 National General Assembly of Local Government in Canberra by the Chief Executive Officer and Shire President**

Cr Donald McKechnie declared a Financial Interest as he is the attendee. Cr McKechnie left the meeting at 7.15pm. The Deputy Chairman presided over the meeting in the absence of the Chairman. Cr McKechnie returned to the meeting at 7.20pm.

RESOLVED OCM 15/2011

1. That attendance to the 2011 National General Assembly of Local Government conference by the Shire President, Cr Donald McKechnie, be endorsed.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Martyn Cresswell**

Vote: For  
Cr Frank Lindsey  
Cr Geoff Stallard  
Cr Noreen Townsend  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Sue Bilich  
Cr Margaret Thomas  
Cr Allan Morton

Against  
Cr Maureen Robinson

**CARRIED (9/1)**

**10.2.25 GSC21 Enterprise Agreement 2011 to 2013**Reason for Confidentiality

Section s5.23 (2)(a) *Local Government Act 1995*. "A matter affecting an employee or employees."

Item dealt with at 15.0 on the Agenda.

**10.2.23 GSC22 CEO Performance Review**Reason for Confidentiality

Section s5.23 (2)(a) *Local Government Act 1995*. "A matter affecting an employee or employees."

Item dealt with at 15.0 on the Agenda.

**10.2.24 GSC23 Expressions of Interest for a Proposed Major Land Transaction – Lots 7, 8 and 4255 Lewis Road, Wattle Grove**COMMITTEE RECOMMENDATION TO COUNCIL (GS 23/2011)

1. That expressions of interest for a proposed major land transaction – lots 7,8 and 3255 Lewis Road, Wattle Grove, be deferred to the March General Services Committee meeting, requesting the CEO include the option of the Shire funding and managing the proposed development.

A correction is required to the Committee Recommendation to Council as the Lot Number recorded as 3255 Lewis Road Wattle Grove should read 4255 Lewis Road Wattle Grove.

RESOLVED OCM 16/2011

1. That expressions of interest for a proposed major land transaction – lots 7,8 and 4255 Lewis Road, Wattle Grove, be deferred to the March General Services Committee meeting, requesting the CEO include the option of the Shire funding and managing the proposed development.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Dylan O'Connor**

Vote: **CARRIED UNANIMOUSLY (10/0)**

### 10.3 Chief Executive Officers' Report

#### 10.3.1 Decision of Annual General Electors Meeting 7 February 2011

Previous Items	N/A
Responsible Officer	Manager Governance
Service Area	Office of the CEO
File Reference	OR-MTG-005/1
Applicant	N/A
Owner	N/A

#### PURPOSE

1. To receive the decisions made at the Annual General Electors Meeting held at the Shire of Kalamunda, 2 Railway Road, Kalamunda, on Monday 7 February 2011.

#### BACKGROUND

2. Under Section 5.33 of the *Local Government Act 1995* all decisions made at an Electors meeting are to be considered at the next Ordinary Council Meeting if practicable.

#### DETAILS

3. At the Electors Meeting of the Shire of Kalamunda held on Monday 7 February 2011 as resolution was carried as follows.

#### **"RESOLVED AGM 1/2011**

1. *That the Shire of Kalamunda Annual Report 2010 be received.*

*Moved: Cr Noreen Townsend*

*Seconded: Cr Margaret Thomas*

***CARRIED"***

#### STATUTORY AND LEGAL IMPLICATIONS

4. Pursuant to Section 5.33 of the *Local Government Act 1995*.

#### POLICY IMPLICATIONS

5. Nil.

#### PUBLIC CONSULTATION/COMMUNICATION

6. Nil.

## **FINANCIAL IMPLICATIONS**

7. Nil.

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

### **Strategic Planning Implications**

8. Nil.

### **Sustainability Implications**

#### Social implications

9. Nil.

#### Economic Implications

10. Nil.

#### Environmental Implications

11. Nil.

## **OFFICER COMMENT**

12. As the only decision made at the Annual General Electors Meeting was to receive the Shire of Kalamunda Annual Report 2010, no further action is required by Council.

### RESOLVED OCM 17/2011

1. That the decision of the Annual Elections Meeting held on 7 February 2011 to receive the Shire of Kalamunda Annual Report 2011 be noted.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Martyn Cresswell**

Vote: **CARRIED UNANIMOUSLY (10/0)**

### 10.3.2 Nomination of a Councillor as a Representative on the Gateway WA Community Liaison Group

Previous Items	N/A
Responsible Officer	Director Planning & Development Services
Service Area	Planning & Development Services
File Reference	N/A
Applicant	N/A
Owner	N/A

#### PURPOSE

1. To endorse a Councillor representative on the Community Liaison Group for the Gateway WA Project.

#### BACKGROUND

2. The stated purpose of the Gateway WA Project is to deliver a safe, efficient, and welcoming road and bridge network to the new Perth Airport precinct, the surrounding business and residential areas and the State of Western Australia.
3. The Gateway WA Governance structure comprises a Project Steering Committee (the Shire is represented by the CEO), a Project Enabling Group (the Shire is represented by the Director Planning and Development and the Director Engineering), a number of "stakeholder" and "special interest" groups, and a Gateway WA Community Liaison Group (GWCLG).
4. The Gateway WA Project is seeking a Councillor representative from the Shire of Kalamunda (and other local governments) as well as community representatives. Nominations close on Friday 18 February 2011.

#### DETAILS

5. The stated Purpose of the Gateway WA Community Liaison Group is to operate in an advisory capacity to the Gateway Vision Project team, rather than a decision making group.
6. The role of the GWCLG is to:
  - Identify and discuss relevant project matters and potential issues for stakeholders and the community;
  - Provide feedback and contribute input for consideration by the planning and design team;
  - Assist in the resolution of emerging issues and concerns;

- Communicate project matters to, and from, relevant community and stakeholder groups;
  - Help keep the wider community informed about the project; and
  - Work together to help achieve outcomes that benefit the project, stakeholders and the local community.
7. Councillor Allan Morton has indicated his desire to be the councillor representative on the GWCLG. Councillor Morton has been nominated pending ratification by the Council.

### **STATUTORY AND LEGAL IMPLICATIONS**

8. The nominated Councillor will represent the Council on an external "committee".

### **POLICY IMPLICATIONS**

9. Nil.

### **PUBLIC CONSULTATION/COMMUNICATION**

10. The Gateway WA Project team is conducting community consultation.

### **FINANCIAL IMPLICATIONS**

11. Nil.

### **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

#### **Strategic Planning Implications**

12. The project has far reaching implications for the Shire in relation to the future impact of freight transport on roads and community.

#### **Sustainability Implications**

##### Social implications

13. Nil.

##### Economic Implications

14. Nil.

##### Environmental Implications

15. Nil.

**OFFICER COMMENT**

16. At the presentation on the project by the Gateway WA Project team members to Councillors a request was made for interested Councillors to nominate for the Community Liaison Group. Councillor Morton has indicated that he would like to be nominated for the GWCLG.
17. Nominations for the CLG close on Friday 18 February 2011. To ensure that the Shire has a Councillor represented on the Group Councillor Morton's name has been put forward, with the proviso that this nomination would need to be ratified by Council at its meeting on Monday 25 February 2011.

**COMMITTEE RECOMMENDATION TO COUNCIL CEOR 02/2011**

1. That the Council endorse the nomination of Councillor Allan Morton as its representative on the Gateway WA Community Liaison Group.

A councillor proposed an amendment to the Committee Recommendation to Council to include a deputy representative from Council. This amendment was moved and seconded before being put to a vote.

**RESOLVED OCM 18/2011**

1. That the Council endorse the nomination of Councillor Allan Morton as its representative and Cr Martyn Cresswell as deputy on the Gateway WA Community Liaison Group.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Martyn Cresswell**

Vote: **CARRIED UNANIMOUSLY (10/0)**

**10.3.3 Lot 117 (159) Canning Road, Kalamunda – Reconsideration of two conditions - Redevelopment of Hare Krishna Temple**

Previous Items	101/2010 (July 2010) and 171/10 (December 2010)
Responsible Officer	Director, Planning & Development Services
Service Area	Planning & Development Services
File Reference	CN-01/159
Applicant	S R M Bhamidipati
Owner	Haladhar Holdings
Attachment 1	Council minutes December 2010
Attachment 2	Applicant response to State Administrative Tribunal order
Attachment 3	Traffic Impact Statement

**PURPOSE**

1. For Council to reconsider two conditions of planning consent for the Hare Krishna Temple at Lot 117 (159) Canning Road, Kalamunda granted at the December 2010 Ordinary meeting.

**BACKGROUND**

2. Council, at its Ordinary meeting held in July 2010 resolved to refuse a proposal to redevelop the above site for a Hare Krishna Temple. The applicant subsequently appealed the refusal to the State Administrative Tribunal (the Tribunal). Following mediation at the Tribunal, the Council was invited to reconsider its decision and subsequently approved a revised proposal for the above on 20 December 2010, subject to a number of conditions. Refer (Attachment 1) –Council Minutes December 2010.
3. Following the Council resolution, the matter was subject to further mediation at the Tribunal where the applicant advised that they were aggrieved by conditions four (4) and eleven (11). As a consequence of the mediation, the Tribunal made an order that the applicant provide further information for consideration, specifically a Traffic Impact Statement, evidence regarding the required number of on-site bays and the hours of operation.
4. The Tribunal has invited the Council to reconsider its decision in respect to conditions four (4) and eleven (11) based on the further information provided. The matter is listed for further mediation.



## DETAILS

5. The conditions subject to mediation are:

1. *(i) Prior to the commencement of the development, Lot 117 is to be amalgamated with Lot 116 (No 155) Canning Road, Kalamunda (Lot 116) to create a single lot, and 36 car parking bays are to be constructed on the land presently comprising Lot 116 in addition to the 74 bays required by the preceding condition.*

*The 36 bays shall be constructed and marked out in accordance with a design approved by the Shire and the relevant Australian Standard.*

*(ii) As an alternative to the requirements of the preceding paragraph the owner of Lot 117 and Lot 116 may enter into a legal agreement with the Shire, prepared by the Shire's solicitors at the owner's cost, which shall include provisions which:*

- *Allow a period of 12 months for the amalgamation of Lot 117 and Lot 116 to be effected;*
- *Allow the deferral of the requirement to construct 36 bays until a reasonable time specified by the Shire after the completion of the amalgamation;*
- *Authorise the Shire to do all things necessary to complete the amalgamation process, or to construct the car bays, at the cost of the owner in the event of the owner's default;*
- *Require the owner to provide to the Shire before a building licence is issued an unconditional and irrevocable bank guarantee from an institution satisfactory to the Shire in the sum of \$581,040, being equivalent to the payment of cash-in-lieu of providing 36 car parking bays;*
- *Allow the Shire to draw on the bank guarantee in the event the amalgamation is not effected in accordance with the deed, and to place that money in the car parking trust fund kept pursuant to clause 5.8.4(c) of the Shire of Kalamunda Local Planning Scheme No. 3;*
- *Charge Lot 116 and Lot 117 in favour of the Shire and authorise the Shire to lodge an absolute caveat over those lots in order to protect the Shire's interests under the deed.*

*The deed must be executed prior to the grant of a building licence*

and

*11. Operating hours are from 8:00am to 11:00am and 5:00pm to 8:00pm weekdays and from 7:00am to 9:30pm Sundays. If the premise is to extend operating hours, further approval by the Council is required.*

6. In accordance with the Tribunal Order the applicant has provided further information by way of a Traffic Impact Statement and a report including evidence regarding the required number of on-site car parking bays and the hours of operation of the proposal. Refer (Attachment 2) Applicant response to State Administrative Tribunal order and (Attachment 3) Traffic Impact Statement.

The applicant has provided comment to justify the deletion of condition 4. as follows:

- The number of people attending the main service (Sunday) can be catered for with the proposed parking bays based on the conclusions of the Traffic Impact Statement.
  - The Scheme allows for the Council to consider a lesser requirement for car parking than stipulated.
  - The scale of the activity and congregation numbers is not expected to change as a result of the building modifications.
  - The methodology in calculating the parking bays by staff resulted in an excessive amount being required. An alternate method of calculating the parking would indicate that there was sufficient parking provided.
  - Based on the congregation numbers, the floor area and the application of the Scheme provisions, that the 74 bays shown on the plan are more than adequate.
  - The Traffic Impact Assessment concludes that the proposed number of bays is appropriate and consistent with the anticipated demands during peak operational times.
  - The submission shows 18 informal parking bays on adjoining Lot 116 (115) Canning Road suggesting that these could be used as overflow parking as this will be used as Ashram and owned by the applicant for as long as the Temple is used by the association.
7. The applicant has suggested that as an alternative to condition 4. imposed by Council, the following be considered:

*Eighteen informal parking bays will be maintained on Lot 116 (No. 155) Canning Road (in the same ownership as Lot 117) to be used in the case where parking in addition to the 74 bays provided on Lot 117 is required.*

The other condition under consideration at the Tribunal is:

The applicant has provided comment to justify the deletion of condition 11. as follows:

- Whilst reflective of the current operation of the Temple, the condition is overly restrictive and that there is no precedent for a similar condition being imposed on other Places of Worship.
- The Temple does not currently operate under time restrictions and there are no known impacts on the amenity of the surrounding area.

Whilst not specifically required by the order of the Tribunal, no further information has been provided in relation to the ownership and beneficiaries of Lots 116 and 117.

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

8. The matter is still before the Tribunal and a further mediation session has been scheduled, however this may be vacated depending on the decision of Council.

It is the view of the Shire's legal advisor that car parking on lot 116 (155) Canning Road could not be approved unless the property was amalgamated with the Temple site or suitably rezoned.

#### **POLICY IMPLICATIONS**

9. Nil

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

10. The original proposal was subject to extensive public consultation. The revised proposal was not subject to further public consultation or communication.

#### **FINANCIAL IMPLICATIONS**

11. Nil

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

### **Strategic Planning Implications**

12. The current and intended use is compliant with the purpose and intent of the Local Reserve – Place of Worship.

### **Sustainability Implications**

#### Social implications

13. Potential issues related to parking, lighting and noise adjacent to Lot 116 (155) Canning Road.

#### Economic Implications

14. Nil

#### Environmental Implications

15. Nil

## **OFFICER COMMENT**

16. It is the task of the Council to determine whether the additional information provided by the applicant is sufficiently convincing to agree to their request to remove both conditions 11 and 4.
17. In respect to the number of parking bays required, it is the view that the parking calculation as agreed to at a mediation session at the Tribunal was based on sound methodology (110 bays). Notwithstanding this, clause 5.8.2 of the Scheme allows Council to apply a greater or lesser amount of parking having due regard to the scale and nature of the intended use.
18. Based on the information supplied by the applicant, including the conclusions of the Traffic Impact Statement (in respect to adequacy of parking only) and current practices, that the proposed level of parking will be sufficient, with the exception of major festivals. The applicant will be providing a management plan to deal with major festivals as required under condition 2. of the planning consent granted on 20 December 2010 at the Ordinary Council meeting.
19. While the applicant has suggested additional casual parking (18 bays) on the adjoining Lot 116 (155) Canning Road and has suggested an alternative condition to this effect, it is not possible, from a legal view point, for the Council to accede to this without the land being amalgamated with Lot 117 or it being appropriately rezoned.

20. It is implicit in the applicant's submission that they believe they have adequate parking on Lot 117 and do not want to amalgamate the land with the adjoining lot. In essence, the applicant argues that the 74 bays on Lot 117 are adequate for the proposed use and, therefore, no additional formal parking (i.e. on the adjoining lot by way of amalgamation, or through any cash in lieu arrangement) is needed. It is up to the Council to determine whether it supports this position.
21. In respect to the hours of operation it is considered that during normal operation, the Temple would not necessarily have a greater impact on the amenity of the surrounding area than any other Place of Worship. It is up to the Council to decide whether the restrictions in Condition 11 should be retained.
22. The Council has a number of options available. The following are the basic options although it is acknowledged that there are many variants to these:
- a. Reject the argument put forward by the applicant on the parking and hours and advise the Tribunal accordingly at the upcoming mediation. This means that the Council should retain both Conditions 4 and 11.
  - b. Accept the argument put forward by the applicant and advise the Tribunal accordingly at the upcoming mediation. This means that the Council would be prepared to delete Conditions 4 and 11.
  - c. Accept the removal of condition four (parking), but not condition eleven (hours of operation) or vice versa.
  - d. That it modify one or both of the conditions and advise the Tribunal accordingly. If the Council believes that the 74 bays are not adequate and amalgamation is not likely, then it could apply a condition requiring a cash in lieu payment prior to grant of a building licence. The consequence of any modified condition may be that the applicant will proceed to a full hearing of the Tribunal.
23. As previously expressed, it is the professional view that the 74 car parking bays would be adequate and the hours of operation should be no different to any other Place of Worship. It is however, respected that the Council have formed a different view which was expressed through its previous determination. The Council may consider that the further information does not adequately address their concerns and, therefore, would wish to retain the conditions in the approval.

**RECOMMENDATION (CEOR 03/2011)**

1. That the Council note the report provided by the applicant as a result of the SAT order and determines that it either:
- a. Does not support the additional information and retains or modifies conditions four (4) and eleven (11); or

There being no mover or seconder for this option it LAPSED.

- b. Supports the additional information and agrees to debate conditions (4) four and (11).

Moved: **Cr Maureen Robinson**

Seconded: **Cr Noreen Townsend**

Vote: For  
 Cr Allan Morton  
 Cr Maureen Robinson  
 Cr Noreen Townsend

Against  
 Cr Frank Lindsey  
 Cr Geoff Stallard  
 Cr Martyn Cresswell  
 Cr Dylan O'Connor  
 Cr Sue Bilich  
 Cr Margaret Thomas  
 Cr Donald McKechnie

**LOST (7/3)**

Cr Frank Lindsey proposed to amend the motion carried at the Ordinary Council Meeting of the 20 December 2010, by deleting points 2(a); 2(b) and 2(k). He proposed new point 2(b)(iii), which by virtue of the earlier deletions will need to be re-numbered.

**Reasons**

- 2(a) – the applicant has now submitted a Traffic Impact Statement and so this condition has been complied with.
- 2(b) – discriminates against the operation of the Temple in a manner which is not imposed upon any other place of worship within the Shire.
- 2(k) – deletes the restrictive hours of operation that are not imposed upon any other place of worship within the Shire.

The proposed new point 2(b)(iii) tightens the existing cash-in-lieu provisions of 2(b)(ii) so as to impose this condition even if, as has been suggested by the applicant's spokespersons, the ownership structure of the two adjoining properties involves the one company, acting as a trustee for two separate trusts with two separate beneficiaries.

RESOLVED OCM 19/2011

That Council:

1. Notes the revised plans and additional information received a result of the State Administrative Tribunal mediation process.
  
2. Pursuant to s31(2) and (3) of the State Administrative Tribunal Act 2004 (WA), sets aside its decision of 20 December 2010 and substitutes the following :-

Grant approval for the redevelopment of the existing place of worship on Lot 117 (159) Canning Road, Kalamunda (Lot 117) with revised plans received on 27 November 2010, attachment 2, subject to the following conditions:

- (a) Before the use of the re-development commences, 74 car parking bays, which meet the relevant Australian standard for access and manoeuvring, are to be constructed on Lot 117 and clearly marked.
- (b)
  - (i) Prior to the commencement of the development, Lot 117 is to be amalgamated with Lot 116 (No 155) Canning Road, Kalamunda (Lot 116) to create a single lot, and 36 car parking bays are to be constructed on the land presently comprising Lot 116 in addition to the 74 bays required by the preceding condition. The 36 bays shall be constructed and marked out in accordance with a design approved by the Shire and the relevant Australian Standard.
  - (ii) As an alternative to the requirements of the preceding paragraph the owner of Lot 117 and Lot 116 may enter into a legal agreement with the Shire, prepared by the Shire's solicitors at the owner's cost, which shall include provisions which:
    - Allow a period of 12 months for the amalgamation of Lot 117 and Lot 116 to be effected.
    - Allow the deferral of the requirement to construct 36 bays until a reasonable time specified by the Shire after the completion of the amalgamation.
    - Authorise the Shire to do all things necessary to complete the amalgamation process, or to construct the car bays, at the cost of the owner in the event of the owner's default.
    - Require the owner to provide to the Shire before a building licence is issued an unconditional and irrevocable bank guarantee from an institution satisfactory to the Shire in the sum of \$581,040, being equivalent to the payment of cash-in-lieu of providing 36 car parking bays.

- Allow the Shire to draw on the bank guarantee in the event the amalgamation is not effected in accordance with the deed, and to place that money in the car parking trust fund kept pursuant to clause 5.8.4(c) of the Shire of Kalamunda Local Planning Scheme No. 3.
  - Charge Lot 116 and Lot 117 in favour of the Shire and authorise the Shire to lodge an absolute caveat over those lots in order to protect the Shire's interests under the deed. The deed must be executed prior to the grant of a building licence.
- (iii) As an alternative to the requirements of the preceding paragraphs (i) and (ii), the owner of Lot 117 may pay to the Shire the sum of \$581,040, being equivalent to the payment of cash-in-lieu of providing 36 car parking bays as provided for in clause 5.8.4(c) of the Shire of Kalamunda Local Planning Scheme No. 3.
- (c) The applicant is to install and maintain mature screen planting on the southern, western and eastern boundaries and within the rear parking area to the satisfaction of the Director of Planning and Development Services.
- (d) Provision of a colours and textures schedule for approval by the Director of Planning Development Services. The development shall subsequently be carried out in accordance with the approved schedule.
- (e) The maximum total occupancy for the premises is 450 people at any one time.
- (f) The Kitchen facilities approved as part of this facility may only be used for on site activities and shall not be used for the preparation of food to be consumed off site.
- (g) Submission of a plan detailing the location of all external lighting, for approval by the Director of Planning Services. The lighting plan and subsequent lighting installed must demonstrate that any light spill to adjoining properties is minimised to acceptable levels. All external lighting must be installed in accordance with the approved plan.
- (h) Construction work outside the period 7.00am to 7.00pm Monday to Saturday and at any time on Sundays and Public Holidays is not permitted.
- (i) The proposed front fence is to be treated with anti-graffiti coating upon completion.



Moved: **Cr Frank Lindsey**

Seconded: **Cr Geoff Stellard**

Vote: For  
Cr Frank Lindsey  
Cr Geoff Stellard  
Cr Allan Morton  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Sue Bilich  
Cr Donald McKechnie

Against  
Cr Maureen Robinson  
Cr Noreen Townsend

**CARRIED (8/2)**

#### 10.3.4 Proposed Employment of Director Corporate Services

Reason for Confidentiality

Section s5.23 (2)(a) *Local Government Act 1995*. "A matter affecting an employee or employees."

RESOLVED OCM 23/2011

1. That pursuant to section 5.37 (2) of the *Local Government Act 1995*, the proposal to employ Candidate 1 in the position of Director Corporate Services, as per Confidential Attachment 1, be accepted.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Dylan O'Connor**

Vote: For  
Cr Frank Lindsey  
Cr Geoff Stellard  
Cr Allan Morton  
Cr Maureen Robinson  
Cr Noreen Townsend  
Cr Martyn Cresswell  
Cr Dylan O'Connor  
Cr Margaret Thomas  
Cr Donald McKechnie

Against  
Cr Sue Bilich

**CARRIED (9/1)**

Cr Margaret Thomas left the meeting at 7.59pm and returned at 8.00pm. No items of business were considered in her absence.

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

11.1 Nil.

### **12.0 QUESTIONS BY MEMBERS WITHOUT NOTICE**

12.1 Nil.

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

#### 13.1 GSC21 Enterprise Agreement 2011 to 2013 (Cr Frank Lindsey)

1. With regard to the proposed superannuation entitlements in the administration staff's propose EBA:

Qa. What would be the cost to the Shire if the Shire's matching 5% contribution had a 100% take up?

Aa. With 100% participation, cost is estimated at \$651,049.55.

Qb. Based on the experience of other local governments, what is the likely take up rate?

Qc. What will be the anticipated cost to the Shire given the take up rate in b. above?

Ab. & c. The current take up cost is \$266800 (which is 40% participation). If the one-for-one superannuation came in, estimated take up rate would be difficult to predict. However, if 60% of employees (averaged to full 5% contribution) participated, the cost would be estimated at an additional \$123,830. Predicting exactly how much an employee would sacrifice (up to 5%) is uncertain, as is the take up rate by casual and part time staff which represents 40-45% of the total workforce.

Qd. Does the EBA with the Shire's non-administration staff contain a similar superannuation entitlement and if so, what is that entitlement?

Ad. Yes. The Operations staff have similar entitlements. These state that, contingent upon the employee making their own contributions dollar for dollar, the Shire will match the contribution dollar for dollar (up to 5% in addition of the standard 9% given by council).

#### 13.2 GSC09 Formal Proposal Dome Coffees Australia Pty Ltd – 31 (Lot 56) Canning Road Kalamunda (Kalamunda Police Station) (Cr Frank Lindsey)

1. With regard to Dome Cafe's proposal for the old Roads Board building:

Qa. What is the dollar value of the in kind advertising assistance Dome are seeking from the Shire?

- Aa. Dome would like to be given the opportunity to be included in Council's existing communication channels to its rate payers in order to actively promote the scheme being proposed in this submission. They would also like to work closely with the community development team in order to be part of community events such as Zig Zag Festival and any other events which run throughout the year.
- Qb. What would be the number of car parking bays that such a development would normally have to provide and what is the dollar value of those car parking bays?
- Ab. The calculation for parking bays per person is defined in the Building Codes and depends on the building use. In the case of Dome we defined the use as "Restaurant", which requires 1 m<sup>2</sup> per person and 1 car bay for each 4 persons. We also used the use of "Reading Room" for one area as it has been shown as set up for that use with big chairs and tables. This area would allow 2m<sup>2</sup> per person.

The following figures are not exact but can be considered as ball park figures:

Total Seating Area 257m<sup>2</sup> – 221m<sup>2</sup> allocated as dining = a requirement for 55 car parking bays. 36m<sup>2</sup> for reading room = a requirement of 4.5 car parking bays.

Planning Services advise that cash-in-lieu for car bays is approximately \$16,100.00.

There will be limited space for parking available on the site.

- Qc. what is the net cost to the Shire (i.e. after allowing for co-contributions from other developers) of connecting a sewer line to the site, sufficient to allow for future development of the super-block without need for any future upgrades to the sewer line?
- Ac. During initial budgeting for the sewer extension, officers spoke with McDowell Affleck and the Water Corporation in regards to the Shire recouping contributions from other land holdings that would benefit from the sewer extension. Advice was given that, should the Shire wish property owners to contribution to the cost of extension, then these negotiations would need to take place directly with the owners prior to the work being done.

If the Shire was able to negotiate a contribution with the owners of 31 Canning Road (the old service station site it could possibly be done as follows:

Cost Estimates based on \$1,150 Lineal Metre

- Shire pays 100% of cost from 33 Canning Road to Mead Street/Canning Road Corner approx. 140 metres = \$162,000.00 plus Dures of \$75,000.00 (to Water Corp) Total cost \$215,000.00

- Shire pays 50% of Cost from Canning/Mead corner to connection point approx. 110 metres = \$63,250.00
- Owner 24 Mead Street pays 50% of cost from Canning Mead corner to connection point approx. 110m = \$63,250.00

Total Estimated Sewer Cost – Shire \$225,250.00

Total Estimated Sewer Cost - Owner 24 Mead street \$60,500.00

Sewer connection at 31 Canning Road and changes to water connections at 31 Canning Road and 21 Mead Street are estimated at \$31,500.00

Sewer Extension Cost – Shire	\$225,250.00
DURES - Shire	\$ 75,000.00
Water & Contingencies	\$ 31,500.00

Total Sewer Extension Cost	\$320,000.00
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Less Water Corp Contribution maximum (\$750 per lineal metre up to a total of \$75,000.00)	\$ 75,000.00
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The lengths of sewer shown above are approximates only and would need to be surveyed to calculate final contribution figures.

There may also be an opportunity to get some contribution from the owners at 20 Canning Road but would be minimal based on the formula that staff have used.

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

14.1 Nil.

#### **15.0 MEETING CLOSED TO THE PUBLIC**

##### **15.1 RESOLVED OCM 20/2011**

1. That the meeting go behind closed doors to consider Confidential Items GSC21, GSC22 and CEOR 10.3.4.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Sue Bilich**

Vote: **CARRIED UNANIMOUSLY (10/0)**

The meeting closed to the public at 8.02pm to consider Confidential Items CSC21, GSC22 and CEOR 10.3.4.

**15.2 GSC21 Enterprise Agreement 2011 to 2013**Reason for Confidentiality

Section s5.23 (2)(a) Local Government Act 1995. "A matter affecting an employee or employees."

RESOLVED OCM 21/2011

1. That Council notes and endorses the proposed Shire of Kalamunda Enterprise Agreement (Administration Employees) 2011-2013 (Confidential Attachment 1) with the exclusion of Income Protection Insurance Clause 7.3.

Moved: **Cr Maureen Robinson**

Seconded: **Cr Noreen Townsend**

Vote: **CARRIED UNANIMOUSLY 10/0**

**15.3 GSC22 CEO Performance Review**Reason for Confidentiality

Section s5.23 (2)(a) *Local Government Act 1995*. "A matter affecting an employee or employees."

RESOLVED OCM 22/2011

That Council

1. Endorses the CEO Performance Review Sub Committee consisting of the Shire President, Deputy President and Chairs of the Planning Services Committee, General Services Committee, and Audit Committee to co-ordinate and collate the documentation and information.
2. Endorses (Confidential Attachment 1) to be used as a tool to assist in the process of the review.
3. Endorses (Confidential Attachment 2), the process for the CEO performance Review.
4. Requests that a final performance review report be collated and presented to Council for consideration in accordance with Regulation 18D of the *Local Government (Administration) Regulations 1996*, at the Ordinary Meeting of Council in 18 April 2011.

5. Delegates authority to the Shire President, in consultation with the CEO Performance Review Recruitment Sub-Committee, to negotiate a salary package as part of the CEO performance review process, with the understanding that any changes to the salary package would have to be endorsed by the Council.

Moved: **Cr Maureen Robinson**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (10/0)**

All staff, excluding the CEO, left the meeting at 8:15pm prior to the consideration of item 15.3.

**15.3 10.3.4. Confidential Report: Proposed Employment of Director Corporate Services**

RESOLVED OCM 23/2011

1. That pursuant to section 5.37 (2) of the *Local Government Act 1995*, the proposal to employ Candidate 1 in the position of Director Corporate Services, as per Confidential Attachment 1, be accepted.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Dylan O'Connor**

Vote: For  
Cr Frank Lindsey  
Cr Geoff Stellard  
Cr Allan Morton  
Cr Maureen Robinson  
Cr Noreen Townsend  
CrMartyn Cresswell  
Cr Dylan O'Connor  
Cr Margaret Thomas  
Cr Donald McKechnie

Against  
Cr Sue Bilich

**CARRIED (9/1)**

**15.4**      RESOLVED OCM 24/2011

- 1.            That the meeting open to the public after consideration behind closed doors of Confidential Items GSC21, GSC22 and CEOR 10.3.4.

Moved:      **Cr Margaret Thomas**

Seconded:   **Cr Martyn Cresswell**

Vote:         **CARRIED UNANIMOUSLY (10/0)**

The meeting opened to the public at 8.23pm after consideration behind closed doors of Confidential Items CSC21, GSC22 and CEOR 10.3.4.

**16.0**      **CLOSURE**

- 16.1        There being no further business the Chairman declared the meeting closed at 8.25 pm.

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

Signed.....Chairman

Dated this .....day of .....2011

