

Special Council Meeting

Minutes for Tuesday 22 January 2019

UNCONFIRMED



**city of
kalamunda**

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1. Official Opening

The Presiding Member opened the meeting at 6.30pm and welcomed Councillors, Staff and Members of the Public Gallery.

2. Attendance, Apologies and Leave of Absence Previously Approved

Councillors

South East Ward

John Giardina - (Mayor) (Presiding Member)

Michael Fernie

South West Ward

Lesley Boyd

Allan Morton

Brooke O'Donnell

North West Ward

David Almond

Sara Lohmeyer

Dylan O'Connor

North Ward

Cameron Blair

Kathy Ritchie

Margaret Thomas

Members of Staff

Chief Executive Officer

Rhonda Hardy

Executive Team

Jamie Patterson - Acting Director Corporate Services

Brett Jackson - Director Asset Services

Peter Varelis - Director Development Services

Simon Di Rosso - General Counsel & Executive Advisor

Management Team

Andrew Fowler-Tutt - Manager Approval Services

Michele Rogers - Manager Community Safety Services

Mike Ward - Community Emergency Services Manager (DFES)

Administration Support

Donna McPherson - Executive Research Officer to Chief Executive Officer

Sarah Griffiths - Council Support Officer

Kristy Lisle - Executive Research Officer to Director Development Services

Members of the Public 16

Members of the Press 1

Apologies

Gary Ticehurst - Director Corporate Services

Leave of Absence Previously Approved

Cr Geoff Stallard – Leave of Absence

3. 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 meeting. For the purposes of Minuting, these questions and answers will be summarised.

3.1. Charles Dornan, 28 Easterbrook Road, Wattle Grove

Advice was sought as to the ability of the public to ask questions on matters which do not relate to items to be discussed at this meeting. General Counsel provided advice to Council in relation to the *City of Kalamunda Standing Orders Local Law Regulation 6 Section 5.24 – Question Times for Public*.

The Presiding Member allowed questions from the public gallery on matters not relating to items to be discussed at this meeting

- Q1. Mr Mayor, you informed members of the Kalamunda Ratepayers Association, at a recent meeting, you were going to contact Minister Templeman to see whether you are permitted to revoke your self-imposed impartiality, exemption from participating in debate and voting on planning matters. Have you done this?
- A1. The Mayor advised he had tried today and they didn't respond but will be trying again.
- Q2. You stated the failed attempt [OCM 18 December 2018] to remove the CEO was an ongoing live issue. What does that mean?
- A2. The Mayor advised this is a matter for Council, not the public.
- Q3. You did mention this matter in public at the Kalamunda Ratepayers Association Meeting?
- A3. The Mayor advised he had stated this but didn't say what it was.
- Q4. I know you did not say what the ongoing live issue was, but I am asking what is it?
- A4. No response provided to this question.
- Q5. When Bev Dornan asked the question, at the Kalamunda Ratepayers Association meeting, as to Council denying the CEO procedural fairness your response, to Bev Dornan, was there are things you do not know is that correct?
- A5. The Mayor advised this was not correct and that what he responded was "you don't know what you don't know". Whilst it is ok to make comments on things she doesn't know the context to which it was put was that further information was unable to provide due to confidentiality. People will have views and opinions on what has occurred, but only Council is privy to the reason for the actions which were taken.
- Q6. The Community would like to know?
- A6. The Mayor advised the facts of the matter are when there are issues with City Officers they are always confidential. There has never been a case in the time he has been an elected member at the City of Kalamunda where the community is provided with details. He used the example of the former CEO. The public still ask what happened, but Councillors are not at liberty to provide details.

Q7. Given your responses I presume you do not intend to stand down as Mayor?

A7. The Mayor advised he did not intend to stand down.

4. Petitions/Deputations

4.1 A deputation has been approved from Mr Sean Cromisky in relation to Item 8.2.4 Consideration of Tenders for Mundaring Weir Road Upgrade and Widening (RFT 1816). Mr Cromisky spoke against the recommendation.

5. Announcements by the Member Presiding Without Discussion

5.1 Nil.

6. Matters for Which the Meeting may be Closed

6.1 Item 8.1.1 – **CONFIDENTIAL ITEM** - Section 31 Reconsideration – Development Application: Child Care Centre (Pachamama) - Lot 19 (36) Marri Crescent and Lot 55 (61) Coolinga Road, Lesmurdie
Reason for Confidentiality: Local Government Act 1995 section 5.23 (2) (f):- " a matter that if disclosed, could be reasonably expected to — (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or (ii) endanger the security of the local government's property; or (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety."

6.2 Item 8.2.3 - Consideration of Tenders for the Provision of Bus Shelters and Seats with Digital Advertising (RFT 1807) - **Attachment – Tender Evaluation Report** - *Reason for Confidentiality: Local Government Act 1995 S5.23 (2) (c) – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."*

6.3 Item 8.2.4 - Consideration of Tenders for Mundaring Weir Road Upgrade & Widening (RFT 1816) - **Attachment – Tender Evaluation Report 1816** - *Reason for Confidentiality: Local Government Act 1995 S5.23 (2) (c) – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."*

7. Disclosure of Interest

7.1. Disclosure of Financial and Proximity Interests

a. Members must disclose the nature of their interest in matter to be discussed at the meeting. (Section 5.56 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. (Section 5.70 of the *Local Government Act 1995*.)

7.1.1 Nil.

7.2. 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.

7.2.1 Nil.

8. Reports to Council

8.1. Development Services Reports

8.1.1. CONFIDENTIAL ITEM - Section 31 Reconsideration - Development Application: Child Care Centre (Pachamama) - Lot 19 (36) Marri Crescent and Lot 55 (61) Coolinga Road, Lesmurdie

Reason for Confidentiality: Local Government Act 1995 section 5.23 (2) (f):- "a matter that if disclosed, could be reasonably expected to — (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or (ii) endanger the security of the local government's property; or (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety."

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

Previous Items	OCM 80/2017; SCM 66/2018
Directorate	Development Services
Business Unit	Approval Services
File Reference	DA17/0531, DA17/0532
Applicant	Allerding & Associates
Owner	36 Marri Crescent: Chakana Pty Ltd & Maggie Pty Ltd 61 Coolinga Road: Chakana Pty Ltd & Maggie Pty Ltd
Attachments	Nil

Voting Requirements: Simple Majority

RESOLVED SCM 09/2019

That Council:

1. APPROVES the conditions of planning approval for the increase in the number of children and modified operating hours for the existing Pachamama Child Care Centre located at Lot 19 (36) Marri Crescent, Lesmurdie as submitted by Allerding and Associates and received by the City of Kalamunda on dated 21 July 2017 as follows:

- a) the development shall be carried out only in accordance within the terms of the application as approved herein and the plans as approved or as amended for any minor adjustments with the written agreement of the City.
- b) stormwater from the car parking area to be managed in accordance with the City's Stormwater Design Guidelines, to the specification and satisfaction of the City of Kalamunda;
- c) the car park and crossover to be modified in accordance with the attached plan DVC-Z51902-M-02 Rev01 by 31 January 2020;
- d) all parking and vehicle drop off and collection associated with the operation of the Child Care Centre to be contained on site, with the road verges not being used for that purpose;
- e) the permitted hours of operation for the Childcare premises are limited to 6:30am to 6:30pm Monday to Friday;
- f) a maximum of 69 children are permitted to be registered for care at any one time;
- g) the responsibilities for implementation and management contained within the Bushfire Management Plan MCP MAR BF dated (insert new date) Issue 4, and the Bushfire Evacuation Plan dated 20 March 2018 Revision 2 shall be implemented and thereafter maintained; and
- h) a legal agreement being prepared and entered into by both parties within 120 days or as agreed in writing by the City from the date of this approval, at the cost of the Applicant, to ensure the ongoing reciprocal arrangement between Lot 55 (61) Coolinga Road, Lot 54 (59) Coolinga Road and Lot 19 (36) Marri Crescent. Such an agreement shall be to the satisfaction of the City of Kalamunda.
- i) a Construction Management Plan shall be submitted to, and approved by, the City of Kalamunda that addresses, but not limited to, the following matters:
 - i. a staging plan for each stage of work in the lots and within the road verges;
 - ii. how site access will be controlled including fencing where required;
 - iii. how materials and equipment will be delivered to the sites and stored;
 - iv. parking arrangements for contractors, staff and customers with each stage of work;
 - v. safe access to and around the sites for pedestrians and cyclists;
 - vi. how dust, noise, erosion, lighting, environmental hazards and waste will be managed during the stages of the works;
 - vii. hours of work and durations;
 - viii. state whether traffic management plans will be needed (where work occurs in the road reserve or verge), and whom these will be submitting these;
 - ix. a communication plan for local residents and the City; and

- x. any other matters likely to impact on surrounding properties and public areas.
2. APPROVES the conditions of planning approval for the increase in the number of children and modified operating hours for the existing Pachamama Child Care Centre located at Lot 55 (61) Coolinga Road, Lesmurdie as submitted by Allering and Associates and received by the City of Kalamunda on dated 26 June 2017 as follows:
- a) The development shall be carried out only in accordance within the terms of the application as approved herein and the plans as approved or as amended for any minor adjustments with the written agreement of the City.
 - b) Stormwater from the car parking area to be managed in accordance with the City's Stormwater Design Guidelines, to the specification and satisfaction of the City of Kalamunda.
 - c) The car park and crossover to be modified in accordance with the attached plans DVC-Z51902-05 Rev06 and DVC-Z51902-06 Rev03 and any annotations included with those plans, by 31 January 2020.
 - d) All parking and vehicle drop off and collection associated with the operation of the Child Care Centre to be contained on site, with the road verges not being used for that purpose.
 - e) The largest permitted commercial vehicle approved for use and parking is a Small Rigid Vehicle as that term is defined in AS 2890.2-2002 – Parking Facilities – Part 2: Off-street commercial vehicle facilities.
 - f) A revised Landscaping Plan for the car parking area shall be submitted for approval by the City of Kalamunda and implemented within 90 days of completion of the works set out in condition 2(c) above. The Landscaping Plan shall include details regarding proposed landscaping plant species and their management and identify specifications for hard landscaping elements.
 - g) The permitted hours of operation for the Childcare premises are limited to 6:30am to 6:30pm Monday to Friday.
 - h) A maximum of 43 children are permitted to be registered for care at any one time.
 - i) The Bushfire Management Plan dated 20 April 2017 Version 2, and the Bushfire Evacuation Plan dated 20 March 2018 Revision 2, are to be implemented and maintained throughout the life of this approval.
 - j) A legal agreement being prepared and entered into by both parties within 120 days or as agreed in writing by the City from the date of this approval, at the cost of the Applicant, to ensure the ongoing reciprocal arrangement between Lot 55 (61) Coolinga Road, Lot 54 (59) Coolinga Road and Lot 19 (36) Marri Crescent. Such an agreement shall be to the satisfaction of the City of Kalamunda.

- k) Prior to commencement of building works, a construction management plan shall be submitted to, and approved by, the City of Kalamunda that addresses, but is not limited to, the following matters:
- i. a staging plan for each stage of work in the lots and within the road verges;
 - ii. how site access will be controlled including fencing where required;
 - iii. how materials and equipment will be delivered to the sites and stored;
 - iv. parking arrangements for contractors, staff and customers with each stage of work;
 - v. safe access to and around the sites for pedestrians and cyclists;
 - vi. how dust, noise, erosion, lighting, environmental hazards and waste will be managed during the stages of the works;
 - vii. hours of work and durations;
 - viii. state whether traffic management plans will be needed (where work occurs in the road reserve or verge), and whom these will be submitting these;
 - ix. a communication plan for local residents and the City; and
 - x. any other matters likely to impact on surrounding properties and public areas.
3. The City of Kalamunda include a requirement for a caveat on the respective titles to ensure no individual lot may be sold to any third party without reciprocal parking arrangements, as agreed, being maintained.
4. The modified Bushfire Management Plan for Lot 19 (36) Marri Crescent, shall reference the following:
- a) the exclusion of the verge from the Asset Protection Zone;
 - b) the management of the verge will achieve the intent of Schedule 1 of the State Planning Policy 3.7 Guidelines; and
 - c) that based on independent bushfire consulting advice received by the City of Kalamunda, management of the verge will achieve the intent of the vegetation and fuel load standards outlined in Schedule 1 of the State Planning Policy 3.7 Guidelines. This is achieved through appropriate surface fuel load management, specifically the removal of leaf litter and management of dead portions of Grass Trees when required. The regular planned removal of the leaf litter will ensure that there is minimal bushfire impact on the building, there will be suitable defensible space, and the heat intensities at the building surface are estimated to be of 0.37Kw/m² and 0.72Kw/m² which is minimal.

Moved: **Cr Sara Lohmeyer**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (11/0)**

8.1.2. Bushfire Advisory Committee - Recommendations to Council - November 2018

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

Previous Items	OCM 111/2018; OCM 152/2018
Directorate	Development Services
Business Unit	Community Safety Services
File Reference	RA-BFC-019
Applicant	N/A
Owner	N/A

Attachments	1. Minutes Meeting 15 November 18 [8.1.2.1]
	2. Bush Fire Brigade Recruiting [8.1.2.2]
	3. Burning Permit Fees [8.1.2.3]
	4. Bush Fire Brigade Incident Control Vehicle [8.1.2.4]
	5. Bush Fire Brigade Prescribed Burn Process [8.1.2.5]

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider the matters raised for Council consideration by the Kalamunda Bushfire Advisory Committee (BFAC) at its 15 November 2018 meeting. The minutes of the meeting are provided as Attachment 1.
2. BFAC raised five matters for Council's consideration as summarised:
 - a) Kalamunda Bush Fire Brigade (BFB) are experiencing a delay in approving new volunteers due to a need for them to undergo both a criminal check and medical examination prior to appointment. BFAC recommend that the process be reviewed and streamlined where possible (Attachment 2);
 - b) BFB request Council remove the administration fee charged by the City when invoicing property owners whom the BFB is undertaking a fire hazard reduction burn (Attachment 3);
 - c) BFB request the City sell the Incident Control Vehicle (ICV) and transfer funds from the sale to the BFB for the purchase of a fit for purpose command pod for its fire support vehicle (FSV1) (Attachment 4);
 - d) BFB request Council approve the replacement of its fire support vehicle (FSV1) during the 2019/2020 fleet upgrade (Attachment 4); and
 - e) BFB request amendments to the procedures for the issuing of permits for burns, allowing the BFB to issue their own permits (Attachment 5).
3. It is recommended that Council:
 - a) Notes the new process for appointment of volunteers to the Kalamunda Volunteer Bush Fire Brigade (Attachment 2);
 - b) Approves the removal of the City's administration fee as otherwise charged for invoicing third parties on behalf of the Kalamunda Volunteer Bush Fire Brigade. (Attachment 3);
 - c) Notes the disposal of the existing Kalamunda Volunteer Bush Fire Brigade's Incident Control Vehicle. (Attachment 4);

- d) Notes investigations will be undertaken regarding procurement of a new command pod (Attachment 4);
- e) Notes provision of a replacement for the Kalamunda Volunteer Bush Fire Brigade's Incident Control Vehicle will be considered in the draft 2019/2020 Municipal Budget (Attachment 4); and
- f) Notes the Chief Bush Fire Control Officer will issue the Kalamunda Volunteer Bush Fire Brigade with permits to undertake prescribed burns according to the process set out in Attachment 5.

BACKGROUND

- 4. Council established BFAC under section 67 of the *Bush Fires Act 1954* and under section 5.8 of the *Local Government Act 1995* including its Terms of Reference (TOR). BFAC formulates, for Council's consideration, recommendations on policy and matters relating to bush fire prevention, control and extinguishment.
- 5. Item 2.5 of BFAC's TOR requires BFAC to refer its recommendations to Council.
- 6. BFAC membership comprises two elected representatives appointed by Council and seven other members comprising as follows:
 - a) The Chief Bush Fire Control Officer;
 - b) Deputy Chief Bush Fire Control Officer(s);
 - c) Two representatives from the Bush Fire Brigade (BFB);
 - d) Two Officers from the Kalamunda Volunteer Fire and Rescue Service (FRS); and
 - e) State Emergency Service (Kalamunda).

DETAILS

- 7. The following four points discussed at the 15 November 2018 BFAC meeting are brought to Council's attention:
 - a) BFAC noted the BFB are experiencing a delay in approving new volunteers due to a need for them to undergo both a criminal check and medical examination prior to appointment. The BFB is concerned about losing volunteers and requests the City's support to streamline the process. The process was reviewed, and improvements made which are detailed in Attachment 2.
 - b) When BFB undertakes a fire mitigation burn for a member of the community or State authority the City invoices the person or organisation on behalf of the BFB. The BFB are then reimbursed by the City for the undertaking the burn. Presently, the City charges residents an administration fee of 10% to a maximum value of \$50.00 for every burn which they are invoiced. The BFB factor the fee into their quotations with residents. This process has become confusing for the BFB and the committee is requesting the abolishment of the administration fee (Attachment 3).

- c) The BFB have an incident control vehicle which was donated by a mining company. Approximately \$9,000 of donated funds were used to enhance the vehicle over time. The vehicle has reached its useful lifespan and the BFB is seeking permission for the vehicle to be sold and the funds to be provided to the BFB to enhance Fire Support Vehicle 1 (FSV1) (Attachment 4).
- d) Concerns were raised by the BFB regarding the process used by the City for issuing burning permits. A request was raised for the Deputy Chief Bush Fire Controllers to issue their own permits (Attachment 5).

STATUTORY AND LEGAL CONSIDERATIONS

8. Section 67 of the *Bush Fires Act 1954* states:

A local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of firebreaks in the district, prosecutions for breaches of this Act, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of cooperation and coordination of bush fire brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind as, or a different kind from, those specified in this subsection.

9. Section 5.8 of the *Local Government Act 1995* states:

A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

10. Section 6.16(1) of the *Local Government Act 1995* states:

A local government may impose and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

POLICY CONSIDERATIONS

11. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

12. Asset Services provided the following advice on the BFB and CESM vehicles:

- a) that plant number P0379 being FSV1 was acquired on the 26 June 2015 and has done more than 90,000 km. The vehicle is not presently listed for replacement;

- b) that plant number P0168 which is used by the CESM was acquired on the 17/11/2015 and has done more than 90,000 km. The vehicle is not presently listed for replacement; and
 - c) the replacement of fleet and plant is currently under review, with no new fleet being acquired until the review has been completed.
13. People Services were consulted regarding the need for volunteers to undertake concurrent police clearance and medical assessment. It was recommended applicants be asked to sign a waiver noting if they fail to declare any criminal conviction which may preclude them from joining the BFB, they may be required to reimburse the City for the cost of the medical assessment.

External Referrals

14. Advice received from the Department of Fire and Emergency Services notes that it is standard practice for volunteers and staff involved in firefighting activities to undergo both criminal checks and medical assessments.
15. The BFB were consulted regarding the matters raised at BFAC. The BFB provided the following updates on the items raised:
- a) The amended process of having volunteers undertake a medical examination and police clearance concurrently is acceptable (Attachment 2).
 - b) The BFB request the administration fee be removed from the invoicing process for fire mitigation burns undertaken by third parties (Attachment 3).
 - c) The BFB request the sale of the ICV and the equipment stored within the vehicle. They have requested the funds be donated to the BFB so they can use it purchase a removable command pod for FSV1 (Attachment 4).
 - d) The replacement of FSV1 does not need to be replaced in the 2019/2020 financial year. The BFB have requested the vehicle be placed on the fleet review with the age and mileage of the vehicle being monitored (Attachment 4).
 - e) The BFB are happy with the CESM in his role as Chief Bush Fire Control Officer approving all permits to burn for the brigade, and therefore does not support delegating the approval of permits to deputy fire control officers (Attachment 5).

FINANCIAL CONSIDERATIONS

16. The cost for undertaking a medical examination for volunteers is \$100, which the City pays (Attachment 2).
17. The removal for the administration fee charge by the City for invoicing third parties on behalf of the BFB will produce a net saving of \$50 due to the time lost and associated operational costs involved in correct clerical errors caused by having the fee (Attachment 3).

18. The replacement of FSV1 will come at a cost to the City. Based on current market values for like for like vehicles, the replacement of FSV1 may cost \$50,000. The figure includes the fit out of the ute to meet BFB specifications and offsets from the sale of the existing plant (Attachment 4).

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

19. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 1: Kalamunda Cares and Interacts

Objective 1.2 - To provide a safe and healthy environment for community to enjoy.

Strategy - 1.2.1 Facilitate a safe community environment.

Priority 4: Kalamunda Leads

Objective 4.2 - To proactively engage and partner for the benefit of community.

Strategy 4.2.1 - Actively engage with the community in innovative ways.

Strategy 4.2.2 - Increase advocacy activities and develop partnerships to support growth and reputation.

SUSTAINABILITY

Social Implications

20. Nil

Economic Implications

21. Nil

Environmental Implications

22. Nil

RISK MANAGEMENT CONSIDERATIONS

23.	Risk: Financial loss when paying the cost of a medical examination for a volunteer who has a criminal record which precludes them from joining the BFB.		
	Likelihood	Consequence	Rating
	Unlikely	Insignificant	Low
	Action/Strategy		
Require applicants to sign a declaration stating they do not have any criminal history which would preclude them from membership of the BFB.			

24. **Risk:** Operational risk with the number of volunteers dwindling due to increased delays caused by waiting to undergo consecutive medical examinations and police clearance checks.
- | Likelihood | Consequence | Rating |
|--|-------------|--------|
| Possible | Significant | High |
| Action/Strategy | | |
| Amend the volunteer recruitment process to allow concurrent medical examination and police clearance checks. | | |
25. **Risk:** Reputation damage caused by delays in reimbursing the BFB for works undertaken to mitigate fire due to invoicing errors.
- | Likelihood | Consequence | Rating |
|--|-------------|--------|
| Almost Certain | Moderate | High |
| Action/Strategy | | |
| Remove the City's administration fee for invoicing third parties for fire hazard reductions burns undertaken by the BFB. | | |
26. **Risk:** Financial loss due to the depreciation in the market value of the ICV.
- | Likelihood | Consequence | Rating |
|--|---------------|--------|
| Almost Certain | Insignificant | High |
| Action/Strategy | | |
| The City sell the ICV and its internal fittings at the earliest opportunity. | | |
27. **Risk:** Financial loss due to the depreciation in the market value of the FSV1.
- | Likelihood | Consequence | Rating |
|---|---------------|--------|
| Likely | Insignificant | Medium |
| Action/Strategy | | |
| Review the timing for the replacement of FSV1 with the outcome being to minimise the trade in losses caused by market depreciation. | | |
28. **Risk:** Compliance risk if fire permits are issued by the same person who writes the prescription for the burn.
- | Likelihood | Consequence | Rating |
|---|-------------|---------|
| Almost Certain | Significant | Extreme |
| Action/Strategy | | |
| Create a procedure requiring a prescription to burn being written by the Deputy Chief Bush Fire Control Officers and approvals to be burn being given by Chief Bush Fire Control Officer for BFB fire hazard reduction burns. | | |

OFFICER COMMENT

29. The revised recruitment process allowing concurrent police clearance checks and medical examinations aligns with the Kalamunda Volunteer Bush Fire Brigade's constitution and is consistent with practices used to hire City staff.
30. With respect to the removal of the administration fee, the City only received \$380 in the previous 12 months. Correcting errors caused by having the administration fee is increasing the operational costs of administering the service for the Kalamunda Volunteer Bush Fire Brigade. This means there is no material benefit to the City having an administration fee for invoicing third parties. Ultimately, the removal of the fee will produce a net operational saving to the City.
31. FSV1 is approaching its optimum sale time, including it in the current round of fleet to be reviewed for sale and upgrade will allow for a definitive time frame to minimise any loss on upgrading of the fleet.
32. The proposed procedure for issuing fire permits will ensure both the correct legal checks and balances are maintained, while providing an expedited outcome for the Kalamunda Volunteer Bush Fire Brigade.
33. In summary it is recommended that Council supports the recommendations of BFAC.

Cr O'Donnell sought clarifications on aspects of the report. These matters were clarified.

Voting Requirements: Absolute Majority

RESOLVED SCM 01/2019

That Council:

1. NOTES the new process for appointment of volunteers to the Kalamunda Volunteer Bush Fire Brigade.
2. APPROVES the removal of the City's administration fee as otherwise charged for invoicing third parties on behalf of the Kalamunda Volunteer Bush Fire Brigade.
3. NOTES the proposed disposal of the existing Kalamunda Volunteer Bush Fire Brigade's Incident Control Vehicle.
4. NOTES investigations will be undertaken regarding procurement of a new command pod.
5. NOTES provision of a replacement for the Kalamunda Volunteer Bush Fire Brigade's Incident Control Vehicle will be considered in the draft 2019/2020 Municipal Budget.

6. NOTES the Chief Bush Fire Control Officer will issue the Kalamunda Volunteer Bush Fire Brigade with permits to undertake prescribed burns according to the process set out in Attachment 5.

Moved: **Cr Margaret Thomas**

Seconded **Cr Sara Lohmeyer**

Vote: **CARRIED UNANIMOUSLY/ ABSOLUTE MAJORITY (11/0)**

8.1.3. City of Kalamunda - Parking and Parking Facilities Local Law 2019

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

Previous Items	OCM 50/09; OCM 113/08; OCM 141/2017
Directorate	Director Development Services
Business Unit	Community Safety Services
File Reference	LE-LOL-012
Applicant	N/A
Owner	N/A
Attachments	1. Parking and Parking Facilities Local Law 2019 [8.1.3.1]

EXECUTIVE SUMMARY

1. The purpose of the proposed City of Kalamunda Parking and Parking Facilities Local Law 2019 (local law) provides for a more modern local law dealing with parking in the City, improves safety and adjusts prescribed infringement fees to be more in line with adjoining local governments.
2. Section 3.13 of the *Local Government Act 1995* (Act) requires local laws be reviewed every eight (8) years. The gazettal of the current *Parking and Parking Facilities Local Law 2008* occurred on 14 January 2009. The City's review of the *Parking and Parking Facilities Local Law 2008* identified improvements contained in the proposed local law.
3. It is recommended that Council gives notification that it proposes to make the local law in accordance with Attachment 1.

BACKGROUND

4. The City of Kalamunda (City) periodically reviews its local laws to ensure consistency and transparency in its decision-making process.
5. The review revealed that the current local law is inconsistent with the business needs for the City. The modified penalties for non-compliance were also inconsistent with penalties of other Western Australian local governments.
6. On 28 August 2017 (OCM 141/2017), Council deferred a decision on giving state-wide and local public notification that Council proposes to make a new local law until after a presentation at a future strategic session.

DETAILS

7. The local law has been prepared based on current industry standards, with modifications to meet the City's current business needs.

8. McLeods Barristers and Solicitors and the City's General Counsel provided input into the review of the *Shire of Kalamunda Parking and Parking Facilities Local Law 2007* and the drafting of the proposed *City of Kalamunda Parking and Parking Facilities Local Law 2019* to ensure consistency, compliance with legislative requirements and acceptance by the WA Parliament's Joint Standing Committee on Delegated Legislation.
9. Specific details of proposed amendments are contained within the External Referral, with a summary of their intent and desired outcomes is provided in the Officer Comment section of the report.
10. Once Council resolves to make a new local law, State-wide and local public notice must be given of the proposed local law and 42 days allowed for the public to make submissions.
11. At the end of the submission period, Council may proceed with adopting the local law or may choose to not proceed. Minor amendments may be made before the local law is adopted, however, if proposed amendments result in the local law being significantly different from that advertised, the process must be re-started.

STATUTORY AND LEGAL CONSIDERATIONS

12. The Act enables Western Australian local governments to make local laws considered necessary for the good government of their districts. Local governments can only make local laws when authorised by the Act or other written legislation however, the local laws must be consistent with State or federal law. The types of laws made by local governments cover areas such as car parking, activities on thoroughfares, public places and council and committee meetings.
13. Section 3.5(1) of the Act provides –

A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.

Section 3.12 of the Act provides for the statutory procedure that the City must follow in the creation of a new local law.
14. The *Local Government (Functions and General) Regulations 1996* (WA) provides in Regulation 3, that –

for the purpose of section 3.12 of the LG Act, the person presiding at a Council meeting is to give notice of the purpose and effect of a local law by ensuring that –

 - a) *the purpose and effect of the proposed local law is included in the agenda for that meeting; and*

- b) *the minutes of the meeting of the Council include the purpose and effect of the proposed local law.*

POLICY CONSIDERATIONS

15. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

16. The City's General Counsel has reviewed the proposed *City of Kalamunda Parking and Parking Facilities Local Law 2019*.

External Referrals

17. McLeod's Barristers & Solicitors provided the following comments in respect of the proposed *City of Kalamunda Parking and Parking Facilities Local Law 2019*:
- a) Clause 1.2: Reference to parking stations amended and removed schedule 4 (parking stations);
 - b) Clause 1.5: amended definitions for ACROD sticker, commercial vehicle, disability parking permit, GVM, Loading zone, heavy vehicle, metered space, and public bus;
 - c) Clause 1.10: Amended by deleting the words 'by resolution';
 - d) Clause 2.1: amended to be in line with the WALGA model local law;
 - e) Clauses 2.1, 2.7 & 2.8: Provision for ticketed parking & parking stations;
 - f) Clause 2.9: Provision for behaviour in parking stations;
 - g) Clause 3.5 (3) (l) Parking prohibited in cul-de-sacs;
 - h) Clause 3.6: Amended to include a vehicle allowed to remain parked;
 - i) Clause 3.8: Amended related to prohibiting movement of vehicle to avoid a time limitation;
 - j) Clause 6.9: Commercial vehicles with gross vehicle mass of less than 4.5 Tonne permitted to legally park on verges;
 - k) Removed all ACROD requirements and associated penalties as adequately covered by the *Local Government (Parking for People with Disabilities) Regulations 2014*;
 - l) Clause 4.2: Additional provisions for setting aside parking;
 - m) Clause 4.3: Provision for trading from a parked or stopped vehicle;
 - n) Clauses 7.7, 7.8 & 7.9: Additional provisions for authorised persons; and
 - o) Schedule 2 Infringement: increased penalties to reflect current industry standards.
18. If Council resolves to adopt the local law, the City must give State-wide public notice stating the City proposes to make the new local law and its purpose and effect must be summarised in the notice.
19. As soon as notice is given, the City must also give a copy of the proposed local law to the Minister for Local Government; Heritage; Culture and the Arts and to any other person who requests it.

FINANCIAL CONSIDERATIONS

20. Financial implications arising from the adoption of the local law will be the cost of advertising as required by the legislation. The current budget will cover the cost of advertising.
21. The local law will increase prescribed infringements for offences. By comparison, the increase are less than or equal to the penalties prescribed by the Shire of Mundaring.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

22. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 1: Kalamunda Cares and Interacts

Objective 1.2 - To provide a safe and healthy environment for community to enjoy.

Strategy - 1.2.1 Facilitate a safe community environment.

SUSTAINABILITY

Social Implications

23. Improved safety for residents living in cul-de-sacs by regulating parking within these narrow carriageways.
24. Improved visual amenity by regulating the owners of vehicles who park on the verge for extended periods.

Economic Implications

25. The proposed local law will improve customer access to small businesses by making it easier for the City to ensure street parking is more accessible.

Environmental Implications

26. Nil.

RISK MANAGEMENT CONSIDERATIONS

- 27.
- | | | |
|---|--------------------|---------------|
| Risk: Compliance risk if the proposed local law is not reviewed within required time frames. | | |
| Likelihood | Consequence | Rating |
| Unlikely | Moderate | Medium |
| Action/Strategy | | |
| Ensure Council is aware that the legislation requires a review of local laws every eight years. | | |

OFFICER COMMENT

28. The following comments are provided on the proposed amendments to the Parking and Parking Facility Local Law:
- a) Clause 1.2: reference to schedule 4 was deleted because it is necessary for the City to have a signed agreement with private land owners to enforce the local law on private land;
 - b) Clause 1.5: amendments were made to the definitions contained in the proposed local law providing a better understanding of terminology used and ensuring definitions align with State legislation;
 - c) Clause 1.10: the words "by resolution" were deleted as they may be considered to be a determination device which would constitute an authorised delegation of powers, therefore render the clause unlawful;
 - d) Clause 2.1: the amendments made are consistent with the WALGA model local laws;
 - e) Clauses 2.1, 2.7 & 2.8: the introduction of clauses which allow for the installation of ticket issuing machines, does not mean Council will be installing machines but rather providing it with the power to do so if it becomes necessary in the future to deal with parking related issues as the City grows and expands;
 - f) Clause 2.9: the amendments were made to remove a potential loophole in the local law;
 - g) Clause 3.5(3)(l): the clause was introduced to deal with safety issues caused by individuals' parking in cul-de-sacs. These include blocking access for emergency vehicles and residents;
 - h) Clause 3.6: amended to broaden its definition to allow authorised officers to direct the owner of a vehicle parked on thoroughfares to move it;
 - i) Clause 3.8: amended to remove a legal loophole to prevent individuals by using a third party to move their vehicles to avoid parking time limits;
 - j) Clause 6.9: amended to prevent commercial vehicles over 4.5 tonne to be parked on the verge;
 - k) ACROD parking is effectively regulated under the *Local Government (Parking for People with Disabilities) Regulations 2014*;
 - l) Clause 4.2: allows authorised officers to stop in a parking station and undertake their lawful duties;
 - m) Clause 4.3: prevents an individual or corporation from trading in parking station without a permit;
 - n) Clause 7.7: allows an authorised officer to park their vehicle to enforce the local law;
 - o) Clause 7.8: makes it an offence to impersonate an authorised officer; and
 - p) Clause 7.9 makes it an offence to obstruct an authorised officer.
29. On 16 February 2018, the City received a Councillor enquiry requesting consideration be given to amending the provisions of the proposed local law relating to ticket issuing machines. The main concern related to private consortiums being able to install their own ticket issuing machines at the Forrestfield Airport Link or other like developments, thereby limiting Council's

capacity. Subsequently, the matter was reviewed, and a decision was made to retain clauses 2.1, 2.7 & 2.8. The rationale for the decision is detailed below.

30. Section 3.7 of the *Local Government Act 1995* states a Local Law will be declared inoperative if it is inconsistent with the Act or any other State legislation. The requested changes were inconsistent with the other gazetted local laws. Therefore, it is considered likely that the Joint Standing Committee on Delegated Legislation would not have passed the proposed amendments if they were included in the local law.
31. The requested changes can however be included in a Council Policy, which limits the action of the City regarding the installation of ticket issuing machines, making it a requirement for the City to seek Council approval before ticket issuing machines are installed.
32. The Department of Fire and Emergency Services raised concerns with the City regarding hikers driving to reserves and parking across access points thereby blocking access to the fire trails in City's reserves and bush land. They recommended amending the *Parking and Parking Facility Local Law* to permit the City prohibiting this practice. Clause 6.10 contains provisions, which make it an offence to obstruct an access to a path or driveway.
33. While the proposed penalties referenced under schedule 2 are almost double the amount previously prescribed, in most instances they are still 50 - 80% below most other Western Australian local governments.
34. When comparing the proposed local law to similar local laws of the City's neighbours, the increase is reflective of current business trends.
35. Notably the proposed penalty increases are less than or equal to the penalties prescribed by the Shire of Mundaring and the City of Gosnells, both of which have amended local laws within the last eight years.
36. The City's other neighbours have much older local laws with penalties indicative of the City of Kalamunda's *Parking and Parking Facilities Local Law 2008* (current local law).

Cr Giardina foreshadowed a minor amendment to the substantive recommendation before moving the recommendation. The recommendation received a seconder who accepted the addition of Point 3.

Voting Requirements: Absolute Majority

RESOLVED SCM 02/2019

That Council:

1. GIVES State-wide and local public notification that it proposes to make a new local law, the *City of Kalamunda Parking Local Law 2019* as per (Attachment 1).

2. NOTES:
- a. the purpose of the local law is to regulate the parking of vehicles within the City of Kalamunda's parking region and provide for the management and operation of parking facilities;
 - b. the effect of the proposed local law is to ensure that a person parking a vehicle within the City of Kalamunda's parking region will be required to comply with the provisions of the new local law; and
 - c. the new local law is intended to result in:
 - i. a more modern local law dealing with parking in the City of Kalamunda;
 - ii. improved safety; and
 - iii. adjustments to prescribed infringement to be more in line with adjoining local governments.
3. **Request the Chief Executive Officer prepare a Council Policy for Council approval, that guides the action of the City regarding the installation of ticket issuing machines and paid parking facilities, making it a requirement for the City to seek Council approval before ticket issuing machines are installed.**

Moved: **Cr John Giardina**

Seconded **Cr Dylan O'Connor**

Vote: **CARRIED UNANIMOUSLY/ABSOLUTE MAJORITY (11/0)**

8.2. Asset Services Reports

8.2.1. Proposed Nature Playground - Lesmurdie Baptist Church - Lot 614 (2) Brady Road, Lesmurdie

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

Previous Items	N/A
Directorate	Asset Services
Business Unit	Director Asset Services
File Reference	BR-19/002; VR-01/004
Applicant	Lesmurdie Baptist Church
Owner	City of Kalamunda
Attachments	Nil

EXECUTIVE SUMMARY

1. The purpose of this report is to bring to Council's attention that the Lesmurdie Baptist Church (Church) is seeking approval from the City of Kalamunda (City) for the Church to fund and build a nature playground on Lot 614 (2) Brady Road in Lesmurdie (Nature Playground) for the use of the general community.
2. Further, that the Church has requested, in the event the Nature Playground is constructed, the City be responsible for the care and control of the Nature Playground given the Nature Playground will be available for the community at large.
3. It is recommended that Council note the proposal and provide delegated authority to the Chief Executive Officer to accept ownership provided at nil cost to the City and care and control responsibilities on behalf of the City for the Nature Playground on an ongoing basis, including the costs of maintaining the Nature Playground in future budgets, in the event that development approval is granted.

BACKGROUND

4. The Church approached the City to seek permission for a Nature Playground to be installed on reserved land with the intent the Nature Playground be available for the entire community to enjoy.

DETAILS

5. Lot 614 is situated at the corner of Brady Road and Varley Street in Lesmurdie. It is freehold land owned by the City and zoned within the Local Planning Scheme as Public Open Space. The image over shows this lot:



6. The Nature Playground proposed is generally as shown below:



7. The Nature Playground generally follows the existing land contours and sits within the existing natural land area, respecting the existing trees and vegetation.

8. The types of play equipment include:
- a) Small suspension jungle bridge
 - b) Balance obstacle course
 - c) Tee Pee structure
 - d) Log climbers and steppers
 - e) Small cargo net climber

9. The Church has been in discussion with the City on this proposal and no issues are foreseen with the type and location of equipment. There is no undue impact on the existing environmental values of the Lot.
10. The Church proposes that they fully fund the installation of the Nature Playground (estimated at \$75,000) and the City takes over ownership, care and control of the Nature Playground on an ongoing basis. The financial impact to the City of this proposal is relatively small in contrast to the City's overall parks maintenance budget.

STATUTORY AND LEGAL CONSIDERATIONS

11. The subject site is zoned Urban under the Metropolitan Region Scheme and reserved Local Open Space (Reserve 29188) under Local Planning Scheme No.3 (Scheme). The reserve (29188) is owned by the State of Western Australia and vested in the City of Kalamunda for the purpose of 'Recreation'.
12. In accordance with Clause 3.4.1 b) of the Scheme, the Applicant is required to first obtain planning approval prior to works associated with the nature playground commencing.

POLICY CONSIDERATIONS

13. At present, there is no policy or delegation in place for the Chief Executive Officer to agree to take over assets gifted to the City unless through statutory processes (such as land subdivision). Council approval is sought to this proposal.
14. The City adopted its Public Open Space Strategy (Strategy) in May 2018. Within this Strategy, the reserve is identified as part of Sanderson Reserve / Pax Hill which has largely been classified as 'No Classification' with rating of D. Improvements to this area were identified as recommended in the Strategy. The implementation of this proposal by the Church could increase the rating of the reserve from a D to a C.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

15. The City has assessed the proposal from a statutory planning and parks & environmental perspective and no issues were raised.

External Referrals

16. Nil.

FINANCIAL CONSIDERATIONS

- 17. The estimated cost of the Nature Playground is \$75,000 which would be the opening value for the City’s Asset Register. The Church is not seeking any payment from the City to own the Nature Playground. The ongoing maintenance budget requirements of such a Nature Playground would be relatively small and dealt with within annual budget plans.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

- 18. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 1: Kalamunda Cares and Interacts

Objective 1.2 - To provide a safe and healthy environment for community to enjoy.

Strategy - 1.2.3 Provide high quality and accessible recreational and social spaces and facilities.

SUSTAINABILITY

Social Implications

- 19. The creation of an additional nature playground in this area would be seen as a positive outcome for the community. The setting and layout of the Nature Playground works within existing walking trails through the Lot hence would not diminish that aspect of the benefit of this open space.

Economic Implications

- 20. Nil.

Environmental Implications

- 21. There are no foreseen negative impacts of this proposal upon the environment.

RISK MANAGEMENT CONSIDERATIONS

22.	<p>Risk: The City refuses to take over care and control of the Nature Playground leaving the Church to abandon the project with resultant reputation impact.</p>		
	Likelihood	Consequence	Rating
	Likely	Insignificant	Medium
	Action/Strategy		
	The City prepares a suitable communications strategy outlining the reasons for refusal.		

OFFICER COMMENT

23. Whilst not yet identified in any planning for Public Open Space Strategy, there is a view if this Nature Playground was built it would be popular with the local community. The ongoing costs of ownership would be a small cost compared to the social benefits.

The Director Development Services left the Chambers at 6.56pm and returned to the meeting at 6.58pm. Cr Ritchie queried if it was possible include within the recommendation in provision for the retention of the naturally occurring trees on the site. The Director Assets Services provided clarification. A foreshadowed minor amendment, to the substantive recommendation, was presented. Cr O'Donnell sought clarification in relation to design aspects of the Nature Playground. The Director Assets Services provided clarification. The amended recommendation received a mover and seconder who accepted the addition of Point 3.

Voting Requirements: Absolute Majority

RESOLVED SCM 03/2019

That Council:

1. NOTES a proposal has been received from the Lesmurdie Baptist Church for the Lesmurdie Baptist Church to fund and construct a nature playground on Lot 614 (2) Brady Road in Lesmurdie (Nature Playground).
2. DELEGATES power, pursuant to sections 5.42 and 5.43(d) of the *Local Government Act 1995*, to the Chief Executive Officer to accept ownership, at nil cost to the City of Kalamunda, care and control of the Nature Playground on behalf of the City of Kalamunda on an ongoing basis upon completion of the Nature Playground, if development approval is obtained, including the costs of maintaining the Nature Playground in future budgets.
3. **REQUEST the Chief Executive Officer ensure no naturally occurring West Australian trees be removed in any such Nature Playground.**

Moved: **Cr Brooke O'Donnell**

Seconded **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY/ABSOLUTE MAJORITY (11/0)**

8.2.2. RSL Memorial Stirk Park Lot 101 (18) Kalamunda Road, Kalamunda

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

Previous Items	N/A
Directorate	Asset Services
Business Unit	Director Asset Services
File Reference	PR-PLN-005
Applicant	N/A
Owner	N/A
Attachments	Nil

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider a proposal that a Returned Services League (RSL) Memorial Wall installed at Lot 101 (18) Kalamunda Road Kalamunda (Stirk Park) becomes the responsibility of the City of Kalamunda (City) for care and maintenance.
2. The RSL has requested that the City take over upkeep of the memorial in order that it is maintained to the high presentation standard that it currently is in. The RSL believes that the City can manage this efficiently and effectively.
3. It is recommended Council agree to accept the ongoing maintenance of the Memorial Wall at Stirk Park on the basis that the Returned Services League retains ownership of the structure and responsibility for eventual replacement.

BACKGROUND

4. The RSL recently installed a memorial wall in Stirk Park as part of the centenary of the end of World War 1 which was officially opened on 11 November 2018. They have since sought the City's consideration to take over care and maintenance of the memorial.

DETAILS

5. The memorial is primarily of stone construction with some metal sculptures. Some feature lighting is also installed. The photograph below shows the memorial.



6. It is envisaged that the requirements will generally be cleaning of the memorial, graffiti removal and replacement of the light globes. The structures are very robust and wouldn't need routine intervention. Whilst an estimate only, a provision of \$1,000 pa would be viewed appropriate to maintain the memorial.
7. It is not proposed that the City takes over ownership of the memorial given that the sponsors of the funding for the memorial may not have envisaged that the City and not the RSL be the responsible party. This also avoids any future liability on the City to replace the memorial.

STATUTORY AND LEGAL CONSIDERATIONS

8. There are no statutory implications within this issue. From a legal perspective, having this issue determined clarifies maintenance responsibilities between the RSL and the City.

POLICY CONSIDERATIONS

9. There are no policies in place which provides the Chief Executive Officer with delegated authority to approve these circumstances. Council approval for this proposal is requested.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

10. This matter has been referred to the Manager Community Development who concurs with the proposal.

External Referrals

11. Nil.

FINANCIAL CONSIDERATIONS

- 12. An allowance of \$1,000 pa would be provided in ongoing Operating budgets for maintenance of the memorial.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

- 13. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 1: Kalamunda Cares and Interacts

Objective 1.3 - To support the active participation of local communities.

Strategy 1.3.2 - Encourage and promote the active participation in social and cultural events.

SUSTAINABILITY

Social Implications

- 14. There are no foreseen social implications in the City undertaking maintenance of the memorial.

Economic Implications

- 15. Nil.

Environmental Implications

- 16. Nil.

RISK MANAGEMENT CONSIDERATIONS

17.	Risk: The memorial falls into disrepair if the RSL is required to maintain it.		
	Likelihood	Consequence	Rating
	Possible	Insignificant	Low
	Action/Strategy		
	The proposal to have the City maintain the memorial should ensure that it is maintained to an acceptable standard.		

OFFICER COMMENT

- 18. The resource impacts for the City of this proposal are inconsequential and the benefits in having a good standard of presentation of the Memorial would seem an appropriate action by the City.

Voting Requirements: Simple Majority

RESOLVED SCM 04/2019

That Council:

1. AGREES to accept the ongoing maintenance of the Memorial Wall at Stirk Park on the basis the Returned and Services League retains ownership of the structure and responsibility for eventual replacement.

Moved: **Cr Margaret Thomas**

Seconded **Cr Cameron Blair**

Vote: **CARRIED UNANIMOUSLY (11/0)**

8.2.3. Consideration of Tenders for the Provision of Bus Shelters and Seats with Digital Advertising (RFT 1807)

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

Previous Items	N/A
Directorate	Asset Services
Business Unit	Asset Planning & Management
File Reference	AD-TEN-004
Applicant	N/A
Owner	N/A
Attachments	Nil
Confidential Attachment	1. Tender Evaluation Report <i>Reason for Confidentiality: Local Government Act 1995 S5.23 (2) (c) – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."</i>

EXECUTIVE SUMMARY

1. The purpose of this report is to consider accepting a recommended tender for the Provision of Bus Shelters and Seats with Digital Advertising (RFT 1807).
2. On 28 August 2018, the City of Kalamunda (City) issued the Request for Tender (RFT 1807) seeking Tenders for the provision of bus shelters and seating infrastructure at bus stops and similar locations, including digital commercial advertising with the objective to achieve net revenue streams for the City.
3. It is recommended Council accept the tender from Global Smart Cities trading as YStop.

BACKGROUND

4. In 2001, the City entered into a Licence Agreement with Perth Sign Company Pty Ltd for the provision and maintenance of bus shelters in return for advertising rights for a five-year term with two five-year options. The contract included provision of three new shelters. This agreement was transferred to Adshel in 2006 and concluded in 2016. At the conclusion of the agreement the advertising panels were removed and the ownership of the three shelters transferred to the City at no cost.
5. The City was approached by a supplier of bus shelter infrastructure to provide bus shelters under a similar arrangement as previously detailed. The City subsequently prepared a specification for these services and issued a tender. The aforementioned supplier later declined to submit a tender.

DETAILS

- 6. The intent of RFT 1807 was to seek a supplier who would:
 - a) provide a minimum of ten bus shelters and any number of seats;
 - b) provide upgrades to existing bus shelters;
 - c) finance the infrastructure with the City gaining ownership of assets at the end of the contract;
 - d) maintain and clean of the bus shelters and seating;
 - e) manage the advertising; and
 - f) provide the City with a revenue stream generated from advertising revenues.

- 7. The following officers were appointed to the Tender Evaluation Panel (Panel) by the Director Asset Services:
 - a) Manager Asset Planning and Management (Panel Chair);
 - b) Coordinator Asset Management; and
 - c) Manager Asset and Waste Operations.

- 8. The Request for Tender RFT 1807 was advertised on 28 August 2018 and closed at 2:00 pm, Wednesday 26 September 2018. Only two submissions were received.

- 9. Compliance criteria were evaluated on a "Yes/No" basis, with the compliance assessment completed by the Procurement and Finance team. Both of the two submissions received were assessed as compliant with the Tender Compliance Criteria.

- 10. Qualitative Criteria for RFT 1807 were included and a predetermined Qualitative Pass Mark (QPM) was set at 60%.

- 11. The Qualitative Criteria and weighting used in evaluating the submissions received are noted in the table below:

Qualitative Criteria	Weighting
Demonstrated experience in providing similar services	20%
Key personnel skills and experience	10%
Methodology of delivering the services including understanding of the specification	35%
Explanation and options for materials and technology	35%

Detailed requirements for each of these criteria are outlined in the Tender Evaluation Report (Confidential Attachment 1).

- 12. Whilst this tender was aimed at producing revenue streams for the City, the ability for the contractor to provide, install and maintain the bus shelters and seats was seen as a key selection issue and as such the reason a QPM process was adopted.

13. The qualitative assessment resulted in only Global Smart Cities trading as YStop achieving the Qualitative Pass Mark of 60% and therefore advancing to the price assessment stage of the tender evaluation process. The actual scores achieved are detailed in the attached Tender Evaluation Report (Confidential Attachment 1).
14. Tenderers were required to complete a Price Schedule to undertake the work under the tender. The Panel assessed the price by aggregating infrastructure rates and years to produce a total lump sum for the term of the contract. The price assessment is detailed in the attached Tender Evaluation Report (Confidential Attachment 1).
15. Over the 10 year life of this contract the City is expected to receive a total of \$345,000 of revenue.
16. A typical example of the new bus shelters and seats proposed is shown below:



17. The supplier of the new bus shelters also advises they can be upgraded as required for new 'smart city' technologies such as waste sensors, CCTV, real time information etc. These opportunities would be able to be explored during the life of the contract.

STATUTORY AND LEGAL CONSIDERATIONS

18. Section 3.57 of *Local Government Act 1995* relating to the Tendering requirements has been complied with.
19. This proposal does not fall within the requirements of Section 3.59 of the *Local Government Act 1995* relating to Major Trading Undertakings as it is below the financial threshold set out.

POLICY CONSIDERATIONS

20. Policy C-PP01 – Purchasing, has been followed and complied with.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

21. The specification and tendering objectives were circulated within the Asset Services directorate and Public Relations and Marketing.

External Referrals

22. Nil.

FINANCIAL CONSIDERATIONS

23. Adoption of this contract will result in the supplier undertaking the maintenance of bus shelters and new seats installed in the City. As such this would result in a saving of approximately \$36,000 per annum currently budgeted by the City for bus shelter maintenance.
24. This contract will result in 10 additional bus shelters installed in the City. If Council determines additional bus shelters are required in the City over the life of the contract, it is anticipated these would need to be funded through existing Municipal funding schemes.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

25. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to quality amenities.

Strategy 3.2.1 - Optimal management of all assets.

SUSTAINABILITY

Social Implications

26. The provision of improved bus shelter and seating infrastructure with lighting and other facilities can support social interaction around public transport.

Economic Implications

27. Depending on the specific examples, the commercial advertising panels can create a wide range of promotion opportunities for local businesses and City events and notices.

Environmental Implications

28. The provision of improved bus shelter and seating infrastructure may generate additional patronage on buses. If this leads to a reduction in private vehicle usage, then reductions in greenhouse gas emissions will occur.

RISK MANAGEMENT CONSIDERATIONS

29.	<p>Risk: The tender is not awarded, resulting in a lost opportunity for the provision of infrastructure and the need for ongoing operating expenditure to maintain shelters.</p>						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding: 2px;">Likelihood</th> <th style="text-align: left; padding: 2px;">Consequence</th> <th style="text-align: left; padding: 2px;">Rating</th> </tr> </thead> <tbody> <tr> <td style="padding: 2px;">Almost Certain</td> <td style="padding: 2px;">Moderate</td> <td style="padding: 2px;">High</td> </tr> </tbody> </table>	Likelihood	Consequence	Rating	Almost Certain	Moderate	High
Likelihood	Consequence	Rating					
Almost Certain	Moderate	High					
	<p>Action/Strategy</p> <p>The City can revisit the specification and scope at a future time to identify a more acceptable service arrangement.</p>						

30.	<p>Risk: The supplier fails to achieve the necessary advertising revenue to support the ongoing payments to the City and potentially defaults on contract.</p>						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding: 2px;">Likelihood</th> <th style="text-align: left; padding: 2px;">Consequence</th> <th style="text-align: left; padding: 2px;">Rating</th> </tr> </thead> <tbody> <tr> <td style="padding: 2px;">Possible</td> <td style="padding: 2px;">Moderate</td> <td style="padding: 2px;">Medium</td> </tr> </tbody> </table>	Likelihood	Consequence	Rating	Possible	Moderate	Medium
Likelihood	Consequence	Rating					
Possible	Moderate	Medium					
	<p>Action/Strategy</p> <p>The City would enter into negotiations to minimise the financial impact to the City aimed at retaining the amenity of the shelters and seats. Financial risk management measures will be put in place as defined in the Tender Report.</p>						

OFFICER COMMENT

31. The outcome of the Tender will provide a greater benefit than was anticipated, creating an improved service to the community, revenue for the City and a profitable business for the tenderer.

Councillors sought clarification in relation to various aspects of the contract, placement and design of the bus shelters. The Director Assets Services clarified all queries to the satisfaction of the council before the matter was put to the vote.

Voting Requirements: Simple Majority

RESOLVED SCM 05/2019

That Council:

1. APPROVES the appointment of Global Smart Cities trading as YStop for the Provision of Bus Shelters and Seats with Digital Advertising (RFT 1807) for a 10 year period with a net estimated income of \$345,000 over this term, and incorporating financial risk management measures as identified in the Tender Report.

Moved: **Cr Dylan O'Connor**

Seconded **Cr Sara Lohmeyer**

Vote: **CARRIED UNANIMOUSLY (11/0)**

8.2.4. Consideration of Tenders for Mundaring Weir Road Upgrade & Widening (RFT 1816)

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

Previous Items	N/A
Directorate	Asset Services
Business Unit	Asset Delivery
File Reference	AD-TEN-005
Applicant	N/A
Owner	N/A
Attachments	Nil
Confidential Attachment	1. Tender Evaluation Report <i>Reason for Confidentiality: Local Government Act 1995 S5.23 (2) (c) – "a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting."</i>

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the award of a contract for the Mundaring Weir Road Upgrade & Widening (RFT 1816).
2. On 19 September 2018, the City of Kalamunda (City) issued the Request for Tender (RFT 1816) seeking to engage a suitable, experienced and qualified Contractor for the upgrade and widening of Mundaring Weir Road from Fern Road to the City boundary.
3. It is recommended that Council:
 - a) Notes the revised overall project budget needs to be increased by \$316,835, which will be funded from a combination of external Direct Grant funding and Municipal funding sourced through the 2018/2019 Mid-Year Review.
 - b) Approves Tender Award to HAS Earthmoving for the Mundaring Weir Road Upgrade & Widening (RFT 1816) for a lump sum price of \$2,258,972.97 (excluding GST).

BACKGROUND

4. The intent of the Mundaring Weir Road upgrade and widening is to widen the shoulders, extension of culvert pipes and reinstating "V" drains, and the inclusion of solid edge lines.
5. The project was approved by Council as part of the 2017/2018 CAPEX Program as an identified Blackspot project, having been successful in securing State BlackSpot funding for two-thirds of the project estimated cost, with the remaining one-third to be funded by the City.

DETAILS

6. The City issued RFT 1816 seeking to engage a suitable, experienced and qualified Contractor to undertake the upgrade and widening of Mundaring Weir Road from Fern Road to the City boundary. Tenders were called on 19 September 2018 and closed on 11 October 2018.

7. Five tenders were received from (in alphabetical order):

- a) Comiskey's Contracting Pty Ltd;
- b) Densford Civil Pty Ltd;
- c) Dowsing Group Pty Ltd;
- d) HAS Earthmoving; and
- e) Indigenous Construction Resource Group Pty Ltd.

8. As part of the Tender assessment process, all received tenders were to be considered against predefined Compliance Criteria, with only those tenders that met the Compliance Criteria to be considered further. All submissions received were compliant.

9. Tenders were then assessed against the Qualitative Criteria to provide the Tender Assessment Panel with information to determine a suitable tender.

10. The Qualitative Criteria set for this Tender was:

Qualitative Criteria	Weighting
Relevant Experience	25%
Tenderer's Resources	15%
Key Personnel Skills & Experience	20%
Demonstrated Understanding of the Requirements	40%

It was determined prior to calling Tenders that Tenderers would need to achieve a Qualitative Pass Mark (QPM) of 60% or higher to be considered further.

11. Panel members completed the Qualitative Evaluation through individual assessment and scoring of the responses by each Tenderer to the Qualitative Criteria. Thereafter, the Panel collectively determined consensus scores on a Tender by Tender basis for each of the Qualitative Criteria and reached consensus on 15 November 2018.

12. The process was progressed in accordance with the City's evaluation process in a fair and equitable manner.

13. The outcomes of the Qualitative Evaluation ranked the Tenders as follows:

Tenderer	Rank
HAS Earthmoving	1
Densford Civil Pty Ltd	2
Dowsing Group Pty Ltd	3
Comiskey's Contracting Pty Ltd	4
Indigenous Construction Resource Group Pty Ltd	5

14. The top four ranked Tenderers achieved the minimum 60% QPM.
15. The Tenderers now considered for appointment provided prices that were in excess of the approved budget for the project. This was primarily due to the time delay from budget approval to tender. The City sought Metropolitan Regional Road Group consideration to increase its State BlackSpot grant funding for this project, which was approved in December 2018. Funding detail is further discussed in the Financial Considerations section of this report.
16. On confirmation that additional funding had been approved, the Panel recommends HAS Earthmoving be the preferred Tenderer for its lump sum price of \$2,258,972.97 (excluding GST) on that basis that the lump sum price offered is considered to be the best value for money.
17. The Panel was also satisfied HAS Earthmoving has the capability and capacity to undertake the works for the lump sum price offered and undertook reference and financial checks, with advice received being fully supportive of the recommendation as promoted.

STATUTORY AND LEGAL CONSIDERATIONS

18. Section 3.57 of *Local Government Act 1995*. Part 4 of the *Local Government (Functions and General) Regulations 1996*.

POLICY CONSIDERATIONS

19. Policy C-PP01 – Purchasing, has been followed and complied with.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

20. Nil.

External Referrals

21. Nil.

FINANCIAL CONSIDERATIONS

22. Funding for the Mundaring Weir Road Upgrade & Widening project was originally allocated against Job No 3407 in the 2017/2018 Capital Works Program at an approved budget of \$2,181,500 (excluding overheads and GST). The budget included State BlackSpot funding totalling \$1,454,333 with the balance sourced through Municipal funding.
23. The project has been funded through the State BlackSpot Program as a two-staged project, this resulting in a carry forward of \$2,108,130 into the 2018/2019 CAPEX Program.
24. Upon resolution of the construction tender costs, a revised project budget of \$2,498,500 (including design costs expended, project management and construction contingency) has been identified.
25. The shortfall between original budget and revised budget is \$316,835. The MRRG has approved top up funding of \$211,224 through the 2018/2019 State BlackSpot Program, leaving a final shortfall of \$105,611 to be funded by the City.
26. It is proposed the City's shortfall of \$105,611 required for the Mundaring Weir Road Upgrade & Widening project be funded from the balance of unallocated Direct Grant funding in the amount of \$36,641, together with the balance of \$68,970 to be sourced through the 2018/2019 Mid-Year Review.
27. HAS Earthmoving, through its lump sum price of \$2,258,972.97 (excluding GST) as offered is the lowest price overall in comparison with the other Tenderers that met the required QPM and subsequent financial assessment. A review of their Price Schedule indicates they have made allowance for all items within the scope of works and offers the best value for money.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

28. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to quality amenities.

Strategy 3.2.1 - Optimal management of all assets.

Strategy 3.2.2 - Provide and advocate for improved transport solutions and better connectivity through integrated transport planning.

SUSTAINABILITY

Social Implications

29. Nil.

Economic Implications

- 30. Funding carried forward from 2017/2018 is approved in the 2018/2019 budget to implement this project, with additional funding sourced to accommodate a shortfall in project budget.

Environmental Implications

- 31. A Clearing Permit has been obtained to accommodate the proposed widening works. A significant Jarrah tree (known by the Community as King Jarrah) is outside of the works zone and will not require removal.

RISK MANAGEMENT CONSIDERATIONS

32.	Risk: The Contractor does not undertake the works to the requirements of Cost, Time or Scope.		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action/Strategy		
	<ul style="list-style-type: none"> a) Warranties, Australian Standard contracts and Professional Project Management in place. b) Clearly defined scope of works and specifications developed. c) Construction to be supervised by the City. 		

OFFICER COMMENT

- 33. The Mundaring Weir Road Upgrade & Widening project forms part of the State BlackSpot Program, with implementation focused on mitigating what has become a significant number of road run off crashes along Mundaring Weir Road between Fern Road and the City’s boundary.
- 34. The scope of work for this project includes widening of the road shoulders to provide recovery area, extension of culvert pipes, reinstating “V” drains and the inclusion of edge linemarking.
- 35. In addressing the funding shortfall arising as a consequence of Tender prices received, there is no other impediment impacting on the City’s ability to deliver the project.

Voting Requirements: Simple Majority

RESOLVED SCM 10/2019

That Council:

- 1. APPROVES the revised project budget for the Mundaring Weir Road Upgrade & Widening from \$2,181,500 to \$2,498,500.
- 2. NOTES receipt of \$211,224 in additional State BlackSpot funding for the Mundaring Weir Road Upgrade & Widening (Job No 3407).

3. APPROVES the allocation of \$105,611 in additional Municipal funding to the Mundaring Weir Road Upgrade & Widening (Job No 3407) sourced from the balance of unallocated 2018/2019 Direct Grant funding received from the State Government amounting to \$36,641, together with the balance of \$68,970 to be sourced through the 2018/2019 Mid-Year Review.
4. APPROVES the award of Mundaring Weir Road Upgrade & Widening (RFT 1816) to HAS Earthmoving for its lump sum price of \$2,258,972.97 (excluding GST).

Moved: **Cr Dylan O'Connor**

Seconded **Cr Sara Lohmeyer**

Vote: **CARRIED UNANIMOUSLY (11/0)**

9. Meeting Closed to the Public

9.1 RESOLVED SCM 06/2019

That the Meeting be closed to the public to consider confidential items.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (11/0)**

The Meeting closed to the public at 7:11pm. All members of the public gallery left the Meeting and all elected members and staff remained.

9.2 RESOLVED SCM 07/2019

That Standing Orders be suspended to allow further discussion on additional information provided in relation to confidential items.

Moved: **Cr Michael Fernie**

Seconded: **Cr Lesley Boyd**

Vote: **CARRIED UNANIMOUSLY (11/0)**

Standing Orders were suspended at 7.19pm.

9.3 RESOLVED SCM 08/2019

That Standing Orders be resumed following discussion and clarification of additional information provided.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Cameron Blair**

Vote: **CARRIED UNANIMOUSLY (11/0)**

Standing Orders were resumed at 7:27pm.

9.4 RESOLVED SCM 11/2019

The Meeting reopened to the public following consideration of Item 8.1.1 – **CONFIDENTIAL ITEM** - Section 31 Reconsideration – Development Application: Child Care Centre (Pachamama) - Lot 19 (36) Marri Crescent and Lot 55 (61) Coolinga Road, Lesmurdie and Item 8.2.4 - Consideration of Tenders for Mundaring Weir Road Upgrade & Widening (RFT 1816).

Moved: **Cr Michael Fernie**

Seconded: **Cr Lesley Boyd**

Vote: **CARRIED UNANIMOUSLY (11/0)**

The meeting reopened to the public at 7:59pm. No members of the public gallery returned to the Meeting due to this the Presiding Member did not read the resolutions passed behind closed doors.

10. Closure

There being no further business, the Presiding Member declared the Meeting closed at 8:00pm.

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

Signed: _____
Presiding Member

Dated this _____ day of _____ 2019.