



Agenda Briefing

12 May 2020

DRAFT AGENDA Ordinary Council Meeting
Tuesday 26 May 2020

Our Vision



Connected Communities, Valuing Nature and Creating our Future Together

Core Values

Service We deliver excellent service by actively engaging and listening to each other.

Respect We trust and respect each other by valuing our differences, communicating openly and showing integrity in all we do.

Diversity We challenge ourselves by keeping our minds open and looking for all possibilities and opportunities.

Ethics We provide honest, open, equitable and responsive leadership by demonstrating high standards of ethical behaviour.

Aspirational Values

Creativity We create and innovate to improve all we do.

Courage We make brave decisions and take calculated risks to lead us to a bold and bright future.

Prosperity We will ensure our District has a robust economy through a mixture of industrial, commercial, service and home based enterprises.

Harmony We will retain our natural assets in balance with our built environment.

Our simple guiding principle will be to ensure everything we do will make Kalamunda socially, environmentally and economically sustainable

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INFORMATION FOR AGENDA BRIEFING

The Briefing Session is currently not open to the Public due to COVID-19 restrictions.

An Agenda Briefing Session will provide the opportunity for Elected Members to be equally informed and seek additional information on matters prior to the presentation of such matters to the next Ordinary Council Meeting for formal consideration and decision.

Acknowledgement of Traditional Owners

We wish to acknowledge the traditional custodians of the land we are meeting on, the Whadjuk Noongar people. We wish to acknowledge their Elders' past, present and future and respect their continuing culture and the contribution they make to the life of this City and this Region.

Emergency Procedures

Please view the position of the Exits, Fire Extinguishers and Outdoor Assembly Area as displayed on the wall of Council Chambers.

In case of an emergency follow the instructions given by City Personnel.

We ask that you do not move your vehicle as this could potentially block access for emergency services vehicles.

Please remain at the assembly point until advised it is safe to leave.

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9. Confidential Items Announced But Not Discussed

- 9.1 Item 10.1.2 Lot 6 (#10) Vernallan Way, Lesmurdie - Proposed Home Business (Gunsmith & Engineering Services) – CONFIDENTIAL ATTACHMENT – Submitters Table - Reason for Confidentiality: *Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."*

10. Reports to Council

10.1. Development Services Reports

10.1.1. Proposed Amendment No.103 - Lot 613 (4) Varley Street, Lesmurdie - Reclassifying to 'Civic and Community' Local Scheme Reserve

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

Previous Items	OCM 25/2020
Directorate	Development Services
Business Unit	Approval Services
File Reference	PG-LPS-003/103
Applicant	TPI Planning
Owner	State of Western Australia

Attachments	1. Scheme Amendment Applicant Report [10.1.1.1 - 64 pages]
	2. Development Application Plans [10.1.1.2 - 7 pages]
	3. Development Application Applicant Report [10.1.1.3 - 16 pages]

TYPE OF REPORT

- Advocacy When Council is advocating on behalf of the community to another level of government/body/agency
- Executive When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans and budgets)
- Information For Council to note
- Legislative Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person's rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2027

Priority 1: Kalamunda Cares and Interacts

Objective 1.1 - To be a community that advocates, facilities and provides quality lifestyles choices.

Strategy 1.1.1 - Facilitates the inclusion of the ageing population and people with disability to have access to information, facilities and services.

Strategy 1.1.2 - Empower, support and engage and with young people, families and our culturally diverse community.

Strategy 1.1.3 - Facilitate opportunity to pursue learning.

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.

Priority 1: Kalamunda Cares and Interacts

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

Strategy 1.3.1 - Support local communities to connect, grow and shape the future of Kalamunda.

Priority 3: Kalamunda Develops

Objective 3.1 - To plan for sustainable population growth.

Strategy 3.1.1 - Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

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.

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider the adoption of Local Planning Scheme Amendment No.103 (Amendment 103) to Local Planning Scheme No. 3 (Scheme) for the purposes of public advertising.
2. Amendment 103 proposes to amend the Scheme by:
 - a) Deleting 'PART 3 –RESERVES' in its entirety and inserting a new 'PART 3 – RESERVES' consistent with the 'Model Provisions for Local

Planning Schemes' contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- b) Reclassifying Lot 613 Varley Street, Lesmurdie (known as Reserve 29190) from a 'Local Open Space' local scheme reserve to a 'Civic and Community' local scheme reserve as depicted on the Scheme Amendment Map.
- c) Introducing a new 'Civic and Community' local scheme reserve on the Scheme Map legend.
- d) Insert new provisions to allow for 'additional uses for local reserves' consistent with the 'Model Provisions for Local Planning Schemes' contained in the *Planning and Development (Local Planning Schemes) Regulations 2015* and list additional uses for Lot 613 Varley Street, Lesmurdie (known as Reserve 29190).
- e) Re-number Tables and references to Tables throughout the Scheme Text and update the Table of Contents to reflect this amendment.

3. It is recommended Council adopt Amendment 103 for the purposes of public advertising, subject to modifications.

BACKGROUND

4. **Locality Plan:**



5. **Land Area:** 3701m²
Local Planning Scheme Zone: Local Open Space
Metropolitan Region Scheme Zone: Urban

6. The subject site (Lot 613 (4) Varley Street, Lesmurdie) is 3701m² in area and is bounded by Varley Street, Pax Hill Reserve (Nature Playground), Girl Guides Hall, Sanderson Road Centre and St Ives Retirement Village.
7. Under the Scheme, the subject site is currently reserved 'Local Open Space' and is a crown title reserve which was vested to the Lesmurdie Baptist Church on 18 March 1997 for the purpose of 'Church Purposes – Community and Recreational facility'.
8. Lesmurdie Community Care, a related entity to Lesmurdie Baptist Church, has submitted a development application to the City of Kalamunda to construct a multi-purpose community building on the subject site (See Attachments 2 & 3).
9. The multi-purpose building includes facilities for mentoring/counselling, Mothers Groups, Fathers Groups, Seniors Hub, Food Bank/Practical Crisis assistance, Mental Health First Aid Courses, Meeting space for Clamage Retirement Village Residents, an office for Clamage Retirement Village Manager, an office for a Financial Assistance Manager, café and training room/hall space which can be used for community activities.
10. In addition, the community building is intended to be used for temporary medical and specialist practitioners to provide affordable medical services (particularly for aged persons in the immediate locality). These services would be for short periods of 4-5 weeks at a time with a maximum of 2 practitioners at any one time. Services would include podiatry, physiotherapy and Dietetics.
11. The development application is currently being assessed under the current local open space reserve classification, with the intent that the proposed Scheme amendment will formalise the proposed use under the Scheme.

DETAILS AND ANALYSIS

12. In light of the proposed multi-purpose community building and the designated purpose of the reserve being for 'Church Purposes – Community and Recreational Facility', the existing Local Open Space Reserve is no longer consistent with the designation and use of the site. Accordingly, a scheme amendment has been submitted to amend the zoning to 'Civic and Community Reserve' and render the reserves portion of the scheme consistent with the 'Model Provisions for Local Planning Schemes' (Model Provisions) in the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations 2015).

13. The City is currently in the process of preparing a new Local Planning Strategy and, subsequently, a new Local Planning Scheme No.4 (LPS4). Amendment 103 proposed to include other administrative modifications to the Scheme to align it with the Model Provisions noting that the Scheme was prepared before the establishment of the Model Provisions in 2015.
14. The preparation of LPS4 is scheduled and as such, making significant modifications to the existing Scheme to align it with the Model provisions at this time may create unintended inconsistencies and incompatibilities within the Scheme. During the preparation of LPS4, the Scheme will be comprehensively reviewed in its totality and prepared in accordance with the Model Provisions contained within the LPS Regulations 2015. It is not considered appropriate to make significant administrative amendments to the existing Scheme to align it with the Model Provisions in the context of the comprehensive review underway as part of LPS4.
15. In accordance with Local Planning Policy 18 – Requirements of Local Planning Scheme Amendments (LPP18), all applications for scheme amendments must be accompanied by a Land Use Scoping Statement and Master Plan. These documents must be submitted to provide the City with some comfort surrounding the future use of the site, when considering applications for a change in zoning or land use permissibility.
16. In this instance, a development application has been submitted concurrent with the application to amend the zoning of the site to 'Civic and Community'. The documentation provided with the development application (see attachments 2 and 3), addresses the requirements of LPP 18 and satisfies all elements to be addressed by the Land Use Scoping Statement and Master Plan as follows:

17.	LPP 18 – Elements to be Addressed	Submitted Development Application
	Scale and Intensity of Use – types of proposed activities, hours of operation and number of people likely to occupy the development.	As listed in the applicant's report (attachment 3) the estimated number of visitors is 114 including staff and the hours of operation vary for each community group using the facility.
	Streetscape – Impact on the streetscape/immediate area.	The proposed community centre is setback in excess of 9.0m from the street and is consistent with the existing streetscape of the Lesmurdie Baptist Church
	Tree Preservation – extent subsequent future development will impact existing vegetation. Where trees are to be removed,	The submitted plans are overlaid over the existing vegetation and trees being retained have been

details to be annotated on site plan.	annotated on the submitted floor plans
Open Space - extent of site to be maintained as open space.	The proposed community centre is not subject to an open space requirement under the scheme.
Site Limitation/Constraints - Outline any limitations on the development of the land.	The proposal has been designed to retain an existing significant tree within the proposed 'fenced play area' at the rear of the development.
Prevailing Amenity - amenity impacts that could arise from approval of the application including traffic, parking or noise.	The City has not requested a noise impact assessment as part of the development assessment process as there is not seen to be a land use conflict. Traffic and Parking assessments have both been requested from the City's engineers.
Location of Building - Indicative location of proposed buildings.	See attachment 2 for a copy of the proposed community centre plans
Incidental and Additional Uses - Likely additional uses	As listed in the applicant's report (Attachment 3), the intended incidental uses to community purpose include, consulting rooms and café/restaurant.
Concept Drawings - conceptual drawing of the property including staging	See attachment 2 for a copy of the proposed community centre including proposed staging and future development
Traffic Assessment - preliminary traffic impact assessment to be provided	A traffic impact assessment has been requested by the City's engineers as part of the development assessment process.
Effluent Disposal - Effluent Management Statement to be submitted if not connected to sewer	The proposal has been assessed by the City's Environmental Health Officers as part of the development assessment process, and relevant conditions have been recommended.
Stormwater Disposal - statement/plan to be submitted	A stormwater plan has been requested by the City's engineers as part of the development assessment process.

Car Parking - preliminary statement/plan to be submitted	A carparking assessment has been requested by the City's engineers as part of the development assessment process.
Bushfire Management - Dependant on the anticipated outcomes, a Bushfire Attack Level Assessment or Bushfire Management Plan may be required	A bushfire management plan has been submitted with the development application for a community centre.
Noise Management - May be required where the City deems a proposed land use may conflict with the surrounding land uses.	The City has not requested a noise management assessment, as there is not considered to be a land use conflict.

18. Therefore, the City has not requested a formal Land Use Scoping Statement or Master Plan, as the future development of the site has been clearly demonstrated through the submitted development application and the requirements of LPP 18 have been addressed.
19. Considering the above, the City is supportive of progressing the proposed amendment subject to the removal of parts 1, 4 and 5 from Amendment 103. The retention of parts 2 & 3 will enable the designated use of the reserve to be rendered consistent with the zoning of the land and will facilitate the future development in accordance with the development application for the multi-purpose community centre currently with the City for assessment.

APPLICABLE LAW

20. **Planning and Development (Local Planning Schemes) Regulations 2015**

Regulation 34 – terms used to describe a Basic, Standard or Complex amendment

Regulation 35 cl (1) – requires a resolution of the local government adopt or refuse to adopt to amend a local planning scheme

Regulation 35 cl (2)(a) – the resolution must specify whether the amendment is a basic, standard or complex

Regulation 35 cl (2)(b) – need to include an explanation as to why the amendment is classified either a basic, standard or complex.

Regulation 37 – Resolution to proceed to advertise complex amendment

Regulation 47 – Resolution to proceed to advertise standard amendment

21. **Planning and Development Act 2005**

Section 81 and 82 – the amendment must be referred to the Environmental Protection Authority for their comments prior to advertising.

22. **City of Kalamunda Local Planning Scheme No.3**

Under the provisions of the Scheme the site is currently zoned reserve – public open space. Under clause 3.4 of the Scheme:

'a person must not -

a) use a Local Reserve; or

b) commence or carry out development on a Local Reserve.

Without first having obtained planning approval under Part 9 of the Scheme'.

APPLICABLE POLICY

23. **State Planning Policy 3.7 - Planning in Bushfire Prone Areas**

Clause 6.3 of SPP 3.7 sets out the information required to accompany higher order strategic planning documents. Consistent with clause 6.3, a Bushfire Management Plan has been submitted with the proponent's request to amend the Scheme.

24. **Local Planning Policy 18 – Requirements of Local Planning Scheme Amendments**

Local Planning Policy 18 (LPP18) requires a 'Land Use Scoping Statement' and 'Master Plan' be submitted with a scheme amendment. These documents are intended to provide the City with a level of background information addressing land use planning and to provide Council with a greater level of detail regarding intended outcomes. In this instance the submitted development application for a multi-purpose community building satisfies the policy requirements of LPP18 as discussed in details and analysis above.

STAKEHOLDER ENGAGEMENT

25. **Internal Referrals**

The proposed change of zoning was referred to all internal departments at the City and no concerns regarding the amendment were raised.

26. **External Referrals**

Should Council resolve to adopt Amendment No.103 for the purpose of advertising, it will be submitted to the Environmental Protection Authority for comment and then advertised in accordance with the requirements of the Regulations and Local Planning Policy 11 (as amended) as a standard amendment.

27. The advertising period will be for a minimum of 42 days and will include but not be limited to:

- a) issuing letters to landowners affected by the Amendment and those
- b) within a 300-metre radius of the subject site;
- c) a notice on the City's media platform;
- d) a notice in the local newspaper;
- e) display of the Amendment at the City's Administrative Centre;
- f) letters to relevant public and service authorities; and
- g) signage on site.

28. Should the City resolve to adopt Scheme Amendment No.103 for the purpose of public advertising, the community and relevant public authorities will be provided an opportunity to outline their concerns and for these concerns to be addressed through the planning process when the Amendment is brought back to Council for final approval.

FINANCIAL CONSIDERATIONS

29. Council previously approved a 50% reduction in fees for the scheme amendment (OCM 25/2020). Accordingly, 50% of the costs of the amendment will be borne by the Applicant and the remaining 50% covered by the City.

SUSTAINABILITY

Social Implications

30. Lesmurdie Community Care (LCC) is an entity which is active in trying to meet the needs of the local community and provide opportunities for people who may need additional support. The proposed rezoning of the site would facilitate a community centre which benefits the local community.

Economic Implications

31. Nil

Environmental Implications

32. The proposed rezoning has no environmental implications. With regard to future development, LCC has liaised with the Friends Group – Friends of Pax Hill to ensure vegetation worthy of retention is retained. This includes a significant tree being maintained in the future fenced play area.

RISK MANAGEMENT

- 33.
- | | | |
|--|-------------------|---------------|
| Risk: The proposed scheme amendment is not supported by Council and the existing zone may restrict development on site consistent with the designated purpose of the reserve. | | |
| Consequence | Likelihood | Rating |
| Moderate | Unlikely | Low |
| Action/Strategy | | |
| Council supports the proposed scheme amendment subject to modification. | | |

CONCLUSION

34. Amendment No.103 is consistent with the applicable strategic and statutory planning framework and will remove an anomaly under the scheme where the designated purpose for a reserve is not consistent with the reserve zone.
35. Having regard to the above, it is recommended that Council adopts Scheme Amendment No. 103 for the purpose of public advertising subject to modification.

RECOMMENDATION

That Council:

1. ADOPT proposed Local Planning Scheme Amendment 103 to Local Planning Scheme No.3 for Lot 613 (4) Varley Street, Lesmurdie in accordance with Attachment 1, pursuant to Section 75 of the *Planning and Development Act 2005* for the purposes of public advertising subject to the following modification:

Remove the following parts from Amendment 103:
 - (1) *Deleting 'PART 3 -RESERVES' in its entirety and inserting a new 'PART 3 - RESERVES' consistent with the 'Model Provisions for Local Planning Schemes' contained in the Planning and Development (Local Planning Schemes) Regulations 2015.*
 - (4) *Insert new provisions to allow for 'additional uses for local reserves' consistent with the 'Model Provisions for Local Planning Schemes' contained in the Planning and Development (Local Planning Schemes) Regulations 2015 and list additional uses for Lot 613 Varley Street, Lesmurdie (known as Reserve 29190).*
 - (5) *Re-number Tables and references to Tables throughout the Scheme Text and update the Table of Contents to reflect this amendment.*
2. CONSIDER Amendment 103 to Local Planning Scheme No.3 as a standard amendment under clause 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, for the following reasons:
 - a) The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and
 - b) The amendment does not result in any significant environmental, social, economic or governance impacts in the scheme area.
3. AUTHORISE the advertising of amendment 103 to Local Planning Scheme No.3 for public comment for a period of 42 days in accordance clause 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and sections 81 and 82 of the *Planning and Development Act 2005*.
4. FORWARD proposed Scheme Amendment No.103 to Local Planning Scheme No.3 to the Environmental Protection Authority for comment pursuant to sec 81 of the *Planning and Development Act 2005*.

10.1.2. Lot 6 (#10) Vernallan Way, Lesmurdie - Proposed Home Business (Gunsmith & Engineering Services)

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

Previous Items	N/A
Directorate	Development Services
Business Unit	Approval Services
File Reference	VR-02/010
Applicant	Daniel Macdonald
Owner	Daniel & Alicia Macdonald
Attachments	<ol style="list-style-type: none"> 1. Development Plans [10.1.2.1 - 1 page] 2. Acoustic Assessment Report [10.1.2.2 - 11 pages] 3. Submission Table [10.1.2.3 - 9 pages]

TYPE OF REPORT

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- Executive When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans and budgets)
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- Legislative Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person's rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2027

Priority 3: Kalamunda Develops

Objective 3.3 - To develop and enhance the City's economy.

Strategy 3.3.1 - Facilitate and support the success and growth of industry and businesses.

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider a development application for a proposed Home Business (gunsmith & engineering services) at Lot 6 (#10) Vernallan Way in Lesmurdie.
2. As part of the advertising period, a total of four (4) objections were received concerning potential amenity impacts and land use conflicts arising from the proposal.
3. It is recommended Council approve the application subject to conditions and advice notes.

BACKGROUND

4. Land Details:

Land Area:	2727sqm
Local Planning Scheme Zone:	Residential R5
Metropolitan Regional Scheme Zone:	Urban

5. In response to the COVID-19 pandemic, a Notice of Exemption was issued by the Minister for Planning on 8 April 2020 to provide specific guidance to both proponents and local government on a range of temporary exemptions for certain approvals and requirements within the local planning framework. This included exemptions for Home Business. The exemption is conditional on the property being located in a residential zone and is a permissible use. These exemptions will remain in effect until 90 days after the end of the State of Emergency.
6. With the recent Notice of Exemptions issued by the Minister, the proponent may seek to rely on the exemption for his home business, which the City would be obligated to accept. Proponents should be mindful, however, that the exemption is only temporary for the period of the emergency declaration and a three-month period thereafter, following which the proponent would need to apply to the City for planning approval for the home business.

7. **Locality Plan (Aerial):**



DETAILS AND ANALYSIS

- 8. The applicant seeks approval to operate a Home Business (gunsmith & engineering services) from within an existing outbuilding (shed) on the subject lot (Attachment 1).
- 9. The following information on the proposal is provided:
 - a) The proposed operating hours are Monday-Friday 9am-1pm;
 - b) The applicant will collect a firearm or component for repair/maintenance, he will then assess the best methodology to either manufacture a suitable replacement or conduct the necessary repairs using metal turning machinery;
 - c) The machinery will be used for periods of less than one hour per day;
 - d) No customers are to visit the premises as the applicant offers collection and delivery services;
 - e) There will be no additional employees;
 - f) Acoustic assessment has been prepared (refer Attachment 2); and
 - g) All generated waste will be removed off site and disposed of by a metal supplier who recycles all discarded metal and materials.

10. The proposal is being operated from within an existing outbuilding on the property and the area being occupied does not exceed 50m². Due to the low scale nature of the business it is unlikely there would be any negative impacts on the amenity or the neighbouring properties. In addition to this, there will be no customers attending the site and therefore no increase in traffic volumes or inadequacy for car parking as a result of this development. Having regard to the aforementioned the proposal is consistent with the definition of a 'Home Business' as set out under Local Planning Scheme No.3 (Scheme).
11. A 'Home Business' is defined under the Scheme as:
- A business, service or profession carried out in a dwelling or on land around a dwelling by and occupier of the dwelling which -*
- a) A home business means a business, service or profession carried out in a dwelling or on land around a dwelling by and occupier of the dwelling which -*
 - b) Does not employ more than 2 people not members of the occupier's household;*
 - c) Will not cause injury to or adversely affect the amenity of the neighbourhood;*
 - d) Does not occupy an area greater than 50 square metres;*
 - e) In relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*
 - f) Does not involve the use of an essential service of greater capacity than normally required in the zone.*
12. The proposal is consistent with Clause 4.2.1 (Objectives of the Zones – Residential) of the Scheme by virtue of the predominant land use being for residential purposes and the home business being ancillary to the predominant use.
13. The objectives of the residential zone being:
- a) To provide primarily for single residential development whilst allowing for a range of densities in order to encourage a wide choice of housing types within the Shire.

- b) To give consideration to grouped dwelling developments if the site is near amenities and can be integrated into the single residential environment.
- c) To facilitate a range of accommodation styles and densities to cater for all community groups inclusive of the elderly, young people in transition and the handicapped. Such accommodation is supported where it is appropriately situated in proximity to other services and facilities.
- d) To encourage the retention of remnant vegetation.

14. The proposal was advertised to surrounding landowners in accordance with the City's Local Planning Policy – 11 Public Notification of Planning Proposals. A total of seven (7) submissions were received, comprising four (4) objections and three (3) non-objections (refer Attachment 3 & 4).

The nature of the objections relates to the following:

- a) Amenity impacts.
- b) The proposal is considered industrial.
- c) Safety concerns.
- d) Noise implications.
- e) Traffic volumes.

In response to the concerns the following points are noted:

15. **Amenity and Land Use Clarification:**

The City recently refused a similar application for a gunsmith in High Wycombe on the following grounds:

- a) The use could not be considered a 'Home Business' as it was more akin to a 'Light Industry' use.
- b) The business had the potential to negatively impact on the amenity of the locality and neighbouring properties.
- c) The proposed use had the potential to cause injury.

16. The City was challenged through the State Administrative Tribunal (SAT) where the Tribunal disagreed with the City's reasons for refusal and invited the City to reconsider the proposal (2019 WASAT 127).

17. The Tribunal provided the following points of clarification:

- a) Whilst the proposed use may involve some of those industrial activities such as manufacturing, dismantling and repairing it is of such a low scale and impact it is not properly 'industrial' and therefore is considered a Home Business.

- b) The use class 'Home Business' is designed to allow small scale commercial activities to take place within and on land around dwellings.
- c) The safety concerns raised by residents are understandable but considered unreasonable as there was no evidence showing a link between the presence of the gunsmith and any crime related activities
- d) The proposal is considered a home business and is therefore capable of being approved.

18. Having due regard to the above, the City ultimately approved the proposal subject to conditions and advice notes.

19. In considering this development application, in particular the similarities with the gunsmith proposal in High Wycombe, the City is mindful of the SAT decision and its implications with respect to the officer recommendation.

20. **Noise Impacts**

The applicant has submitted an Acoustic Assessment with the proposal that has been prepared by a suitably qualified acoustic engineer. The report includes measured noise levels and appropriate noise monitoring that has been conducted on the subject site (refer attachment 2).

21. The report recommends additional mitigation measures to be implemented to ensure compliance with the *Environmental Protection (Noise) Regulations 1997* and this has been imposed as a recommended condition of approval.

22. **Traffic Concerns**

In the unlikely event that a customer visits the property a condition has been imposed requiring all parking associated with the business to be contained on site. This will ensure there is no overflow of cars onto the road and therefore this concern has been appropriately addressed.

23. **Safety Concerns**

The applicant has advised that all firearms are stored in accordance with the Western Australian Firearms Licensing requirements and that his security levels are in excess of these standards. The applicant is also required to obtain a firearms repairer's licence which can only be granted by Western Australian Police (WAPOL) if approval from the Local Government is obtained. The site will be subject to an inspection by

WAPOL to ensure that firearms and ammunition are appropriately and safely stored.

APPLICABLE LAW

24. *Planning and Development (Local Planning Schemes) Regulations 2015*
 - a) *Clause 67 Matters to be considered by Local Government*
25. *Local Planning Scheme No.3*
 - a) *Clause 4.2.1 – Objectives of the residential zone*

APPLICABLE POLICY

26. *Environmental Protection (Noise) Regulations 1997*
27. Local Planning Policy 11 – Public Notification of Planning Proposals

STAKEHOLDER ENGAGEMENT

28. The proposal was advertised in accordance with Local Planning Policy – 11 Public Notification of Planning Proposals.
29. The application was assessed by the City from an Environmental Health perspective. There were no issues with the acoustic assessment and a condition was recommended to ensure the requirements of the acoustic assessment are to be implemented prior to operating the business.
30. The proposal was advertised to surrounding landowners in accordance with the City's Local Planning Policy – 11 Public Notification of Planning Proposals. A total of seven (7) submissions were received, comprising four (4) objections and three (3) non-objections (refer Attachment 3 & 4).

The nature of the objections relates to the following:

- a) Amenity impacts.
- b) The proposal is considered industrial.
- c) Safety concerns.
- d) Noise implications.
- e) Traffic volumes.

FINANCIAL CONSIDERATIONS

31. Nil

SUSTAINABILITY

Social Implications

32. The proposal may impact on the amenity of the surrounding residential area by virtue of the activities proposed to be conducted from the site.

Economic Implications

33. Small businesses help to stimulate the local economy and keep overhead costs low which are then passed onto the community through lower prices.

Environmental Implications

34. Nil

RISK MANAGEMENT

35.

Risk: Council refuse the application on amenity grounds.		
Consequence	Likelihood	Rating
Significant	Unlikely	Medium
Action/Strategy		
In the event that Council were to refuse the proposal, the applicant may exercise his right to appeal the refusal through the State Administrative Tribunal, in which, SAT are likely to request Council to reconsider the proposal.		

Risk: The proposal has an impact on the prevailing residential amenity of the area.		
Consequence	Likelihood	Rating
Moderate	Possible	Medium
Action/Strategy		
The City provide appropriate conditions of planning approval and ensure those conditions are adhered to.		

CONCLUSION

36. A 'Home Business' is a business that is intended to be operated within a residential area that will not detrimentally impact upon the amenity of the locality and adjoining properties. The applicant has provided the relevant supporting information that indicates the proposal demonstrates full compliance with the definition of a Home Business. Moreover, SAT has previously determined that where a proposal for a Home Business, if of a low scale with low amenity impact, then it is capable of being approved.

37. The proposal is consistent with orderly and proper planning and should be supported on the basis that it is consistent with the relevant planning framework and legislation.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council APPROVE the application for the proposed Home Business (gunsmith & engineering services) at Lot 6 (10) Vernallan Way, Lesmurdie subject to the following conditions:

1. Planning Conditions:

- i. The application is required to comply with the definition of a 'Home Business' as set out under Local Planning Scheme No.3.
- ii. The business is only permitted to operate between the hours of Monday to Friday 9am until 1pm.
- iii. All parking associated with this development is to be contained on the subject site.
- iv. The applicant is required to implement all recommendations contained within the Acoustic Assessment Report prepared by Acoustic Audio Production dated the 27th of February 2020 prior to commencing operation.

2. Advice Notes:

- a) All development must comply with the provisions of City's Local Planning Scheme No 3, Health Regulations, Building Code of Australia, and all other relevant Acts, Regulations and Local Laws.
- b) With respect to Condition 2, a Home Business means a business, service or profession carried out in a dwelling or on land around a dwelling by and occupier of the dwelling which –
 - i) A home business means a business, service or profession carried out in a dwelling or on land around a dwelling by and occupier of the dwelling which –
 - ii) Does not employ more than 2 people not members of the occupier's household;
 - iii) Will not cause injury to or adversely affect the amenity of the neighbourhood;

- iv) Does not occupy an area greater than 50 square metres;
 - v) In relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
 - vi) Does not involve the use of an essential service of greater capacity than normally required in the zone.
- c) The applicant is reminded of their obligations to comply with the "Land development sites and impacts on air quality: a guideline for the prevention of dust and smoke pollution from land development sites in Western Australia", prepared by the Department of Water and Environmental Regulation.

10.1.3. Omnibus Amendment to Local Planning Policy 10, 11, and 16

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

Previous Items	OCM 144/2019
Directorate	Development Services
Business Unit	Approval Services
File Reference	3.009297
Applicant	Nil
Owner	Nil

Attachments	<ol style="list-style-type: none"> 1. Local Planning Policy 10 (LPP 10) - Family Day Care and Child Care Premises [10.1.3.1 - 11 pages] 2. Local Planning Policy 11 (LPP 11) - Public Notification of Planning Proposals [10.1.3.2 - 8 pages] 3. Local Planning Policy 16 (LPP 16) - Design Review Panel [10.1.3.3 - 23 pages]
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TYPE OF REPORT

- Advocacy When Council is advocating on behalf of the community to another level of government/body/agency
- Executive When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans and budgets)
- Information For Council to note
- Legislative Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person’s rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2027

Priority 3: Kalamunda Develops

Objective 3.1 - To plan for sustainable population growth.

Strategy 3.1.1 - Plan for diverse and sustainable housing, community facilities and industrial development to meet changing social and economic needs.

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider minor modifications to the following local planning policies for approval without public advertising (Attachments 1-3):
 - a) Local Planning Policy 10 – Family Day Care and Child Care Premises
 - b) Local Planning Policy 11 – Public Notifications on Planning Proposals
 - c) Local Planning Policy 16 – Design Advisory Committees
2. The proposed administrative changes to the policies are principally required to ensure the City's planning framework is consistent with current state and federal guidance on measures to streamline the planning processes. The changes also reflect, but are not directly related to, the more recent request from the Minister for Planning for local government to initiate regulatory changes, where necessary, in response to COVID-19.
3. Council is recommended to adopt the changes.

BACKGROUND

4. The City periodically reviews, revokes, and adds new policies to provide a level of consistency and transparency in decision-making and to ensure Council has a clear policy position regarding various planning matters.
5. The Policy amendments are minor in nature, primarily designed to streamline the planning process to expedite the decision making process, and also in some part to respond to the recent State Government request for local government to implement regulatory measures that would assist the business and general community in responding to COVID-19. While some of these changes are not directly related to COVID-19, it is an appropriate time for the City to review its policy requirements.

DETAILS AND ANALYSIS

Local Planning Policy 10: Family Day Care and Child Care Premises

6. The purpose of the modification to LPP10 is to ensure the Policy is consistent with the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations).
7. The LPP was adopted by Council in December 2013 with recommended hours of operation being inconsistent with the requirements of the Noise Regulations. The Noise Regulations are a higher order document than the City's LPP in any case and the LPP should be consistent with the Noise Regulations.

8. The change recommended to LPP10 amends the recommended hours of operation for Child Care Premises; from 6:00am and 7:00pm to 7:00am and 7:00pm. This is consistent with the Noise Regulations.

Local Planning Policy 11: Public Notification on Planning Proposals

9. The purpose of the modifications to LPP11 are to provide additional flexibility to undertake certain advertising methods, particularly in relation to significant development applications.
10. Where the current policy provides for mandatory advertising measures, these have been changed to be at the discretion of the Director Development Services, or Manager Approval Services.
11. The additional flexibility, which would only be applied when there is a low level of planning interest in a proposal, would ensure that development applications can be efficiently processed to encourage landowners to move on to the next phase of approvals and commence construction works as soon as possible.
12. The City has had instances where the definition of significant development under LPP11 has required public information sessions but due to the lack of interest in the proposal (normally due to limited impacts) has had no residents in attendance. This is not an effective use of staff time or resources. As such, LPP11 has been modified to provide discretion to avoid such situations in the future.

Local Planning Policy 16: Design Review Panel

13. The purpose of the modification to LPP16 is to ensure the Policy is consistent with Design WA guidelines and State Planning Policy 7.0.
14. In summary, the Policy was amended as follows:
 - a) Renaming of 'Design Advisory Committee' (DAC) to 'Design Review Panel' (DRP);
 - b) Amending the definition of 'significant development' to ensure consistency across all City of Kalamunda Local Planning Policies (more specifically LPP14);
 - c) Addition of 'roles and responsibilities' for all stakeholders involved in the DRP process with reference to those stipulated by SPP7.0;
 - d) Amend Appendix 2 (Design Principles) to be consistent with SPP7.0; and
 - e) Minor additional modifications where appropriate to render LPP16 consistent with SPP7.0.

15. The amendments made are administrative in nature and ensure transparency and consistency with Local and State Planning Policies. In any case, where local policies conflict with state policies, state policy requirements prevail.

APPLICABLE LAW

16. *Planning and Development (Local Planning Schemes) Regulations 2015*
Schedule 2, Part 2, Clause 5(2) – Procedure for amending a local planning policy without advertising

APPLICABLE POLICY

STAKEHOLDER ENGAGEMENT

17. As the proposed amendments are to existing Policy's and of an administrative nature, no consultation is required.

FINANCIAL CONSIDERATIONS

18. As the amended Policies are not proposed to be advertised, there are no costs associated with the amended Policy's.

SUSTAINABILITY

19. If the Policy amendments are adopted, the City and Council will be able to undertake effective planning processes with the same high-quality planning outcomes, but the various costs to landowners will be reduced.

RISK MANAGEMENT

20.

Risk: The Policy amendments are considered significant by others and were required to be advertised.		
Consequence	Likelihood	Rating
Low	Unlikely	Low
Action/Strategy		
Ensure the modifications reflect minor changes and are consistent with state regulations and policies.		

21.

Risk: The Policy amendments are not adopted, resulting in existing Policy's not being updated.		
Consequence	Likelihood	Rating
Low	Unlikely	Low

Action/Strategy

Amend the policies to ensure their currency and relevance in relation to state regulations and policies.
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CONCLUSION

22. The proposed administrative amendments to Local Planning Policy 10, 11, and 16 are required to ensure the City's planning framework is consistent with current state and federal guidance on where emphasis should be placed. In this regard, the emphasis is placed on streamlining the development process, rather than adding requirements which are beyond the requirements or inconsistent with relevant regulations. This is particularly pertinent given the current State government request for local government to implement measures to fast track the planning process in response to Covid-19.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. ACCEPT that the proposed minor amendment(s) to Local Planning Policy are in accordance with Schedule 2, Part 2, Clause 5(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and does not require advertising.
2. ADOPT the proposed Local Planning Policies 10, 11 and 16 as outlined in Attachments 1-3 pursuant to Schedule 2, Part 2, Clause 5(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

10.1.4. Submission - City of Gosnells Proposed Operations Centre and Public Open Space Kelvin Road

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

Previous Items	Nil
Directorate	Development Services
Business Unit	Strategic Planning
File Reference	3.009297 / PG-MRS-024
Applicant	N/A
Owner	City of Gosnells
Attachments	<ol style="list-style-type: none"> 1. Submission CoG Operations Centre and POS Kelvin Road [10.1.4.1 - 4 pages] 2. Updated - Kelvin Rd Redevelopment Overview [10.1.4.2 - 1 page] 3. Concepts and Photos [10.1.4.3 - 5 pages]

TYPE OF REPORT

- Advocacy When Council is advocating on behalf of the community to another level of government/body/agency.
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STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2027

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider endorsement of a City of Kalamunda (the City) submission to the City of Gosnells in relation to a proposed development on Kelvin Road in Orange Grove.

2. The City of Gosnells (CoG) has invited comments on a proposed new Operations Centre and public open space at the CoG remediated waste site on Kelvin Road in Orange Grove (Attachment 2). The new Operations Centre will deliver a number of operational services as well as a waste management component.
3. The City has identified a number of concerns with the proposal including inconsistencies with the planning for the area and potential adverse impacts to surrounding residents. These concerns are further detailed in this report.
4. It is recommended Council endorse the submission in Attachment 1 to the CoG outlining the City's comments on the proposal.

BACKGROUND

5. A new Operations Centre is proposed to be built and an enhanced POS area is anticipated to be developed at the CoG remediated waste site at Kelvin Road, Orange Grove.
6. The new Operations Centre is to replace the current ageing facility in Maddington.
7. The CoG released the proposal for a new Operations Centre on 23 March 2020 and is seeking ideas for the type of activities to be developed at the POS site.



9. Following the completion of the new Operations Centre, the CoG is proposing to instigate a multi-use development for the old site due to its location and proximity to the Maddington train station.

DETAILS AND ANALYSIS

10. The proposed Operations Centre will provide similar functionality as does the City's Operations Centre at Walliston, a dog pound and an abandoned vehicle storage area. Importantly the Operations Centre will also include a waste transfer facility where waste collected by the CoG is transferred to large semi-trailer trucks for delivery to the ultimate processing facilities (predominantly the waste to energy plant in Kwinana) .
11. The proposed seven-hectare Operations Centre development will enable the remaining 29 hectares to the north-east to be developed as POS with funding for the public open space to be sourced from the development of the adjoining former trotting track into rural residential lots.
12. **Regional Planning Context**
The site and general locality is zoned Rural under the Metropolitan Region Scheme (MRS) and General Rural under the CoG Town Planning Scheme No. 6 (TPS6).
13. The Western Australian Planning Commission's (WAPC) South Metropolitan Peel Sub-regional Planning Framework identifies the locality as Urban Expansion.
14. Key considerations identified by the Framework for the area include:
 - a) Geotechnical analysis/land suitability to provide connections to reticulated wastewater services.
 - b) Bushfire risk.
 - c) Protection of significant environmental attributes.
15. It is considered the industrial nature of the Operations Centre is inconsistent with the Urban Expansion identification under the Framework.
16. It is noted that Light Industry zones, at a local planning scheme level, may be considered under an Urban Zone in the MRS. An example of this situation in the City is the Forrestfield / High Wycombe Industrial Area. Notwithstanding this, regard needs to be given to the existing and proposed surrounding uses and the strategic intent of the surrounding area. In this context, significant community engagement and preliminary concept planning has informed the future planning for the surrounding area (Wattle Grove South).
17. **Local Planning Context**
The CoG draft Local Planning Strategy 2019 identifies Orange Grove as a 'Potential Urban Expansion Area' and a long-term growth area.

18. The CoG Foothills Rural Strategy identifies the locality as Rural Planning Precinct No. 4 - Kelvin Road Precinct (RPP 4). RPP 4 contains a variety of lot sizes, which are generally between one to four hectares.
19. The RPP 4 precinct comprises 36 individual properties that collectively cover approximately 90 hectares. Sixteen of the properties are owned by COG, which combined, once occupied the Kelvin Road Waste Disposal site. The remaining 20 properties are held in private ownership. These sites are generally commercial or rural residential in nature.
20. The adjacent precinct is identified as Rural Planning Precinct No. 3 – Tonkin Highway East Precinct (RPP 3) by the Foothills Rural Strategy and incorporates lots on the eastern end of Kelvin Road and along Valcan Road. These lots are generally rural residential in nature.
21. The Foothills Rural Strategy recommends a minimum of one-hectare properties for these precincts.
22. It is considered the industrial nature of the Operations Centre is inconsistent with the urban investigation and rural residential identification under the draft Local Planning Strategy 2019 and the Foothills Rural Strategy.
23. **Crystal Brook (Wattle Grove South) Considerations**
On 1 October 2018, the CoG provided a submission on the City's draft Industrial Development Strategy (IDS). The draft IDS identified a southern portion of Crystal Brook as industrial investigation. CoG objected to this identification due to the potential adverse impacts on adjacent Orange Grove rural residential properties and the fact that the North East Sub-regional Planning Framework identifies the area as Urban Expansion.
24. Community engagement to date with Crystal Brook residents has revealed a strong desire for the protection of environmental values, retaining the rural character of the area and preventing industrial uses. The Concept Plans for Crystal Brook currently being prepared will aim to reflect these views.

25. The City has received a number of complaints regarding trucks utilising Crystal Brook Road to bypass the Kelvin Road / Tonkin Highway traffic lights. Should the proposal commence, this may generate greater traffic of this nature on Crystal Brook Road. However, with the proposed Tonkin Highway / Kelvin Road interchange being proposed by Main Roads WA, traffic flow through this intersection would be improved from present conditions.
26. Operations Centres are typically located in industrial areas and are considered an industrial use, which would make this proposal inconsistent with the planning Framework identification for the area. The high number of rubbish truck movements to the transfer facility also would exacerbate the concerns of residents. It may have potential adverse impacts on Orange Grove and Crystal Brook residents and would not be consistent with the values being captured in the Crystal Brook concept planning process.
27. Operation Centres can be associated with excessive noise, whilst waste management can be associated with noise, dust and odour issues. These issues may impact nearby Crystal Brook residents. It should be noted that CoG have stated in their frequently asked questions that 'the design and location has been specifically selected to minimise the impact on the community. The new Operations Centre is proposed to be constructed on the previous landfill site. It is a complementary land use for the tip site and its environs.'
28. The proposed POS development and vegetation buffers, depending on the eventual proposal may be beneficial to providing a positive interface with Crystal Brook and is supported.
29. **Public Open Space Considerations**
The CoG are seeking ideas on the development of the POS site. Given the history of the site as an old waste site and due to the extensive remediation which may be required, the development may be restricted to more passive open space uses or non-traditional team sports such as archery, equestrian and frisbee sports.
30. The City's Public Open Space Strategy 2018 (POS Strategy) identifies most of its suburbs (Kalamunda, Lesmurdie, High Wycombe, Gooseberry Hill, Maida Vale and the Walliston-Rural East suburbs) as having a significant shortfall in active POS provision and quality.
31. Given the location of the proposed public open space site on the border of the City, this may alleviate some of these pressures.

32. The POS Strategy identifies a future deficit of sports space for both the Foothills and Hills. The proposed POS site may alleviate some pressures if this was to eventuate on site.
33. It is recommended the City continue to liaise with the CoG to further understand and discuss the various development opportunities for the proposed POS site.
34. **Engineering Considerations**
Traffic analysis has not been provided as part of the proposal. It is recommended that a traffic impact assessment is provided to understand the traffic implications of the proposal.
35. Water management analysis has not been provided as part of the proposal. It is recommended either an Urban Water Management Plan (UMP) or Stormwater Management Plan is provided to understand water management implications of the proposal.
36. **Environmental Considerations**
Environmental surveys and environmental management plans have not been provided as part of the proposal. It is recommended that an environmental survey and environmental management plan is provided to understand how environmental values will be managed and protected in roadsides, the future POS and within the development itself.
37. **Environmental Health Considerations**
A number of amenity impacts have not been addressed in the proposal. Operations Centres can be associated with excessive dust, noise and general visual amenity impacts to the surrounding area. The proposed waste management component has the potential to cause noise, dust, odour and general visual amenity impacts.
38. It is recommended that an Amenity Management Plan is provided to the City for review and comment. The Amenity Management Plan to address amenity impacts including, but limited to noise, odour, dust and visual impacts.
39. **Feedback from the City's Residents**
The City has received correspondence from a number of its residents outlining concerns with the proposals. These concerns are outlined in Confidential Attachment 1.

40. **Summary of Submission Recommendations**

- a) The proposed Operations Centre is inconsistent with the planning of the area as identified in the Frameworks, Local Planning Strategy, Foothills Rural Strategy and Crystal Brook (Wattle Grove South) Concept Planning. It is noted that Light Industry zones, at a local planning scheme level, may be considered under an Urban Zone in the Metropolitan Region Scheme (MRS). An example of this situation in the City is the Forrestfield / High Wycombe Industrial Area. Notwithstanding this, regard needs to be given to the existing and proposed surrounding uses and the strategic intent of the surrounding area. In this context, significant community engagement and preliminary concept planning has informed the future planning for the surrounding area of Crystal Brook (Wattle Grove South).
- b) It is recommended that an alternative site is considered for the Operations Centre, preferably within an industrial area.
- c) Should the proposed Operations Centre proceed, it is requested that the CoG provide appropriate interface buffers and demonstrate that management measures for the potential adverse impacts to the surrounding area are put in place.
- d) The vegetated buffer and proposed POS are, in-principle, generally supported.
- e) The City wishes to continue to liaise with the CoG and requests to be invited to further understand and discuss the various development opportunities for the proposed POS site.
- f) The following additional information is requested to be provided to the City for review and comment:
 - i) Traffic Impact Assessment.
 - ii) Either a UWMP or Stormwater Water Management Plan.
 - iii) Flora Survey and Environmental Management Plan.
 - iv) Amenity Management Plan.

APPLICABLE LAW

41.

APPLICABLE POLICY

42. Nil.

STAKEHOLDER ENGAGEMENT

43. The CoG released the proposal for a new Operations Centre on 23 March 2020 and is seeking ideas for the type of activities to be developed at the POS site.

FINANCIAL CONSIDERATIONS

44. Nil.

SUSTAINABILITY

Social Implications

45. The proposed POS has the potential to provide recreational and health benefits to the local community.

Economic Implications

46. Nil.

Environmental Implications

47. The proposed operations centre has the potential to cause noise, dust and odour issues for nearby residents. It should be noted that CoG have stated in their frequently asked questions that 'the design and location has been specifically selected to minimise the impact on the community. The new Operations Centre is proposed to be constructed on the previous landfill site. It is a complementary land use for the tip site and its environs.'

48. Environmental surveys and environmental management plans have not been provided as part of the proposal. Therefore, it is difficult to understand the impact on the natural environment without this information provided.

RISK MANAGEMENT

49.

Risk: The proposal results in excessive noise impacting surrounding residents.		
Consequence	Likelihood	Rating
Significant	Possible	High
Action/Strategy		
Endorse and submit the submission in Attachment 1 which requests CoG to submit an Amenity Management Plan.		

50.

Risk: The proposal results in excessive dust impacting surrounding residents.		
Consequence	Likelihood	Rating
Significant	Possible	High
Action/Strategy		

Endorse and submit the submission in Attachment 1 which requests CoG to submit an Amenity Management Plan.

51. **Risk:** The proposal results in excessive odour impacting surrounding residents.

Consequence	Likelihood	Rating
Significant	Possible	High

Action/Strategy

Endorse and submit the submission in Attachment 1 which requests CoG to submit an Amenity Management Plan.

52. **Risk:** The proposal results in additional truck traffic in the Crystal Brook (Wattle Grove South locality), particularly along Kelvin Road and Crystal Brook Road.

Consequence	Likelihood	Rating
Significant	Possible	High

Action/Strategy

Endorse and submit the submission in Attachment 1 which requests CoG to submit a Traffic Impact Assessment on the proposal.

CONCLUSION

53. The City has identified a number of concerns from the proposal which may impact adjacent Crystal Brook residents such as dust, noise, odour, environmental management and traffic. In the City's submission in Attachment 1 the City has requested a number of management plans specifically relating to each issue to address these concerns.

54. It is recommended that an alternative site is considered for the Operations Centre, preferably within an industrial area. Should the proposed Operations Centre proceed, it is requested that the CoG provide appropriate interface buffers and demonstrate that management of potential adverse impacts to the surrounding area will be put in place.

55. Due to the City's deficiency in POS, the City will continue to liaise with the CoG to further understand and discuss the various development opportunities for the proposed public open space site.

56. The City supports the implementation of a vegetated buffer and enhanced public open space to positively address the interface with Crystal Brook.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council

1. ENDORSE the City of Kalamunda submission in relation to the proposed development on Kelvin Road in Orange Grove to the City of Gosnells provided in Attachment 1.
2. REQUEST the Chief Executive Officer forward the City of Kalamunda endorsed submission in relation to the proposed development on Kelvin Road in Orange Grove to the City of Gosnells.

10.2. Asset Services Reports

No reports presented to Agenda Briefing

10.3. Corporate Services Reports

No reports presented to Agenda Briefing

10.4. Office of the CEO Reports

10.4.1. National Redress Scheme (Participation of WA Local Governments)

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

Previous Items	N/A
Directorate	CEO's Office
Business Unit	Community Development
File Reference	N/A
Applicant	N/A
Owner	N/A
Attachments	Nil

TYPE OF REPORT

<input checked="" type="checkbox"/>	Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
✓	Executive	When Council is undertaking its substantive role of direction setting and oversight (eg accepting tenders, adopting plans and budgets)
<input checked="" type="checkbox"/>	Information	For Council to note
<input checked="" type="checkbox"/>	Legislative	Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person's rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2027

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

EXECUTIVE SUMMARY

1. This report is for the City of Kalamunda (the City) to:
 - a) Note the background information and the WA Government's decision in relation to the National Redress Scheme;
 - b) Note the key considerations and administrative arrangements for the City to participate in the National Redress Scheme;
 - c) Formally endorse the City's participation as part of the WA Government's declaration in the National Redress Scheme; and
 - d) Grant authority to an appropriate position / officer to execute a service agreement with the State, if a Redress application is received.

BACKGROUND

2. The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established in 2013 to investigate failures of public and private institutions to protect children from sexual abuse. The Royal Commission released three reports throughout the inquiry:
 - a) Working with Children Checks (August 2015);
 - b) Redress and Civil Litigation (September 2015); and
 - c) Criminal Justice (August 2017).

The Royal Commission's Final Report (15 December 2017) incorporated findings and recommendations of the three previous reports and contained a total of 409 recommendations, of which 310 are applicable to the Western Australian Government and the broader WA community.

The implications of the Royal Commission's recommendations are twofold: the first is accountability for historical breaches in the duty of care that occurred before 1 July 2018 within any institution; the second is future-facing, ensuring better child safe approaches are implemented holistically moving forward.

3. The scope of this report addresses only the historical element of institutional child sexual abuse through the National Redress Scheme.

All levels of Australian society (including the WA local government sector and the City) will be required to consider leading practice approaches to child safeguarding separately in the future.

4. National Redress Scheme

The Royal Commission's *Redress and Civil Litigation (September 2015)* Report recommended the establishment of a single National Redress Scheme (the Scheme) to recognise the harm suffered by survivors of institutional child sexual abuse.

The Scheme acknowledges that children were sexually abused, recognises the suffering endured, holds institutions accountable and helps those who have been abused access counselling, psychological services, an apology and a redress payment.

The Scheme commenced on 1 July 2018, will run for 10 years and offers eligible applicants three elements of Redress:

- a) A direct personal response (apology) from the responsible institution, if requested;
- b) Funds to access counselling and psychological care; and
- c) A monetary payment of up to \$150,000.

All State and Territory Governments and many major non-government organisations and church groups have joined the Scheme.

The WA Parliament has passed the legislation for the Government and WA based non-government organisations to participate in the National Redress Scheme.

The Western Australian Government (the State) started participating in the Scheme from 1 January 2019.

Under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth)*, local governments may be considered a State Government institution.

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government's participation declaration. This was to allow consultation to occur with the sector about the Scheme, and for fuller consideration of how the WA local government sector could best participate.

DETAILS AND ANALYSIS

5. Following extensive consultation, the State Government (December 2019):
 - a) Noted the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
 - b) Noted the options for WA local government participation in the Scheme;
 - c) Agreed to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and
 - d) Agrees to the Department of Local Government, Sport and Cultural Industries (DLGSC) leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.

6. The following will be covered for local governments participating in the Scheme as a State Government institution and part of the State's declaration:
 - a) Redress monetary payment provided to the survivor;
 - b) Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping in accordance with the *State Records Act 2000*); and
 - c) Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below for further explanation).

7. State Government financial support for local government participation in the Scheme, as set out, will ensure that Redress is available to as many WA survivors of institutional child sexual abuse as possible.

8. Individual local governments participating in the Scheme as a State Government institution, with the State will be responsible for:
 - a) Providing the State with the necessary (facilities and services) information to participate in the Scheme;
 - b) Resources and costs associated with gathering their own (internal) information and providing that information (Request for Information) to the State (if they receive a Redress application); and
 - c) Costs associated with the delivery of a DPR (apology), if requested (based on a standard service fee, plus travel and accommodation

depending on the survivor's circumstance). The State's decision includes that all requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice, on every occasion

9. The WALGA State Council meeting of 4 March 2020:
1. Acknowledged the State Government's decision to include the participation of Local Governments in the National Redress Scheme as part of the State's declaration;
 2. Endorsed the negotiation of a Memorandum of Understanding and Template Service Agreement with the State Government, and
 3. Endorsed by Flying Minute the Memorandum of Understanding prior to execution, in order to uphold requirements to respond within legislative timeframes.

10. The State and WALGA will sign a Memorandum of Understanding to reflect the principles of WA local governments participating in the Scheme as State Government institutions and being part of the State's declaration.

State agencies (led by DLGSC), WALGA and Local Government Professionals WA will support all local governments to prepare to participate in the Scheme from 1 July 2020 (or earlier, subject to completing the necessary arrangements).

11. The State's decision allows for the WA Government's Scheme participation declaration to be amended to include local governments and this report seeks endorsement of the City's participation in the Scheme.

As an independent entity and for absolute clarity, it is essential that the City formally indicates via a decision of Council, the intention to be considered a State Government institution (for the purposes on the National Redress Scheme) and be included in the WA Government's amended participation declaration.

The City will not be included in the State's amended declaration, unless it formally decides to be included.

The financial and administrative coverage offered by the State will only be afforded to WA local governments that join the Scheme as a State Government institution, as part of the State's amended declaration.

The option also exists for the City to formally decide not to participate in the Scheme (either individually or as part of the State's declaration).

12. Should the City formally decide (via a resolution of Council) not to participate with the State or in the Scheme altogether, considerations for the City include:
- a) Divergence from the Commonwealth, State, WALGA and the broader local government sector's position on the Scheme (noting the Commonwealth's preparedness to name-and-shame non-participating organisations).
 - b) Potential reputational damage at a State, sector and community level.
 - c) Complete removal of the State's coverage of costs and administrative support, with the City having full responsibility and liability for any potential claim.
 - d) Acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the City.

13. Considerations for the City of Kalamunda

Detailed below is a list of considerations for the City to participate in the Scheme:

Executing a Service Agreement

All Royal Commission information is confidential, and it is not known if the City will receive a Redress application. A Service Agreement will only be executed if the City receives a Redress application.

City needs to give authority to an appropriate position / officer to execute a service agreement with the State, if a Redress application is received. Timeframes for responding to a Request for Information are 3 weeks for priority applications and 7 weeks for non-priority applications. A priority application timeframe (3 weeks) will be outside most Council meeting cycles and therefore it is necessary to provide the authorisation to execute an agreement in advance.

Reporting to Council if / when an application is received

Council will receive a confidential report, notifying when a Redress application has been received. All information in the report will be de-

identified but will make Council aware that an application has been received.

Application Processing / Staffing and Confidentiality

Administratively the City will determine:

- a) Which position(s) will be responsible for receiving applications and responding to Requests for Information;
- b) Support mechanisms for staff members processing Requests for Information.

The appointed person(s) will have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest and confidentiality requirements.

Record Keeping

The State Records Office advised (April 2019) all relevant agencies, including Local Governments, of a 'disposal freeze' initiated under the *State Records Act 2000* (the Act) to protect past and current records that may be relevant to actual and alleged incidents of child sexual abuse. The City's record keeping practices as a result, have been modified to ensure the secure protection and retention of relevant records. These records (or part thereof) may be required to be provided to the State's Redress Coordination Unit in relation to a Redress application.

The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements in *The Act*.

The City should note that decisions regarding Redress applicant eligibility and the responsible institution(s), are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State Government and the City do not have any influence on the decision made and there is no right of appeal

14. The City in agreeing to join the Scheme, is required to adhere to legislative requirements set out in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth).

Authorisation of an appropriately appointed person to execute a service agreement with the State, if a Redress application is received, will be in accordance with s.9.49A(4) of the *Local Government Act 1995*.

APPLICABLE LAW

15. *State Records Act 2000*
National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth).
Local Government Act 1995

APPLICABLE POLICY

16. Nil.

STAKEHOLDER ENGAGEMENT

17. The State, through the Department of Local Government, Sport and Cultural Industries (DLGSC), consulted with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).
18. The consultation throughout 2019 has focused on the National Redress Scheme with the aim of:
- a) raising awareness about the Scheme;
 - b) identifying whether WA local governments are considering participating in the Scheme;
 - c) identifying how participation may be facilitated; and
 - d) enabling advice to be provided to Government on the longer-term participation of WA local governments.
19. Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments via:
- a) Webinars to local governments, predominately in regional and remote areas;
 - b) Presentations at 12 WALGA Zone and Local Government Professional WA meetings;
 - c) Responses to email and telephone enquiries from individual local governments.
20. It was apparent from the consultations local governments were most commonly concerned about the:

- a) potential cost of Redress payments;
 - b) availability of historical information;
 - c) capacity of local governments to provide a Direct Personal Response (apology) if requested by Redress recipients;
 - d) process and obligations relating to maintaining confidentiality if Redress applications are received, particularly in small local governments;
 - e) lack of insurance coverage of Redress payments by LGIS, meaning local governments would need to self-fund participation and Redress payments.
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- a) potential cost of Redress payments;
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 - d) process and obligations relating to maintaining confidentiality if Redress applications are received, particularly in small local governments;
 - e) lack of insurance coverage of Redress payments by LGIS, meaning local governments would need to self-fund participation and Redress payments
22. LGIS published and distributed an update (April 2019) regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.
23. The WALGA State Council meeting on 3 July 2019 recommended that:
1. *WA local government participation in the State's National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.*
 2. *WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.*
24. DLGSC representatives presented at a WALGA hosted webinar on 18 February 2020 and presented at all WALGA Zone meetings in late February 2020.
25. The State's decision, particularly, to cover the costs / payments to the survivor, has considered the feedback provided by local governments during the consultation detailed above.

FINANCIAL CONSIDERATIONS

26. The only financial cost a local government may incur will be the payment of the DPR's, which is on an 'as requested' basis by the survivor. This will be based on the standard service fee of \$3,000 plus travel and accommodation depending on the survivor's circumstances. All requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice
27. The State's decision will cover the following financial costs for local governments:
- a) Redress monetary payment provided to the survivor;
 - b) Costs in relation to counselling, legal and administration (including the coordination or requests for information and record keeping); and
 - c) Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below).

The State's decision also mitigates a significant financial risk to the local government in terms of waiving rights to future claims. Accepting an offer of redress has the effect of releasing the responsible participating organisation and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person who receives redress through the Scheme, agrees to not bring or continue any civil claims against the responsible participating organisation in relation to any abuse within the scope of the Scheme.

SUSTAINABILITY

Social Implications

28. Should the City not agree to participate in the National Redress Scheme the only remaining method of redress for a victim and survivor would be through civil litigation, adding to the stress and abuse already suffered by an abuse victim.

Economic Implications

29. Nil.

Environmental Implications

30. Nil

RISK MANAGEMENT

31.	Risk: Potential financial and reputational risk to the City in the event of future civil litigation from a victim or survivor, should a decision be made not to participate with the State or in the Scheme.		
	Consequence	Likelihood	Rating
	Possible	Moderate	Medium
	Action/Strategy		
	The City endorses participation in the Scheme and waive rights to future claims.		

CONCLUSION

32. The Officer Recommendation reflects the guidance and advice provided to local governments for the City to agree to participate in the National Redress Scheme as a State Government institution.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

- 1) NOTE the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments;
- 2) ENDORSE the participation of the City of Kalamunda in the National Redress Scheme as a State Government institution and included as part of the State Government’s declaration;
- 3) Pursuant to section 9.49A (4) of the *Local Government Act 1995*, AMEND Council Authorisation CA1 (Execution of Documents) to include authority to the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received;

- 4) NOTE that a confidential report will be provided if a Redress application is received by the City of Kalamunda;