



Ordinary Council Meeting

MINUTES

Tuesday 21 December 2021

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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. The Presiding Member also acknowledged the Traditional Owners of the land on which we meet the Whadjuk Noongar people.

2. Attendance, Apologies and Leave of Absence Previously Approved

Councillors

South East Ward

John Giardina
Janelle Sewell
Geoff Stallard

South West Ward

Mary Cannon
Kellie Miskiewicz
Brooke O'Donnell

North West Ward

Lisa Cooper
Dylan O'Connor

North Ward

Andrew Osenton
Kathy Ritchie
Margaret Thomas JP (Mayor) Presiding Member

Members of Staff

Chief Executive Officer

Rhonda Hardy

Executive Team

Gary Ticehurst - Director Corporate Services
Brett Jackson - Director Asset Services
Chris Lodge - A/Director Development Services

Management Team

Andrew Fowler-Tutt - Manager Approval Service
Nicole O'Neill - Manager Customer & Public Relations
Tim Parry - Coordinator - Ranger Services

Administration Support

Darrell Forrest - Governance Advisor
Donna McPherson - Executive Assistant to the CEO

Members of the Public 13

Members of the Press Nil.

Apologies

Cr Sue Bilich

Peter Varelis - Director Development Services

Leave of Absence Previously Approved Nil.

3. Public Question Time

3.1. Nil.

4. Petitions/Deputations

4.1 A deputation was received from Mrs Iris Jones regarding Item 10.1.4 Cambridge Reserve - Consideration of Department of Planning, Lands and Heritage Offer to Purchase and Business Plan. Mrs Jones spoke in favour of the recommendation.

4.2 A deputation was received from Mr Malcolm Roberts and Mrs Bev Love, representing Aged Care Today Kalamunda, regarding Item 10.1.4 Cambridge Reserve - Consideration of Department of Planning, Lands and Heritage Offer to Purchase and Business Plan. Mr Roberts and Mrs Love spoke in favour of the recommendation.

4.3 A deputation was received from Mr Steve Gates, representing Nature Reserve Preservation Group, regarding Item 10.1.4 Cambridge Reserve - Consideration of Department of Planning, Lands and Heritage Offer to Purchase and Business Plan. Mr Gates spoke against the recommendation.

4.4 A deputation was received from Mrs Bev Dornan regarding Item 10.1.4 Cambridge Reserve - Consideration of Department of Planning, Lands and Heritage Offer to Purchase and Business Plan. Mrs Dornan spoke against the recommendation.

5. Applications for Leave of Absence

5.1 Nil.

6. Confirmation of Minutes from Previous Meeting

RESOLVED OCM 339/2021

That the Minutes of the Ordinary Council Meeting held on 23 November 2021, as published and circulated, are confirmed as a true and accurate record of the proceedings.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Lisa Cooper**

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

7. Announcements by the Member Presiding Without Discussion

7.1 High Wycombe Station Shared Paths

The Presiding Member announced the City of Kalamunda and the Department of Transport won the Stakeholder Engagement Award at the 2021 Planning Excellence Awards last Friday.

The High Wycombe Station Shared Paths community engagement project was recognised for its innovative approach designed to increase community vibrancy and its links to the City's Strategic Community Plan. Local schools are acknowledged for working with the City, Community members, Aboriginal Artist, Aurora Abraham, and the Town team movement for involve with the project.

In equally pleasing news - Yesterday the City of Kalamunda's Road Safety Awareness project, received an honourable mention under the Excellence in Road Safety Award category for the 2021 National Awards for Local Government. Well done to the Asset Planning and Customer and PR Teams who were both involved in the project.

7.2 Local Government Professionals Australia National Federation Award

Nicole O'Neill, Manager Customer and Public Relations, has been named Emerging Leader of the year at the 2021 National Federation Awards.

The National Federation Awards showcase innovative solutions, and the delivery of quality services and better outcomes among Australia's 537 local Councils.

The celebration of excellence was presented during a livestreamed event on the Local Government Professionals Australia on 30 November.

The jury said Nicole truly met the category description, 'up and comer'.

Congratulations to Nicole.

8. Matters for Which the Meeting may be Closed

- 8.1 Item 10.1.4 Cambridge Reserve - Consideration of Department of Planning, Lands and Heritage Offer to Purchase and Business Plan – Confidential Attachments - Business Case – Forrestfield Advancing: Community Enhancement Project and Submitters Details

Reason for Confidentiality: Local Government Act 1995 (WA) Section 5.23 (2) (c) - "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting."

- 8.2 Item 10.5.6 Community Appointment on City of Kalamunda Advisory Committees 2021 – 2023 – Confidential Attachment - Advisory and Management Committee Recommendations

Reason for Confidentiality: Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."

- 8.3 Item 10.5.9 Code of Conduct Complaint - 01/2021 - Withdrawn

Reason for Confidentiality: Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."

- 8.4 Item 10.5.10 Code of Conduct Complaint - 02/2021

Reason for Confidentiality: Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."

9. Disclosure of Interest

9.1. Disclosure of Financial and Proximity Interests

- a) Members must disclose the nature of their interest in matters 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*.)

- 9.1.1 Nil.

9.2. 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.

9.2.1 Cr Janelle Sewell declared an interest affecting impartiality in relation to Item 10.5.10 Code of Conduct Complaint – 02/2021. The complaint relates to Cr Sewell.

10. Reports to Council


10.1. Development Services Reports

10.1.1. Draft Local Planning Policy 34 - Wetlands and Waterways - Adoption for the Purposes of Public Advertising

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
Applicant	N/A
Owner	N/A
Attachments	1. Draft - Local Planning Policy 34 - Waterways and Waterways [10.1.1.1 - 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 2031

Priority 2: Kalamunda Clean and Green

Objective 2.1 - To protect and enhance the environmental values of the City.

Strategy 2.1.1 - Implementation of the Local Environment Strategy

Strategy 2.1.4 - Increasing and protecting local biodiversity and conservation, wherever possible, through integrating ecosystem and

biodiversity protection into planning processes including schemes policies and strategies.

Priority 3: Kalamunda Develops

Objective 3.1 - To plan for sustainable population growth.

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

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider the adoption of draft Local Planning Policy 34 – Wetlands and Waterways (LPP34) for the purpose of public advertising (Attachment 1).
2. The preparation of LPP34 is a key strategic action identified in the City's Environmental Land Use Planning Strategy (ELUPS). LPP34 will provide guidance to applicants, the Council, and officers where an application proposes development adjacent to a wetland or waterway.
3. It is recommended that the Council adopt LPP34 for the purposes of public advertising.

BACKGROUND

4. The ELUPS was adopted by the Council on 23 July 2019. Among other measures, Strategy 6.1 of the ELUPS seeks to protect and enhance waterways, wetlands, and groundwater, and ensure sustainable use and management of water resources.
5. Action 6.1.1 identifies the development of a local planning policy for waterways, flood prone areas (the floodway and flood fringe), and wetlands to protect the environmental value of the waterbody, and provide parameters for development in susceptible areas. It is in response to this strategic direction that LPP34 has been prepared.
6. Wetlands and waterways are important features of our natural environment. They provide a variety of hydrological, ecological, and social functions, including but not limited to:
 - a) Flood protection by directing and storing stormwater
 - b) Improvement of water quality through nutrient uptake and trapping of contaminants and sediment
 - c) Water supplies for drinking, public purposes and agriculture

- d) Maintaining healthy aquatic and riparian ecosystems, biodiversity and ecological connectivity
 - e) Opportunities for passive and active public recreation
 - f) Amenity and sense of place
 - g) Mental and physical wellbeing
 - h) Aboriginal and cultural heritage
 - i) Contributing to increased property values.
7. It is important to protect and enhance the hydrological, ecological and social values of the City's wetlands and waterways through the establishment and management of wetland buffers and waterway foreshore areas, during the planning and development process.
8. In doing so, compatible land uses and related development activities can occur whilst maintaining the many benefits associated with wetlands and waterways, so that they can be enjoyed by current and future generations, as well as by native wildlife.

DETAILS AND ANALYSIS

9. The key objectives of LPP34 are:
- a) To ensure sustainable long-term management of wetlands and waterways
 - b) To provide clear guidance where development is proposed near a wetland or waterway including determination of buffer/ foreshore distances and guidance on permitted and prohibited activities within the buffer/ foreshore.
 - c) To protect wetlands and waterways from impacts of development and enhance their hydrological, ecological, and social values
 - d) To avoid increasing the risk of property damage in flood prone or flood risk areas
 - e) Improvement of water quality from the built environment for the benefit of the natural environment.
10. LPP34 provides guidance for strategic planning proposals, subdivision or development applications located adjacent to wetlands or waterways, including the establishment and management of wetland buffers and waterway foreshore areas. Key sections of LPP34 include:
- a) Wetlands - establishes wetland buffer distance requirements and outlines permissible and prohibited activities or actions as part of, or as a result of, development proposals within and adjacent to the wetland buffer.

- b) Waterways - establishes a methodology for determining waterway foreshore widths and outlines permissible and prohibited development within and adjacent to the waterway foreshore.
- c) Management of Wetland Buffers and Waterway Foreshores – provides for the requirements for their establishment and management, including management plan information requirements, ceding of land and ongoing roles and responsibilities.

11. Wetlands include areas of seasonally, intermittently, or permanently waterlogged or inundated land, whether natural or otherwise, and includes lakes, swamps, marshes, springs, damplands and sumplands. For the purpose of LPP34, wetlands do not include constructed dams.

12. Wetlands are mapped and classified into different management categories by the Department of Biodiversity, Conservation and Attractions. Based on the assigned management category of a wetland, a 30m to 50m-wide buffer is to be established, surrounding the wetland boundary, as specified in the table below.

Category	Wetland Management Category Objective (Hill <i>et al</i> 1996)	Buffer Distance (unless varied in accordance with Clause 9)
Geomorphic Wetland-Conservation Category Wetland	To preserve wetland (natural) attributes and functions.	50m
Geomorphic Wetland-Resource Enhancement Wetland	To restore wetlands through maintenance and enhancement of wetland functions and attributes.	30 m
Geomorphic Wetland-Multiple Use Wetland	To use, develop and manage wetlands in the context of water, town, and environmental planning.	No buffer requirement.

13. Where a wetland has not been designated a management category as a geomorphic wetland, a 50 m buffer shall be applied, or alternatively, a site-specific wetland assessment undertaken to determine an appropriate management category. Additionally, where a mapped wetland boundary does not appropriately reflect the wetland values, the City reserves the right to request a wetland site assessment to accurately define the wetland boundary or management category.

14. Where an applicant can demonstrate that wetland hydrological, ecological, and social functions will be maintained and enhanced, the local government may grant a variation/reduction to the wetland buffer distances.
15. Waterways include any river, creek, stream, or brook, including its foreshore area or reserve, floodplain, estuary, and inlet. This includes systems that flow permanently, for part of the year or occasionally; and parts of the waterway that have been artificially modified.
16. Waterway foreshore areas are determined by several biophysical characteristics that contribute to the health and function of the waterway ecosystem. Planning applications for proposals adjacent to waterways shall be accompanied by a biophysical assessment to determine an appropriate foreshore width, undertaken in accordance with the Department of Water's (now Department of Water and Environment Regulation) *Operational Policy: Identifying and Establishing Waterway Foreshore Areas* and the Water and Rivers Commission's (now Department of Water and Environment Regulation) *Determining Foreshore Reserves*.
17. LPP34 specifies permissible and prohibited activities or actions within the wetland buffer and waterway foreshore area. The City may approve prohibited land uses and/or activities within the waterway foreshore where it can be demonstrated by the proponent that the proposed use of the land will not have a detrimental impact to the hydrological, ecological and social values of the waterway.
18. Where a waterway or wetland has been identified on a site, the City may as a condition of development or subdivision approval, require a management plan/s to manage any risk of impacts associated with development, to the wetland or waterway.
19. LPP34 includes provisions that will guide the identification, establishment and management of wetland buffers and waterway foreshore areas. With regard to waterways, foreshore areas should be informed by an assessment considering a range of biophysical factors including vegetation, flooding, landform, aquatic flora and fauna, land use and heritage. A foreshore width should generally not be less than 15m from each side of a waterway (measured from the high-water line).
20. LPP34 will incorporate guidance for the City to apply conditions of approval, to maintain the wetland buffer / waterway foreshore for a minimum of two years and until all completion criteria in approved management plans are achieved, to the satisfaction of the City.

21. For subdivision proposals, the wetland, wetland buffer, waterway and foreshore maybe required, as a condition of approval, to be ceded to the Crown free of cost and without payment of compensation by the Crown. The City will usually assume responsibility for ongoing management of ceded land.
22. Drainage easements and reserves may be required under LPP 34 having regard to the scale of the subdivision or development, the degree to which the subdivision or development will generate the need for an easement or reserve, whether the wetland or waterway forms part of a planned or expanding area of public open space network, and the requirements for access for maintenance.

APPLICABLE LAW

23. LPP34 has been prepared under and in accordance with Schedule 2 Part 2 of the Planning and Development (Local Planning Scheme) Regulations 2015 (Regulations).
24. The *Planning and Development Act 2005* promotes the sustainable use and development of land in the State and the protection of natural resources including the establishment of reserves for foreshore and waterway management.
25. *Rights in Water and Irrigation Act 1914* (RIWI Act) provides for the regulation, management, use and protection of water resources. This Act provides for a licensing system for taking water; and a permitting system for activities that may damage, obstruct or interfere with water flow or the beds and banks of watercourses and wetlands in proclaimed rivers, surface water management areas and irrigation districts.
26. The objects in Section 4 of the RIWI Act include providing for the sustainable use and development of water resources, protection of their ecosystems and the environment in which water resources are situated and assisting the integration of water resources management with other natural resources management.
27. The *Environmental Protection Act 1986* provides for environmental protection and includes a requirement to refer significant impacts to "Inland Waters" the Environmental Protection Authority for assessment and approval under Part IV of the Act. This includes (but is not limited to) significant impacts to wetlands listed in the Directory of Important Wetlands in Australia, Conservation Category Wetlands and Resource Enhancement Wetlands.

28. Under Part IV of the Act, the following principle for clearing of native vegetation applies: *native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland.*

APPLICABLE POLICY

29. The State Planning Strategy 2050 sets a high-level expectation for the demonstration of exemplary built form and environmental excellence.

30. State Planning Policy 2 – Environment and Natural Resources Policy includes provisions for water resources and states:

“planning strategies, schemes and decision making should:

- a) Consider mechanisms to protect, manage, conserve and enhance
 - I. wetlands of importance, Ramsar wetlands and wetlands identified in any relevant Environmental Protection Policy;*
 - II. waterways;.....**
- b) Take account of the availability of water resources to ensure maintenance of water quality and quantity for existing and future environmental and human uses*
- c) Encourage urban water management through water sensitive design approaches that better manage stormwater quality and quantity; that reduce the impact of stormwater flows to streams, wetlands and coastal waters; and that control or remove pollutants and nutrients so as to improve water quality, retain habitats, conserve water and provide for recreational opportunities and conservation functions through multiple use drainage systems.*
- d) Ensure the provision of adequate setbacks between development and the foreshores of wetlands, waterways, estuaries and the coast, in order to maintain or improve the ecological and physical function of water bodies. Such setbacks will aim to maintain the natural drainage function, protect wildlife habitats and landscape values, lessen erosion of banks and verges, and facilitate filtration of sediment and waste associated with surface run-off from adjacent land uses, which may include retention or replacement of riparian vegetation.*
- e) Consider flood risk by identifying floodways and land affected by 1 in 100 year flood events and avoid intensifying the potential for flooding as a result of inappropriately located land uses and development....”*

31. State Planning Policy 2.9 – Water Resources contains policy measures for the protection, management, conservation and enhancement of the environmental functions and values of wetlands and waterways, including ensuring adequate and appropriate buffering of wetlands, waterways.

32. Draft State Planning Policy 2.9 – Planning for Water includes the following proposed policy outcome: *Waterways and wetlands have adequate foreshore areas and wetland buffers to protect, manage and conserve water quality and quantity, native vegetation, aquatic and riparian habitats, ecological linkages and associated biodiversity values.*
33. It is noted that a separate State Planning Policy is proposed to specifically address wetlands and waterways. This State Planning Policy is currently in preparation. Any relevant policy criteria and guidance arising from the preparation of the new State Planning Policy will inform the finalisation of LPP34.
34. State Planning Policy 7.0 – Design of the Built Environment includes design principles relating to landscape quality and sustainability design principles that aim to protect existing environmental features and ecosystems, promote biodiversity, offer a variety of habitats for flora and fauna, enhance the local environmental context and restore lost or damaged ecosystems, where possible. This includes management of water through water-sensitive urban design.
35. State Planning Policy 7.2- Precinct Design provides guidance on the design, planning, assessment and implementation of precinct structure plans, local development plans, subdivision and development. SPP 7.2 includes policy outcomes relating to the protection of water and soil resources and water sensitive urban design.
36. State Planning Policy 7.3 - Residential Design Codes - Volume 1 currently includes, within its design principles, an objective to reduce the export of nutrients and sediments from the site into waterways.
37. Department of Water *Operational policy 4.3: Identifying and establishing waterways foreshore areas*, describes the process for identifying and managing foreshore areas.
38. **Western Australian Planning Commission Operational policy 1.1 - Subdivision – General Requirements (OP 1.1)**
OP 1.1 sets out the general principles that will guide the WAPC in determining applications for subdivision. The objectives of OP 1.1 include (but are not limited to);
- a) To ensure the subdivision pattern is responsive to the characteristics of the site, including environmental features, sustainability principles and the local planning context.
 - b) To promote a sense of place and conservation of places of historic cultural heritage significance.

39. **Kalamunda Clean and Green 2019 – 2029: Local Environmental Strategy (LES)**

Includes an action which states “Develop a Local Planning Policy including guidelines to protect the environmental value of our waterways”.

40. **City of Kalamunda Environmental Land Use Planning Strategy (ELUPS)**

Included action 6.1.1 which states: *Develop a local planning policy for waterways, flood prone areas (the floodway and flood fringe) and wetlands to protect the environmental value of the waterbody and provide parameters for development in susceptible areas.*

41. **Draft Local Biodiversity Strategy (LBS)**

The Draft LBS states that: *in some parts of the City, waterways or drains provide the only opportunity to improve (ecological) connectivity between natural areas.*

42. Action 2.7 of the draft LBS is to Develop and implement a revegetation plan for all degraded lands within ecological linkages.

43. While LPP34 is not directly addressing Action 2.7 of the draft LBS, the provisions within the policy will assist with the enhancement of ecological linkages through achieving revegetation of wetlands, their buffers, waterways and their foreshore areas.

STAKEHOLDER ENGAGEMENT

44. LPP33 has been reviewed by the City through the perspective of a number of disciplines including but not limited to:

- a) Planning
- b) Building
- c) Environmental Health
- d) Engineering
- e) Environment

45. If adopted by Council, LPP34 will be referred to the Department of Water and Environmental Regulation, the Department of Biodiversity, Conservation and Attractions and the Department of Planning, Lands and Heritage for formal comment / feedback.

46. Subject to LPP34 being adopted for advertising, community engagement will be undertaken in accordance with Local Planning Policy 11 – Public Notification of Planning Proposals.

FINANCIAL CONSIDERATIONS

- 47. Costs of advertising are to be met through relevant service department municipal budget allocation.

SUSTAINABILITY

- 48. LPP 34 proposes to achieve sustainability outcomes through:
 - a) Development design that responds to and enhances the distinctive natural characteristics of a local area, contributing to a sense of place
 - b) Passive environmental design measures
 - c) Protection of water resources through water sensitive urban design
 - d) Retention and enhancement of ecological linkages associated with wetlands and waterways
 - e) Protection and restoration of fauna habitat.

RISK MANAGEMENT

49.	<p>Risk: The policy is not progressed to adoption and the City does not have a consistent approach to managing wetland and waterways, and consequently there are the following risks:</p> <ul style="list-style-type: none"> a) A loss of flood protection b) Decrease in water quality and health of aquatic and riparian ecosystems, biodiversity and ecological connectivity c) A loss of opportunities for passive and active public recreation, amenity, wellbeing and sense of place d) A loss, or lack of recognition of places of aboriginal and cultural heritage significance. 		
	Consequence	Likelihood	Rating
	Significant	Possible	High
	Action/Strategy		
	Ensure the Council and community are aware of the benefits and long-term positive outcomes of establishing a policy to manage wetlands and waterways. Council to adopt the draft LPP34 Wetlands and Waterways for public advertising.		

50.

Risk: The policy receives strong opposition from sections of the Community.		
Consequence	Likelihood	Rating
Significant	Possible	High
Action/Strategy		
Ensure that the advertising process highlights: a) The justification for introducing measures to protect and enhance wetlands and waterways; b) The balanced approach to negotiating a reduced buffer/ foreshore distance, where it can be demonstrated by the applicant that the values of wetlands and waterways will not be detrimentally impacted.		

51.

Risk: Adoption of the policy may increase resourcing pressures in dealing with policy queries, planning and development applications and compliance.		
Consequence	Likelihood	Rating
Moderate	Likely	Medium
Action/Strategy		
The City have existing procedures in place for processing planning and development applications as well as compliance matters. Existing staff resources will be provided training in implementation of the policy to ensure efficiency in resourcing. Resourcing requirements will be considered on an ongoing basis in line with reviews to LPP34.		

CONCLUSION

52. The purpose of LPP34 is to provide guidance for strategic planning proposals, subdivision or development applications located adjacent to wetlands or waterways, including the establishment and management of wetland buffer and waterway foreshore areas.
53. The objectives of LPP34 are consistent with the City’s overarching strategic intent identified through the ELUPS and LES, together with the draft LBS. Furthermore, LPP34 is consistent with the policy measures established under State Planning Policy 2 Environment and Natural Resources, State Planning Policy 2.9 - Water Resources and Draft State Planning Policy 2.9 – Planning for Water, which generally seek to protect, manage, conserve and enhance the environmental functions and values of wetlands and waterways.

54. It is recommended Council adopt LPP34 – Wetlands and Waterways for the purposes of public advertising

Voting Requirements: Simple Majority

RESOLVED OCM 340/2021

That Council ADOPT draft Local Planning Policy 34 – Wetlands and Waterways, as provided in Attachment 1, for the purposes of public advertising in accordance with the Planning and Development Act (Local Planning Scheme) Regulations 2015.

Moved: **Cr Kathy Ritchie**

Seconded: **Cr Janelle Sewell**


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

10.1.2. Review of Local Planning Policy 26 - Public Art Contributions - Consideration of Submissions and Modifications for Final Approval

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

Previous Items	OCM 31/2019, OCM 168/2020 OCM 258/2019, OCM 68/2021
Directorate	Development Services
Business Unit	Approval Services
File Reference	3.009297
Applicant	N/A
Owner	N/A
Attachments	<ol style="list-style-type: none"> 1. Local Planning Policy 26 (LPP26) - Public Art Contributions [10.1.2.1 - 6 pages] 2. Appendix 1 – Public Art Application Form and Checklist [10.1.2.2 - 7 pages] 3. Submitters Table [10.1.2.3 - 17 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 (eg accepting tenders, adopting plans and budgets)
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STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2031

Priority 3: Kalamunda Develops

Objective 3.1 - To plan for sustainable population growth.

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

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 businesses.

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider the final adoption of a revised Local Planning Policy No.26 - Public Art Contributions Local Planning Policy (the Policy) following public advertising.
2. The Policy was adopted through OCM 258/2019 on the 26 November 2019, on the basis it would be reviewed within 12 months. A further minor review to the Policy was adopted by Council in August 2020 (OCM168/2020).
3. The proposed revisions to the Policy are principally aimed at establishing and reinforcing a planning need and nexus to ensure that the City of Kalamunda (the City) is in a better position to facilitate the provision of public art where appropriate and provide a robust framework for landowners to deliver public art in order to improve the amenity and character of the locality.
4. The Policy has been reviewed by the City's lawyers to ensure the provisions have sufficient weight and provide a reliable basis to impose public art conditions for contributing development. The review has resulted in a number of changes to the advertised Policy, principally relating to the format of the Policy. Importantly, the purpose and intent of the Policy remains unchanged from the advertised Policy.
5. It is recommended Council adopt the Policy with modifications as highlighted in Attachment 1 – Draft Local Planning Policy 26 – Public Art Contributions.

BACKGROUND

6. The City periodically reviews, revokes and adds new policies for the purpose of ensuring consistency and transparency in decision making and to ensure the Council has a clear and defensible position in making planning decisions.
7. The State Government encourages the inclusion of art in the built environment through the Percent for Art Scheme. Local governments have adopted this Scheme as a model of best practice for the inclusion of public art.

8. The Policy provides a planning basis for the City to facilitate the provision of public art, as well as the collection of contributions towards public art. The development of a Local Planning Policy in accordance with the *Planning and Development Act 2005 and Planning and Development (Local Planning Scheme) Regulations 2015* provides a statutory basis for the collection of public art contributions from development, levied through conditions of planning approval.
9. On 27 August 2019, the then draft Policy was presented at the Ordinary Council Meeting with a recommendation to retain 1% contribution for development costs estimated above one million dollars. The Policy was adopted by Council for the purposes of public advertising subject to the following modifications (summarised):
 - a) Changing the threshold to \$500,000 excl GST from \$1,000,000.
 - b) Exclude building upgrades, and heritage development works from the public art contribution requirements.
 - c) Adding a notation on the cover page which states that Council at the time of consideration of the Policy foreshadowed that the thresholds for contributions towards public art are to be reviewed as part of the next scheduled policy review date.
10. On 26 November 2019, the Policy was adopted in its current form. It is important to note the policy was adopted with a development threshold of \$500,000 excl GST.
11. On 25 August 2020, minor administrative revisions were adopted to the Policy with the aim to ensure the planning purpose of the Policy is consistent with the interpretation of how conditions regarding public art should be applied to development applications.
12. On 25 May 2021, Council resolved to adopt the review of the Policy for the purpose of public advertising.

DETAILS AND ANALYSIS

13. The Policy has been applied to development applications valued over \$500,000 excl GST since its adoption. The application of the Policy more generally has in some cases been resisted, including State Administrative Tribunal (SAT) appeals challenging its application.

14. The SAT has made consistent findings on the valid preparation and appropriate application of local planning policies generally, including policies with respect to the provision of public art. These findings provide helpful guidance to ensure that local planning policies are prepared so as to operate as a robust, effective and valid planning policy instrument that achieve planning objectives.

15. For the Policy to be given weight and provide a basis to impose a development condition for public art, the Policy must be:

- a) Based on sound town planning principles;
- b) A public, rather than secret policy; and
- c) Conceived after considerable public discussion

The weight to be given to a planning policy is further enhanced in circumstances where the policy has also been:

- d) In operation for some time; and
- e) Been continuously applied.

16. In addition, in order for any condition of planning approval, including a condition requiring public art, must meet the 'Newbury Test', namely:

- a) Be for a proper planning purpose
- b) Reasonably relate to the development; and
- c) Not be unreasonable.

17. Noting the above, it is important to emphasise the sound planning intent of the Policy to facilitate the provision of public art.

18. Building on the minor modifications adopted by Council in August 2020, noting the submissions received to the Policy, considering the review of the Policy by the City's lawyers and identifying improvements to better align with a planning purpose, the recommended modifications to the Policy are summarised as follows:

- a) A change to the general format of the Policy, however the purpose and intent of the Policy remains unchanged.
- b) Table 1 – removed and replaced with Part 3 – Application, which identifies the types of development applications which are excluded from the application of the Policy.
- c) Part 5.1 c) – Contribution Methods – additional method of contribution will enable the applicant to have public art considered through the building design as determined by either the City or the City's Design Review Panel.

- d) Part 5.4 – Public Art Requirements has been amended. The clause stating ‘*Artworks that may be integrated within landscaping projects or may be the landscaping or earthworks themselves*’, has been removed as this has caused confusion with applicants. Landscaping should not be considered public art.
- e) Section 6 – Definitions has been removed on the basis there was no necessity to have them included.
- f) The addition of Appendix – Public Art Application Form and Checklist.

19. As noted above, it is important for planning conditions to be legally valid. There are a number of established legal tests (Newbury Test) to determine the validity of a condition. These tests include that the condition must have a planning purpose and therefore there must be a need and nexus between the development proposed and the requirement of the condition. Section 4 – Objectives has also been amended in the Policy to include criteria to assist with meeting the relevant tests.
20. Public art has been identified as having an important planning role for the amenity of the built form environment, including ameliorating any potential adverse amenity impacts of development and providing an improved level of amenity for passer-by, workers and visitors, particularly by improving the visual setting of a development.

APPLICABLE LAW

21. *Planning and Development (Local Planning Schemes) Regulations 2015*
- Schedule 2, Part 2, Clause 3(1) – The local government may prepare a Local Planning Policy
- Schedule 2, Part 2, Clause 4(3)(a)(b) - Procedure for review of submissions made to the Local Planning Policy
- Schedule 2, Part 2, Clause 4(4)(5) – Publishing notice of the Local Planning Policy

APPLICABLE POLICY

22. N/A

STAKEHOLDER ENGAGEMENT

Internal Referrals

23. The amendments to the Policy have been prepared with input from relevant internal planning and economic development disciplines.
24. Prior to Council adopting the Policy for the purpose of public advertising, the City sought and received the following comments from the Kalamunda Arts Advisory Committee (KAAC):
 - a) The presiding member on behalf of the Committee advised they would be hesitant to change the current development threshold implemented by the policy (\$500,000).
 - b) Although there are a number of applicable developments applications currently undergoing assessment with the City, KAAC felt the three topics for review could not be commented on at this time. This is due to the City having collected only one developer contribution for public art. They advised it would be difficult for the Committee to provide any assessment on the effectiveness of the LPP to date.
25. The City also sought and received comments from the Economic Development Committee which are summarised as follows:
 - a) The Policy would be more in line with the City's Reconciliation Action Plan (RAP) if it specifically stated Indigenous artists were encouraged.
 - b) The relevance of a public art contribution to a development should be assessed on its visibility to the public realm.
 - c) Public art should be considered as part of the building's architecture and not 'tacked on'.
 - d) The \$500,000 threshold appears lower than other local government thresholds.
26. The Policy was advertised for a period of 21 days with a total of three submissions received to the Policy, two being an objection and one being a general comment to the Policy, refer Attachment 3, for the City's response to the issues raised.
27. It is noted that there are a number of modifications to the Policy arising from the City's following consideration of the submissions and in line with the purpose and intent of the Policy remains unchanged from the advertised Policy.

Clause 4(3) of the Regulations contemplates such modifications following a review of submissions received without the need for further advertising. Legal advice received supports the City's position that no further advertising of the Policy is required.

28. The table below identifies the principal themes raised in the objections received to the advertising of the Policy. These are summarised below:

Planning issue	City response
1. The Policy does not meet the Newbury test, and therefore a condition imposed on an industrial development within an industrial zone may very well be invalid.	1. The 'Newbury Test' is not applicable to the Policy itself but to any public art condition applied in accordance with the Policy. The amended/modified Policy has been prepared to ensure it has a clear and sound basis for public art contributions to be imposed to the contributing development.
2. The application of the Policy to industrial developments as per Table 1 is too broad as it would relate to all industrial development. This is unreasonable as the Policy has failed to establish any need or nexus between the public art and proposed industrial development.	2. Table 1 of the draft Policy has been removed and replaced under Part 3 with exclusions to the Policy. In line with the intent of the Policy a public art condition will be applied to a broad range of developments other than the identified exclusions. In this regard a blanket exception for industrial development is not considered appropriate given the scope for public art to compliment the class of development and further the Policy objectives.
3. The monetary threshold of \$500,000 is too low, rendering many developments economically unfeasible.	3. The \$500,000 threshold has been continuously and consistently applied by the City since November 2019, with no objections.
4. The Policy and how it should be applied has not been carefully	4. The State Government encourages the inclusion of

<p>considered. Further research and justification is required to determine how public art can be best implemented rather than applying the Policy in a broad brush approach.</p>	<p>public art in the built environment through the Percent for Art Scheme as set out in the Guidelines published in 2019. The City's Policy has undergone an extensive review through its various iterations. The Current Policy represents the culmination of the review process.</p>
<p>5. The Policy does not link the requirement to provide public art with how the proposed development creates the need for such art. Therefore, any requirement for public art would not serve a proper planning purpose as the trigger for the requirement is based on monetary value in lieu of a planning purpose.</p>	<p>5. The draft Policy establishes the planning purpose, how the Policy will be applied; those development applications that are excluded; and through the objectives the criteria which gives rise to the need for public art.</p>
<p>6. We refer to the case of BGC (Australia) Pty Ltd and the JDAP (DR 87 of 218) where the SAT resolved that the City of Swan's public art condition was invalid as the planning conditions on the development must relate to the specific development, have a proper planning purpose and result in a planning outcome.</p>	<p>6. Noted. The SAT decision in BGC, has been considered as part of the preparation of the Policy, as have other decisions upholding public art contributions.</p>
<p>7. Public Art provisions should not be used to counter poor design outcomes. These should be achieved through development and design control, which is already the case within the City. The Forrestfield/High Wycombe Industrial Area Design Guidelines (2019) and the MKSEA Design Guidelines already seek to guide appropriate design and</p>	<p>7. The Policy has been prepared for broad amenity purposes and not specifically to offset poor design. However, Part 5 c) of the Policy, acknowledges that design excellence through building design, either approved by the City or through review by the City's Design Review Panel can compliment the built form environment similar to public</p>

development outcomes within select industrial areas.	art and incentivises accordingly.
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FINANCIAL CONSIDERATIONS

- 29. All costs incurred during the review of the Policy were met through the Development Services annual budget.

SUSTAINABILITY

Social Implications

- 30. If the amended Policy is adopted, the City and Council will be provided with a best-practice guide to ensure public art is provided within the limits of the planning system, thus ensuring the delivery of public art for the community meets the planning need and nexus.

Economic Implications

- 31. The implementation of the amended Policy may have financial impacts to developments over \$500,000.

Environmental Implications

- 32. Nil

RISK MANAGEMENT

33.	<p>Risk: If the revised Policy is not adopted by Council, the City anticipates that the delivery of public art will only be able to be attached to a more limited class of development. It would leave more ambiguity on the application of the Policy, which would leave more scope for challenges to conditions requiring public art and the corresponding costs and resources associated with defending the conditions.</p>		
	Consequence	Likelihood	Rating
	Moderate	Likely	Medium
	Action/Strategy		
	Adopt the revised Policy, which addresses the concept of planning purpose, and therefore the planning need and nexus requirement, relevant to public art and acknowledges that some development which meets the value threshold for public art may not meet the planning law test for a contribution.		

CONCLUSION

34. The proposed administrative modifications to the Policy build on minor changes adopted by Council in August 2020 and improve the clarity of its planning purpose and objectives, as well as the substantive provisions to achieve this purpose and objectives.
35. It is therefore recommended that Local Planning Policy 26 – Public Art Contributions be adopted for final approval.

Voting Requirements: Simple Majority

RESOLVED OCM 341/2021

That Council ADOPT the proposed Local Planning Policy 26 (Attachment 1) for final approval pursuant to Schedule 2, Part 2, Clause 4(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Moved: **Cr Lisa Cooper**

Seconded: **Cr Brooke O'Donnell**


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

10.1.3. Proposed Keeping and Control of Cats Local Law 2022 - Consideration for the Purposes of Public Advertising

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

Previous Items	OCM149/2020
Directorate	Development Services
Business Unit	Community Safety
File Reference	3.009297
Applicant	N/A
Owner	City of Kalamunda
Attachments	1. Draft Control of Cats Local Law 2022 [10.1.3.1 - 30 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 2031

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 review and endorse the draft Cat Local Law in (Attachment 1) for the purpose of public advertising.
2. The provisions of the *Local Government Act 1995* and *Cat Act 2011* (the Act) permit Council to create Local Laws for a range of matters which include the keeping and control of cats.

3. This report recommends proceeding with the establishment of the local law by initiating public advertising.

BACKGROUND

4. At the Ordinary Council Meeting (OCM) on 28 July 2020, a Notice of Motion (OCM 149/2020) was passed as follows:

“That Council REQUEST the Chief Executive Officer to prepare a report, by December 2020, with details and recommendations regarding the potential to introduce local laws in relation to cat ownership and regulation within the City of Kalamunda.”

5. The rationale for the Notice of Motion included the following:
 - a) Each community has different needs and preferences when it comes to the regulation and control of cats.
 - b) There has been increasing discussion within the community regarding responsible cat ownership.
 - c) The City has significant areas of bushland with native fauna.
 - d) The matters to which may be considered as part of the report to Council could include but are not limited to:
 - i. Protection of native wildlife.
 - ii. Registration and micro-chipping.
 - iii. Number of cats per household
 - iv. Sterilisation
 - v. Wearing of collars and registration tags.
 - e) In the context of the City of Kalamunda (City) natural environment, it would be appropriate for Council to be provided information about the possible benefits of introducing Cat Local Laws and what those local laws could involve.
 - f) It is recommended that this report is received, and further investigations commenced on the need for Cat Local laws and further control.
6. Council received a report at the Ordinary Council Meeting on 24 November 2020 explaining the process of establishing such local laws. Having considered the report, Council requested that the Chief Executive Officer progress with the preparation of the City of Kalamunda – Cat Local Law.

DETAILS AND ANALYSIS

7. Review of surrounding Local Governments with similar natural environments highlighted the key elements that would enable the sustainable long-term protection and enhancement of wildlife through the appropriate regulation of cats through a local law.
8. One of the main deficiencies within the *Cat Act 2011* (Cat Act) and Regulations is that they do not prohibit cats from wandering onto other premises, conservation areas or other land.
9. Residents that have had issues with nuisance cats wandering onto their property, can humanely trap any cat that enters their property. However, they are required to either hand the cat over to their local government or return the cat to the owner, if the owner is known.
10. With the implementation of a Cat Local Law, the City will have further control methods, including, but not limited to:
 - a) Requiring applications for the ownership of multiple cats (excluding breeders and catteries).
 - b) Designate cat prohibited areas.
 - c) Ability to identify Nuisance Cats on private/public land.
 - d) Ability to send abatement notices for nuisance cats, therefore being able to enforce.
 - e) Prescribe the control of cats in places that are not public.
11. These control methods are explained further below.
12. **Multiple Cat Ownership**

The City's existing *Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Law 2011* stipulates 3 cats are allowed without obtaining further approvals, however, with the implementation of the proposed Cat Local Law 2022, the limit to the number of cats will reduce to two (2) per household. Three (3) or more cats up to a maximum of (6) would require a permit.
13. Multiple cat permits will be required to demonstrate they have an area that is deemed suitable for confining multiple cats. Cat breeders and catteries will still require a permit with associated fees and inspections.
14. **Cat Prohibited Areas**

The City has numerous local natural areas and waterways which could be considered as exclusion zones. The City has provided its recommendation for prohibited areas (Schedule 3) where cats are prohibited entirely, 127 cat prohibited areas have been listed.

15. Penalties for offences in cat prohibited areas are recommended to discourage cat owners living in the vicinity of these local natural areas to allow their cats to wander onto land that is classified under these prohibited areas.
16. The 127 areas identified by the City are local natural areas that are considered important refugia for native animals as they contain vegetation and habitat required for their survival.
17. As the number of significant areas of bushland around the City decreases due to various pressures, the value and importance of our Local Natural Areas increases. As such, it is considered important that all these areas become cat prohibited areas thus reflecting their importance as refuge for our native animals.
18. **Nuisance Cats**
The proposed local law contains provisions about the nuisance behaviour of cats, including a definition of nuisance. This local law proposes to prevent a cat or cats creating a nuisance on other premises, to another person or exposing another person to health and safety risks by, defining nuisance by:
- a) An activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law.
 - b) An unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
 - c) Interference which causes material damage to land or other property on the land affected by the interference.
19. The City will provide formal notice to abate the nuisance within a 28-day timeframe to avoid potential penalties.
20. **Control of cats in places that are not public.**
The proposed local law also has provisions for the control of cats in places that are not public. Specifically, cats shall not be in any place unless consent has been given by the owner or occupier. If a cat is in a place without consent, the owner of the cat commits an offence.
21. With the introduction of the local law, the City's intention is to repeal *Division 3: Keeping of Cat of the Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Law 2011*, and to include the relevant sections within the new Cat Local Law.

APPLICABLE LAW

- 22. *Cat Act 2011*
- 23. *Cat Regulations 2012*
- 24. *Local Government Act 1995*
- 25. *Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Law 2011.*

APPLICABLE POLICY

- 26. N/A

STAKEHOLDER ENGAGEMENT

- 27. The City has engaged with other Local Governments and State Government Departments in preparing the draft for this local law.
- 28. The draft Cat Local Law has been subject to a comprehensive review by the City's solicitors, all amendments from the review have been applied as proposed.

FINANCIAL CONSIDERATIONS

- 29. Costs associated with the implementation of additional cat management measures can be accommodated within existing business unit budgets.
- 30. Consideration regarding implementing signage at relevant prohibited areas mentioned in Schedule 3 will be required for the 2022/2023 budget year.

SUSTAINABILITY

- 31. It has been well documented that cats have had a detrimental effect on wildlife and ecosystems. By implementing certain sustainable control methods ensuring cats are contained effectively will help reduce the amount of wildlife being destroyed and strengthen the responsibility requirements imposed on cat owners.

RISK MANAGEMENT

32.	<p>Risk: Not implementing the Local Law will limit the control of cats causing destruction to native wildlife, as well as impacts upon amenity within neighbourhoods</p>		
	Consequence	Likelihood	Rating
	Moderate	Likely	Medium
	Action/Strategy-		
	Implementation of the new local law which will limit and allow enforcement for cats not being contained effectively.		
33.	<p>Risk: Introduction of stronger cat control laws could adversely impact domestic cat owners through a compliance response.</p>		
	Consequence	Likelihood	Rating
	Moderate	Possible	Medium
	Action/Strategy-		
	Education around the new local laws will allow cat owners to adjust and adapt to the new laws and make necessary changes required to ensure their cats are contained adequately.		
34.	<p>Risk: Legal advice received indicates that the Joint Standing Committee may have issue with the number of areas the City is trying to identify as cat prohibited, as this is significantly more than other local governments local laws.</p>		
	Consequence	Likelihood	Rating
	Significant	Possible	High
	Action/Strategy-		
	As per the legal advice, the City has undertaken a similar process to the City of Canning Cats Local law and been more specific in identifying the physical lot boundaries and parts of the reserve which the prohibition applies.		

CONCLUSION

- 35. Research undertaken by the City and presented to Council at the November 2020 OCM highlighted that cats are having a detrimental impact to the native wildlife. It also showed increased concerns within the broader community about the impact of uncontrolled cats within the City.

36. The City has considered the need for appropriate control methods and listed reserves that should be considered as prohibited areas. These are outlined in Schedule 3 of the proposed draft local law.
37. The broader community will have an opportunity to have their say on the proposed local law through the consultation process and Council as part of the finalisation process will consider submissions and possible modifications.

Voting Requirements: Simple Majority

RESOLVED OCM 342/2021

That Council:

1. GIVE local public notification that Council proposes to make a new local law, the *City of Kalamunda - Keeping and Control of Cats Local Law 2022* as provided in Attachment 1.
2. NOTE a copy of the proposed local law will be available at all Kalamunda Libraries, Administration Office, on the City's website and through social networks.
3. NOTE Submissions about the proposed local law may be made to the City of Kalamunda throughout the 6 weeks publication period and will be taken into consideration on completion of the notice period.
4. NOTE that:
 - (a) The purpose of the proposed local law is to make provisions about cats not being a nuisance, prescribing areas where cats are prohibited, the control of cats in places that are not public and to control the number of cats kept on a premises and;
 - (b) The effect of the proposed local law is to extend the controls over cats which exist under the *Cat Act 2011*.

Moved: **Cr Janelle Sewell**

Seconded: **Cr Mary Cannon**

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

10.1.4. Cambridge Reserve - Consideration of Department of Planning, Lands and Heritage Offer to Purchase and Business Plan


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

Previous Items	OCM240/2017, OCM21/2019, OCM153/2020, OCM305/2021
Directorate	Development Services
Business Unit	Strategic Planning
File Reference	CM-01/012
Applicant	City of Kalamunda
Owner	State Government - Crown Land
Attachments	1. Business Plan Report [10.1.4.1 - 17 pages] 2. Submission Table [10.1.4.2 - 21 pages]
Confidential Attachments	Business Case – Forrestfield Advancing: Community Enhancement Project

Submitters Details

Reason for Confidentiality: Local Government Act 1995 (WA) Section 5.23 (2) (c) - "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting."

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 (eg 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 2031

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 -- Ensure the entire community has access to information, facilities and services.

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 2: Kalamunda Clean and Green

Objective 2.1 - To protect and enhance the environmental values of the City.

Strategy 2.1.4 - Increasing and protecting local biodiversity and conservation, wherever possible, through integrating ecosystem and biodiversity protection into planning processes including schemes policies and strategies.

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to key centres of activity, employment and quality amenities.

Strategy 3.2.2 - Develop improvement plans for City assets such as parks, community facilities, playgrounds to meet the changing needs of the community.

Priority 3: Kalamunda Develops

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

Strategy 3.3.2 - Attract and enable new investment opportunities.

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to:
 - a) Consider submissions received on the Business Plan (Attachment 1).
 - b) Consider proceeding with the undertaking and transaction.
 - c) Accept the offer, subject to Minister approval, to purchase a 32,786m² (3.28ha) portion of Cambridge Reserve from the State Government.

2. For several years, the City of Kalamunda (City) has been investigating the development of Cambridge Reserve for the purposes of aged care, residential development and improved public open space. The Department of Planning, Lands and Heritage (DPLH) have now offered, subject to Minister approval, the City to purchase a portion of the site in freehold for a discounted land value of \$536,500 (excluding GST).
3. At the October 2021 Ordinary Council Meeting (October 2021 OCM), the City's Council noted the offer from DPLH and adopted the Business Plan for the purpose of public advertising in accordance with Section 3.59 of the Local Government Act 1995 (LG Act). The Business Plan was advertised and a total of 32 submissions were received.
4. It is recommended that Council:
 - a) Note the submissions received on the Business Plan.
 - b) Proceed with the undertaking and transaction as proposed.
 - c) Accept the offer, subject to Minister approval, to purchase a 32,786m² (3.28ha) portion of Cambridge Reserve from the State Government for \$536,500 (excluding GST).

BACKGROUND

5. **Land Details:**

Land Area:	89,815m ² (8.98ha)
Local Planning Scheme Zone:	Local Open Space Reservation
Metropolitan Regional Scheme Zone:	Urban

6. **Locality Plan:**



7. Cambridge Reserve is approximately 8.98ha (89,815m²) in size located approximately 500m south-east of the Forrestfield District Centre. The site comprises seven lots owned by the Crown and managed by the City. The site is zoned Urban under the Metropolitan Region Scheme (MRS) and Local Scheme Reserve – Local Open Space under Local Planning Scheme No.3 (LPS3).
8. After the identification of Cambridge Reserve in 2011, through a lands study undertaken by the City, as being suitable for a portion to be transferred to facilitate improvements, the City undertook preliminary technical studies in 2012 and 2013 which found that some portions of the site are suitable for development. On this basis, the City progressed with preliminary community consultation and developed concepts. The preliminary consultation process indicated the community were not receptive to the proposal and the process was discontinued at the time.
9. Since the initial investigations and consultation in 2012 and 2013, the City has undertaken several strategic investigations including the development of an Aged Accommodation Strategy 2016.
10. The City's Aged Accommodation Strategy 2016 included the following key recommendations:
 - a) The City should not directly undertake Aged Care developments;
 - b) The City should utilise government assets to encourage retirement living and aged care developments;

- c) Encourage the expansion of existing providers and shared facilities;
and
 - d) Prioritise sites close to existing services and amenities.
11. In 2017 and 2018, the City revisited the project and engaged planning and design consultants Urbis to revise the concept with the intent of including an aged care component to the project and revise the concepts for landscape improvements which are less maintenance intensive and more sympathetic to the natural environment.
12. In February and March 2018, the City undertook preliminary community consultation to determine the key values that Cambridge Reserve holds for the community and the key themes of enhancement that the community desires. Preliminary consultation included an onsite workshop, a survey, an information stall at Forrestfield Shopping Centre, and a call for written submissions.
13. The outcomes from the preliminary consultation informed the preparation of a draft concept plan; which included an aged care site, retained bushland, landscaping upgrades, playground, over 55's accommodation and residential lots.
14. Public advertising was undertaken for the draft concept plan between July and August 2018 and included a community workshop, survey, information stalls at the Forrestfield Shopping Centre and Forrestfield Library and a request for submissions. A draft concept plan was also workshopped with the City's technical staff.
15. The concept plan was endorsed by Council at the Ordinary Council Meeting held on 26 February 2019 and it was resolved to progress further technical studies and initiate the land transfer process with DPLH. A core consideration of this project is that the land in question reverts to City freehold ownership to facilitate development given the constraints that exist under the existing Management Orders.
16. In February 2019, the City requested comment from the DPLH on the adopted concept plan. The DPLH and the DBCA responded in March 2019 with some concerns relating to the methodology and results of the flora surveys prepared during previous investigations 2012 and 2017.
17. In response, the City engaged an independent consultant to undertake a third flora and fauna survey in the spring of 2019. At the same time, consultants were engaged to undertake the following technical studies:
- a) Environmental Management Plan including the flora/fauna survey and Floristic Community Type (FCT) Analysis;

- b) Water Modelling Report and Local Water Management Strategy;
- c) Geotechnical Report;
- d) Bushfire Management Plan;
- e) Infrastructure and Servicing Report;
- f) Landscaping Cost Estimates; and
- g) A revised concept plan to address the findings of the additional technical studies.

18. In summary, the results of the technical studies found two main constraints:

- a) The capacity of the existing seasonal drainage sump is insufficient and needs to be increased to account for a 1 in 100 year flood level to service the development envisaged through the revised concept plan; and
- b) The three areas of threatened ecological communities (TEC) were present onsite; two were identified as 3c – Forrestfield Complex and one was identified as 20a – Banksia Woodland.

19. The concept plan that was first adopted by the Council in February 2019 was subsequently re-designed, to account for the new information and to respond to the additional technical studies. Key aspects of the revised concept plan include:

- a) Aged Care Site with an option of 1ha or 1.5ha.
- b) Retention, protection, and enhancement of the TEC.
- c) Implementation of buffers which extend the TEC protection zone and act as low fuel load managed parkland for bushfire setbacks.
- d) Drainage sump reconfigured into a constructed wetland utilising Water Sensitive Design Principles.
- e) Playground relocated and increased in size. Half basketball court added to cater for a wider variety of age groups.
- f) Comprehensive path network featuring nature-play, exercise equipment, sensory experiences, signage, and seating areas.
- g) Development area reconfigured to avoid the TEC resulting in less impact on existing residents to Mallow Way and York Street/Cambridge Reserve.
- h) Development area includes reclaimed land because of drainage reconfiguration to utilise land already cleared.
- i) A proposed northern drainage basin and road extension located under the power easement located north-east of the site.
- j) Residential lots ranging between (225m² - 642m²) overlooking the local open space.

20. The revised concept plan and associated Scheme Amendment 104 to rezone the developable portion of the site from Local Open Space to Urban Development was adopted by Council for the purposes of public advertising in August 2020. Scheme Amendment 104 was subsequently adopted by the Council at the December 2020 Ordinary Council Meeting and forwarded to the Western Australian Planning Commission.
21. At the October 2021 OCM, Council noted the offer from the DPLH and adopted the Business Plan for the purpose of public advertising in accordance with Section 3.59 of the LG Act.

DETAILS AND ANALYSIS

22. Since mid-2020, the City has been in negotiations with the DPLH on the purchase of the developable portion of Cambridge Reserve. Negotiations with DPLH have been occurring at an officer level with DPLH being advised through Landgate's Valuation Services and the City by independent land valuers. A copy of DPLH and the City's land valuations are contained within Appendix 8 of Confidential Attachment 1.
23. Through conferral of the City and DPLH valuers, a final discounted value for the developable portions of Cambridge Reserve has been offered at \$536,500 (excluding GST). This offer is based on the land and prospective development areas assumed by the land valuers and will form the total purchase price for the subject land.
24. In addition to negotiations on land value, the City has been in detailed discussion and exchanges of information with DPLH on the future development of Cambridge Reserve. A Strategic Business Case was developed and presented to DPLH as part of this process. A copy of the Strategic Business Case is provided in Confidential Attachment 1.
25. In order to progress with the purchase and future development of Cambridge Reserve, as envisaged by Council's adopted concept plan, the City is required to fulfill the requirements of its obligations under the *Local Government Act 1995*. These obligations include the relevant provisions of Section 3.59 – Commercial enterprises by local governments.
26. Section 3.59 requires the City to prepare and advertise a Business Plan, prior to entering into a land transaction that is preparatory to entry into a major land transaction.
27. In this instance, the purchase of the developable portion of Cambridge Reserve from the State would be the preparatory land transaction whereas the development of the site would be a major land transaction.

28. The Business Plan required by Section 3.59 is to include an overall assessment of the major land transaction and is to include details of:
- a) Its expected effect on the provision of facilities and services by the local government.
 - b) Its expected effect on other persons providing facilities and services in the district.
 - c) Its expected financial effect on the local government.
 - d) Its expected effect on matters referred to in the local government's Strategic Community Plan.
 - e) The ability of the local government to manage the undertaking or the performance of the transaction.
29. The City prepared a Business Plan fulfilling those requirements and Council adopted the Business Plan for the purposes of public advertising at the October 2021 OCM.
30. The Business Plan was advertised between 15 October 2021 and 26 November 2021. A total of 32 submissions were received, comprising 28 objections, and 4 in support of the proposed undertaking and transaction as proposed. Submissions and officer responses are provided in Attachment 2.
31. Of the submissions received that were objecting to the proposal, the reasons for objection include but are not limited to:
- a) The clearing of native vegetation;
 - b) The displacement of native fauna;
 - c) Inconsistency with the City's other strategic priorities; and
 - d) The use of municipal funds and financial risk to progress the project.

Each of the above reasons have been addressed below.

32. **a) The clearing of native vegetation**
With regard to the clearing of native vegetation, the concept for the Cambridge Reserve Project has been informed by a flora and vegetation survey (PGV 2019). The proposed development has been predominantly concentrated in areas where vegetation was recorded as being in a "Completed Degraded" condition.

33. The flora and vegetation survey identified three large areas of vegetation which were determined to be in a “Very Good” to “Excellent” condition, which are referred to as TECs. These areas will be retained, protected and managed. Interface treatments with these areas of vegetation / TECs will be carefully designed to provide an appropriate buffer to ensure their ongoing viability, in consultation with the Department of Biodiversity, Conservation and Attractions (DBCA).
34. The Concept Plan identifies buffers to the TEC which will accommodate managed revegetation and open space for recreation and provide separation distance to minimise bushfire risk.
35. The proposed drainage system will be located within predominantly “Degraded” and Completed Degraded” vegetation and existing cleared land. The proposed drainage system will be vegetated with local native species to create a living stream which enhances the natural environment and maintain or improve water quality.
36. **b) The displacement of native fauna**
Several submissions raised concern that the proposed development will displace native fauna that currently use the reserve.
37. While large areas of habitat will remain intact and protected, the proposed development will necessitate some clearing of degraded vegetation which may provide habitat for native fauna. Prior to any clearing works, management of fauna will be determined in consultation with DBCA and may include measures such as:
- a) slow, directional clearing towards retained vegetation to allow fauna to relocate into adjacent vegetation, supervised by a qualified fauna handler/ zoologist;
 - b) implementation of a fauna relocation management plan, in the event that relocation is determined appropriate (subject to a fauna relocation licence issued by DBCA);
 - c) pre-clearing inspections for fauna, including but not limited to inspections of any tree hollows during avian breeding season.
38. **Inconsistency with the City’s other strategic priorities**
Residential Aged Care has been identified as a significant strategic issue for the City. Aged care development in the City has been a decade long priority and a significant amount of analysis has been undertaken by both the City and through the City’s Aged Care Advisory Committee. The City of Kalamunda contains a gap between the needs of the community and aged care beds available - an estimated shortfall of approximately 750 aged care beds by 2036. In addition, the aging population in Forrestfield is slightly higher than the Perth Metropolitan Region average.

39. The strategic level assessment of natural areas, through the City's Draft Local Biodiversity Strategy, will assist the City to identify natural areas that should be formally protected and managed in the long term, including the TECs at Cambridge Reserve. As noted above, decisions regarding the proposed land use changes and protection of environmental values at Cambridge Reserve are based on field assessments to confirm biodiversity values. The Concept Plan has identified development within areas of the site that are predominantly completely degraded, and has identified formalised buffer areas to TECs. Furthermore, the project will enable landscaping measures to improve the protection and ongoing viability of the existing TECs.
40. **c) The use of municipal funds to progress the project**
Some of the submissions objecting to the proposal have raised concern that the Cambridge Reserve Project will expose the City to undue financial risk. In this regard, appropriate financial due diligence will be undertaken prior to proceeding with any expenditure associated with the development and landscaping improvements.
41. Three (3) of the 32 submissions received were written submissions from State Government agencies including the Public Transport Authority, Main Roads and the Department of Local Government, Sport and Cultural Industries. None of the comments received from these agencies raised significant concerns with the proposal and were all in support of the proposed business plan.

APPLICABLE LAW

42. *Local Government Act 1995* – Section 3.59 – Commercial enterprises by local governments.
43. The LG Act requires that the decision of Council to proceed with the transaction and undertaking be an Absolute Majority.
44. *Land Administration Act 1997*.

APPLICABLE POLICY

45. N/A

STAKEHOLDER ENGAGEMENT

46. At the October 2021 OCM, Council noted the offer from the DPLH and adopted the Business Plan for the purpose of public advertising in accordance with Section 3.59 of the LG Act.

47. The Business Plan was advertised between 15 October 2021 and 26 November 2021. A total of 32 submissions were received. Out of the 32 submissions, 28 submissions were objections whilst 4 were supportive of the proposal. Note that the submissions and City's response to the submissions are provided in Attachment 2. Submitters details are included in a Confidential Attachment.
48. Key matters raised in the submissions are summarised as follows:
- a. The clearing of native vegetation;
 - b. The displacement of native fauna;
 - c. Inconsistency with the City's other strategic priorities; and
 - d. The use of municipal funds to progress the project.

This is further discussed in the Details and Analysis section of this report. (refer also to Attachment 2- Submission Table).

FINANCIAL CONSIDERATIONS

49. Funding for the purchase of Cambridge Reserve has been set aside through previous budgets as part of the City's allocation of funds to the Land and Property Enhancement and Maintenance Reserve.
50. Accounting for contingencies and changing market factors, the future development of Cambridge Reserve is estimated at a cost of approx. \$10 million (excluding GST). Funding for the development is proposed to be sourced from a combination of reserves, budgeted funds, and borrowings.
51. The future revenue estimated through the sale of land at Cambridge Reserve is estimated at approx. \$14.5 million (excluding GST).

SUSTAINABILITY

52. **Social Implications**
The proposed development will enable an increase in the range of land uses which could be located within the site including aged care and residential development. Such a development could support ageing in place, so residents remain close to existing social and family networks, and intergenerational mingling through shared use of the local open space.
53. The proposed development will enable the City to sell a portion of the land which will be used to directly fund local open space improvements onsite (or on nearby community infrastructure within Forrestfield), plus encouraging local residents to enjoy the upgraded playground, trails, bushland and parkland.

- 54. **Economic Implications**
Facilitating the development will enable the sale of a portion of the land to the market thereby generating the resources required for upgrades to the public open space. Benefits of this process are anticipated to include delivery of improved public open space facilities, revegetation and ongoing maintenance of remnant bushland, jobs generated through construction and preparation of the site, as well as ongoing healthcare jobs within the aged care sector.

- 55. **Environmental Implications**
The proposed design results in the retention of all TEC identified onsite and areas of vegetation of good quality or better. It is acknowledged that should development of the site proceed then it would likely result in the removal of vegetation within the developable area to facilitate construction of the aged care site, residential accommodation and supporting services and infrastructure.

- 56. Development of the site will provide opportunities for areas of high-quality vegetation to be managed and enhanced as well as enabling the establishment of street trees as part of the proposed new road network.

- 57. Proposed Scheme Amendment 104 was assessed by the Environmental Protection Authority (EPA) in September 2020. The amendment was examined, with preliminary investigations and inquiries conducted. The EPA advised that the amendment does not require further environmental assessment under the relevant provisions of the *Environmental Protection Act 1986*.

RISK MANAGEMENT

58.	Risk: The City embarks on the development and an aged care provider is unable to be sourced.						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%; padding: 5px;">Consequence</th> <th style="width: 33%; padding: 5px;">Likelihood</th> <th style="width: 33%; padding: 5px;">Rating</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">Major</td> <td style="padding: 5px;">Possible</td> <td style="padding: 5px;">High</td> </tr> </tbody> </table>	Consequence	Likelihood	Rating	Major	Possible	High
Consequence	Likelihood	Rating					
Major	Possible	High					
	Action/Strategy						
	The City is aware of significant aged care shortages and, should the development proceed, ensure a robust Expressions of Interest process is pursued.						

59.	Risk: Complications arise throughout the development increasing development costs.		
	Consequence	Likelihood	Rating
	Major	Possible	High
	Action/Strategy		
	Ensure thorough detailed designs and robust tendering processes are undertaken for the development of the site.		

CONCLUSION

- 60. The consideration of land value for the site has been through a robust consideration process by both the City and DPLH with each organisation being informed by independent land valuers.
- 61. The proposed development of Cambridge Reserve is a long-standing strategic initiative of the City. It proposes to fulfill much needed aged care shortages and provides for improved public open space for the broader community. Funding realised from Cambridge Reserve will also provide funding for improved community facilities throughout the Forrestfield locality.
- 62. On balance, and having regard for the detailed information contained and attached to this report, it is recommended that Council:
 - a) Note the submissions received on the Business Plan.
 - b) Proceed with the undertaking and transaction as proposed.
 - c) Accept the offer, subject to Minister approval, to purchase a 32,786m² (3.28ha) portion of Cambridge Reserve from the State Government for \$536,500 (excluding GST).

Voting Requirements: Absolute Majority

RESOLVED OCM 343/2021

That Council:

- 1. NOTE the submissions received on the Business Plan.
- 2. PROCEED with the undertaking and transaction as proposed in the Business Plan.
- 3. ACCEPT the offer, subject to Minister approval, to purchase a 32,786m² (3.28ha) portion of Cambridge Reserve from the State Government for \$536,500 (excluding GST).

Moved: **Cr John Giardina**

Seconded: **Cr Geoff Stallard**

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

10.2. Asset Services Reports

No reports presented.

10.3. Corporate Services Reports

No reports presented.

10.4. Office of the CEO Reports

No reports presented.

10.5. Chief Executive Officer Reports


10.5.1. Draft Monthly Financial Statements to November 2021

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

Previous Items	N/A
Directorate	Corporate Services
Business Unit	Financial Services
File Reference	FIR-SRR-006
Applicant	N/A
Owner	N/A

Attachments	1. Statement of Financial Activity for the period ended 30 November 2021 [10.5.1.1 - 2 pages]
	2. Statement of Net Current Funding Position as at 30 November 2021 [10.5.1.2 - 1 page]

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 the 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 licenses, other permits or licenses 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 2031

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

Strategy 4.1.2 - Build an effective and efficient service-based organisation.

EXECUTIVE SUMMARY

1. The purpose of this report is to provide Council with the Statutory Draft Financial Statements for the period ended 30 November 2021.
2. The Statutory Financial Statements report on the activity of the City of Kalamunda (City) with the comparison of the period's performance against the first term budget review adopted by the Council on 23 November 2021 for the 2021/2022 financial year.
3. It is recommended Council receives the draft Monthly Statutory Financial Statements for the period ended 30 November 2021, which comprise:
 - a) Statement of Financial Activity (Nature or Type);
 - b) Statement of Financial Activity (Statutory Reporting Program);
 - c) Net Current Funding Position, note to financial report as of 30 November 2021.

BACKGROUND

4. The Statement of Financial Activity (Attachment 1), incorporating various sub-statements, has been prepared in accordance with the requirements of the *Local Government Act 1995 (Act)* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996*.

DETAILS AND ANALYSIS

5. The Act requires the Council to adopt a percentage or value to be used in reporting variances against Budget. Council has adopted the reportable variances of 10% or \$50,000 whichever is greater.
6. The opening funding position in the Statement of Financial Activity reflects the audited surplus carried forward from 2020/2021.

FINANCIAL COMMENTARY

Draft Statement of Financial Activity by Nature and Type for the period ended 30 November 2021.

7. This Statement reveals a net result surplus of \$29,040,571 compared to the budget for the same period of \$26,645,361.

Operating Revenue

8. Total Revenue excluding rates is over budget by \$2,345,147. This is made up as follows:
- a) Operating Grants, Subsidies and Contributions are over budget by \$1,801,116. The variance is mainly attributable to \$1,874,742 received from the CELL 9 trust for the reimbursements of expenditure incurred on behalf of the trust.
 - b) Fees and Charges are over budget by \$463,525 Which mainly rates to building applications and pool inspection fees.
 - c) Interest earnings are over budget by \$26,104. The variance is considered to be a timing issue.
 - c) Other Revenue is over budget by \$10,158. The variance is within the reporting threshold.

Operating Expenditure

9. Total expenditure is under budget by \$1,373,044. The significant variances within the individual categories are as follows:
- a) Employment Costs are under budget by \$560,126, which is primarily due to delays in filling vacant positions and the aggregate result of minor variances in several business units.
 - b) Materials and Contracts are under budget by \$74,519. The variance is due to lower than expected consultancy costs planned for various projects and considered to be a timing issue.
 - c) Utilities are under budget by \$61,816, the variance is mainly due the aggregate result of minor variances in several business units.
 - d) Depreciation, although a non-cash cost, is tracking under budget, reporting a variance of \$773,563.
 - e) Interest and Insurance expenses are tracking below the reportable variance threshold.
 - f) Other expenditure is over budget by \$41,258. The variance is due to the timing difference of planned donations and contributions to various community groups.

Investing Activities

Non-operating Grants and Contributions

10. The non-operating grants and contributions are over budget by \$545,357. The variance is mainly due to the timing of receiving grant funding related to various roads capital projects.

Capital Expenditure

11. The total Capital Expenditure on Property, Plant, and Equipment, and Infrastructure Assets (excluding Capital Work in Progress) is over budget by \$243,919. This is considered to be a timing issue.
12. Capital works-in-progress expenditure of \$1,615,746 represents the costs expended on Forrestfield Industrial Area Scheme Stage 1 and CELL 9 Wattle Grove development. The relevant expenditure is funded by the Forrestfield Industrial Area Scheme Stage 1 reserve account and the CELL 9 trust account. These assets once constructed will be passed over to the City for management.

Financing Activities

13. The amounts attributable to financing activities show a variance of \$747,540 which is mainly due to the developer contributions and reserve transfers.

Rates Revenues

14. Rates generation is over budget with a variance of \$250,920. The variance is mainly due to the interim rates.

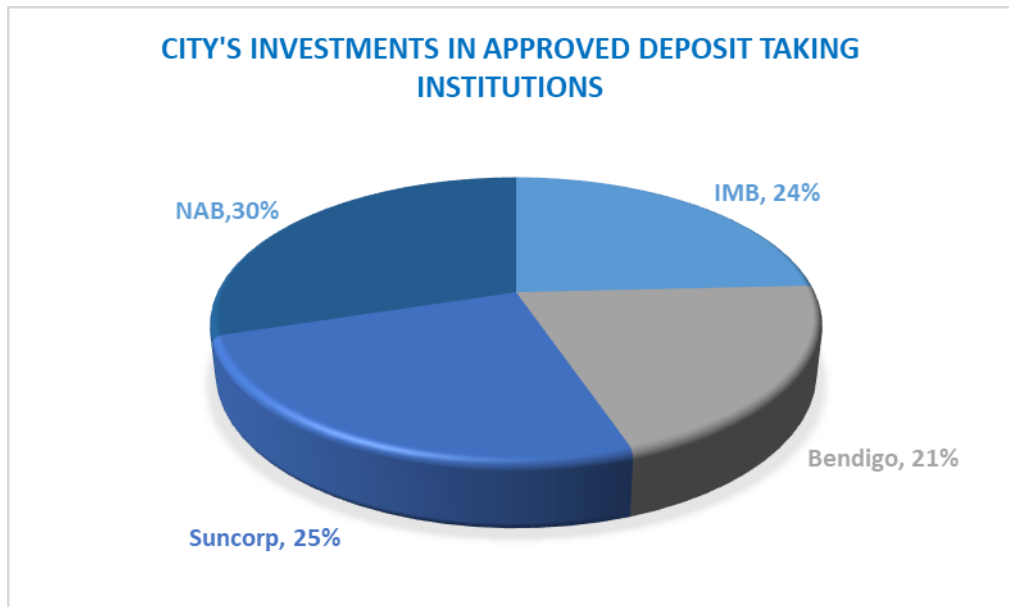
Statement of Financial Activity by Program for the period ended 30 November 2021

15. Generally, the net result of each Program is within the accepted budget except for 'Recreation & Culture, and 'Other Property Services'. Major variances have been reported by Nature and Type under points 7 to 14 above.

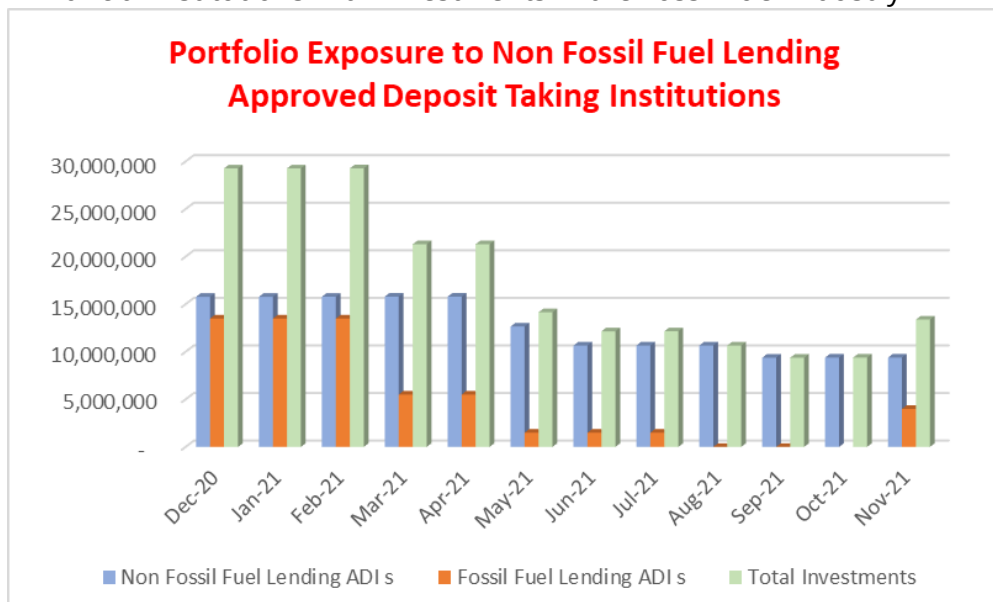
Statement of Net Current Funding Position as of 30 November 2021

16. The commentary on the net current funding position is based on a comparison of November 2021 to the November 2020 actuals.

17. Net Current Assets (Current Assets less Current Liabilities) total \$49 million. The restricted cash position is \$24.5 million which is higher than the previous year's balance of \$14.7 million. The variance is mainly due to the increased reserve balances in unexpended capital works, and specific purpose grants reserve and waste management reserve.
18. The following graph indicates the financial institutions where the City has investments as of 30 November 2021;



*Financial Institutions with Investments in the Fossil Fuel Industry



19. Trade and other receivables outstanding comprise rates and sundry debtors totalling \$13.4 million.

20. Sundry debtors have decreased from \$691,293 to \$473,455, of which \$107,815 consists of current debt due within 30 days. Details are contained in the Debtors and Creditors Report to Council.
21. Receivables Other represents \$3.6 million including:
a) Emergency Service Levy receivables \$1.9 million;
b) Receivables sanitation \$1.2 million
22. Provisions for annual and long service leave have increased by \$0.2 million to \$4.5 million when compared to the previous year.

APPLICABLE LAW

23. *The Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996.*

APPLICABLE POLICY

24. Nil.

STAKEHOLDER ENGAGEMENT

Internal Referrals

25. The City's executive and management monitor and review the underlying business unit reports which form the consolidated results presented in this report.

External Referrals

26. As noted in point 24 above, the City is required to present to the Council a monthly statement of financial activity with explanations for major variances.

FINANCIAL CONSIDERATIONS

27. The City's financial position continues to be closely monitored to ensure it is operating sustainably and to allow for future capacity.

SUSTAINABILITY

28. Nil.

RISK MANAGEMENT

29.	Risk: Over-spending the budget.		
	Consequence	Likelihood	Rating
	Possible	Moderate	Medium
	Action/Strategy		
	Monthly management reports are reviewed by the City and Council. Procurement compliance is centrally controlled via the Finance Department.		

30.	Risk: Non-compliance with Financial Regulations		
	Likelihood	Consequence	Rating
	Unlikely	Moderate	Low
	Action / Strategy		
	The financial report is scrutinised by the City to ensure that all statutory requirements are met. Internal Audit reviews to ensure compliance with Financial Regulations. External Audit confirms compliance.		

CONCLUSION

31. The City’s Financial Statements as at 30 November 2021 demonstrate the City has managed its budget and financial resources effectively.

Voting Requirements: Simple Majority

RESOLVED OCM 344/2021

That Council RECEIVE the Draft Monthly Statutory Financial Statements for the period ended 30 November 2021 which comprises:

- a) Statement of Financial Activity (Nature or Type);
- b) Statement of Financial Activity (Statutory Reporting Program);
- c) Net Current Funding Position, note to financial report.

Moved: **Cr John Giardina**

Seconded: **Cr Geoff Stallard**


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

10.5.2. Debtors and Creditors Report for the period ended 30 November 2021

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

Previous Items	N/A
Directorate	Corporate Services
Business Unit	Financial Services
File Reference	FI-CRS-002
Applicant	N/A
Owner	N/A
Attachments	<ol style="list-style-type: none"> 1. Creditor Payments for the period ended November 2021 [10.5.2.1 - 39 pages] 2. Summary of Debtors for the month of November 2021 [10.5.2.2 - 3 pages] 3. Summary of Creditors for month of November 2021 [10.5.2.3 - 1 page]

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 licenses, other permits or licenses 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 2031

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 to provide Council with the list of payments made from Municipal and Trust Fund Accounts in November 2021, in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996* (Regulation 13).
2. The Debtors and Creditors report provides Council with payments made from Municipal and Trust accounts together with outstanding debtors for the month of November 2021.
3. It is recommended that Council:
 - a) Receive the list of payments made from the Municipal and Trust Fund Accounts in November 2021 in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996* (Regulation 13); and
 - b) Receive the outstanding debtors and creditors report for the month of November 2021.

BACKGROUND

4. Trade Debtors and Creditors are subject to strict monitoring and control procedures.
5. In accordance with *the Local Government (Financial Management) Regulations 1996* (Regulation 13) reporting on payments made from Municipal Fund and Trust Fund must occur monthly.

DETAILS AND ANALYSIS

Debtors

6. Sundry debtors as of 30 November 2021 were \$473,455. This includes \$107,815 of current debts and \$2,291 unallocated credits (excess or overpayments).
7. Invoices over 30 days total \$95,561 debts of significance:
 - a) Municipal Workcare, \$55,808, Workers Compensation Reimbursement;
 - b) Forrestfield Primary School, \$5,000, Return of Covid Funding – pending credit;
 - c) Forrestfield United Soccer Club, \$4,007, Utilities;
 - d) Hills Karate Club, \$3,625, Hall Hire;
 - e) Zig Zag Gymnastics, \$3,197, Lease Fees;
 - f) Kalamunda & Districts Junior Football Club, \$2,421, Utilities;
 - g) Anoint the World Ministries, \$2,254, Hall Hire;

- h) Private Citizen, \$2,164, Reimbursement;
 - i) High Wycombe Amateur Football Club, \$1,143, Utilities; and
 - j) Carmel Adventist College, \$1,067, Hall Hire.
8. Invoices over 60 days total \$25,431 debts of significance:
- a) Zig Zag Gymnastics, \$6,396, Lease Fees;
 - b) N-Com, \$3,671, Lease Fees/Electricity;
 - c) Forrestfield United Soccer Club, \$3,099, Utilities; and
 - d) Department of Education, \$1,984, Lease Fees.
9. Invoices over 90 days total \$246,940, debts of significance:
- a) El Dujmovic Pty Ltd, \$209,700, Development Contribution;
 - b) Dept of Infrastructure, \$16,440, Road Safety Awareness and Enablers fund Grant;
 - c) Private Citizen, \$4,950, Fire Break – Reimbursement;
 - d) Forrestfield United, \$3,013, Players Fees;
 - e) Forrestfield United, \$3,174, Utilities;
 - f) Zig Zag Gymnastics, \$2,688, Lease Fees; and
 - g) Kalamunda & District Rugby Union, \$2,239, Utilities.

Creditors

10. Payments totalling \$5,196,168 were made during the month of November 2021.
Standard payment terms are 30 days from the end of the month, with local businesses and contractors on 14-day terms.
11. Significant Municipal payments (GST inclusive – where applicable) made in the month were:

Supplier	Purpose	\$
TRACC Civil Pty Ltd	Hale Road Widening Project*	656,125.44
Eastern Metropolitan Regional Council (EMRC)	Domestic waste charges – disposal fees	393,667.73
Australian Tax Office	PAYG payments	390,906.68
Cleanaway	Waste, recycling & bulk disposal services fees	363,807.17
Dowsing Group Pty Ltd	Supply and lay concrete pathways, maintenance at various locations	279,994.37

WA Hino Sales and Service	Purchase of new Hino 500 series vehicle – plant replacement program	258,437.10
AWARE Super Pty Ltd	Superannuation contributions	197,473.91
Western Australian Treasury Corporation	Loan instalment repayment – loan number 237	156,585.19
Synergy	Power charges – various locations	141,168.28
HAS Earthmoving	Progress claims for works in Maida Vale Road/ ROE Highway off-ramp roundabout	122,881.81
West Tip Waste Control Pty Ltd	Tip fees – removal and processing of various waste	79,709.42
Major Motors Pty Ltd	Supply of an Isuzu truck – plant replacement program	76,145.18
Contraflow	Traffic management at various locations	65,430.00
Belgravia Health & Leisure Group Pty Ltd	Management Fees – Kalamunda water park – July – September 2021	63,822.00
A Proud Landmark Pty Ltd	Installation of trees and associated works on Hale Road	61,849.70
Building Construction and Training Fund	Levy fees – October 2021	54,220.19
Aus Chill Technical Services Pty Ltd	Supply and repairs of air conditioners’ – various locations	51,992.82

These payments total \$3,414,216.99 and represent 66% of all payments for the month.

* The amounts paid relate to CELL 9 infrastructure works reimbursed from the CELL 9 trust account (excluding GST component) during November 2021.

Payroll

12. Salaries are paid in fortnightly cycles. A total of \$1,234,442 was paid in net salaries for the month of November 2021.
13. Details are provided in (Attachment 1) after the creditor’s payment listing.

Trust Account Payments

- 14. The Trust Accounts maintained by the City of Kalamunda (City) relate to the following types:
 - a) CELL 9 Trust;
 - b) Public Open Space funds;
 - c) NBN Tower Pickering Brook Trust

- 15. The following payments (GST exclusive) were made from the Trust Accounts in November 2021.

CELL 9		Amount (\$)
Date	Description	
25/11/2021	A Proud Landmark Pty Ltd - Hale Road - Installation of trees and associated works on medium strips	56,227.00
25/11/2021	Fitonia Pty Ltd - Pinebark Mulch delivered to Hale Road, Forrestfield	6,348.00
25/11/2021	Tree Watering Services – tree watering alone Hale Road in October	1,122.00
25/11/2021	TRACC Civil Pty Ltd - Hale Road Wattle Grove Road Widening Project	184,537.09
25/11/2021	Western Power - Hale Road widening project	452.65
25/11/2021	ABAXA - Hale Road widening project - Electronic Survey	643.20
25/11/2021	Cables Locates and Consulting - Hale Road widening project - Technician and Equipment	1,947.00
25/11/2021	Contraflow - Hale Road - Tree planting into median strips	5,920.02
25/11/2021	Garden Style Landscape Services - Provide support to Parks and Environmental Services Team	428.75
25/11/2021	Talis Consultants Pty Ltd- Detailed design & consult services for the delivery of Woodlupine Living Stream	2,435.00
25/11/2021	Echo Newspaper – advertising cost	300.00
25/11/2021	City of Kalamunda – management fees and employment costs	6,523.79

APPLICABLE LAW

- 16. Regulation 12(1) of the *Local Government (Financial Management) Regulations 1996*.

17. Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

APPLICABLE POLICY

18. Debt Collection Policy S-FIN02.
19. Register of Delegations from Council to CEO.

STAKEHOLDER ENGAGEMENT

Internal Referrals

20. Various business units are engaged to resolve outstanding debtors and creditors as required.

External Referrals

21. Debt collection matters are referred to the City’s appointed debt collection agency when required.

FINANCIAL CONSIDERATIONS

22. The City will continue to closely manage debtors and creditors to ensure optimal cash flow management.

SUSTAINABILITY

23. Nil.

RISK MANAGEMENT

Debtors

24.	Risk: The City is exposed to the potential risk of the debtor failing to make payments resulting in the disruption of cash flow.		
	Consequence	Likelihood	Rating
	Possible	Insignificant	Low
	Action/Strategy		
	Ensure debt collections are rigorously managed.		

Creditors

25.	Risk: Adverse credit ratings due to the City defaulting on the creditor.		
	Consequence	Likelihood	Rating
	Possible	Insignificant	Low
	Action/Strategy		
	Ensure all disputes are resolved in a timely manner.		

CONCLUSION

26. Creditor payments are within the normal payment range.

Cr Ritchie provided a list of queries in relation to creditor payments. Written response to the queries was provided to all councillors.

Cr O'Connor sought clarification on various payments. This information was provided.

Voting Requirements: Simple Majority

RESOLVED OCM 345/2021

That Council:

1. RECEIVE the list of payments made from the Municipal Accounts in November 2021 (Attachment 1) in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996* (Regulation 13).
2. RECEIVE the outstanding debtors and creditors report (Attachment 2 & 3) for the month of November 2021.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Geoff Stallard**


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

10.5.3. Rates Debtors Report for the Period Ended November 2021

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

Previous Items	N/A
Directorate	Corporate Services
Business Unit	Financial Services
File Reference	FI-DRS-004
Applicant	N/A
Owner	N/A
Attachments	1. Rates Report November 2021 [10.5.3.1 - 1 page]

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 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

Strategy 4.1.2 - Build an effective and efficient service-based organisation.

EXECUTIVE SUMMARY

1. The purpose of this report is to provide Council with information on the rates collection percentage and the status of recovery actions.

2. The City of Kalamunda (City) levied rates for 2021/2022 on 1 July 2021 totalling \$38,954,466. As of 30 November 2021, \$28,570,295 has been collected for current and outstanding rates for the 30 November 2021 period.
3. It is recommended that Council receive the Rates Debtors Report for the month of November 2021 (Attachment 1).

BACKGROUND

4. Rate Notices were issued on 22 July 2021 with the following payment options available:

Options	Payment Dates			
Full payment	26 August 2021			
Two instalments	26 August 2021	29 December 2021		
Four instalments	26 August 2021	27 October 2021	29 December 2021	2 March 2022

DETAILS AND ANALYSIS

5. A total of 23,697 notices were issued on 22 July 2021. This consisted of 20,223 mailed rate notices, 742 Bpay View and 2,732 eRates notices. Rates Levied and Collectable for the 2021/2022 Financial Year currently total \$42,183,030.
6. As of 30 November 2021, a total of \$28,570,295 has been collected since Rates Notices were released, representing a collection rate of 69.22%.
7. A total of 7,934 ratepayers have taken up the instalment option. The first due date was 26 August 2021. A total of 156 ratepayers have chosen to pay via direct debit. Refer to the table below:

Option	Description	Number
Option 2 on Rate Notice	Two instalments	1,559
Option 3 on Rate Notice	Four instalments	6,335
A Smarter Way to Pay	Pay by Direct Debit over a mutually agreed period.	43
Direct Debit	Payment to be received by April 2021	113
Total	Ratepayers on payment options	7,732

8. Interim rating has now commenced for 2021/2022. To 30 November 2021, \$169,550 has been raised for interim rating revenue.

9. Call recording software has been utilised in the Rates Department since 2015, primarily for customer service purposes, as it allows calls to be reviewed for training and process improvement purposes. For the period 01 November 2021 to 30 November 2021, there was a total of 355 incoming calls and 95 outgoing calls, equating to 20.39 hours call time.

APPLICABLE LAW

10. The City collects its rates debts in accordance with the *Local Government Act 1995* Division 6 – Rates and Service Charges under the requirements of subdivision 5 – Recovery of unpaid rates and service charges.

APPLICABLE POLICY

11. The City's rates collection procedures are in accordance with the Debt Collection Policy S-FIN02.
12. The Financial Hardship Policy adopted by Council on 7 April 2020 enables the provision of Financial Assistance to those seriously impacted by Covid-19.

STAKEHOLDER ENGAGEMENT

Internal Referrals

13. The City's Governance Unit has been briefed on the debt collection process.

External Referrals

14. The higher-level debt collection actions have been undertaken by Kott Gunning.

FINANCIAL CONSIDERATIONS

15. The early raising of rates in July allows the City's operations to commence without delays improving cashflow, in addition to earning additional interest income.

SUSTAINABILITY

Social Implications

- 16. Debt collection can have implications upon those ratepayers facing financial hardship and the City must ensure equity in its debt collection policy and processes.
- 17. The City has introduced “a smarter way to pay” to help ease the financial hardship to its customers. This has proved very effective with a growing number of ratepayers taking advantage of this option. A “Smarter Way to Pay” allows ratepayers to pay smaller amounts on a continuous basis either weekly or fortnightly, helping to reduce their financial burden.

Economic Implications

- 18. Effective collection of all outstanding debtors leads to enhanced financial sustainability for the City.

Environmental Implications

- 19. The increase in the take up of eRates and BPay View, as a system of Rate Notice delivery, will contribute to lower carbon emissions due to a reduction in printing and postage.

RISK MANAGEMENT

20.

Risk: Failure to collect outstanding rates and charges leading to cashflow issues within the current year.		
Likelihood	Consequence	Rating
Likely	Moderate	Medium
Action/Strategy		
Ensure debt collections are rigorously maintained.		

CONCLUSION

- 21. With a current collection rate for the financial year of 69.22% (compared to 68.40% last year). The City continues to effectively implement its rate collection strategy.

Voting Requirements: Simple Majority

RESOLVED OCM 346/2021

That Council RECEIVE the Rates Debtors Report for the Period ended 30 November 2021 (Attachment 1).

Moved: **Cr Lisa Cooper**

Seconded: **Cr Janelle Sewell**


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

10.5.4. Corporate Business Plan - Quarterly Update - July to September 2021

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

Previous Items	
Directorate	Corporate Services
Business Unit	Director Corporate Services
File Reference	3.009509
Applicant	City of Kalamunda
Owner	City of Kalamunda
Attachments	1. Quarterly Progress Report July- September 2021 [10.5.4.1 - 67 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 (eg 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 2031

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 to provide Council with the progress on the City of Kalamunda's (City's) achievement against "Kalamunda Achieving: Corporate Business Plan 2021-2025" for the period July to September 2021.
2. On average, actions from the Corporate Business Plan are 30.6% complete at the end of the first quarter, 30 September 2021.
3. It is recommended that Council notes the quarterly report for the Corporate Business Plan for the period July to September 2021.

BACKGROUND

4. Kalamunda Achieving: Corporate Business Plan 2021-2025 (the CBP) was endorsed by Council on 28 June 2021.
5. The CBP outlines the major projects, including capital works and operational recurrent services for the City. It then links those projects and services to the Asset Plans, Long Term Financial Plan and Workforce Plan.
6. The CBP is a component of the City of Kalamunda's integrated planning and reporting framework.
7. The Chief Executive Officer, Directors and Managers have individual performance objectives that are directly linked to their achievement of the CBP in 2020/21.

DETAILS AND ANALYSIS

8. The CBP is comprised of 4 Strategic Priority areas, referred to as 'goals' in this report, being:
 1. Kalamunda Cares and Interacts
 2. Kalamunda Clean and Green
 3. Kalamunda Develops
 4. Kalamunda Leads
9. There are 136 individual actions set out within the CBP for the 2021/22 year. Progress reporting is provided as Attachment 1 to this report.
10. The report reflects the management progress report against the work schedule for each of the individual actions, as at 30 September 2021.

11. The actions contained in the CBP are an average of 30.6% complete. For most actions, the target at the end of the first quarter is 25%, indicating that progress, on average, is ahead of schedule.
12. Achievement of target is measured by comparing the target completion % to the actual completion %. For example, if the target is 25%, but the action is actually 50% complete, this represents an achievement of 200%. The average achievement of target across the actions is 121.4%.

APPLICABLE LAW

13. All local governments are required, by legislation, to develop a Corporate Business Plan to fulfil the statutory obligations of section 5.56 of the *Local Government Act 1995 (WA)*, which is effectively the City's 'plan for the future'.
14. The *Local Government (Administration) Regulations 1996* provides detail as to the content of the Corporate Business Plan.

APPLICABLE POLICY

15. Nil.

STAKEHOLDER ENGAGEMENT

16. This report reflects input from Directors and Managers throughout the City.
17. Various external stakeholders and community members have been involved in the achievement of the CBP.

FINANCIAL CONSIDERATIONS

18. This plan is delivered within the City's approved Annual Budget and Long Term Financial Plan.

SUSTAINABILITY

19. Nil.

RISK MANAGEMENT

20.	Risk: The City lacks transparency in its achievement of the statutory requirements of the Corporate Business Plan leading to reputational impacts		
	Consequence	Likelihood	Rating
	Moderate	Unlikely	Low
	Action/Strategy		
	Quarterly reports are provided to Council of progress against the CBP and are publicly available		

CONCLUSION

21. The City is working to carry out the actions listed in the Corporate Business Plan. On average, actions from the Corporate Business Plan are 30.6% complete at the end of the first quarter.

Voting Requirements: Simple Majority

RESOLVED OCM 347/2021

That Council NOTE the quarterly report for the Kalamunda Achieving: Corporate Business Plan 2021-2025 for the period July to September 2021.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Dylan O'Connor**


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

10.5.5. Hypothecating Funds from Telecommunication Towers - Policy

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

Previous Items	OCM 84/2018
Directorate	Corporate Services
Business Unit	Economic & Cultural Services
File Reference	
Applicant	N/A
Owner	N/A
Attachments	1. Draft Policy Revenue from Telecommunications Towers [10.5.5.1 - 4 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 is substantive role of direction setting and oversight (eg 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 2031

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 3.2 - To connect community to key centres of activity, employment and quality amenities. .

Strategy 3.2.1 – Ensure existing assets are maintained to meet community expectations. .

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

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 adopting a Policy for hypothecating funds received by the City from telecommunication towers, where they are constructed in public reserves within the City.
2. The Policy will enable Community Groups or Clubs, in the near vicinity of the new telecommunication tower constructed in a sporting reserve, to make application for funds received for the purpose of undertaking maintenance, repair or capital projects that benefit the Community Group or Club.
3. It is recommended that Council adopt the proposed Policy.

BACKGROUND

4. At the Ordinary Council Meeting held on 22 May 2018 in regard to a Notice of Motion the Council moved the following resolution:

That Council:

1. *Requests the Chief Executive Officer to prepare a Council Policy that establishes protocols that ensures that revenues received from Telecommunication Towers, where they are constructed in public reserves are hypothecated back to community groups or clubs in the near vicinity of the tower through a formalised process.*

DETAILS AND ANALYSIS

5. The construction and installation of mobile phone towers in the City of Kalamunda has often been divisive in the community as residents struggle to reconcile the perceived amenity issues that the towers bring, with the improved mobile connectivity that is expected to flow following the installation of a tower.

6. Telecommunication providers are increasingly opting to locate mobile telephone infrastructure towers in locations with reduced negative impact on residents such as recreational and sporting reserves.
7. The City receives revenue, in the form of rent, from the leasing of the site which is the footprint of the telecommunication tower. The market rate for the annual rent under standard leasing arrangements ranges from \$12K to \$15K.
8. The policy proposes a mechanism whereby Community Groups and Clubs, in the near vicinity of a new telecommunication tower constructed in a sporting reserve, can apply for funds which can be utilised for the purpose of maintaining the reserve. The policy outlines the type of projects eligible for funding and the acquittals process. The policy enables Community Groups or Clubs in the near vicinity of newly constructed telecommunications towers to access funding for the purposes of:
 - a) Maintenance and repair of buildings or structures, and or maintenance of grounds and facilities located within the reserve at or near the vicinity of the tower
 - b) Capital projects or major works aligned to any relevant reserve master plan or business case improving the functionality of the reserve for the intended users and the City's ratepayers
9. It is proposed the administration and assessment of the applications be managed by the Administration.
10. At present there is 1 telecommunication tower located in sporting reserves within the City that this policy would be relevant to. It is located at 35 Weston Road, Pickering Brook.
11. This policy would also be relevant to any future telecommunication towers erected in sporting reserves where the City is the recipient of the site rental.

APPLICABLE LAW

12. *Local Government Act 1995*
Local Government (Administration) Regulations 1996

APPLICABLE POLICY

13. N/A

STAKEHOLDER ENGAGEMENT

- 14. Councillors and City Staff met with representatives from the Forrestfield Rhino’s Football Club to discuss a telecommunication tower application proposed for Hartfield Park, and in broad terms the mechanics of a proposed policy.

FINANCIAL CONSIDERATIONS

- 15. The City receives between \$12K - \$15K per annum from the site rental of a Telecommunication Tower.

SUSTAINABILITY

Social Implications

- 16. Likely positive implications for Community Groups and Clubs. Access to an additional funding opportunity can help complete maintenance, repair or upgrades sooner.

Economic Implications

- 17. Nil.

Environmental Implications

- 18. Not applicable.

RISK MANAGEMENT

19.	Risk: Inappropriate application of funds by the Club.		
	Consequence	Likelihood	Rating
	Moderate	Unlikely	Low
	Action/Strategy		
	Clear eligibility and assessment criteria including (1) the request formally endorsed and minuted by the board or management committee of the Community Group or Club, prior to lodgement of application; (2) demonstration of the intended purpose and defining projects suitable for funding; and (3) acquittal of funds process.		

20.

Risk: Conflict between competing clubs for access to funds.		
Consequence	Likelihood	Rating
Moderate	Possible	Medium
Action/Strategy		
Policy provides direction around the allocation of funds.		

CONCLUSION

- 21. This Policy, proposed for adoption, provides an opportunity for adjacent user groups to apply for and receive funds, accumulated by the City from the site rental of telecommunication towers.
- 22. The funds received by the City would be allocated to the Clubs for the purposes of carrying out maintenance or capital upgrades to the facilities.

Voting Requirements: Simple Majority

RESOLVED OCM 348/2021

That Council ADOPT the Use of Revenue from Telecommunications Towers Policy as set out in Attachment 1.


- Moved: **Cr Janelle Sewell**
- Seconded: **Cr Mary Cannon**
- Vote: **CARRIED UNANIMOUSLY (11/0)**

10.5.6. Community Appointment on City of Kalamunda Advisory Committees 2021 - 2023

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

Previous Items	N/A
Directorate	Office of CEO
Business Unit	Customer & Public Relations
File Reference	
Applicant	N/A
Owner	N/A
Attachments	1. Governance 13 – Appointment of Community Members to Advisory Committees and Reference Groups [10.5.6.1 - 6 pages]
Confidential Attachment	Advisory and Management Committee Recommendations <i>Reason for Confidentiality: Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."</i>

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 (eg 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 2031

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 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 to consider community member nominations for all City of Kalamunda (City) Advisory Committees for the term of 2021 - 2023.
2. The City has developed a very clear and relevant vision 'Connected communities, valuing nature and creating our future together.' Advisory Committees assist the City in achieving this vision.
3. With the exception of the Community Safety and Crime Prevention Advisory Committee (CSCPAC), and the Tourism Advisory Committee (KTAC), this report recommends that Council endorse membership for its Advisory Committees for the period December 2021 to October 2023 as set out in Attachment 1.

BACKGROUND

4. Advisory and Management Committees provide an effective collaborative forum between the City and the community.
5. The City of Kalamunda currently has the following Advisory and Management Committees:
 - a) Bush Fire Advisory Committee
 - b) Community Safety and Crime Prevention Advisory Committee
 - c) Disability and Carers Advisory Committee
 - d) Kalamunda Arts Advisory Committee
 - e) Kalamunda Environmental and Sustainability Advisory Committee
 - f) Kalamunda Tourism Advisory Committee
 - g) Kalamunda Economic Advisory Committee
 - h) Strategic Sport and Recreation Committee
 - i) Ray Owen Management Committee
 - j) Bushfire Advisory Committee

k) Lesmurdie Library Management Committee

DETAILS AND ANALYSIS

6. The purpose of each of the City of Kalamunda Advisory and Management Committees is outlined in their respective terms of reference.
7. The Bushfire Advisory Committee, Ray Owen Management Committee and Lesmurdie Library management Committee have nominations from their respective membership groups.
8. The City's Engagement team hosted a Pop-up booth on 10 November building awareness, encouraging nominations, and providing the opportunity for community members to ask questions in a relaxed face-to-face setting.
9. Nominations were not called for the Economic Advisory Committee as this committee was only established during the past 12 months and membership to the committee is still current.
10. The following table showcases the positions available, and nominations received for each of the Committees seeking community representation.

Committee Name	Nominations Received	Nominations Required
Community Safety and Crime Prevention Advisory Committee	3	4
Disability and Carers Advisory Committee	7	7
Kalamunda Arts Advisory Committee	4	4-6
Kalamunda Environmental and Sustainability Advisory Committee – Community Members	5	5
Kalamunda Environmental and Sustainability Advisory Committee – Professional subject matter expert on Sustainability	0	1
Kalamunda Tourism Advisory Committee	4	6
Strategic Sport and Recreation Committee	6	9

11. The City assessed all nominations received in accordance point 4.2 of the Governance 13 – Appointment of Community Members to Advisory Committees and Reference Groups Policy (As per attachment 2)
12. In the context of the City receiving only three (3) nominations for the CSCPAC, it is recommended that appointments be deferred to enable the City to engage with the Forrestfield Police on community safety and crime prevention measures and report those to Council for further consideration.
13. In the context of the City receiving four (4) nominations to the Tourism Advisory Committee it is recommended appointments be deferred to enable the City of Kalamunda to engage with key tourism stakeholders and report findings to Council for further consideration.
14. The City notes that no applications were received for the vacant position of professional expert on matter of Climate Change for the Kalamunda Environmental and Sustainability Advisory Committee (KESAC).
15. Therefore it is recommended the requisite five community members are appointed to KESAC and that applications are sought in early 2022 for a expert to join KESAC, including direct contact with universities when seeking nominations.

APPLICABLE LAW

16. *Section 5.8 of the Local Government Act 1995 – Establishment of Committees.*
Section 5.9(2)(c) of the Local Government Act 1995 – Types of Committees.
Section 5.11(2)(d) of the Local Government Act 1995 – Tenure of Committee Membership.

APPLICABLE POLICY

17. Council Policy – Appointment of Community Members to Advisory Committees and Reference Groups

STAKEHOLDER ENGAGEMENT

18. The City of Kalamunda called for nominations for the 2021 Advisory and Management Committees from 15 October to 12 November 2021.
19. An Advisory Committee page calling for nominations was hosted on the City's EngageHQ website, linking to separate dedicated Advisory

Committee pages (one for each committee). The dedicated pages explained the process, linked to Terms of Reference, downloadable Nomination Forms, a Policy document and provided the opportunity to nominate online.

20. Hard copy nomination forms, promotional posters and flyers were distributed to all City Buildings, for example libraries.
21. A ¼ page newspaper advert was placed in The Echo News on 15 October 2021.
22. A total of three (3) separate newsletters were sent:
 - » Clubs for Life- 28 October 12:15 PM to 217 subscribers
 - » Clubs for Life - 28 October 4:30 PM to 64 Community Groups
 - » News and Happenings in the City of Kalamunda - 2 November 4:00 PM to 1693 subscribers.
23. A Facebook post was also undertaken as a reminder on 2 November.

FINANCIAL CONSIDERATIONS

24. The cost to administer an advisory committee is in the order of \$5,000 to \$6,000 per meetings. This can vary depending on requirements of the committee.

Meeting agenda preparation	2 hours/meeting	\$ 400
Briefing Papers prepared and	8 hours/meeting	\$ 1,600
Meeting attendance x 3 staff	2 hours/meeting	\$ 1,200
Minutes	2 hours/meeting	\$ 400
Senior Officers review and signoff	3 hours/meeting	\$ 900
Ongoing Liaison	2 hours/meeting	\$ 400
Reporting to council	4 hours/meeting	\$ 800
	Total estimate	\$ 5,700

SUSTAINABILITY

25. The City calls for nominations every 2 years to ensure opportunity for new representatives and aims to ensure the Committee structure is sustainable.

RISK MANAGEMENT

26.	Risk: Reputational risk where an Advisory committee’s goals do not align with the City’s objective and strategies.		
	Consequence	Likelihood	Rating
	Possible	Moderate	Medium
	Action/Strategy		
	Provide guidance to all the members at the first meetings to communicate the City’s strategic plan and objectives to ensure the Committee understands its role and works within its Terms of Reference		

CONCLUSION

- 27. The City recommends endorsement of Advisory and Management Committee nominations in accordance with Attachment 1.

Voting Requirements: Absolute Majority

RECOMMENDATION

That Council:

1. ENDORSE successful Advisory and Management Committee Nominations as per Attachment 1.
2. REQUEST the CEO seek applications for the Professional Expert on the matter of Climate Change including contact with Higher Education Bodies for the vacancy on the Kalamunda Environmental and Sustainability Advisory Committee.
3. DEFER nominations to the Community Safety and Crime Prevention Advisory Committee to enable the City of Kalamunda to engage with the Forrestfield Police on community safety and crime prevention measures and report those to Council for further consideration.
4. DEFER nominations to the Tourism Advisory Committee to enable the City of Kalamunda to engage with key tourism stakeholders and report findings to Council for further consideration.
5. NOTE the City will write to all nominees and advise of the outcome for all Advisory and Management Committees.

Council sought clarification on various aspects of Confidential Attachment 1. Cr Ritchie proposed an additional point to the recommendation as presented. The amended recommendation received a mover and seconder before being put to a vote.

RESOLVED OCM 353/2021

That Council:

1. ENDORSE successful Advisory and Management Committee Nominations as per Attachment 1.
2. REQUEST the CEO seek applications for the Professional Expert on the matter of Climate Change including contact with Higher Education Bodies for the vacancy on the Kalamunda Environmental and Sustainability Advisory Committee.
3. DEFER nominations to the Community Safety and Crime Prevention Advisory Committee to enable the City of Kalamunda to engage with the Forrestfield Police on community safety and crime prevention measures and report those to Council for further consideration.
4. DEFER nominations to the Tourism Advisory Committee to enable the City of Kalamunda to engage with key tourism stakeholders and report findings to Council for further consideration.
5. DEFER nominations to the Arts Advisory Committee to enable the City of Kalamunda to consult further with the community.
6. NOTE the City will write to all nominees and advise of the outcome for all Advisory and Management Committees.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr John Giardina**


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

10.5.7. Annual Report 2021

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

Previous Items	Nil
Directorate	Office of the CEO
Business Unit	Customer and PR
File Reference	
Applicant	City of Kalamunda
Owner	City of Kalamunda
Attachments	1. City of Kalamunda Annual Report 2020/21 [10.5.7.1 - 120 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 (eg 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 2031

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 to accept the City of Kalamunda (City) 2020/2021 Annual Report and set the date for the Annual General Meeting of Electors.

2. The statutory Annual Report is prepared to advise the Community on the activities of the local government. It also contains the audited Annual Financial Report.
3. It is recommended Council accepts the 2020/2021 Annual Report and sets Tuesday 1 February 2022 as the date for the Annual General Meeting of Electors.

BACKGROUND

4. Section 5.53 of the Local Government Act 1995 (the "Act") requires a local government to prepare an Annual Report for each financial year and details what the Annual Report is to contain.
5. Section 5.54 of the Act requires a local government to accept the Annual Report for a financial year no later than 31 December in the year after that financial year, subject to the availability of the Auditor's Report.
6. Section 5.55 of the Act requires the Chief Executive Officer to give local public notice of the availability of the Annual Report as soon as practicable after the Annual Report has been accepted by the local government.
7. Section 5.27 of the Act requires that a general meeting of the electors of a district is to be held once every financial year.

DETAILS AND ANALYSIS

8. The statutory Annual Report is prepared to advise the Community on the activities of the local government. It reports on the annual outcomes achieved by the organisation against the strategic priorities, objectives and strategies set out in the Strategic Community Plan – Kalamunda Advancing.
9. The Annual Report contains the audited Annual Financial Report and Audit Report.
10. The 2021/2022 Annual report includes additional information as required in accordance with changes in the Regulations, this includes demographic information related to elected members.

APPLICABLE LAW

11. Local Government Act 1995.

APPLICABLE POLICY

12. There are no policy considerations with respect to the Annual Report.

STAKEHOLDER ENGAGEMENT

- 13. All Directorates within the City of Kalamunda have been involved in the preparation of the 2020/2021 Annual Report.
- 14. Section 5.55 of the Act requires that the Chief Executive Officer give local public notice of the availability of the Annual Report as soon as practicable after the Annual Report has been accepted by the local government.

FINANCIAL CONSIDERATIONS

- 15. The costs of preparing and printing the Annual Report are funded within the existing budget.

SUSTAINABILITY

- 16. N/A

RISK MANAGEMENT

17.	Risk: The Annual Report is not accepted as required by the Act		
	Consequence	Likelihood	Rating
	Moderate	Unlikely	Low
	Action/Strategy		
	Ensure the Annual Report is prepared in time to meet the legislative Requirements.		

CONCLUSION

- 18. The Annual Report demonstrates that the City is meeting its strategic priorities, objectives and strategies as set out in the Strategic Community Plan.

Voting Requirements: Simple Majority

RESOLVED OCM 349/2021

That Council:

1. ACCEPT the 2020/2021 Annual Report (Attachment 1) in accordance with Section 5.54 of the Local Government Act 1995.
2. AGREE the Annual General Meeting of Electors be held on 1 February 2022.

Moved: **Cr Brooke O'Donnell**

Seconded: **Cr Dylan O'Connor**


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

10.5.8. Forrestfield / High Wycombe Industrial Area Stage 1 - Development Contribution Plan Report - Adoption for Public Advertising

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

Previous Items	SCM 230/2018, OCM 27/2020
Directorate	Development Services
Business Unit	Strategic Planning
File Reference	3.009297
Applicant	City of Kalamunda
Owner	Various
Attachments	1. Development Contribution Plan Report 2021 [10.5.8.1 - 137 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 2031

Priority 3: Kalamunda Develops

Objective 3.1 - To plan for sustainable population growth.

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

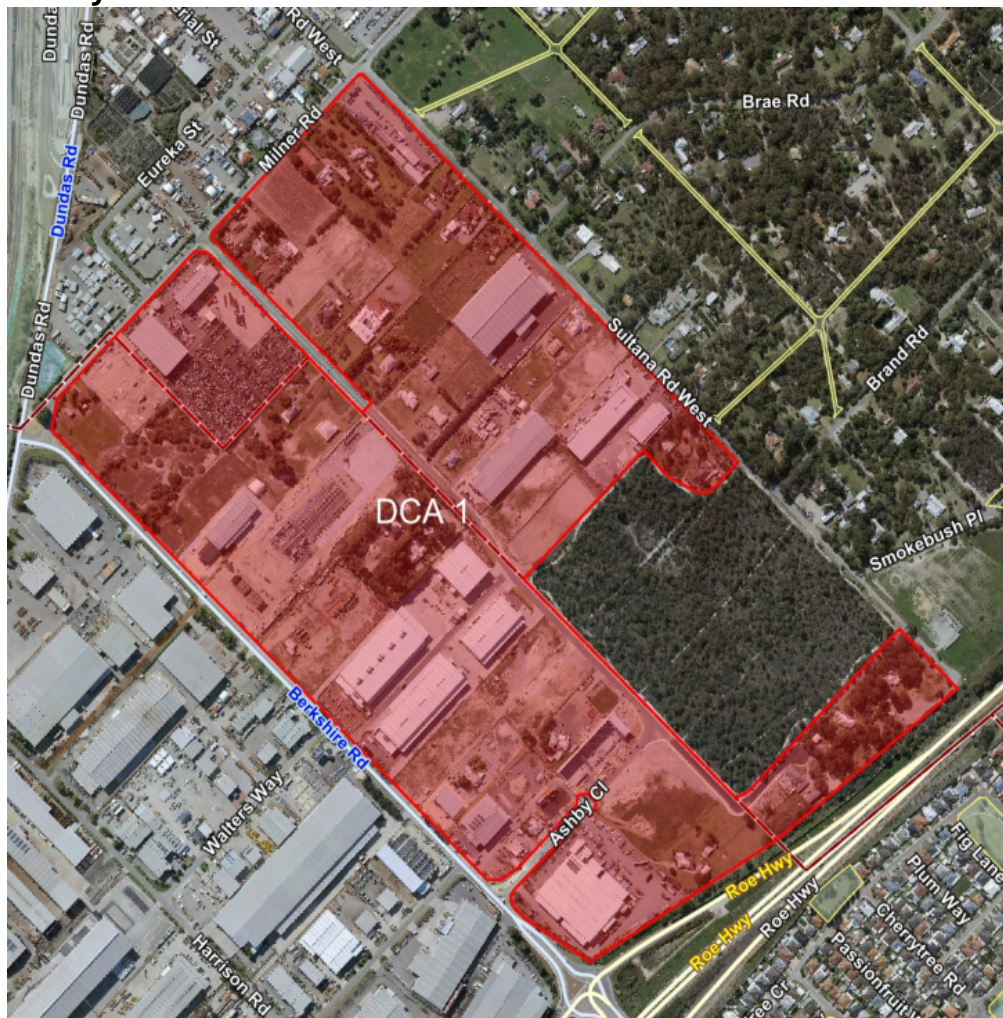
EXECUTIVE SUMMARY

- The Forrestfield / High Wycombe Industrial Area – Stage 1 (FF/HW Industrial Area) is located within the City of Kalamunda (City) and is generally bounded by Maida Vale Road to the north, Roe Highway to the east, Berkshire Road to the south and Dundas Road to the west.

2. The FF/HW Industrial Area Local Structure Plan (the LSP) has been prepared to facilitate industrial subdivision and development within the area. Due to the nature of fragmented landownership a Development Contribution Plan (DCP) has been prepared to coordinate the provision of common infrastructure required to cater for development.
3. The purpose of this report is for the Council to consider and adopt the FF/HW Industrial Area – DCP Report annual review (DCPR) (Attachment 1) for the purposes of public advertising.
4. It is recommended that the Council adopt the DCP Report and the Cost Contribution rate of \$21.66/m² for the purposes of public advertising.

BACKGROUND

5. **Locality Plan:**



DETAILS AND ANALYSIS

6. The Scheme Amendment to include the DCP Scheme within the City's LPS3 was gazetted in May 2013. This allowed the City to place on development

and subdivision approvals, the obligation to pay a Cost Contribution for common infrastructure and administration costs to manage the DCP.

- 7. Following the gazettal of the DCP, the Council was required to adopt a DCP Report and Cost Apportionment Schedule. The DCP Report and the associated Cost Apportionment Schedule sets out, in detail, the calculation of cost contributions for development in accordance with the methodology shown in the DCP.
- 8. The DCP Report needs to be a dynamic document to maintain the currency of the cost of infrastructure, land and other DCP items. The DCP Report does not form part of LPS3 but, once adopted by the Council, is required by Clause 6.5.11.2 of LPS3 to be reviewed at least annually.

9. **Previous Reviews**

Historical rates for the DCP Report review are as follows:

Date Adopted	Cost Contribution Rate
December 2012	\$23.03/m ²
December 2013	\$28.49/m ²
June 2015	\$31.23/m ² Reduced to \$29.66/m ² to account for only 50% of the cost of Sultana Road West.
December 2016	\$29.79/m ²
December 2018	\$17.01/m ² Comprehensive review of utility cost estimates resulting in significant reduction in cost.
February 2020	Interim Rate \$23.00/m ²
July 2020	\$20.97/m ²

- 10. The City undertook a review of the method of calculation of the contribution rate for the DCP in 2018. As a result of this review, the methodology for the DCP was amended to ensure that it is equitable to all landowners within the arrangement (early contributors and later contributors). This temporarily established the concept of an interim payment followed by a final payment once all costs had been accounted for.
- 11. As a result of a State Administrative Tribunal (SAT) challenge it was determined the method of seeking an interim payment could not be pursued and the City is required to obtain the Cost Contribution by a single payment, based on the City’s latest review of the DCPR (Attachment 1).

12. In addition, Amendment 105, which was Gazetted in May 2021, was prepared to simplify the Method of Calculating Contributions in Schedule 12 of LPS3, by deleting notes that were not required, although this was not a matter considered by the SAT. Accordingly, the current review has been undertaken using the current LPS 3 text.

13. At the 28 July 2020 Ordinary Council Meeting, the Council resolved to adopt the DCP Report and the Cost Contribution rate of \$20.97/m².

14. **SAT Review**

Following the commencement of the last DCP Review, an application was lodged for appeal/review to the SAT in April 2020 in relation to a condition of development approval issued by the City for an industrial development in the FF/HW Industrial Area (SAT Review). The SAT Review challenged matters summarised as follows:

- a) Whether the City had the power to impose a condition of development approval requiring a cost contribution
- b) Whether the City could impose an interim contribution requirement
- c) Whether the City's interpretation of the methodology to calculate the cost contribution is correct.

15. The SAT, in its reasons for decision handed down in March 2021, did not accept the applicant's argument that the City was unable to impose a condition requiring a contribution, but did accept that the City was unable to collect an interim contribution or require landowners to enter into agreements to formalise an interim arrangement. The SAT did not consider the method of calculation part of the reviewable decision.

16. In preparation of the current DCPR, the City has thoroughly reviewed and analysed the DCP having regard to the SAT reasons for decision, to determine compliance with relevant (LPS3) provisions, and the requirements established through State Planning Policy 3.6 – Infrastructure Contributions (SPP3.6).

17. **Method for Calculating Contributions**

The Method for Calculating Contributions (Method) is contained within Schedule 12 of LPS3 as amended by Amendment 105. This section contains an equation used for calculating the Cost Contribution Rate as follows:

$$\text{Contribution rate} = \frac{\text{Cost of infrastructure items + cost of administrative items (\$)}}{\text{Net lot area of DCA (m}^2\text{)}}$$

18. **DCP Review**

At each DCPR review, all factors contributing to the contribution rate must be revised. The significant factors reviewed are as follows:

- a) Remaining developable land and land requiring future acquisition;
- b) Land valuation;
- c) Estimated and actual costs of infrastructure works;
- d) Administration costs; and
- e) Priority of infrastructure works.

Further discussion regarding these factors is provided below.

19. **Remaining Developable Land**

The future developable area is expected to provide the Cost Contributions necessary to account for the remaining infrastructure and administrative costs. As of the end of November 2021, 30 of the 50 lots (60%) in the Development Contribution Area have developed and 20 lots (40%) are yet to be developed.

20. **Land Requiring Acquisition**

As at the end of November 2021, approximately 16,168m² has been acquired, approximately 7,283m² is the subject of agreements relating to the Bonser Road item, and 2,260m² requires future acquisition. Approximately 63% of all land required for road construction is either purchased or the subject of a legal agreement to acquire.

Acquired Area (m²)	Cost (\$)
16,277.5	\$4,201,310
Subject to agreement to acquire (m²)	Cost (\$)
7,283	\$1,820,750
Requiring Future Acquisition (m²)	Cost (\$)
2,260	\$621,522

21. **Land Valuation**

Land to be acquired has been identified in the DCP. In September 2021, an independent valuer provided an estimated rate at which land should be acquired at through the DCP. The valuation concluded on a land value rate of \$275/m², increasing from \$250/m² at the July 2020 DCP review.

22. Historical land values that have informed the previous DCP reviews are as follows:

Date DCP Review Adopted	Land Value
December 2012	\$250/m ²
December 2013	\$275/m ²
June 2015	\$260/m ²
December 2016	\$220/m ²
December 2018	\$220/m ²

February 2020	\$240/m ² (to inform an interim rate)
June 2020	\$250/m ²
September 2021 Valuation for current review.	\$275/m ²

23. **Infrastructure Items**

The following summarises the status of infrastructure items the subject of the DCPR:

Item	Summary of Item	Progress
Berkshire Road	Designs completed to 85%. 2m footpath on northern verge. Undergrounding of overhead consumer powerlines.	Yet to commence.
Milner Road	Designs completed to 85%. Road widening to 10m to facilitate RAV7 from Berkshire to Nardine, RAV4 from Nardine to Sultana Road West including Milner / Sultana intersection, new shared path, footpath, and street lighting.	Yet to commence
Nardine Close	Stage 1: approx. 300m road extension to RAV4 standard. Stage 2: Land acquisition and minor works (extension of footpath and services) to formalise the cul-de-sac to a permanent standard, and emergency access way extending to Sultana Road West.	Stage 1: completed in 2019. Stage 2: In progress
Sultana Road West	Designs completed to 85%. Road widening to 9m to facilitate RAV4, including drainage, footpaths and relocation of services. 50% of costs borne by the DCP as per Schedule 12 of LPS 3.	Yet to commence.

Milner Road and Nardine Close Intersection	Intersection widening to accommodate RAV 7 category vehicles.	Completed Nov 2019.
Berkshire Road and Ashby Close Intersection	Intersection widening to accommodate RAV 7 category vehicles. Seagull island to facilitate traffic management in left-in-left-out.	Intersection works completed Oct 2019.
Dundas Road/Berkshire Road/Milner Road Intersection	Intersection widening to accommodate as-of-right vehicles to Dundas /Berkshire, and RAV 7 category vehicles to Berkshire/Milner.	Completed Dec 2019.
Bonser Road	Stage 1: New 10m wide road connection between Berkshire Road and Nardine Close, including drainage, footpath and lighting. Stage 2: completion of the southern truncations, sweeps and kerbs.	Stage 1: completed June 2020. Stage 2: Pending land acquisition.

Estimated and Actual Costs of Infrastructure Works

24. As at 30 June 2021, approximately \$2.57m is required to complete the remaining infrastructure works, with \$4.32m spent on infrastructure works to date. Details of these estimates are provided in Attachment 1.
25. A key consideration for this review is the impact from recent increases in construction costs. State and Federal Governments have implemented comprehensive economic stimulus packages to the construction sector in response to COVID-19.
26. Advice from consulting engineers undertaking the review of cost estimates for the DCP indicates that recent tenders have seen increases in construction tenders, with the biggest component of the cost increases arising within the preliminaries such as supervision, survey, preparation, implementing various management plans, and quality assurance. Recent tenders have seen Preliminary allowances varying anywhere from 15% to 30% of the total tender amount.

27. Given uncertainty as to whether this is an accurate reflection of the future market, on the advice of the City's consulting engineers, the review has incorporated a 15% rate for preliminaries as compared to the typical 6-12%. This is recommended to be re-assessed in the next annual review.
28. **Administrative Items**
As at 30 June 2021, \$743,992 of administrative costs have been spent to date since the inception of the DCP, and an estimated \$190,833 is required to administer the DCP for the remaining 17 months until the conclusion of the 10-year DCP operative timeframe under Schedule 12 of LPS3. Details of these estimates are provided in Attachment 1.
29. **Priority of Infrastructure Works**
Subject to the availability of funding, the following items yet to be completed are now considered current priority items. In order of priority they are:
- a) Ongoing administration costs, including legal, accounting, planning, engineering, and other professional advice required to prepare and implement the DCP;
 - b) The following items have equal priority:
 - i. Land acquisition and construction requirements associated with establishing the Nardine Close temporary cul-de-sac to a permanent standard and constructing an emergency accessway between the Nardine Close cul-de-sac and Sultana Road West.
 - ii. Bonser Road - Prefunded by the landowner of Lot 547 Berkshire Road, the road was completed in June 2020. Although the construction of Bonser Road is completed, the DCP is yet to repay land acquisition, design, and construction costs to the landowner. A second stage will be required once land is acquired for truncations from Lots 16 and 17 Berkshire Road Subject to retaining sufficient funds to complete this priority, subsequent priorities below may be progressed in advance of completing the second stage for Bonser Road;
 - c) Milner Road construction;
 - d) Sultana Road West construction;
 - e) Berkshire Road footpath and adjustment to services; and
 - f) Berkshire Road / Ashby Close Intersection treatment (Seagull island);

APPLICABLE LAW

30. Local Planning Scheme No. 3
The Cost Contributions are administered and determined in accordance with the provisions of Clause 6.5 and Schedule 12 of LPS3.

31. Clause 6.5.11.2 of LPS3 requires the DCP cost estimates to be reviewed at least annually.

APPLICABLE POLICY

32. **State Planning Policy 3.6 – Infrastructure Contributions (SPP3.6)**
The WAPC completed a review of SPP3.6, concluding with the publication of a new SPP3.6 in April 2021. Several amendments were made to SPP 3.6, however while existing DCPs continue to remain valid, the City is required to adhere with all monitoring and reporting requirements under the new SPP3.6.
33. With respect to monitoring and reporting, at the end of each financial year, the City is required to prepare an annual status report of the DCP that contains a high-level snapshot or “health check” of the progress of the DCP, including the delivery of infrastructure against anticipated timing, and financial position. The annual status report has been included as Appendix m to the DCPR.

STAKEHOLDER ENGAGEMENT

34. Following the Council’s adoption of the draft DCPR and the proposed Cost Contribution rate, advertising will be undertaken with the landowners within the FF/HW Industrial Area in accordance with Local Planning Policy 11 – Public Notification of Planning Proposals.
35. Consultants were engaged to undertake an independent and comprehensive review of infrastructure cost estimates and a land valuation. This has formed the basis of detail within the DCP Report.

FINANCIAL CONSIDERATIONS

36. The operation of the DCP presents a major administrative responsibility for the City. While the DCP is self-funded, the City has an implicit obligation to efficiently and effectively manage the revenues and works.
37. The remaining developable area is reliant on the DCP to provide the necessary infrastructure to facilitate development. In particular, the timely provision of roads and drainage is critical for industrial precincts as most developments rely on these improvements for suitable access.

38. The LPS 3 requires that the City refunds any excess funds when all Cost Contributions have been made or accounted for. As of the end of November 2021, 30 of the 50 lots (60%) in the Development Contribution Area have developed and 20 lots (40%) are yet to be developed. A detailed examination of this process will be undertaken before the conclusion of the DCP's 10-year operative life (2023), when there is greater certainty regarding the number of undeveloped lots and the extent of remaining infrastructure to be developed.

SUSTAINABILITY

39. **Social Implications**
The provision of infrastructure in a timely, coordinated, and responsible manner can have a significant impact on the quality of life for both existing and future residents.
40. Impacts on the quality of life need to be considered at both a micro and macro level, with infrastructure planning needing to deliver net community benefits and recognising that the expectations of not every single landowner will be able to be satisfied.
41. **Economic Implications**
The implementation of DCPs, as a basic principle, are not intended to deliver infrastructure, services or similar that would not ordinarily be provided through subdivision and development processes; as such, a DCP does not offer any direct economic benefits to an area. DCPs can, however, assist in the timely, efficient and equitable provision of infrastructure that may in turn facilitate economic growth and employment creation.
42. **Environmental Implications**
The proposed DCP infrastructure is identified in areas where vegetation is predominantly cleared. A portion of road reservation abuts a Bush Forever Reserve and during the construction phase, due consideration will have to be given to ensure impacts to this area are minimised.

RISK MANAGEMENT

- 43.
- | | | |
|--|-------------------|---------------|
| Risk: Not undertaking the review so the Development Contribution Plan is not in alignment with current infrastructure and administrative costs. | | |
| Consequence | Likelihood | Rating |
| Rare | Significant | Medium |
| Action/Strategy | | |
| Ensure the Council is aware that a DCP review is required to ensure the new rate is reflective of projected costs to deliver infrastructure works | | |

and land purchases. Additionally, Clause 6.5.11.2 of LPS3 requires the DCP Report is reviewed at least annually.

44.	Risk: There is insufficient money collected in the DCP to fund infrastructure upgrades.		
	Consequence	Likelihood	Rating
	Possible	Major	High
	Action/Strategy		
	Undertake annual reviews to ensure the scope of infrastructure remains relevant and to maintain the currency of the cost of infrastructure with adequate provision for contingencies, land, and other DCP items.		

45.	Risk: Errors are contained within the DCP estimates and calculation.		
	Consequence	Likelihood	Rating
	Possible	Moderate	Medium
	Action/Strategy		
	Ensure figures are audited and sourced from financial statements. Ensure cost estimates are reviewed annually and provided by an independent consultant.		

CONCLUSION

46. The DCP has been reviewed using audited and known infrastructure costs and estimates based on consultants' advice. The DCP Report have been prepared and documented with the required information to ensure accountability and equity. The recommended Contribution Rate is a product of this information.
47. While it is not a requirement under LPS 3 or SPP 3.6 to undertake public advertising of a DCP Report, it is proposed that the DCP is advertised in the interest of good governance and transparency. It is also proposed that the Cost Contribution Rate is applied immediately to ensure contributions are reflective of the latest and best estimates available, particularly in the context of rising construction costs and elevated development activity in the precinct.
48. It is recommended that the Council adopt the DCP Report, and the DCP Contribution Rate for public advertising, and for immediate application under Clause 6.5 and Schedule 12 of LPS 3.

Voting Requirements: Simple Majority

RESOLVED OCM 350/2021

That Council:

1. ADOPT the Forrestfield / High Wycombe Industrial Area Development Contribution Plan Report (Attachment 1) for the purposes of public advertising.
2. ADOPT the Cost Contribution Rate of \$21.66/m², for the purposes of public advertising, and for immediate application under Clause 6.5 and Schedule 12 of Local Planning Scheme No. 3.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Lisa Cooper**

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


10.5.9. Code of Conduct Complaint - 01/2021

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

Reason for Confidentiality: *Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."*

Previous Items	Nil
Directorate	Office of the CEO
Business Unit	Governance and Legal
File Reference	
Applicant	City of Kalamunda
Owner	City of Kalamunda
Attachments	Nil

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 (eg 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

WITHDRAWN

10.5.10. Code of Conduct Complaint - 02/2021


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

Cr Janelle Sewell declared an interest affecting impartiality in relation to Item 10.5.10 Code of Conduct Complaint – 02/2021. The complaint relates to Cr Sewell.

Reason for Confidentiality: *Local Government Act 1995 (WA) Section 5.23 (2) (b) - "the personal affairs of any person."*

Previous Items	Nil
Directorate	Office of the CEO
Business Unit	Governance and Legal
File Reference	N/A
Applicant	City of Kalamunda
Owner	City of Kalamunda
Attachments	Nil

TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
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RESOLVED OCM 354/2021

That Council:

1. ADOPT the recommendation of the Behaviour Complaints Committee to dismiss the Code of Conduct Complaint (02/2021) against Cr Janelle Sewell.

2. REQUEST the Complaints Officer to advise the Complainant of the outcome.

Moved: **Cr John Giardina**

Seconded: **Cr Geoff Stallard**

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

10.6. Audit & Risk Committee

10.6.1 A&R11.1.1. Adoption of Annual Financial Report 2020/2021

RESOLVED OCM 351/2021

That Council:

1. ACCEPT the 2020/2021 Annual Financial Report (Attachment 1) prepared in accordance with Section 6.4 of the *Local Government Act 1995*.
2. NOTE the content of the memorandum prepared to address the significant adverse trend mentioned in the auditor's report. (Attachment 2).

Moved: **Cr Brooke O'Donnell**

Seconded: **Cr Geoff Stallard**

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

11. Motions of Which Previous Notice has been Given

11.1 Nil.

12. Questions by Members Without Notice

12.1 Nil.

13. Questions by Members of Which Due Notice has been Given

13.1 Nil.

14. Urgent Business Approved by the Presiding Member or by Decision

14.1 Nil.

15. Meeting Closed to the Public

15.1 RESOLVED OCM 352/2021

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

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Geoff Stallard**

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

The Meeting closed to the public at 7:36pm. All members of the public gallery left the Meeting, the meeting adjourned and recommenced behind closed doors at 7:39pm. All elected members and staff remained for the consideration of Item 10.5.6. Prior to consideration of item 10.5.10 all staff except the Governance Advisor left the meeting. All elected members remained.

15.2 RESOLVED OCM 355/2021

That the Meeting be reopened to the public after consideration of confidential items.

Moved: **Cr John Giardina**

Seconded: **Cr Brooke O'Donnell**

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

The Meeting reopened to the public at 8:12pm. The Presiding Member read the resolutions to the Meeting.

16. Tabled Documents

LEMC Minutes 25 November 2021

Public Agenda Briefing Forum Notes 7 December 2021

17. Closure

There being no further business, the Presiding Member declared the Meeting closed at 8:14pm.

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

Signed: _____
Presiding Member

Dated this _____ day of _____ 2021.