# Ordinary Council Meeting

AGENDA

Tuesday 22 September

City of Kalamunda

## NOTICE OF MEETING
## ORDINARY COUNCIL MEETING

Dear Councillors

Notice is hereby given that the next Ordinary Meeting of Council will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on **Tuesday 22 September 2026 at 6.30pm**.

Anthony Vuleta
**Chief Executive Officer**
17 September 2026

### Acknowledgement of Traditional Owners

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

### Emergency Procedures

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

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

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


City of Kalamunda
RICH Values
We treat everyone with dignity, fairness, and kindness—valuing diverse perspectives, listening with empathy, and fostering an inclusive environment where all voices are heard and appreciated.
Respect
We act with honesty, transparency, and accountability—upholding ethical standards, taking responsibility for our actions, and consistently doing what is right, even when no one is watching.
Integrity
We build trust through empathy, honest feedback, and mutual support—creating a safe, respectful environment where people thrive and grow. We care enough to be candid, knowing that truth shared with compassion strengthens us all.
Care
We communicate truthfully and openly—building trust through transparency, owning our actions, and fostering a culture where integrity and authenticity guide every interaction.
Honesty

# Webcasting Notice

Please note that tonight's meeting other than the confidential sessions are being live streamed and recorded.

All in attendance and those addressing Council should refrain from making offensive/defamatory statements as there may be legal implications.

Council takes all care when maintaining privacy, however members of the public gallery and those addressing Council should be aware that you may be recorded.

# INFORMATION FOR PUBLIC ATTENDANCE

Welcome to this evening's meeting. The following information is provided on the meeting and matters which may affect members of the public.

If you have any queries related to procedural matters, please contact a member of staff.

## Ordinary Council Meetings – Procedures

1. Council Meetings are open to the public, except for Confidential Items listed on the Agenda.

2. Members of the public who are unfamiliar with meeting proceedings are invited to seek advice prior to the meeting from a City Staff Member.

3. To facilitate the smooth running of the meeting, silence is to be observed in the public gallery at all times.

4. All other arrangements are in general accordance with Council's Standing Orders, the Policies and decision of the City or Council.

## Deputations and Public Question Time

These sessions in the Council Meeting provides an opportunity for people to ask any question of the Council or speak publicly on any matter.

### Public Question Time

Public Question Time session will be conducted in accordance with the provisions of the Local Government Act and the City's Standing Orders.

Where a member of the public raises a question during Public Question Time, a response will be provided where Councillors or staff have the necessary information at hand; if not, a reply will be provided at a later time. There is a limit of one question per speaker per meeting.

### Deputations

All speakers are limited to ten minutes, with a one-minute warning given to speakers prior to the ten-minute time period elapsing. The commencement and conclusion of time shall be advised by the Mayor/Chairperson.

It should be noted that speakers at Council meetings do not enjoy any protection from parliamentary-style privilege. Therefore, they are subject to the risk of defamation action if they make comments about individuals.

In the event that speaker makes potentially offensive or defamatory remarks about any person, the Mayor/Chairperson will ask them to refrain from such comments.

The Mayor/Chairperson has the discretion to withdraw the privilege to speak where a speaker continues to make inappropriate or offensive comments about another person, or make a point of order ruling if a speaker breaches the Guidelines.

Only the audio recording of the public address speakers will be heard on Council's webcast. Visual images of the speaker will not be captured as part of that webcast.

# Schedule of Agenda Briefing Forums a Council Meetings - 2026

Ordinary Meetings of Council (OCM) commence at 6:30pm.
Public Agenda Briefing Forums (Agenda Briefing) commence at 6:30pm.

| | Agenda Briefing | Ordinary Council |
|---|---|---|
| February | Tuesday 10 | Tuesday 24 |
| March | Tuesday 10 | Tuesday 24 |
| April | Tuesday 14 | Tuesday 28 |
| May | Tuesday 12 | Tuesday 26 |
| June | Tuesday 9 | Tuesday 23 |
| July | Tuesday 14 | Tuesday 28 |
| August | Tuesday 11 | Tuesday 25 |
| September | Tuesday 8 | Tuesday 22 |
| October | Tuesday 13 | Tuesday 27 |
| November | Tuesday 10 | Tuesday 24 |
| December | Tuesday 1 | Tuesday 8 |

# INDEX

## 1. Official Opening

## 2. Attendance, Apologies and Leave of Absence Previously Approved

## 3. Public Question Time

### 3.1. Questions Taken on Notice at Previous Meeting

3.1.1 Nil.

### 3.2. Public Question Time

## 4. Petitions/Deputations

## 5. Applications for Leave of Absence

## 6. Confirmation of Minutes from Previous Meeting

That the Minutes of the Ordinary Council Meeting held on 25 August 2026, as published and circulated, are confirmed as a true and accurate record of the proceedings.

Moved:

Seconded:

Vote:

**Statement by Presiding Member**
*"On the basis of the above Motion, I now sign the Minutes as a true and accurate record of the meeting of 25 August 2026."*

## 7. Announcements by the Member Presiding Without Discussion

## 8. Matters for Which the Meeting may be Closed

8.1 Kalamunda Environmental and Sustainability Reference Group Nominations **Confidential Attachment** – 1. Confidential Attachment 1 Kalamunda Environmental and Sustainability Reference Group Nominations Updated.

Reason for Confidentiality: *Information relating to the personal affairs of an individual [Act s. 5.23(4)(b)]*

8.2 Item 10.6.2 Debtors and Creditors Reports for the month of August 2026 **Confidential Attachment** – Creditor Payments for the Period Ended 31 August 2026 ( Confidential)

Reason for Confidentiality: *Information the making public of which would be likely to endanger the security (including cyber-security) of any of the local government's property or operations [Act s. 5.23(4)(e)]*

8.3 Item 10.7.2 Strategic Risk Register **Confidential Attachment** – Strategic Risk Report

Reason for Confidentiality: *Information the making public of which would be likely to endanger the security (including cybersecurity) of any of the local government's property or operations" [Act s.5.23(4)(e)]*

## 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 5.65 of the *Local Government Act 1995*.)

b) Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Section 5.70 of the *Local Government Act 1995*.)

### 9.2 Disclosure of Interest Affecting Impartiality

a) Members must disclose an interest in matters to be discussed at the meeting that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest (Regulation 22 of the *Local Government (Model Code of Conduct) Regulations 2021*).

b) Employees must disclose an interest in matters in which reports or advice are provided to Council in which the employee has, or could be reasonably be perceived to, have an interest adversely affecting the employees' impartiality in the matter (Code of Conduct for Employees).

# 10. Reports to Council

## 10.1. Development Reports

### 10.1.1. Local Planning Policy 1.0 Development Assessment

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

| | |
|---|---|
| Previous Items | OCM2026/97 |
| Directorate | Development |
| Business Unit | Statutory Approvals |
| File Reference | 3.009297 |
| Applicant | Nil |
| Owner | Nil |
| Voting Requirements | Simple Majority |
| Attachments | 1. Submission Table [**10.1.1.2** - 31 pages]<br>2. Development Assessment Policy DRAFT V2 for Adoption [**10.1.1.3** - 14 pages] |

**TYPE OF REPORT**

Legislative

Includes adopting Local Laws and Town Planning Schemes. 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.

**EXECUTIVE SUMMARY**

1. The purpose of this report is for Council to consider a revised Draft Local Planning Policy 1.0 – Development Assessment (Policy) for adoption, and feedback received during the consultation period.

2. The draft Policy provides a planning instrument which clarifies the City of Kalamunda’s approach to development assessment and alignment with the City’s values. It respects the needs of both the City’s applicants, and the regulatory requirements of the relevant planning framework.

3. Amendments to the original Public Agenda Briefing (PAB) version of this report have been made at points 21, 23, and Attachment 2 Table 3 in response to questions at the PAB.

4. The recommendation is for Council to adopt the draft Policy as amended which responds to themes of feedback from the community.

**OFFICER RECOMMENDATION**

That Council:

1. NOTE the submissions received during the public advertising of draft Local Planning Policy 1.0 – Development Assessment and the responses to those submissions attached to this report.

2. ADOPT Local Planning Policy 1.0 – Development Assessment in accordance with Schedule 2, Part 2, Clause 4(3)(b)(ii) of the Planning and Development (Local Planning Schemes) Regulations 2015.

3. REQUEST the Chief Executive Officer conduct a Health Check of the City's Local Planning Policies to ensure they are contemporary and effective in achieving the outcomes identified in the City's planning strategies.

**BACKGROUND**

4. Local Governments have a critical role implementing state government legislation, including undertaking development assessment delegated from the Planning and Development (Loal Planning Schemes) Regulations 2015, and Planning and Development (Development Assessment Panel) Regulations 2011.

5. While there are key legislated elements of the development assessment process, many procedural elements and principles of planning law often lack transparency as they are conducted behind closed doors.

7. At Council's Ordinary Council Meeting of 24 June 2025, Council resolved (OCM 2025/99) that:

*The Chief Executive Officer:*

1. *Develop a performance improvement plan to address the results of the MARKYT Scorecard in relation to the Planning and Approvals feedback.*

2. *Present the draft plan to council for consideration and adoption at the August Ordinary Council Meeting.*

8. The Approval Services Regulatory Improvement Plan (ASRIP) was presented, and noted by Council at the August 2025 OCM.

9. The City's Local Planning Policy's (LPP) contribute to the customer experience and regulatory processes. The key LPP's linked to the regulatory customer experience include:

   LPP 11 – Public Notification of Planning Proposals

   LPP 17 – Planning Administration

   LPP 16 – Design Review Panels

   LPP 7 – Compliance

10. These policies, and the LPP framework require updating to ensure council expectations can be achieved.

    A new LPP – the Development Assessment Policy is the cornerstone of the ASRIP by delivering improved customer service, with a focus on best practice and continuous improvement by:

    a) Providing a transparent and accountable policy and processes for applicants.
    b) Alignment to best practice guidelines.
    c) Promoting and supporting a continuous improvement culture; and
    d) Innovation through process improvement and technology to ensure assessment-ready applications.

11. While this report deals with only one Local Planning Policy, it is important that the Administration undertakes a structured review of the remainder of the existing Local Planning Policies to ensure their effectiveness and consistency with community expectations. Local Planning Policies deal with any ambiguity in the default planning framework and provide local nuance. The Officer Recommendation includes a direction to complete a policy 'health check'.

**COMMENT**

12. The Policy aims to facilitate improved customer experience by:-

    a) Providing a transparent process and expectations to guide applicants through the complex standards of the planning framework;
    b) Establishing industry leading best-practice approaches to development assessment;
    c) Establishing genuinely streamlined workflows that allow for fast approvals; and,

d) Providing a permission-based approach to development by removing the requirement for development approval for minor, or low-impact development that demonstrates a good planning outcome.

13. The Policy applies to all applications for development and subdivision that the City of Kalamunda is responsible for either providing recommendations or comments on proposed development to determining authorities, or is the determining authority.

    Nothing in the Policy removes the local government's discretion to require Development Approval where it is considered that a proposal may result in unacceptable impacts or where required under the Local Planning Scheme and in consideration of Clause 67 of the Deemed Provisions.

14. The Policy clarifies three critical elements of the Development Application process which can impact customer experience and timely decisions on development applications

15. The first is the quality of applications, the second is fit for purpose engagement, and the last is meaningful exemptions.

16. *Application Quality*

    The Administration has trialled strategies over the last nine months to identify reform initiatives that would ultimately deliver faster development decisions.

    A key trial was modelling of additional statutory planners. While this was effective in delivering faster assessments, it is resource intensive and was not a meaningful reform. It was also at risk of incoming, and outgoing bottlenecks.

    Another key trial was modelling the impact of providing post-approval support in the form of a development liaison resource.

    Application quality was modelled to have an impact at all three phases of development application assessment (pre-lodgement, formal assessment, post-determination). The draft Policy provides clarity for applicants and the Administration on expectations regarding the quality of applications, through the abovementioned phases.

17. *Regulatory Focused Engagement*

    The Administration has completed case studies on applications that have been subject to neighbour consultation, to consider the different impacts of asking neighbours for comment.

At a statutory level, the planning timeframes extend from 60 days to 90 days. The Administration’s case studies show that a 14 day advertising period is often a 45 day disruption to the assessment when advertising preparation, advertising period, consideration of submissions, and negotiation tasks are completed.

Key observations include

1. For minor development changes are rare after advertising;
2. Resource demand across the organisation to complete advertising; and
3. The Administration often turns from assessing Officer, to neighbour mediator.

The draft Policy provides guidance to the Administration and community on the limits of effective regulatory consultation and introduces IAP2 aligned engagement principles.

The IAP2 Engagement refers to the practice of community and stakeholder engagement, which is a process that involves working across organisation, stakeholders and communities to shape decisions or actions related to a problem, outcome or opportunity. IAP2 Engagement is guided by culturally adaptive standards of practice and core values, aiming to promote and advance public participation and community engagement. Council's Enterprise Project Management Office (EPMO) have also aligned to these engagement practices.

The planning framework facilitates collaboration and empowering levels of engagement, however these are typically at the higher-level stages of planning (such as planning strategies), rather than development assessments. The draft Policy facilitates a shift towards an informing approach to engagement during development assessments.

For clarity, this does mean that a greater proportion of development applications may not be advertised, to provide timely development determinations.

18. *Meaningful Exemptions*

The Administration notes that recently several local governments have released exemption policies as a reform measure. Whilst exemptions are likely to have an impact, provided they are genuine, in time planning reform at the state level is likely to add back in complexity for planning assessments. Exemptions are likely to provide short term impact.

The draft Policy provides a permission-based approach to development by removing the requirement for development approval for minor, or low-impact development that demonstrates a good planning outcome.

The exemptions tables are likely to require periodic updates as the planning framework shifts; these changes can be accommodated when the Policy is subject to scheduled review.

19. Engagement

During the consultation period the Administration received eight submissions. Two supporting the draft, five objecting, and one submission of comment on unrelated matters.

20. Key themes of the submissions supporting the draft Policy are;

- an acknowledgement of the intent to deliver a more customer focused assessment process by providing increased clarity, and
- assessment principles that are forecast to deliver timely decisions on development applications.

21. There is one change to the draft Policy in response to a submission of support which identified that there are some proposals of particular community interest that – consistent with the draft Policy's focus on increasing trust of the planning system – is a new provision which makes it clear to assessing Officers and applicants that simpler applications on a site with other more complex approvals should have regard to that history before considering the advertising discretion of the draft Policy.

22. The five submissions of objection raised concerns regarding:

- the delegation levels;
- significant proposals would not be advertised;
- general legality; and
- consideration of the environment.

The draft Policy does not propose any changes to existing delegations and is focused on the cohort of development applications at the simple, minor level – and does not impact proposals of significant community interest. Significant proposals – in terms of their community engagement process – will continue to be guided by the existing Local Planning Policy 11 – Public Notification of Planning Proposals.

Local Governments can create Local Planning Policies through the Planning Regulations for planning matters, including exemptions. Determining authorities are required to have regard for all relevant Local Planning Policies prior to determining an application for Development Approval. The Administration forecasts the draft Policy to provide clarity on procedural matters, and where discretion is referenced – it is only to discretion that already exists within the planning framework – rather than creating new discretion.

The draft Policy does reference the environment - among other planning matters - being important considerations of development assessment. The consideration of relevant planning matters for each application is set by the default state planning framework and provided nuance through the City's suite of local planning policies.

23. The Administration has not proposed any modifications to respond to the concerns raised in submissions, given the sound planning nature of the draft Policy.

24. The Administration has made a further change to Table 3 which proposes modifications to the R-Codes, by removing modifications to lot boundary setbacks (5.1.3 – C3.1(ii). This modification (and the entire draft Policy) were referred to the Western Australian Planning Commission (WAPC), but no response has been received at the time of the report being drafted. The Administration will pursue the consideration of lot boundary setback flexibility with the WAPC in the future.

25. The Administrations internal testing of the draft Policy has identified that greater flexibility – consistent with the objectives of the draft Policy – can be achieved if the exemption reference to fire fighting tanks is changed to refer just to water tanks. This broader reference provides flexibility for water tank installations across the City for other purposes, such as resource certainty, and sustainability.

**OPTIONS**

26. Option 1 - Adopt the Draft Policy in accordance with the Officer Recommendation.

    Adopting the draft Policy would be consistent with Council's endorsed ASRIP, which is the City's lead program facilitating reform of the local planning framework at the Local Government level.

27. Option 2 - Modify the Draft Policy to dial up or down its impact on the planning framework, to achieve the objectives of the draft Policy.

Modifications should be considered with the whole planning framework in mind, as some parts of the planning framework are not able to be amended – or if changed, may have unintended consequences.

The only option with potential for unplanned resource impact is the option to modify the draft Policy in a different manner to the Officer Recommendation. Clarification of the impact of a modification can be provided on a case-by-case basis.

28. Option 3 - Not adopt the draft Policy, leaving the local planning framework in its current state.

**LEGISLATIVE CONSIDERATIONS**

29. *Planning and Development Act 2005 (P&D Act 2005)*

The P&D Act 2005 is legislation that establishes Western Australia's land use planning system and promotes the sustainable use and development of land in the State.

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

Schedule 2, Part 2, cl.4 (2)

*"The period for making submissions … must not be less than the period of 21 days after the day on which the notice is first published …"*

Schedule 2, Part 2, cl.4 (3)

"*After the expiry of the period within which submissions may be made the local government must –*

*a) review the proposed policy in light of any submissions made: and*
*b) resolve to-*
  *i. proceed with the policy without modification; or*
  *ii. proceed with the policy with modifications; or*
  iii. *not to proceed with the policy."*

Schedule 2, Part 2, cl.4 (3A)

*"The local government must not resolve under subclause (3) to proceed with the policy if –*

*a) the proposed policy amends or replaces a deemed-to-comply provision of the R-Codes; and*
*b) under the R-Codes, the Commission's approval is required for the policy; and*

c) *the Commission has not approved the policy."*

Schedule 2, Part 2, cl.5 (4)

*"If the local government resolves to proceed with the policy, the local government must publish notice of the policy in accordance with clause 87."*

**POLICY CONSIDERATIONS**

31. Local Planning Policy 11 - Public Notification of Planning Proposals identifies a minimum advertising period of 21 days for a local planning policy.

    The City has met the statutory requirement of establishing a new local planning policy, which is tabled for Council's decision.

**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.
***Strategy 1.1.2*** - Empower, support and engage all of the community.

**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.

**Priority 3: Kalamunda Develops**
**Objective 3.4** - To be recognised as a preferred tourism destination.
***Strategy 3.4.1*** - Facilitate, support and promote, activities and places to visit.

**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.

## COMMUNITY AND STAKEHOLDER ENGAGEMENT

| Internal Engagement | |
|---|---|
| Process | Outcome |
| Workshop | As noted earlier in this report, a workshop of the draft Policy highlighted a change to the exemption to water tanks would be consistent with the objectives of the draft Policy. |

| External Engagement | |
|---|---|
| Process | Outcome |
| The draft Policy was advertised on the City’s engagement platform for 21 days, and a notice was published in the Echo newspaper inviting comment. | The Schedule of Submissions is attached to this report. |

## FINANCIAL CONSIDERATIONS

32. The draft Policy is forecast to have a minor financial impact due to less applications being assessed, and exemptions to the requirement to obtain development approval being used.

33. The procedural improvements identified in the draft Policy are expected to occur within existing resource levels, but it does require shifts in resource allocation within the Statutory Approvals teams.

## SUSTAINABILITY

34. Social

    The draft Policy is forecast to improve neighbour relationships by getting neighbour engagement right.

35. Economic

    The draft Policy is forecast to have a positive economic impact, by facilitating timely planning decisions which allow applicants to progress through the development approval stage of their project.

36. Environmental

    The draft Policy has no known environmental impact. Matters that require consideration of environmental considerations would be deemed as Significant proposals – in terms of their community engagement process – and will continue to be guided by the existing Local Planning Policy 11 – Public Notification of Planning Proposals.

**RISK MANAGEMENT**

| Consequence | Event | Rating | Action |
|---|---|---|---|
| Financial | Reduction in Application Fee's | Low | Not applicable. |
| Health & Safety | Injury occurs due to exemption being applied. | Low | Not applicable. |
| Reputation | Council improving the planning framework to increase certainty impact neighbours' expectations to make comment. | Medium | Monitor policy implementation, and report back to Council if changes are required. |
| Operation | Improved operating environment fails to improve execrations of community. | Medium | Monitor policy implementation, and report back to Council if changes are required. |
| Environment | Minor environmental damage or contamination occurs due to policy being applied. | Low | Not applicable. |
| Compliance | Minor breach of policy, or process requiring approval or variance occurring | Low | Monitor policy implementation, and report back to Council if changes are required. |
| Project | Small variation to cost , timelines, scope or quality of objectives and required outcomes to achieved by policy | Low | Monitor policy implementation, and report back to Council if changes are required. |

**REGIONAL SIGNIFICANCE**

37. The draft Policy is not of regional significance, although it is an innovative response to long-standing planning issues within the City of Kalamunda.

38. It's likely that elements of this policy approach will be replicated and filter into other Council's respective planning frameworks.

**CONCLUSION**

39. The revised draft Local Planning Policy 1.0 – Development Assessment provides a sound and proportionate tool within the City’s planning framework to guide exemptions, assessments, meaningful engagement, and recommendations.

40. The revised draft Local Planning Policy 1.0 – Development Assessment is an important element of the Approval Services Regulatory Improvement Plan (ASRIP) which was developed in response to the 2024 Markyt Community Survey.

## 10.2. Infrastructure Reports

### 10.2.1. Kalamunda Environmental and Sustainability Reference Group Nominations

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

| | |
|---|---|
| Previous Items | OCM 47/2022; OCM 61/2022; OCM 187/2023; OCM 74/2024 |
| Directorate | Infrastructure |
| Business Unit | Asset Planning |
| File Reference | 3.009047 |
| Applicant | N/A |
| Owner | N/A |
| Voting Requirements | **Simple Majority** |
| Attachments | 1. Attachment 1 - Kalamunda Environmental & Sustainability Reference Group TOR [**10.2.1.1** - 7 pages] |
| Confidential Attachments | 2. Confidential Attachment 1 Kalamunda Environmental and Sustainability Reference Group Nominations Updated<br>Reason for Confidentiality: *Information relating to the personal affairs of an individual [Act s. 5.23(4)(b)]* |

**TYPE OF REPORT**

Executive

When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans, policies and budgets)

**EXECUTIVE SUMMARY**

1. The purpose of this report is for Council to appoint five community representatives to the Kalamunda Environmental and Sustainability Reference Group (KESRG) for the period September 2026 to September 2028 (Confidential Attachment 1).

2. Council have been provided with the Terms of Reference (Attachment 1) which outlines the purpose, objectives and roles and responsibilities of the reference group.

3. Following the Public Agenda Forum, the Confidential Attachment was reviewed and corrected. However, recommended selection of nominees remains the same.

**OFFICER RECOMMENDATION**

That Council:

1. APPOINT the five nominated representatives to the Kalamunda Environmental and Sustainability Reference Group, as per Confidential Attachment 1, for a term of 2 (two) years.

2. NOMINATE and APPOINT an Elected Member Representative and a Deputy Representative to the Kalamunda Environmental and Sustainability Reference Group for a term ending 16 October 2027.

3. ADOPT the Kalamunda Environmental and Sustainability Reference Group Terms of Reference as per Attachment 1.

**BACKGROUND**

4. Advisory committees, advisory groups and reference groups are commonly used by Councils as an advisory mechanism as way to test and inform approaches to specific matters. Members are appointed to these groups by resolution of Council under Terms of Reference, which specify the purpose, functions and roles of the group.

5. The City of Kalamunda (City) has historically had a number of Advisory Committees of Council which generally transitioned to advisory groups in 2023. The most recent version of the KESRG was the Kalamunda Environmental and Sustainability Advisory Group (KESAG), which was established at the 28 October 2023 Special Council Meeting for a two-year period.

6. Due to an organisational restructure at the City and departure of the environmental lead for the group, the group was temporarily paused until February 2026.

7. In early 2026, an internal review of the structure and effectiveness of KESAG was undertaken. The review concluded that transitioning to a reference group would provide a more suitable governance model than the existing advisory group or committee structure. A reference group offers greater flexibility to focus on specific issues, facilitates focussed discussion, and provides a more effective forum for testing, refining, and developing ideas and approaches

relating to environmental matters with the advice and support of group members.

**COMMENT**

8. Advertising for nominations for the KESRG opened Monday 18 May 2026 and closed Friday 26 June 2026. Advertising was undertaken on the City's website homepage and social media channels. Paper nomination forms and Terms of Reference were supplied to the Kalamunda Administration front counter. A total of seven nominations were received.

9. The candidates were assessed by the City against the criteria matrix endorsed as per Governance Policy 13.

| Selection Criteria | Weighting |
|---|---|
| Knowledge, experience, or qualifications of the topics the Committee/Group will be required to address. | 20% |
| Ability to demonstrate previous experience working in teams and groups. | 20% |
| Demonstrate how they will act as an advocate for the city always displaying positive intent and the ability to represent the interests of other people, including those who might be less vocal or harder to reach. | 20% |
| Applicants demonstrating, they are from cultural and linguist diverse backgrounds | 20% |
| The ability to allocate the necessary time to attend meetings and read documentation prior to the meeting. | 10% |
| Applicants that have not participated in any previous advisory committees enabling new talent to be attracted to committees that may not have as much experience as existing members. | 10% |

10. It is noted that the majority of nominees reside within Kalamunda, with limited representation from other areas of the City. This concentration of membership may result in a stronger focus and local knowledge associated with environmental issues specific to Kalamunda, potentially at the expense of broader environmental considerations or the unique environmental challenges, priorities, and opportunities affecting other parts of the City. A more geographically diverse membership would assist in ensuring environmental matters are considered from a whole-of-City perspective, and bring in a broader range of local knowledge for a wider spread of areas.

11. Candidates with the top (averaged) assessment scores are nominated to Council for appointment. See Confidential Attachment 1. The Terms of Reference also identify that an Elected Member representative will also be appointed to the group as well as a Deputy Elected Member representative.

12. Minor modifications were made to the previous Terms of Reference to develop the new Terms of Reference, proposed for Council Endorsement as part of this report to ensure the terms align with the changes made to convert the Advisory Group to a Reference Group.

**OPTIONS**

13. Option 1 – As per Officer Recommendation

    Council appoints the five recommended nominees presented in this report to the KESRG. The nominees will be advised of their appointment and the KESRG will be formally re-established with a new Terms of Reference and operating as a Reference Group rather than an Advisory group.

14. Option 2 – Readvertise for broader representation

    Council may disagree with nominee recommendations due to the concentration of nominees residing in and around Kalamunda (3 Kalamunda, 1 Gooseberry Hill and 1 Forrestfield), and recommended appointments therefore having limited representation across all City wards.

    An option may be to readvertise and focus on advertising more heavily in wards that are currently under-represented. This would likely incur additional advertising costs, particularly if focussing a campaign aimed at generating additional applications and from specific areas.

15. Option 3 – Do not establish group

    Council decides to not proceed with the establishment of the KESRG. All nominees will be notified that they have been unsuccessful and that the reference group will not proceed.

**LEGISLATIVE CONSIDERATIONS**

16. *Local Government Act 1995*

**POLICY CONSIDERATIONS**

17. Governance 13 – Appointment of Community Members to Advisory Committees and Reference Groups

## 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 2.1.2*** - Development and Implementation of the Urban Forest Strategy.
***Strategy 2.1.3*** - Development and implementation of the Local Biodiversity Strategy
***Strategy 2.1.5*** - Community engagement and education in environmental management.

## COMMUNITY AND STAKEHOLDER ENGAGEMENT

| Internal Engagement | |
|---|---|
| **Process** | **Outcome** |
| An internal review of the structure and effectiveness of the former KESAG was undertaken in early 2026. The review involved the Infrastructure Director, asset planning and development team members, governance team and Community Director. The proposal was presented and workshopped with Council in February 2026. | It was determined that a reference group structure would be more appropriate than an advisory group structure.<br><br>The Terms of Reference were updated the reflect this change. |
| Following the advertisement process, the nominations were assessed by three staff members. Staff were from the Asset Planning, Parks & Engineering and Statutory Approvals teams. Recommendations were submitted to the Asset Planning Manager and Infrastructure Director for review. The recommendations were reviewed by the Kalamunda Leadership Team. | Five out of seven nominees were recommendation for appointment to Council. |

| External Engagement | |
|---|---|
| **Process** | **Outcome** |
| A meeting was held with the previous KESAG Chair on 20 January 2026 to facilitate introductions with new leads and discuss the group model and potential new model for the group. | The proposed 'reference group' model was discussed and was supported. |
| A meeting was held with the previous Elected Member Advisory Group representatives, Cr Ritchie and Cr Cooper, on 27 January 2026 to discuss the Chair feedback. | The feedback was discussed and the proposed 'reference group' model was supported. |
| Advertising for nominations began Monday 18 May 2026 and closed Friday 26 June 2026, a period of 26 days. Advertising was undertaken was undertaken on the City's website homepage and social media channels. Paper nomination forms and Terms of Reference were supplied to the Kalamunda front counter. On Facebook, the advertisements were viewed by 9,500 people, 469 of which clicked the link to the nominations page. | The advertising period exceeded the minimum period of three weeks as per Governance Policy 13.<br><br>A total of seven nominations were received. |

**FINANCIAL CONSIDERATIONS**

18. The City will allocate time and resources to support the operation of the KESRG.

19. Based on the following estimated administration time per meeting and the assumption of 4 meetings per year, the cost of the reference group will be in the order of $8,000 - $9,000 per annum.

| Hours / Meeting | Activity |
|---|---|
| 4 | Meeting agenda preparation |
| 16 | Research for briefing papers |
| 2 | Meeting attendance (2 staff) |
| 3 | Minutes |
| 4 | Review and sign-off (senior officer) |
| 4 | General liaison |
| 4 | Reports to Council (if applicable) |

**SUSTAINABILITY**

20. **Social**

Reference groups are a focussed pathway for the City to engage with the community and seek community feedback.

21. **Economic**

N/A

22. **Environmental**

Reference groups nominate community representatives with expertise on environmental issues who can provide advice and support to the City to achieve better environmental outcomes. This group is intended to specifically focus on achieving the broad environmental objectives of the City by supporting the achievement of actions within endorsed Strategies.

**RISK MANAGEMENT**

| Consequence | Event | Rating | Action |
|---|---|---|---|
| **Financial** | The reference group do not function or operate to achieve outcomes and become a cost to the City rather than a benefit. | Low | The terms of reference outline the purpose, objectives, expectations, roles and responsibilities of the reference group. The terms of reference provided to nominees during advertisement period.<br><br>City officers will provide guidance and support on the group's operations. |
| **Health & Safety** | The meetings of the reference group are not flexible or inclusive to allow participation. | Low | Structure meetings to provide flexibility in mode of attendance (team meetings). |

| Consequence | Event | Rating | Action |
|---|---|---|---|
| **Reputation** | The goals of the reference group do not align with the goals, objectives and strategies of the City and the City receives negative feedback. | Medium | The terms of reference outline the purpose, objectives, expectations, roles and responsibilities of the reference group. The terms of reference were provided to nominees during the advertisement period.<br><br>City officers will provide guidance and support to manage expectations. |
| **Operation** | The reference group do not support the City's operations or projects which creates a conflict between the City and reference group which hinders City operations. | Low | The terms of reference outline the purpose, objectives, expectations, roles and responsibilities of the reference group. The terms of reference provided to nominees during advertisement period.<br><br>City officers will provide guidance and support to guide the group's expectations and operations. |
| **Environment** | The reference group representatives do not have knowledge or experience in the environment or sustainability. | Low | The nominations are reviewed by the City before submission to Council. The nominees are assessed against criteria, one of which is the knowledge, qualification and experience of the nominees, in accordance with the Governance Policy 13. |
| | Limited geographic representation may result in environmental matters being considered from a predominantly Kalamunda Ward perspective, reducing consideration of environmental issues and priorities across the wider City. | Medium | This risk is partially mitigated by aligning the group's activities with the City's endorsed environmental strategies. Rather than determining topics independently, City officers will establish meeting agendas and discussion items based on endorsed Strategy priorities, with the aim of facilitating knowledge sharing, informed discussion, and the generation of ideas to support |

| | | | |
|---|---|---|---|
| | | | the delivery of Strategy actions. While this approach will help maintain a broader, whole-of-City focus, there remains a risk that members' contributions will be influenced by their local knowledge and experiences, which – although valuable knowledge - may result in discussions being more heavily informed by issues and perspectives from their local area. |
| **Compliance** | The reference group or representatives have conflicts of interest. | Low | The Terms of Reference include a clause requiring group member to disclose conflicts of interest. |
| **Project** | The reference group do not support City's managed projects/proposals. | Low | The terms of reference outline the purpose, objectives, expectations, roles and responsibilities of the reference group. The terms of reference provided to nominees during advertisement period.<br><br>City officers will provide guidance and support to guide the group's expectations and operations. |

**REGIONAL SIGNIFICANCE**

23. N/A

**CONCLUSION**

24. Upon Council appointment of community representatives, the KESRG will be formally re-established under a new reference group structure for a two-year term.

## 10.3. Corporate Reports

No reports presented.

## 10.4. Community Reports

No reports presented.

## 10.5. Office of the CEO Reports

### 10.5.1. Policy Reviews

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

| | |
|---|---|
| Previous Items | N/A |
| Directorate | Office of the CEO |
| Business Unit | Governance |
| File Reference | N/A |
| Applicant | N/A |
| Owner | N/A |
| Voting Requirements | **Simple Majority** |
| Attachments | 1. DRAFT - Governance 15 - Payments to employees (Final) [**10.5.1.1** - 2 pages]<br>2. DRAFT - Governance 15 - Payments to employees (marked up) [**10.5.1.2** - 3 pages]<br>3. DRAFT - Governance 21 - Freeman of the City (Final) [**10.5.1.3** - 4 pages]<br>4. DRAFT - Governance 21 - Freeman of the City (marked up) [**10.5.1.4** - 4 pages] |

**TYPE OF REPORT**

**Executive**

When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans, policies and budgets)

**EXECUTIVE SUMMARY**

1. Council policies are presented for review as follows:

    - Governance 15 – Payments to Employees (Recognition of Service)

- Governance 21 – Freeman of the City

2. The policies listed above have not been reviewed by Council since 2021 and require review to account for changes to legislation and administrative practices at the City since that time.

**OFFICER RECOMMENDATION**

That Council ADOPT the recommended amendments to the following policies, as shown in the attachments:

a) Governance 15 – Payments to Employees (Recognition of Service) (Attachment 1)
b) Governance 21 – Freeman of the City (Attachment 3)

**BACKGROUND**

4. Periodic policy reviews are a requisite feature of good governance to ensure the guidelines around the use of statutory powers are up-to-date, lawful and suit the needs of the local government, expectations of the community, and are fit for purpose.

5. Changes made to the *Local Government Act 1995* (Act) as part of overarching local government reforms by the State Government require local governments to update policies for a range of matters (where the Act requires policies to deal with specific items).

6. Council previously received a report on 24 February 2026 (OCM 2026/07) to review and update other policies relating to requirements prescribed by the Act (Elected Member Travel being one example).

**COMMENT**

7. Officers have reviewed these policies in detail and present drafts to update or replace them. All are presented in 'track changes' format.

8. **Governance 15 – Payments to Employees (Recognition of Service)**

   This policy allows for the recognition of employees whose employment with the City is ending by voluntary means, linked to the length of their service. Amendments have been made to the Policy to remove detailed reference to sections of the *Local Government Act 1995*, assisting in keeping the policy current. Amendments have also been made to better explain the purpose and what is allowable as recognition for employees by way of gift card. Further clarification on the eligibility for employees in relation to the specific recognition allowable within this Policy has also been proposed.

The introduction of the *Local Government (Long Service Leave) Regulations 2024* updated the long service leave scheme for local government employees. All local governments in Western Australia are now subject to State workplace law in the making of Industrial Agreements. This has been reflected in the amended policy.

The amended policy is at Attachment 1 with the marked up changes to the policy shown at Attachment 2.

9. **Governance 21 – Freeman of the City**

Minor amendments to this policy are identified, mostly for purposes of improving grammar and defined terms, with an inclusion limiting the conferral of Freeman of the City to one within a 12 month period. The reviewed policy has also been updated to remove irrelevant legislative references.

The amended policy is at Attachment 3 with the marked up changes to the policy shown at Attachment 4.

**OPTIONS**

10. Option 1 – As per Officer Recommendation

Council may adopt the recommended policy changes as proposed.

11. Option 2 – Additional changes

Council may adopt the reviewed policies with any additional changes identified as an amendment to the Officer Recommendation.

12. Option 3 – Not approve

Council may reject the proposed changes, retain the policies as they are and review again in two years.

**LEGISLATIVE CONSIDERATIONS**

13. *Local Government Act 1995*

s.2.7 Role of Council
(b) determining the local government’s policies

s.5.50 Payments to employees in addition to contract or award

**POLICY CONSIDERATIONS**

14. The proposal is to amend the existing policies.

**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.

**COMMUNITY AND STAKEHOLDER ENGAGEMENT**

| **Internal Engagement** | |
|---|---|
| **Process** | **Outcome** |
| Business units were consulted on the operation of the policies and any needed changes | Amendments recommended, where necessary |

| **External Engagement** | |
|---|---|
| **Process** | **Outcome** |
| N/A | N/A |

**FINANCIAL CONSIDERATIONS**

15. N/A

**SUSTAINABILITY**

16. Social

Regular policy reviews are a cornerstone of good governance to maintain community confidence in Council; and to ensure appropriate transparency and limitations are included.

17. Economic

N/A

18. Environmental

N/A

**RISK MANAGEMENT**

| Consequence | Event | Rating | Action |
|---|---|---|---|
| **Financial** | N/A | N/A | N/A |
| **Health & Safety** | N/A | N/A | N/A |
| **Reputation** | Lack of appropriate policy structure resulting in improper conduct or lack of awareness | Medium | Adopt recommended policy changes |
| **Operation** | N/A | N/A | N/A |
| **Environment** | N/A | N/A | N/A |
| **Compliance** | Lack of required policies results in City being in breach of the Act | Medium | Adopt recommended policy changes |
| **Project** | N/A | N/A | N/A |

**REGIONAL SIGNIFICANCE**

19. Nil.

**CONCLUSION**

20. Regular reviews of the City's policies will ensure that Council's policy structure remains abreast of legislative changes, community expectations, and are fit for purpose.

21. The amendments proposed to the policies listed support these objectives. It is recommended Council adopt the amendments proposed.

## 10.5.2. Adoption of Proposed Local Government Property Local Law 2026

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

| | |
|---|---|
| Previous Items | OCM 2026/52 |
| Directorate | Office of the Chief Executive Officer |
| Business Unit | Governance |
| File Reference | |
| Applicant | N/A |
| Owner | N/A |
| Voting Requirements | **Absolute Majority** |
| Attachments | 1. Schedule of Submissions (FINAL) [**10.5.2.1** - 26 pages]<br>2. Draft Local Government Property Local Law 2026 (FINAL) [**10.5.2.2** - 32 pages] |

**TYPE OF REPORT**

**Legislative**

Includes adopting Local Laws and Town Planning Schemes. 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.

**EXECUTIVE SUMMARY**

1. At the Ordinary Council Meeting of 26 May 2026 Council resolved to give local public notice of the proposed Local Government Property Local Law 2026 (the proposed local law).

2. The proposed local law is intended to replace the existing Local Government Property Local Law made by Council in 2001, because it is impacted by the repeal provisions contained within the *Local Government Act 1995* (WA) where local laws not reviewed under the previous 8-year review requirement will become repealed if not reviewed or replaced.

3. 15 submissions were received in response to the proposed local law. Where appropriate, amendments have been made to the proposed local law to account for issues raised by some submissions. Other amendments are proposed to correct typographical errors and general structure.
4. It is recommended Council make the proposed local law, as attached to this report.

**OFFICER RECOMMENDATION**

That Council:

1. NOTES the proposed Local Government Property Local Law 2026, as attached to this report, is not significantly different from what was proposed for community consultation by Council at the Ordinary Council Meeting of 26 May 2026;

2. In accordance with section 3.5(1) and section 3.12(4) of the *Local Government Act 1995,* MAKE the Local Government Property Local Law 2026 as attached to this report;

3. AUTHORISE the Chief Executive Officer to –

    a) pursuant to section 3.12(5) of the *Local Government Act 1995*, give a copy of the Local Government Property Local Law 2026 to the Minister for Local Government, and publish the Local Government Property Local Law 2026 in the Government Gazette;

    b) pursuant to section 3.12(6) of the *Local Government Act 1995*, give local public notice in the manner prescribed, specifying the date on which the Local Government Property Local Law 2026 comes into operation, and where it may be viewed by the public; and

    c) pursuant to section 3.12(7) of the *Local Government Act 1995*, give a signed Explanatory Memoranda and Explanatory Memoranda check list, copies of the Local Government Property Local Law 2026 and any other materials required, to the Clerk of the Joint Standing Committee on Delegated Legislation.

**BACKGROUND**

4. The *Local Government Amendment Act 2024* (Amendment Act) was proclaimed on 6 December 2024, with some sections coming into effect the following day. This amendment to the *Local Government Act 1995* (Act) changed the statutory local law review period from 8 years to 15 years, however in the same amendment, the repeal provision was introduced that would repeal local laws not reviewed under the previous 8-year period.

5. This automatic repeal provision impacts the existing Local Government Property Local Law made by Council in 2001, because it has not been reviewed since 2011. Whilst it is understood Council initiated a review process at its Ordinary Council Meeting on 20 June 2011, there is no information available to indicate the review was completed.

6. At its OCM of 26 May 2026 Council resolved to give local public notice of the proposed local law, with publication occurring in accordance with the requirements of the Act inviting submissions to be made to the City. The submission period commenced on Friday 29 May 2026 and ended on 17 July 2026, allowing 7 weeks for submissions (the Act requires 6 weeks).

7. There were 15 public submissions received during the consultation period, and a response from the Department of Local Government, Industry Regulation and Safety (Department) in response to the proposed local law being submitted to the Department pursuant to the Act. No public submissions were received outside the consultation period.

**COMMENT**

8. The proposed local law is based on contemporary examples already in operation in the sector, which are based on the template local law offered by the Western Australian Local Government Association. Property local laws based on this template are well established in the local government sector, containing the same or similar provisions, powers, and offences. The Joint Standing Committee on Delegated Legislation (JSCDL) has previously recommended local governments use template local laws where possible.

9. As required by the Act (s. 3.12(3)(b)(i)), the local law was submitted to the Department on 2 June 2026. Whilst the Department stated that “no critical issues were identified”, the Department requested all cross references be checked for accuracy. This has been done.

**Local government property – general legislative scheme**

10. Aside from the local government's general ability at law to possess and deal in property, a local government's authority over its property is based in the Act under s. 1.4 in the defined term of *local government property* – excepting non-land/building assets in this case:

> ***local government property*** *means anything, whether land or not, that belongs to, or is vested in, or under the care, control or management of, the local government*

11. Local government property primarily concerns real property - land, buildings, premises, and the fittings/fixtures on the property. Other forms of local government property are irrelevant for the purpose of this exercise (e.g. fleet vehicles). The definition of local government property provided by the Act nevertheless includes other forms of property in recognition of the broad array of functions and duties, and obligations local governments have.

12. When considering local government property within the context of local law making, the management, ownership and responsibilities of the local government is to be viewed against section 3.1(2) of the Act:

> ***3.1. General function***
> ...
> *(2) The scope of the general function of a local government is to be construed in the context of its other functions under this Act or any other written law and any constraints imposed by this Act or any other written law on the performance of its functions.*

13. Section 3.5 of the Act further allows local governments to make local laws prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed:

> ***3.5. Legislative power of local governments***
>
> *(1) A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.*

Subsection (3) provides that the power to make a local law under the Act is in addition to any power to make local laws conferred on it by any other Act.

14. In providing these powers, Parliament has expressly given local governments functions concerning reserves under its control and management. This is illustrated by section 3.54 of the Act:

> ***3.54. Reserves under control of local government***
>
> *(1) If land reserved under the Land Administration Act 1997 (WA) is vested in or placed under the control and management of a local government, the local government may do anything for the purpose of controlling and managing that*

*land that it could do under section 5 of the Parks and Reserves Act 1895 if it were a Board appointed under that Act to manage and control the land and for that purpose a reference in that section to a by-law is to be read as a reference to a local law.*

*(2) Subsection (1) is subject to any express provision to the contrary made by an order under the Land Administration Act 1997 (WA) in respect of the land.*

The powers and functions provided by the Act are broad and substantial. Subject to any specific requirements under any management order, the local government may do anything for the purpose of controlling and managing land and reserves as if it were a board constituted under the *Parks and Reserves Act 1895*.

15. The legislative scheme is established that –

- local governments are responsible for local government property;
- local governments may manage local government property as part of their general function under the Act and other written laws;
- local governments may make local laws for matters that are required or permitted, or are necessary or convenient to be regulated by a local law; and
- land and reserves under the control of the local government are not only capable of being managed by the local government as it would with any other local government land, the local government's local laws apply universally to that land.

16. The Supreme Court has tested and affirmed the established legislative scheme for local government property in *Tallott -v- City of Stirling* [2017] WASCA 126 where the court held, in the context of a local government property local law and the local government's powers under those local laws on Crown land –

*190. Under the Local Government Act, the provision of good government for persons in its district is the general function of a local government, and a liberal approach is to be taken to the construction of the scope of the 'general function': s 3.1(1) and s 3.1(3) of the Local Government Act. The scope of the general function of the City is also to be construed in the context of its other functions under any written law: s 3.1(2) of the Local Government Act. This includes its functions under the Land Administration Act in relation to the care, control and management of the land in question. There is nothing comparable in the Local Government Act which deals specifically and in detail with the administration of the land.*

*191. The provisions of cl 9.1 and cl 9.2 of the Local Law, regarding persons 'on local government property' obeying the lawful directions of, and not obstructing, an authorised person in the execution of their duties, and being required 'to leave local government property' in specified circumstances, fall*

> *within the scope of the 'necessary or convenient' power under s 3.5(1) of the Local Government Act.*

The Court's reasoning in *Tallott* recognises that a local government's functions under the Act are to be construed in the context of its other statutory functions, including those arising under the *Land Administration Act 1997* (WA) (LAA) in relation to the management of Crown land.

17. It can be seen therefore the legislative and common law scheme for the regulation of local government property, and the local government's powers applicable to that function, are well established. It recognises that provisions regulating conduct on local government property, including compliance with lawful directions and other measures that are necessary and convenient for the orderly administration of local government property, legitimately fall within the scope of the local law-making power conferred by s. 3.5(1) of the Act, having regard to the other aforementioned statutory obligations.

18. It is not just convenient for local governments to have an effective and lawful regulatory scheme for activities on land the local government is responsible for, but also necessary.

**PUBLIC SUBMISSIONS – GENERAL THEMATIC ISSUES RAISED**

19. 15 public submissions were received by the City in response to the advertisement of the proposed local law (excluding a response from the Department). Three were from organisations, with the remainder being from individuals. Specific issues or questions arising from individual submissions are addressed in the schedule of submissions accompanying this report (Attachment 1).

20. The majority of the submissions generally objected to the proposed local law and its provisions. A number of submissions appear to be duplicates of one another, using identical sentences, paragraphs and construction.

**Perceived impact on sports clubs and other licence holders**

21. Submissions by sports clubs that use Ray Owen Reserve expressed concern that some provisions of the proposed local law will inhibit or curtail lawful activities associated with the normal operation of a sports club. The crux of this argument appears to be that the proposed local law would require permits to be obtained for activities listed, which are activities routinely performed by sports clubs, and due to the licence agreements of the sports clubs not expressly referencing those activities, permits are required thus creating an unworkable administrative burden for licence holders.

22. If a local government has entered into a lease or licence agreement with anyone (regardless of the local government's tenure of the land), the local government

has done so in exercise of its executive functions as a lawful property owner. Naturally this is conditional on the operation of other laws that expressly deal with the tenure or assignment of interests of some types of land (i.e. the LAA), however the overall premise is that local governments are generally free to enter into a lease or licence agreement with a person, and that lease or licence agreement has its own legal standing, as recognised by the courts.

23. The proposed local law recognises the need for legitimately established lease, licence, hire and approved activities to continue, as expressly provided by a transitional clause (clause 1.8).

24. Because a lease or licence agreement has its own legal standing, a lessee or licensee generally derives the same proprietor's rights and obligations as the owner, subject to the individual agreement and the operation of the law. Where the lease or licence describes the permitted purpose of the agreement, the lessee or licensee (as the case may be), is able to undertake those activities that are for the permitted purpose under that lease or licence.

25. The existing provisions from the Local Government Property Local Law (2001) have been reproduced in the proposed local law verbatim - meaning the permit and hire requirements that have existed for the past 25 years will remain. It should also be noted that the existing exemption for lease or licence holders ("written agreement") is carried over as well. This is provided by clause 3.1(4) of the proposed local law.

26. Notably, the *effect* of cl. 3.1(4) is framed on whether a written agreement *exists*, not whether the written agreement deals with the things listed by subclause (1). This is because as previously stated, leases and licences have legal standing of their own and are taken to have dealt with any question of permissibility of the things the local law requires permits for, provided that the activity desired is consistent with the permitted purpose under the lease or licence. For example, an end of year AGM function for a sports club is something that would be consistent with the purpose of the lease or licence - because it is a part of the sports clubs' activities.

27. Conversely making an excavation or building a building is not - it would be difficult to argue that either of those are consistent with the permitted purpose of the lease or licence. A permit should be sought for those things to allow the City to scrutinise them. Conditions of individual leases and licences may make express mention of these things or may refer to a requirement to obtain a permit for specific things that are not reasonably related to the lessee's use or the permitted purpose.

28. An opposing concern presented by another submission raised an underlying concern whereby there is potential for the proposed local law to enable a form

of "back door" permissive environment for lease and licence holders in terms of some activities, that would not be ordinarily permissible under an existing lease or licence.

29. There are limits inherent in leases and licences in terms of the activities permitted, in which the activities permitted must be associated with the permitted purpose. A lease or licence holder that seeks to undertake an activity that is not associated with the permitted purpose will be required to obtain permission from the local government, if the activity is one regulated by the local law.

30. Viewed objectively however, in order to remove the prospect of inappropriate or unauthorised works occurring on local government property where a lease or licence is in effect, it is acceptable to modify clause 3.1(4) to make it more specific around lease or licence holders and the permitted purpose of those kinds of agreements. This modification is shown in the attachment and later in this report.

31. This change to clause 3.1(4) will deliver four outcomes:

    a) It would import a well-established principle of property law into the local law that is recognised by the courts.

    b) It has the effect of creating a link between the local law and lease/licence agreements rather than the two existing in isolation to one another.

    c) It provides better surety to lease and licence holders that activities associated with their permitted purpose are allowed as-of-right.

    d) It covers the broader public interest by ensuring permit applications are required for activities that are not authorised or not associated with the permitted purpose (i.e. closing the “back-door”).

**Crown land tenure**

32. Several submissions argue that the proposed local law provides a source of the City's authority to manage Crown land or enter into agreements in respect of Crown land. This is incorrect. The City's powers and obligations in relation to Crown land arise under the applicable statutory framework, particularly sections 3.54 and 3.58 of the Act, the LAA, and any management order and other relevant written laws. The proposed local law regulates conduct on local government property but neither enlarges nor diminishes those statutory powers and obligations.

33. Where some submissions refer to clause 1.10 of the proposed local law as some form of source of authority to deal in land, the clause itself expressly

recognises the legislative limitations in this respect by saying *"Subject to the requirements of the Act and any other written law..."*

34. If the City exceeded its powers under the LAA or a management order, it would be unlawful regardless of whether the local law addressed it. Further, section 3.7 of the Act specifies the legislative standing of local laws against other written laws:

> ***3.7. Inconsistency with written laws***
>
> *A local law made under this Act is inoperative to the extent that it is inconsistent with this Act or any other written law.*

35. The purpose of the proposed local law is to regulate conduct and activities on local government property. It does not confer powers to grant tenure, lease Crown land, alter reserve purposes, or exercise powers inconsistently with any written law. As delegated legislation, the local law operates subject to the Act and all other applicable legislation, and is ultimately subject to Parliamentary review by the JSCDL.

36. For this reason requests by submissions to amend or include specific provisions relating to Crown land are unnecessary and would be highly likely to result in disallowance by the JSCDL for reasons of being beyond the local government's law-making power, due to duplicity against Acts of Parliament, and functions of the Minister for Lands.

37. Much for the same reason, requests for permit applications to undergo the community consultation process pursuant to s. 3.58 of the Act before being determined would be likely to be beyond lawful power, as hire and permits do not confer any transferral of property rights like a lease or licence.

38. The City holds Crown land that involves a wide array of public purposes (Ray Owen Reserve, Kostera Oval are two examples). With the existing sport and recreational uses of some of these Crown lands involving leases or licences to community groups and sporting clubs, the regulatory scope demanded by some submissions would unreasonably impact these groups and would require the City to engage in a public consultation process every time the group or club wished to conduct a function, install sponsorship banners or charge an entry fee for an event. This is an example of an unreasonable regulatory over-reach that would be criticised by the JSCDL.

**Delegation of powers and functions**

39. Another theme arising from some submissions is what appears to be a perception around delegation of powers and functions.

40. This concern appears to arise from a misunderstanding of the distinction between "Council" and "local government" as used in the Act. The existing local law functions and powers have been delegated to the Chief Executive Officer (CEO), as has been done for a number of years. Many of those functions and powers are proposed to be carried forward unchanged. As stated previously, the proposed local law does not provide a source of authority to deal in the tenure of land. In addition, the Act provides the head of power to delegate functions of local laws made under that Act.

41. The Department of Local Government, Industry Regulation and Safety in it's '*Local Government Operational Guideline - Delegations, Authorisations and Acting Through*' (August 2024) explains as follows:

> *"The Act has been framed in a way that determines whether powers and duties can be delegated or not, namely:*
> - *If the term 'council' or 'by resolution' is used, then it is the council itself which must carry out that function.*
> - *If the term 'local government' is used then delegation may be possible, subject to any other express powers against delegation.*
> - *If the term 'the CEO' is used then unless expressly provided otherwise, the CEO may delegate that function."*

42. Contrary to the views expressed in some submissions, the terminology used by the existing 2001 local law in clause 2.1 (the term "the local government") actually allowed for this function to be delegated, were it not for the operation of subclause (8). Where in the proposed local law the ability to make a determination in accordance with clause 2.2 exists, this has been held as a function that can only be exercised by the Council (itself).

43. The difference in terms used between the 2001 local law and the proposed local law can be best put down to peculiar drafting and being based on a model local law that used a drafting style in common use at the time.

44. As noted above, where the Act, regulations or local laws made under the Act use the term *Council*, the function cannot be delegated because the Council is the governing body of the local government. Where the term *the local government* is used, this is a function or power that is able to be delegated in accordance with section 5.42 of the Act (subject to the operation of section 5.43).

45. It would appear as though the principal point of objection around this arises from the existing property local law whereby in its equivalent provisions as the proposed local law, it contains the power to make a determination. If Council wishes to make a determination in respect of local government property, Council would need to follow the process prescribed by the local law – as it is currently required to do.

46. In every other case delegated authority is necessary to allow the local government to deal with day-to-day hire and permit applications, for a range of

users, facilities and activities. Requiring every hire permit application to be dealt with by the Council – in some cases, multiples in a single day – would be an administrative absurdity and would result in the introduction of a level of red tape that would likely be classified by the JSCDL as an unreasonable regulatory overreach.

47. It does not automatically follow that something will be delegated as a matter of course, and the delegator always reserves the ability to set aside a delegation of authority for a particular matter or a class of matters generally, even when there is a 'standing' instrument of delegation in place (see: *Interpretation Act 1984,* s. 59).

**Enforcement powers**

48. Likewise a number of the submissions claim the proposed local law would create a new or unconstrained enforcement regime. That is also not the case. The proposed local law operates within the existing statutory and administrative law framework governing local government decision-making.

49. Any future exercise of powers under the local law would remain subject to the same legal constraints, statutory oversight and judicial review mechanisms that presently apply to all exercises of local government power. Any offence of the local law requires an objective assessment of causation. These are well established principles of administrative law.

50. As stated previously the term *local government property* encompasses an array of places owned or managed by the local government, inclusive of parks, buildings and facilities. In this respect the mechanism of the City's tenure of the land is irrelevant.

51. The enforcement powers of the proposed local law also speak to the general overarching common law principle in that the City, as a proprietor of land, premises and facilities, has the lawful ability to exercise its property rights if a person's behaviour on the local government property becomes incompatible with the general public interest for these spaces to be safe and freely accessible for all.

52. As explained previously (pp. 16), the Supreme Court found in the *Tallott* decision that these enforcement powers of a local government property local law fall within the legitimate scope of being necessary or convenient powers for local law making in accordance with s. 3.5(1) of the Act.

53. The proposed local law is directed to the regulation of conduct on local government property and the administration of that property. It does not create or alter the City's statutory powers or obligations in relation to Crown land, but operates within that broader legislative framework. As noted previously, any

contravention of the LAA by the local government in respect of Crown land would be unlawful in any case, regardless of the local law and its provisions.

54. The local government has a need to exercise such powers on both City-freehold and Crown-vested land on a regular basis for a range of grounds. In day-to-day practice these reasons regrettably are almost always involving anti-social behaviour, wilful damage/vandalism, unlawful access and other issues that arise as a day-to-day aspect of managing spaces for public use.

55. Without a straightforward regulatory mechanism to hold offenders to account, safe public access and use of public spaces would suffer, along with a corresponding cost to ratepayers for increased maintenance, repairs, and public liability insurance indemnity.

56. It is highly likely that the community has an expectation that the local government will possess a means of holding offenders to account for conduct that results in damage or misuse of places the community uses or has paid for - to not have that enforcement mechanism would invariably fail one of the principal tests of the Act: to provide for the good government of the district.

**Exclusion from public places**

57. Decisions of the courts have long recognised that a person's entitlement to enter and remain on premises open to the public is generally founded upon an implied licence granted by the occupier, which may be withdrawn in appropriate circumstances.

58. Clause 6.2(4) allows the local government to exclude a person from local government property for a period of up to 12 months. Clause 6.2(1) provides for a person duly authorised under section 9.10(2) of the Act to direct a person to leave local government property. The clause does not create an unfettered power to prohibit a person from accessing public places for any purpose or in any circumstances. Its operation is confined by the terms of the local law and the broader statutory and common law framework.

59. As the majority of the High Court reasoned in *Roy v O'Neill* [2020] HCA 45, the implied licence is not absolute and balanced its recognition of that implied permission by acknowledging that an occupier may withdraw that permission.

60. Ultimately the local government has an obligation under the *Work Health and Safety Act 2020* as well as under general public liability principles to provide safe workplaces for its employees, and safe facilities for the public to use.

61. Perhaps the most notable misunderstanding of submissions in respect of clause 6.2(4) is that the City can already exclude a person from local government property without relying on this clause at all – because the City as the lawful proprietor of property under the implied licence doctrine allow it to do so in a

more or less unfettered manner – with no recourse. Clause 6.2(4) places limitations on how this can occur. The power to exclude a person from local government property is only exercisable where a person has already been directed to leave or committed an offence of the local law. It is therefore not a power that can be exercised arbitrarily.

62. Some submissions additionally state there is no 'judicial' review associated with clause 6.2(4), however this is also not correct. An exercise of this power is subject to the right of review provided by clause 7.1 of the proposed local law, which would allow an aggrieved person to lodge an objection with the Council, or alternatively apply to the State Administrative Tribunal for a review of the decision in accordance with Part 9 of the Act. This linkage in the local law has been included on purpose, to limit opportunities for abuse of the power.

**Constitutional freedoms (political communication)**

63. A submission has referred to the High Court and *Lange -v- Australian Broadcasting Corporation* [1997] 189 CLR 520 (*Lange*) wherein implied freedom of political communication was explained by the High Court in terms of regulatory instruments that might unreasonably burden that implied freedom. There are undertones of this theme arising in other submissions, however not directly mentioned. This mostly seems to concern a requirement of the proposed local law to obtain permits for erecting signs/advertisements and using public address systems.

64. The reference to *Lange* is helpful, however the application of *Lange* must be properly understood and should not be used without its intrinsic test.

65. The *Lange* decision established a two-part test to determine circumstances when it is appropriate for legislation to infringe on a person's implied Constitutional right of free political communication. Whilst *Lange* primarily dealt with a defamation proceeding, it was further modified by the High Court in *Coleman -v- Power* [2004] HCA 39 and *McCloy -v- New South Wales* [2015] HCA 34 and *Comcare -v- Banerji* [2019] HCA 23 into a three-part test as follows (the modified *Lange* test):

> *“1. Does the law effectively burden the freedom in its terms, operation or effect? If "no", then the law does not exceed the implied limitation and the enquiry as to validity ends.*
>
> *2. If "yes" to question 1, are the purpose of the law and the means adopted to achieve that purpose legitimate, in the sense that they are compatible with the maintenance of the constitutionally prescribed system of representative government? This question reflects what is referred to in these reasons as "compatibility testing".*
>
> *The answer to that question will be in the affirmative if the purpose of the law and the means adopted are identified and are compatible with the constitutionally prescribed system in the sense that they do not adversely impinge upon the functioning of the system of representative government.*

*If the answer to question 2 is "no", then the law exceeds the implied limitation and the enquiry as to validity ends.*

*3. If "yes" to question 2, is the law reasonably appropriate and adapted to advance that legitimate object? This question involves what is referred to in these reasons as "proportionality testing" to determine whether the restriction which the provision imposes on the freedom is justified.*

*The proportionality test involves consideration of the extent of the burden effected by the impugned provision on the freedom. There are three stages to the test – these are the enquiries as to whether the law is justified as suitable, necessary and adequate in its balance in the following senses:*

*suitable — as having a rational connection to the purpose of the provision;*
*necessary — in the sense that there is no obvious and compelling alternative, reasonably practicable means of achieving the same purpose which has a less restrictive effect on the freedom;*
*adequate in its balance — a criterion requiring a value judgment, consistently with the limits of the judicial function, describing the balance between the importance of the purpose served by the restrictive measure and the extent of the restriction it imposes on the freedom.*
*If the measure does not meet these criteria of proportionality testing, then the answer to question 3 will be "no" and the measure will exceed the implied limitation on legislative power."*

**Assessment of the proposed local law under the modified Lange test**

66. It is considered the proposed local law meets the threshold posed by the modified *Lange* test as follows –

1. The answer to limb 1 of the test is 'yes' because the proposed local law inherently limits permissible activities on local government property, in which case political communication may be *incidentally* burdened by regulating certain activities undertaken on local government property, subject to compliance with the local law and any other written law;

2. The answer to limb 2 of the test is also 'yes', due to the purpose of the proposed local law being to regulate the use and management of local government property in the interests of public safety, protection of public assets, equitable access, and the orderly administration of local government property. Those purposes are plainly compatible with the maintenance of the constitutionally prescribed system of representative and responsible government as provided for by the Act;

3. The answer to limb 3 of the test is also yes, when considering the elements and the proportionality requirement of the modified *Lange* test to be applied where -

   *Suitable* - the provision has a rational connection to the purpose of the local law which in and of itself is for the purpose of regulating activities on local government property without bias and is user neutral;

*Necessary* - there is no obvious and reasonably practicable alternative, nor any other regulatory instrument available that is capable of performing the overarching purpose of the local law, inclusive of enforcement powers, with the associated ability to control the proliferation of signs on local government property and ensure use is lawful and equitable to all;

*Adequate in its balance* - the provision in question, with specific regard to the example of signs, placards and megaphones, does not ban these items outright. Rather, the local law contemplates that these things are not to be done/used/installed unless a permit has been obtained from the local government. The burden imposed is therefore limited and proportionate to the legitimate objectives of ensuring public safety, protecting local government assets, avoiding conflicts between competing users, avoiding nuisance to adjoining landowners and facilitating the orderly administration of local government property. This is well within the scope of a local government's law making powers for property it is required to manage and is a continuance of a regulatory scheme that the local government has had since the making of the existing local law in 2001 - regardless of the nature of the local government's tenure over the land.

67. The High Court previously considered the *Lange* test with respect to delegated legislation made by a local government regulating the use of public places (a by-law). In *Attorney-General (SA) -v- Corporation of the City of Adelaide* [2013] HCA 3 the court recognised that some burden upon political communication may arise from such regulation, but held that the regulation directed towards orderly management of public places is capable of being constitutionally valid. The City is regulating the use of its public spaces, not the ideas expressed by those using them.

68. The implied freedom of political communication in *Lange* does not create a positive right to use public land in whatever manner someone chooses. The High Court has consistently explained since the *Lange* decision that the implied freedom is not a personal right or licence to ignore generally applicable laws.

**RECOMMENDED CHANGES**

69. While it is apparent that a number of submissions received by the City have misunderstood the purpose and lawful effect of the proposed local law, some

submissions nevertheless raise legitimate issues for consideration around changes that should be made to it.

70. The recommended changes to the proposed local law are as follows -

**Amend clause 3.1(1)(i).** The subclause contains a typographical error to be corrected:

*(i) drive or ride or take any vehicle, or park or stop any vehicle on local government property in an area ~~set not~~ not set aside for that purpose, or unless authorised by the local government;*

**Replace clause 3.1(1)(t).** This is in response to an issue raised in sports club submissions whereby the structure around permits for shade structures (portable gazebos, umbrellas) would not be encompassed by the general permit exemption for licence holders, due to the fact the proposed local law as drafted contained the shade structure provision elsewhere. This is a reasonable change to make and has no material impact on the operation of the proposed local law. This has essentially been cut and pasted into clause 3.1(1) so that it properly falls under the permit requirement, and thus the relevant exemption clause:

*(t) erect, on local government property that is not enclosed, an umbrella or temporary shade structure unless –*

*(i) it is erected for protection from the sun or other elements;*
*(ii) it has an area of no more than 9 square metres;*
*(iii) it has a height of no more than 2.5 metres; and*
*(iv) it is removed by that person immediately on leaving that local government property on the same day on which it was erected;*

**Insert clause 3.1(1)(u), (v).** Subclauses (u) and (v) are moved down the list due to the insertion of subclause (t):

*~~(t)~~(u) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound; or*

*~~(u)~~(v) conduct an entertainment event.*

**Amend clause 3.1(4).** As referred to previously in this report (pp. 29, 30), this amendment will address opposing concerns in respect of perceived limitations (or freedoms) provided by clause 3.1(4) for lease and licence holders whereby an exemption is provided by the local law to obtain a permit for activities listed.

*(4) Subclause (1) does not apply to a person who uses or occupies local government property under a written agreement with the local government, to the extent that the activity is – ~~do so.~~*

*(a) expressly authorised by the agreement; or*

*(b) associated with the permitted purpose of the agreement.*

**Amend clause 3.2(3).** A submission objected to the removal of a provision in the existing Local Government Property Local Law (2001) that gives the local government the discretion to require a permit applicant to give local public notice of a permit application. The submission further asserted that the requirement should be carried forward, and be mandatory. Whilst there is no material consequence to carrying forward the provision in question, it is considered to be an unreasonable regulatory impost for such a provision to require mandatory public notice for permit applications, and there does not appear to be any basis to extend the regulatory scope of the requirement beyond what already exists. Nevertheless the recommended change is as follows:

*(3) Before determining an application for a permit, the local government may require the applicant to – ~~provide additional information reasonably related to the application.~~*

*(a) provide additional information reasonably related to the application;*

*(b) give local public notice of the proposed activity to be conducted; or*

*(c) a combination of (a) and (b).*

**Amend clause 3.7(1)(e).** Typographical error where the full title of legislation was missing:

*(e) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the Liquor Control Act 1988 for that purpose;*

**Amend clause 4.10.** As noted previously, the provisions relating to portable shade structures are proposed to be moved to clause 3.1(1), with some changes made for simplification purposes. Clause 4.10 would become limited to camping offences on local government property.

***4.10 ~~Erecting structures or camping~~ Camping on local government property***

…

*(3) A person must not, without a permit –*

*(a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or*

*(b) erect on local government property, any tent, camp, hut or similar structure.~~; or~~*

~~*(c) erect, on local government property that is not enclosed, an umbrella or temporary shade structure unless –*~~

~~*(i) it is erected for protection from the sun or other elements;*~~
~~*(ii) it has an area of no more than 9 square metres;*~~
~~*(iii) it has a height of no more than 2.5 metres;*~~
~~*(iv) it is removed by that person –*~~
~~*(I) immediately on leaving that local government property; and*~~
~~*(II) during daylight on the same day on which it was erected; and*~~
~~*(v) it is for private use.*~~

**Delete clause 4.13.** Advice from the City's external legal service provider recommended the removal of this clause in its entirety as advertising signage is already regulated by clause 3.1(1), and individual user lease and licence agreements. Exemptions that were included in clause 4.13 were worded in a manner that was not immediately clear, which may attract objection from the JSCDL.

~~***4.13 Signs placed by other parties***~~

~~*A person shall not place a sign on local government property, or on a fence that is enclosing or demarcating local government property unless –*~~

~~*(a) the sign is authorised by the local government and is temporary in direct connection with a sporting or other event authorised by the local government for a particular period of time; or*~~

~~*(b) the sign authorised by a written agreement between the local government and the party who placed the sign; or*~~

~~*(c) the sign is authorised by a permit issued under Part 3 of this local law.*~~

Clause 4.14 would also need to be reassigned as clause 4.13 as a consequence of this deletion.

**Delete clause 5.3(2)(g).** A number of submissions raised concerns around the use and installation of sponsorship signs, commercial media/filming activity, and clause 5.3(2)(g) of the proposed local law. Whilst the first two are accommodated by the proposed local law as drafted, because such activity would be associated with the permitted purpose of individual lease or licence agreements of clubs and community groups, the latter is not.

It is likely clause 5.3(2)(g) is unworkable from a practical and regulatory perspective, because on occasions where there is a sports competition (for example 'game day') there are many people in attendance, and filming activity occurs both by the clubs and individuals and is posted to social media to promote the achievements of their clubs and participants. Clause 5.3(2)(g) creates an offence for a person who films patrons on any local government facility without the consent of those patrons. It is possible that on 'game day' everyone would be committing an offence in one way, shape or form. It is conceivable that many individuals and entities could be unreasonably captured by the provision. It is acceptable to delete this clause.

> ~~*(g) use a camera or other form of recording device to capture still or video imagery of patrons without the consent of those patrons; or*~~
>
> ~~*(h)*~~*(g) behave in a manner that is harassing, offensive, threatening, violent, abusive, or unsafe towards a patron or a local government employee who is on duty on the local government facility.*

Subclause (h) would need to be reassigned to (g) as a consequence.

**Amend Schedule 1.** Changes are required to Schedule 1 – prescribed offences due to the movement of the portable shade structure provision into clause 3.1, and the deletion of clause 4.13. This means offences 23 through 41 and 43 through to 48 need to be renumbered. There are no offences added compared to initially proposed, however the offence for clause 4.13 is deleted.

**Amend Schedule 2.** In Schedule 2 – Determinations in the final line of the last paragraph amended as follows:

> *on any local government property or part thereof unless the local government property or part thereof is expressly set aside for that purpose, is sign-posted to permit that purpose, or the person is authorised ~~pursuant to~~ under a written law to do so.*

## OPTIONS

71. Option 1 – As per Officer Recommendation

    Council can make the Local Government Property Local Law 2026 as presented.

72. Option 2 – Council may make the local law as per the draft originally presented to Council.

This option is not recommended as the proposed Local Government Property Local Law 2026 has been corrected with typographical and formatting changes and amended following careful consideration of submissions received.

73. Option 3 – Withdraw the proposed local law for further consideration.

It should be noted that due to the fact the existing Local Government Property Local Law (2001) has not been reviewed in accordance with the previous requirements of the Act, it will be repealed on 6 December 2026 if not replaced or reviewed. As has previously been reported to Council, replacement is recommended due to the age of the instrument. There is now limited time remaining to address this issue before the repeal date.

## LEGISLATIVE CONSIDERATIONS

### Impact of changes

74. As discussed earlier, there are a range of modest changes recommended to be made to the proposed local law. This would make the local law different to what was initially proposed; however it does not automatically follow that the changes would amount to making the local law significantly different.
75. The recommended changes are within the scope of the local government's local law-making power as prescribed by the Act and authorities of the courts, and have been reviewed by the City's external legal service provider.

76. Section 3.13 of the Act requires that, if during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

77. The Act does not define the term "significantly different". The JSCDL have previously advised local governments that section 3.13 of the Act may become enlivened when a local law made by a council proposes different terms and provisions to what was initially proposed during public consultation. That is, there is a new regulatory obligation, liability or power created that was not initially proposed, or the individual or property rights of persons are impacted in a way that was not proposed in a consultation draft – particularly if those rights are later proposed to be negatively affected.

78. Equally, if Council decided in response to submissions to introduce an entirely new regime for, say, commercial activities on Crown land, this would be much harder to characterise as merely a refinement, not the least because such a change would extend the local law into a regulatory area already governed by other legislation. Such an approach would almost guarantee disallowance of the local law.

79. Section 3.13 of the Act does not, however, carry the intention to require a local government to restart the local law making process every time consultation results in refinements or low-level changes to a proposed local law. The Act is constructed to anticipate this scenario, and accommodate it.

80. Nor does it provide a mechanism for fundamentally recasting the subject matter of a proposed local law in response to individual interests or subjects.

81. The question for resolution therefore is not whether Council changes something after consultation, but whether Council changes the <u>proposal</u> into something materially different from what people were invited to comment on.

82. In assessing whether the changes are significantly different, regard has been had to the nature and extent of the changes, their effect on the operation of the proposed local law, and whether the changes materially alter the substance or scope of the proposed local law on which public consultation was undertaken.

83. On balance, it is considered the changes to the proposed local law do not meet the threshold to be significantly different, and thus not impacted by section 3.13 of the Act. This is because the changes –

    1) do not propose a change to the purpose and effect of the local law;

    2) do not materially expand or restrict the persons, places, activities or circumstances to which the local law applies;

    3) do not create, remove or materially alter a person's rights, privileges, obligations, liabilities or burdens;

    4) do not introduce a new prohibition, permit requirement, offence or other substantive regulatory requirement, or materially alter an existing one;

    5) do not materially expand, restrict or otherwise alter the powers or discretions conferred on the local government or an authorised person, or the circumstances in which enforcement action may be taken;

    6) are principally for the purpose of clarification, or are consequential, corrective, refinement or restructuring changes to provisions already contained in the proposed local law;

    7) are relevant to the local law as advertised for public comment and therefore remain within the substance of the subject matter on which persons had an opportunity to make submissions; and

    8) considered individually and collectively, are not considered to materially alter the character, operation or application of the local law as a whole.

84. The Act recognises that sometimes limited changes need to occur to proposed local laws when being made by Council. For these reasons it is considered appropriate for Council to proceed with making the local law, as the changes are not considered to be significantly different and are within the scope provided by the Act.

**Local law making procedure**

85. Part 3, subdivision 2 of the Act refers. It specifies the process that is to be followed for the proposing of, and making, a local law.

86. It is important to ensure the prescribed process is followed. Failure to do so may result in the local law being invalid or recommended by the JSCDL to be disallowed by Parliament. Whilst the Act provides that a failure to follow the procedure does not immediately invalidate a local law, there must be substantial compliance [s. 3.12(2A)].

87. The City has complied with the process prescribed by the Act, by giving more than 6 weeks local public notice in the required way [s. 3.12(3)(a)] and referring the proposed local law to the Department for comment [s. 3.12(3)(b)].

88. After the last day for submissions, Council is to consider any submissions, and may make the local law as proposed, provided it is not significantly different from what was proposed [s. 3.12(4)]. Council could also make significant amendments following consideration of any submissions. In the event there are any significant changes, the process must be commenced again [s. 3.13], or the local law is likely to be subject to objection by the JSCDL, as described previously. As noted in this report, it is not considered the changes recommended will result in a local law being made that is significantly different.

89. Council must then resolve by absolute majority to make the local law [s. 3.12(4)]. Once made, the City will be required to publish the local law in the Government Gazette and give a copy of it to the Department. Local public notice is again required [s. 3.12(5), (6)], and a document package is required to be submitted to the JSCDL [s. 3.12(7)].

90. The local law will take legislative effect 14 days after publication in the Government Gazette [s. 3.14(1)].

**POLICY CONSIDERATIONS**

91. The proposed local law at its heart is a regulatory enforcement instrument, to deal with the day-to-day use and issues that arise in public open spaces and facilities.

92. Policy development will need to occur to frame discretionary approval functions of the local law. Appropriate updates to relevant policies will be presented to Council following the adoption of the local law.

## STRATEGIC PLANNING ALIGNMENT

*Kalamunda Advancing Strategic Community Plan to 2031*

### Priority 1: Kalamunda Cares and Interacts

**Objective 1.2** - To provide a safe and healthy environment for community to enjoy.
***Strategy - 1.2.1*** Facilitate a safe community environment.
***Strategy*** - 1.2.3 Provide high quality and accessible recreational and social spaces and facilities.

### 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.

## COMMUNITY AND STAKEHOLDER ENGAGEMENT

| Internal Engagement | |
|---|---|
| **Process** | **Outcome** |
| Initial consultation draft circulated for feedback from key stakeholders | Internal consultation draft further developed with information obtained |
| Referral of internal consultation draft to external legal service provider | Modifications recommended and applied as appropriate |

| External Engagement | |
|---|---|
| **Process** | **Outcome** |
| Call for submissions for 7 weeks in accordance with the Act (local newspaper, social media, website, noticeboards) | 15 submissions received. |

## FINANCIAL CONSIDERATIONS

93. Funds have been allocated for the purpose of the review of local laws in the 2026/2027 Adopted Budget.

Approximately $3,500 has been spent on external legal fees for reviewing the proposed local law and submissions.

Publication in the Government Gazette is estimated to cost $2,500.

## SUSTAINABILITY

94. **Social**

It is in the community's interests to have up-to-date and effective local laws to regulate activities on local government property. Not having a regulatory scheme for the subject matter concerned would mean the City would be unable to effectively deal with resident complaints about inappropriate behaviour, vandalism and misuse of local government property and facilities.

95. **Economic**

The proposed local law continues an existing regulatory scheme. Whilst the proposed local law primarily concerns behaviour on local government property, economic activity in the form of activity-based permits continues to support small business.

In addition, the inability to effectively deal with inappropriate behaviour, vandalism and misuse of local government property and facilities could result in an economic impact to City resources.

96. **Environmental**

As a base regulatory instrument, the proposed local law supports environmental protection by prescribing offences for behaviour or activities on local government property that are detrimental to the environment (e.g. taking or injuring fauna, flora, cutting down trees for firewood, abandoning animals).

## RISK MANAGEMENT

| Consequence | Event | Rating | Action |
|---|---|---|---|
| **Financial** | N/A | N/A | N/A |
| **Health & Safety** | Local law is not reviewed/replaced by the due date, leaving the City with an inability to deal with offences | Medium | Review or replace local law before 6 December 2026 |
| **Reputation** | Substantiated, public embarrassment, moderate impact, moderate news profile | High | Review or replace local law before 6 December 2026 |
| **Operation** | Inability to address enforcement breaches and complaints | High | Review or replace local law before 6 December 2026 |

| | | | |
|---|---|---|---|
| **Environment** | Inability to address enforcement breaches and complaints | High | Review or replace local law before 6 December 2026 |
| **Compliance** | Local law not reviewed in accordance with the law | High | Review or replace local law before 6 December 2026 |
| **Project** | N/A | N/A | N/A |

**REGIONAL SIGNIFICANCE**

97. Nil.

**CONCLUSION**

98. Local law making by local governments is a serious matter. Like any regulatory instrument, local laws have the potential to modify common law rights and use of public places and can contain financial sanctions in the form of modified penalties. This is provided that the local law is within the scope permitted by Acts of Parliament and the courts.

99. While modest changes are recommended to the proposed local law in response to issues raised in public submissions, overall the submissions did not raise any issues that indicated a fundamental problem with the underlying regulatory scheme proposed. The majority of the submissions appear to have misunderstood the purpose of a local law and its legislative standing in the constitutional hierarchy of laws and the exercise of executive powers under Acts of Parliament. The legislative scheme supporting the making of local laws for local government property is well established, and has been tested and upheld by the judiciary.

100. Parliament has delegated its authority to local governments to make local laws in specific Acts. To ensure this authority is within the bounds of the law, the *Interpretation Act 1984* and the JSCDL provides the oversight required to ensure the public interest is not unreasonably or unlawfully infringed when local governments use this executive law making power.

101. Moreover, the exercise of local government regulatory powers and functions is subject to judicial review, and the principles of well-established administrative law. The proposed local law is designed to operate within this framework.

102. With any major policymaking decision, competing interests and views often presented through a singular lens must be balanced against the broader public interest and the local government's responsibility to manage, maintain, and safeguard public spaces and assets, for the benefit of all. The proposed Local Government Property Local Law 2026 continues this approach with a contemporary and responsible regulatory scheme that will continue to allow the City to properly perform its regulatory responsibility for day-to-day management and use of public spaces.

## 10.6. Chief Executive Officer Reports

### 10.6.1. Monthly Financial Statements to 31 August 2026

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

| | |
|---|---|
| Previous Items | Monthly Financial Statements to 31 August 2026 |
| Directorate | Corporate Services |
| Business Unit | Financial Services |
| File Reference | FIR-SRR-006 |
| Applicant | N/A |
| Owner | N/A |
| Voting Requirements | Absolute Majority |
| Attachments | 1. Monthly Financial Report – August 2026 [10.6.1.1 – 5 pages]<br>2. 2026/27 Budget Amendment – August 2026 [10.6.1.2 – 1 page] |

**TYPE OF REPORT**

Legislative

Includes adopting Local Laws and Town Planning Schemes. 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.

**EXECUTIVE SUMMARY**

1. The purpose of this report is to provide Council with the Statutory Financial Statements for the period ended 31 August 2026.

2. The Statutory Financial Statements report on the activity of the City of Kalamunda with comparison of the period's performance against the Annual Budget 2026-27 adopted by the Council on 23 June 2026.

   The opening funding position in the Statement of Financial Activity reflects the draft surplus carried forward from 2025-26. The draft position is subject to the year-end financial audit and may change due to agreed audit adjustments.

3. It is recommended that Council receives the Monthly Statutory Financial Statements for the period ending to 31 August 2026, which comprise:
   a) Statement of Financial Activity (Nature or Type);
   b) Statement of Financial Position
   c) Net Current Funding Position, note to financial report.
   d) Explanation of variances.

**OFFICER RECOMMENDATION**

That Council RECEIVE the Monthly Statutory Financial Statement for the month of August 2026 which comprises:

The Monthly Financial Report Pack for August 2026 which includes:

a) Statement of Financial Activity (Nature & Type)
b) Statement of Financial Position
c) Net Current Funding Position
d) Explanation of variances

Pursuant to section 6.8 (1)c of the Local Government Act 1995, AUTHORSIE amendment to the 2026-27 Budget as detailed in Attachment 2 and point 22 below.

## BACKGROUND

4. The Statement of Financial Activity and Statement of Financial Position (Attachment 1), incorporating various sub-statements, has been prepared in accordance with the requirements of the *Local Government Act 1995* (WA) and Regulation 34 and 35 respectively of the *Local Government (Financial Management) Regulations 1996* (WA).

5. Budget amendments requested each month are presented separately with justification and net impact on the closing surplus position. The August report has a request which is detailed in Attachment 2.

6. The Act requires the Council to adopt a percentage or value to be used in reporting variances against the Budget. Council has adopted the reportable variances of 10% or $100,000 whichever is greater.

## COMMENT

**Draft Statement of Financial Activity by Nature and Type for the month ended 31 August 2026.**

7. This Statement reveals a net result surplus of $69,920,120 compared to the budgeted surplus of $62,053,749 resulting in a variance of $7,866,371. The variance is largely due to the opening surplus position of $4,363,478 and operating activities variance of $3,997,366.

**Operating Revenue**

8. Total Revenue including rates is under budget by $898,677. This is made up as follows:
    a) Rates generation was slightly under budget forecast with a minor variance of $18,838 mainly due to the actual billing amount being slightly lower than budgeted amount due to modelling data being slightly different from the final data provided by Landgate mainly emanating from the UV valuation changes which are received in June by which time the statutory budget documents are already completed for adoption.

    b) Ex-Gratia Rates Revenue is tracking lower than budget by $103,089 due to a timing variance in relation to the receipt of the Ex-Gratia Rates due from the Dampier Bunbury Natural Gas Pipeline (DBNGP). The funds normally get paid in the later part of the year.

    c) Grants, subsidies and contributions are lower than budget by $362,885 due to timing of receipt of Financial Assistance Grants Scheme and Main Roads direct grants.

    d) Fees and charges are tracking along the budget with a minor variance of less than 1% and within reporting threshold.

    e) Interest income is under budget by $461,917 due to timing of investment maturities.

    f) Other revenue is over budget slightly by 1% which is within the reporting threshold.

9. Total expenditure is under budget by $5,052,604. The significant variances within the individual categories are as follows:
    a) Employment Costs remained under budget by $2,091,109 partially due to vacancies and adjustments to the annual and long service leave provisions.

    b) Materials and Contracts are under budget by $2,914,538. The variance is mainly due to an under-spend in Engineering works maintenance costs and timing of invoices for waste services.

c) Utilities are tracking below the budget with minor positive variance of $24,753 with the bulk related to park maintenance.

d) Depreciation, although a non-cash cost, is tracking in line with budget with a variance of $15,231. This is within the reporting threshold.

e) Finance Costs are over budget by $29,296. The major reason for the variance is the timing of the drawdown of the Asset Finance Loan on Fleet Vehicles dependant on the delivery of the fleet & plant.

f) Insurance expense is tracking within budget by $3,643 and threshold.

g) Other expenditure is under budget by $38,088 mainly due to a timing difference of contributions and donations to community groups.

h) Loss on Asset Disposal reported a variance of $25,000 due to timing of disposals of plant and equipment.

**Investing Activities**

**Proceeds from Disposal of Assets**

10. There were no asset disposals during the month of August.

**Non-operating Grants and Contributions**

11. The non-operating grants and contributions is under budget by $4,322,952. This is mainly due to the timing of the capital works program.

**Capital Expenditure**

12. The total Capital Expenditure on Property, Plant, Equipment, and Infrastructure Assets is under budget by $3,828,479. The delayed in spend is normal at the beginning of the financial year with time taken to mobilise works for the new capital works programme.

**Financing Activities**

13. The amounts attributable to financing activities show no variance for the month of August.

**Statement of Net Current Funding Position as of 31 August 2026**

14. The commentary on the net current funding position is based on a comparison of August 2026 to the June 2026 actuals. The narration will focus on the reporting month.

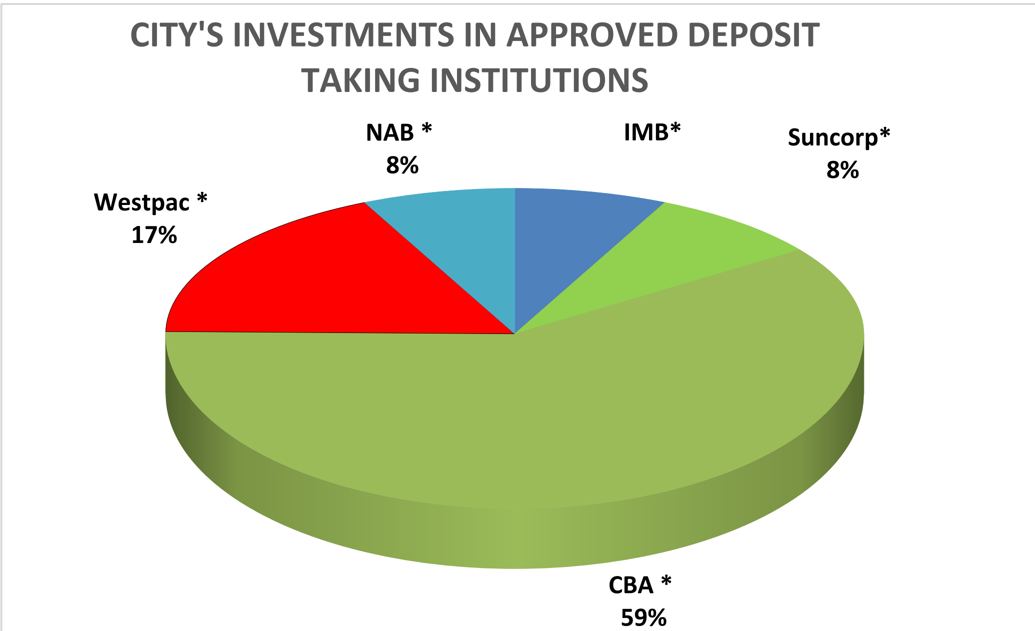
15. Net Current Assets funding position (Current Assets less Current Liabilities) totals $69.9 million. The current assets include $26.8 million for Rates, Waste and ESL billing reduced by amounts received in the month and the EMRC receivable of $30.7 million.

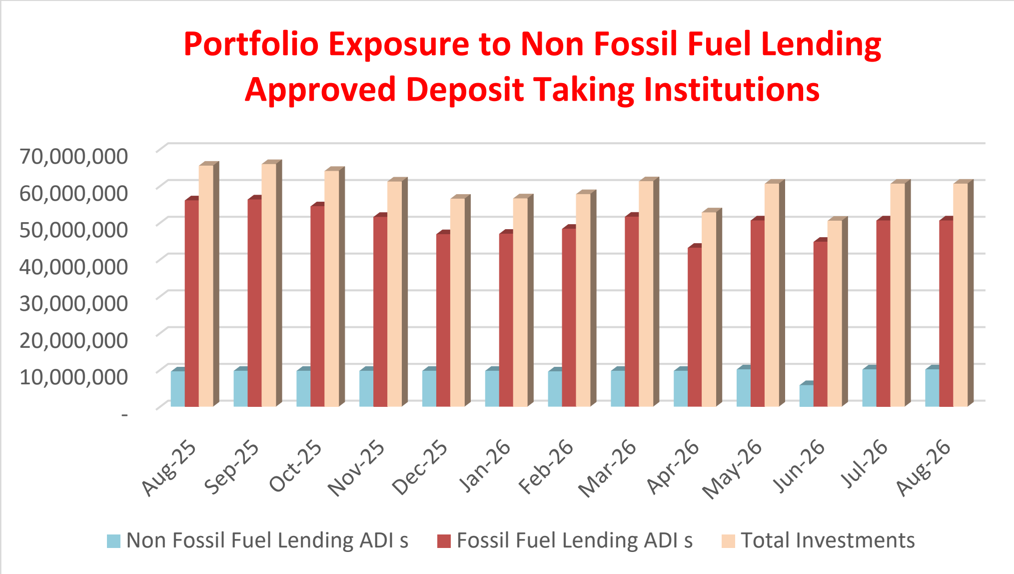
16. The following graph indicates the financial institutions where the City has investments as of 31 August 2026. Investments yields are between 4.5%-5.4% depending on the length of deposits.

    The CBA holds a high % of the City's investments as they hold overnight surplus funds beyond normal operational expenditures. As the City's commences the new financial year with the rates issued in July has allowed replenishment of cashflows and initial investments worth $25 million have been made.

    The Reserve Bank of Australia has maintained the cash rate at 4.35% since 6 May 2026 as economic conditions are constrained with the recent federal tax changes and the ongoing war in the middle east creating fuel supply uncertainty compounded by the removal of the temporary relief provided on the excise duty. With inflation still above the target band of 2-3%, the cash rate is likely to remain above 4%.

17.






18. Sundry debtors are $2.5 Million with an inovoice to the DPLH for $1.8M outstanding for works on the High Wycombe Community Hub project. Further details are contained in the Debtors and Creditors Report to Council.

19. Receivables Other represent $67.7 million including:

    a) Rates Receivable (current debt) $26.8 million
    b) Receivables Sanitation $3.5 million.
    c) Grants Receivable is $4.4 million made of various grants for completed projects awaiting receipt of funds from various agencies.
    d) EMRC Receivable $30.8 million

20. Provisions for annual and long service leave have increased by $930,324 from the previous year partly due to the incluson of year-end adjustments for 2025/26 financial year. The majority of the provision is cash backed via specific reserves.

**Proposed Budget Amendments and Voted Works**

21. There are eight budget amendments requests for the August 2026 month which represent carry forward adjustments for various capital works projects. The funding is from specific grants and reserves, details as noted below:
Further details are available on Attachment 2.

**OPTIONS**

22. N/A

## LEGISLATIVE CONSIDERATIONS

23. *Local Government Act 1995*

    Section 6.8 Expenditure from municipal fund not included in annual budget

    *Local Government (Financial Management) Regulations 1996*

    Section 34 – Financial activity statement required each month

    Section 35 – Financial position statement required month

## POLICY CONSIDERATIONS

24. Strategic Budget Policy provides direction on budget development, rates determination and funding of the City's operations and capital works programmes.

## 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.

## COMMUNITY AND STAKEHOLDER ENGAGEMENT

| Internal Engagement | |
|---|---|
| Process | Outcome |
| The City's executive and management monitor and review the underlying business unit reports which form the consolidated results presented in this report. | Scrutiny of financials at service levels w assist in identifying any discrepancies for investigation. |

| External Engagement | |
|---|---|
| Process | Outcome |
| As noted above, the City is required to present to the Council a monthly statement of financial activity with explanations for major variances. | Public scrutiny of the City's financials. |

**FINANCIAL CONSIDERATIONS**

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

**SUSTAINABILITY**

26. Social – N/A

27. Economic – N/A

28. Environmental – N/A

**RISK MANAGEMENT**

| Consequence | Event | Rating | Action |
|---|---|---|---|
| Financial | Over-spending the budget. | Medium | Review management reports and maintain compliance on procurement |
| Health & Safety | N/A | | |
| Reputation | N/A | | |
| Operation | N/A | | |
| Environment | N/A | | |
| Compliance | Non-compliance with Financial Regulations | Low | The financial report is scrutinised by the City to ensure all statutory requirements are met.<br>Internal Audit reviews to ensure compliance with Financial Regulations.<br>External Audit confirms compliance. |
| Project | N/A | | |

**REGIONAL SIGNIFICANCE**

29. N/A

**CONCLUSION**

30. The City's Financial Statement as of 31August 2026 reflects a large draft closing surplus position of $69,920,120 mainly due to front end billing of rates and waste charges and underspends in materials and contracts and capital works projects.

## 10.6.2. Debtors and Creditors Reports for the month of August 2026

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

| | |
|---|---|
| Previous Items | Debtors and Creditors Reports for the month of August 2026 |
| Directorate | Corporate Services |
| Business Unit | Financial Services |
| File Reference | FI-CRS-002 |
| Applicant | N/A |
| Owner | N/A |
| Voting Requirements | Simple Majority |
| Attachments | 1. Summary of Debtors for the month of August 2026 [10.6.2.1 – 2 pages]<br>2. Creditor Payments for the Period Ended 31 August 2026 (Public) [10.6.2.2 – 12 pages] |
| Confidential Attachments | 3. Creditor Payments for the Period Ended 31 August 2026 (Confidential) [10.6.2.1 – 23 pages] |

Reason for Confidentiality: "*Information the making public of which would be likely to endanger the security (including cybersecurity) of any of the local government's property or operations" [Act s.5.23(4)(e)]*

**TYPE OF REPORT**

Legislative

Includes adopting Local Laws and Town Planning Schemes. 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.

## EXECUTIVE SUMMARY

1. The purpose of this report is to provide Council with the list of payments made from Municipal and Trust Fund Accounts for the month of August 2026, 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 August 2026.

3. The report provides details of payments made from the Municipal and Trust Fund Accounts for August 2026. Details for employee purchases will commence from September 2026 as acquittal of July & August transactions is pending in the new ERP system due to delay in transition of data.

**OFFICER RECOMMENDATION**

That Council:

1. RECEIVE the list of payments made from the Municipal and Trust Fund Accounts for the Month of August 2026 in accordance with the requirements of the Local Government (Financial Management) Regulations 1996 (Regulation 13)

2. RECEIVE the outstanding debtors report for the month of August 2026

## 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 Funds must occur monthly.

6. Effective from 1 September 2023 under *Local Government (Financial Management) Regulations 1996* (Regulation 13A) If a local government has authorised an employee to use a credit, debit or other purchasing card a list of payments made using the card must be prepared each month showing the following information for each payment made since the last list was prepared.

   a) The payee’s name
   b) The amount of the payment
   c) The date of the payment
   d) Sufficient information to identify the payment

## COMMENT

### Debtors

9. Sundry debtors as of 31 August was $2,552,155. This includes $2,561,140 of debtors balances and $8,985.64 unallocated credits (excess or overpayments).

10. Invoices over 30 days total $135,229; debts of significance are:
    a) Main Roads WA, $38,784, Pioneer Park LCURSP – Design Services Claim 2;
    b) Kalamunda & Districts Football, $36,776, Construction of new LED lighting at Ray Owen Reserve;
    c) Department of Education, $7,574, Reimbursement for KPAC January and February 2026; and
    d) Kalamunda & Districts Netball Association, $7,025, Electricity expenses.

11. Invoices over 60 days total $162,006; debts of significance are:
    a) Telstra, $47,300, Licence Fees Year 1 & 2 and Legal costs;
    b) Municipal Workcare (LGIS), $29,935, Insurance Claims – Various;
    c) Kalamunda & Districts Netball Assn, $28,394, Building Maintenance charges;
    d) Kalamunda City FC (Inc), $12,556, Winter season fees and Annual Lease Fee;
    e) Mason & Bird, $8,121, Lease Fees;
    f) Dome Coffees Australia, $5,867, Lease Fees;
    g) High Wycombe Amateur Football, $8,403, Reserve Hire – Winter Season 2026;
    h) Scream n Shout Dance, $7,101, KPAC Theatre Fees;
    i) Forrestfield United Football, $5,720, Winter Season 2026 Fees;

12. Invoices over 90 days total $167,195; debts of significance are:
    a) Waterfall Beach Pty Ltd, $80,000, Development Contribution for Public Art;
    b) Municipal Workcare (LGIS), $40,473, Insurance Claims – Various;
    c) Dome Coffees Australia, $18,425, Lease Fees;
    d) Pyramids Plumbing, $7,199, Unallocated Maintenance Jobs and Admin Fees;
    e) Mason & Bird, $5,127, Lease Fees;

### Creditors

13. Payments totalling $7,391,731.35 were made during the month of August 2026. Standard payment terms are 30 days from the end of the month, with local businesses and contractors on 14-day terms.

The details are in the attachment.

**Payroll**

14. Salaries are paid in fortnightly cycles. A total of $1,799,464.24 was paid in net salaries for the month of August 2026.

15. Details are provided in (Attachment 2) after the creditor's payment listing.

**Trust Account Payments**

16. 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

17. There were no payments made from the Trust Accounts in August 2026.

**LEGISLATIVE CONSIDERATIONS**

18. *Local Government (Financial Management) Regulations 1996*, regulations 12(1) and 13.

**POLICY CONSIDERATIONS**

19. Debt Collection Policy S-FIN02.

20. Register of Delegations from Council to CEO.

**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.

**COMMUNITY AND STAKEHOLDER ENGAGEMENT**

| Internal Engagement | |
|---|---|
| Process | Outcome |
| Various business units are engaged to resolve outstanding debtors and creditors as required. | Improved debt collection and resolutions on queries |

| External Engagement | |
|---|---|
| Process | Outcome |
| Debt collection matters are referred to the City's appointed debt collection agency when required. | Improved default debt recovery |

**FINANCIAL CONSIDERATIONS**

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

**SUSTAINABILITY**

22. Social – N/A

23. Economic – N/A

24. Environmental – N/A

**RISK MANAGEMENT**

| Consequence | Event | Rating | Action |
|---|---|---|---|
| Financial | The City is exposed to the potential risk of the debtor failing to make payments resulting in the disruption of cash flow. | Low | Ensure debt collections are rigorously managed. |
| Health & Safety | N/A | | |
| Reputation | N/A | | |
| Operation | N/A | | |
| Environment | N/A | | |
| Compliance | Adverse credit ratings due to the City defaulting on the creditor. | Low | Ensure all disputes are resolved in a timely manner. |
| Project | N/A | | |

**REGIONAL SIGNIFICANCE**

25. N/A

**CONCLUSION**

26. Creditor payments are within the normal trend range. Overdue debtors are being followed up as part of normal operations.

## 10.6.3. Rates Debtors Report for the Period 1 August to 31 August 2026

***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 |
| Voting Requirements | Simple Majority |
| Attachments | Nil |

**TYPE OF REPORT**

Executive

When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans and budgets

**EXECUTIVE SUMMARY**

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

2. The City of Kalamunda (City) levied rates for 2026/2027 on 15 July 2026. The amount collectable (excluding deferred rates balance of $1,146,750) as of 31 Aug 2026 was $56,776,244. This balance includes, initial billing, and the brought forward balance from 2025/26. Collections to date stand at $31,450,678.

**OFFICER RECOMMENDATION**

That Council RECEIVE the Rates Debtors Report for the Period covering 1 Aug 2026 to 31 Aug 2026.

**BACKGROUND**

3. Rate Notices were issued on 15 July 2026 with the following payment options available:

| Options | Payment Dates |
|---|---|

| | | | | |
|---|---|---|---|---|
| Full payment | 19 August 2026 | | | |
| Two instalments | 19 August 2026 | 23 December 2026 | | |
| Four instalments | 19 August 2026 | 21 October 2026 | 23 December 2026 | 24 February 2027 |

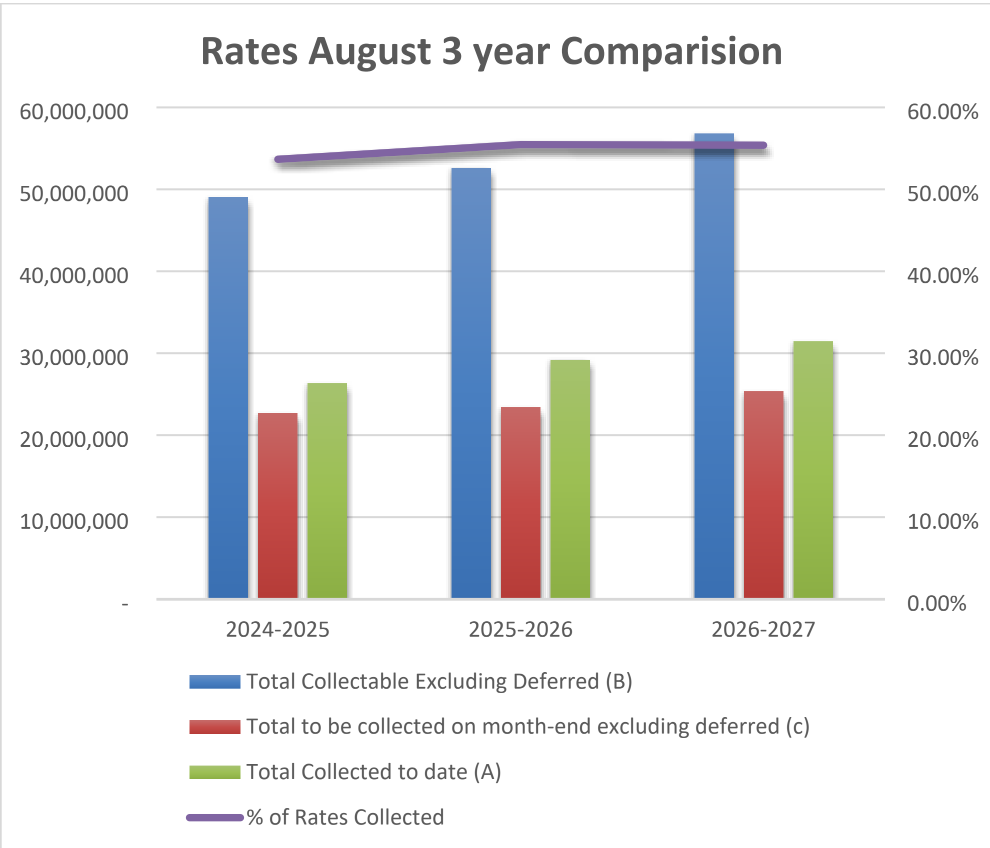
**DETAILS AND ANALYSIS**

4. A total of 23,965 notices were issued on 15 July 2026. This consisted of 19,138 mailed rates notices, and 4,827 of eRates notices (20.14% take-up saving more than $8,740 in postage and printing). Compared to last year (4,527 eRates), the uptake has increased by 6.6%.

5. As of 31 Aug 2026, rates levied and collectable for the 2026/2027 Financial Year total is $56,776,244 (excluding deferred rates), with collections standing at $31,450,678.

6. The above collection rate of $31,450,678 represents a collection rate of 55.39% which is slightly lower than the previous year of 55.47% and shows an improvement when compared to 2024/25 when the collection rate was 53.68%. For reference, below is a chart comparing the collection rates for the last three years.

7.




8. From the above chart the following observations are made:

a) The quantum of collectable and collected rates is higher in 2026/27 than previous years because the base amount is higher each year.

b) The City's Rates Team are actively managing the debt outstanding. This is particularly noted in the amount outstanding for previous years having reduced by 12% ($282,622). The City commends the team for achieving this result which improves the City's cashflows and interest earning opportunity.

c) The % collectable at 31 Aug 2026 is 44.61% which will be a point of focus for the Rates Team to work towards. In this regard, work is being done to review and update the City's collection and hardship policies and procedures.

9. The interim rating has commenced for 2026/2027. To 31 Aug 2026, $915 has been raised for the interim rating revenue

10. The first instalment due date was 19 August 2026. The following observations should be noted:

a) A total of 12,891 properties representing 51.50% of the total number of rateable properties were noted to have paid in full or were in credit.
b) A total of 9,537 ratepayers has taken up an instalment option or have entered a payment arrangement.

The number of instalments in 2025/26 was higher as that is based on the 1st instalment date in August 2025 whereas the table below is to 31 August 2026 and will climb as Final notice issued.

The following table showing Properties choosing to pay by instalments or payment arrangements:

| **Option** | **Description** | **2026/27 Interim Number** | **2025/26 Number** |
|---|---|---|---|
| Option 2 on Rates Notice | Two instalments | 1,838 | 1,827 |
| Option 3 on Rates Notice | Four instalments | 6,606 | 6,679 |
| Direct Debit | Pay by direct debit | 1,068 | 1,105 |
| Payment Arrangement | Pay by payment Arrangement | 25 | 171 |
| **Total** | **Ratepayers on payment options** | **9,537** | **9,782** |

11. 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 1 Aug 2026 to 31 Aug 2026, there was a total of 860 calls, equating to 45.19 hours of call time.

**APPLICABLE LAW**

12. 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**

13. The City's rates collection procedures are in accordance with the Debt Collection Policy CEO Direction 5.5.

**STAKEHOLDER ENGAGEMENT**

**Internal Referrals**

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

**External Referrals**

15. The higher-level debt collection actions will be undertaken by an external collection agency appointed by the City. A review is underway on the provider for this service.

**FINANCIAL CONSIDERATIONS**

16. 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**

17. Debt collection can have implications upon those ratepayers facing financial hardship and the City must ensure equity in its debt collection policy and processes.

18. The City has "a smarter way to pay" direct debit option 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**

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

**Environmental Implications**

20. The increase in the take up of eRates, as a system of Rate Notice delivery, will contribute to lower carbon emissions due to a reduction in printing and postage. It is heartening to see an uptake in eRates with a 6.6% increase from the previous year.

**RISK MANAGEMENT**

21.

| Consequence | Event | Rating | Action |
|---|---|---|---|
| Financial | Failure to collect outstanding rates and charges leading to cash flow issues within the current year | Medium | Ensure debt collections are rigorously maintained |
| Health & Safety | N/A | | |
| Reputation | N/A | | |
| Operation | N/A | | |
| Environment | N/A | | |
| Compliance | N/A | | |
| Project | N/A | | |

**CONCLUSION**

22. The current year collection rate to 31 August 2026 is at 55.39% compared to 55.47% last year. The City continues to effectively implement its rate collection strategy and meet best practise standards.

## 10.7. Audit Risk and Improvement Committee

### 10.7.1. 2025 Compliance Audit Return

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

| | |
|---|---|
| Previous Items | N/A |
| Directorate | Office of the CEO |
| Business Unit | Governance |
| File Reference | |
| Applicant | N/A |
| Owner | N/A |
| Voting Requirements | **Simple Majority** |
| Attachments | 1. 2025 Compliance Audit Return |

**TYPE OF REPORT**

**Executive**

When Council is undertaking its substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans, policies and budgets)

**EXECUTIVE SUMMARY**

1. Local governments are required to complete a Compliance Audit Return by 31 March in each year, for the previous years' activity. For 2025, the Local Government Inspector postponed this requirement until 30 September 2026 due to the commencement of the Local Government Inspector's operations and the final part of the Local Government Amendment Act 2024.

2. The Compliance Audit Return in the form prescribed has been undertaken and is attached to this report. One finding of non-compliance is identified.

3. It is recommended Council endorse the Compliance Audit Return for 2025 for submission to the Local Government Inspector prior to 30 September 2026.

**OFFICER RECOMMENDATION**

That Council:

1. ADOPT the 2025 Compliance Audit Return; and

2. NOTE the 2025 Compliance Audit Return, as attached to this report, will be subsequently jointly certified by the Mayor and Chief Executive Officer for submission to the Local Government Inspector.

**BACKGROUND**

4. The *Local Government (Audit) Regulations 1996* require every local government to carry out a Compliance Audit for the period 1 January to 31 December each year and to complete a Compliance Audit Return (CAR).

5. Due to the commencement of the Local Government Inspector (Inspectorate) on 1 January 2026 and the cessation of the role of the Department of Local Government in terms of the CAR, the Inspectorate deferred the due date of the CAR until 30 September 2026.

6. The CAR was released by the Inspectorate on 8 July 2026. In accordance with changes introduced with the *Local Government Amendment Act 2024*, the Inspectorate now has the ability to modify the questions to be answered by local governments. For this reason, the 2025 CAR is markedly different to previous years and contains many 'blank' questions.

7. The CAR is to be:

   ▪ Reviewed by the Audit, Risk and Improvement Committee

   ▪ Presented to Council at a meeting of the Council

   ▪ Adopted by the Council

   ▪ Recorded in the minutes of the Council meeting at which it is adopted.

8. After the CAR has been presented to and adopted by Council, a certified copy is to be signed by the Mayor and CEO for lodgement with the Inspectorate by

   30 September 2026 together with the relevant section of the council minutes and any additional information explaining or qualifying the compliance audit.

**COMMENT**

9. Relevant officers in the organisation were identified as being custodians of particular information and were required to provide answers and information in respect of specific questions of the CAR.

10. The answers and information obtained were then investigated to assess the City's compliance with the relevant question in the CAR. Each question has been addressed either wholly or by sample, depending on the volume of

activity and assessed risk factors. Where a sample has been examined, the audit findings are based only on that sample.

11. Where necessary, follow-up enquiry was undertaken to obtain suitable supporting information to quantify a response, with clarification provided by the relevant Manager or Director.

12. The composition of the CAR has changed for 2025. The CAR is no longer divided by subject matter, rather it is now divided according to the legislation under which a requirement falls. In all there were 7 divisions containing 97 questions that required an answer:

    1. *Local Government Act 1995* (51 questions)
    2. *Local Government (Administration) Regulations 1996* (12 questions)
    3. *Local Government (Audit) Regulations 1996* (2 questions)
    4. *Local Government (Constitution) Regulations 1998* (2 questions)
    5. *Local Government (Elections) Regulations 1997* (3 questions)
    6. *Local Government (Financial Management) Regulations 1996* (11 questions)
    7. *Local Government (Functions and General) Regulations 1996* (16 questions)

    As will be seen in the CAR attached to this report, some questions contained multiple sub-questions. These have been treated as individual questions in their own right. There were multiple 'blank' questions in the CAR that were addressed as parts of other questions.

13. The CAR process identified the following non-compliance:

| Reference | Question | Yes/No/NA | Answer |
|---|---|---|---|
| ***Local Government Act 1995*** | | | |
| s. 3.16 | Has the local government reviewed local laws which have not been reviewed in the previous 8 years, to ensure compliance with Schedule 9.3, Clause 65? | No | New local laws to replace those not reviewed are in progress with final adoption by Council approximately September/October 2026. |

14. Whilst the underlying reason for the non-compliance is not clearly understood. This has now been addressed in the following way:

    1. Council made a new Activities in Thoroughfares and Public Places Local Law 2026 at its OCM of 23 June 2026, which repealed 5 local laws and old by-laws that had not been reviewed as required;

    2. Council is progressing replacement local laws for Local Government Property (consultation closed 17 July 2026) and Animals and Nuisance (consultation closes 18 September 2026) which propose to repeal 3 local laws that had not been reviewed as required; and

    3. Council has completed a statutory review of the Standing Orders, Health, and Fencing Local Laws at its 25 August 2026 Ordinary Council Meeting, which represented the last group of local laws not reviewed as required, thus achieving compliance with Schedule 9.3, clause 65 of the *Local Government Act 1995*.

15. Failure to address the requirements of Schedule 9.3, clause 65 of the *Local Government Act 1995* will have resulted in the City having 11 local laws repealed on 6 December 2026, as they had not been reviewed as required under the Act.

16. The absence of negative findings relating to procurement or financial management is encouraging from a misconduct oversight perspective, and ongoing education and reinforcement of existing procedures continues, and the adoption of the new TechOne finance system provides a greater level of audit functionality than existed with previous legacy systems.

**LEGISLATIVE CONSIDERATIONS**

17. After completing the CAR, regulation 14 of the *Local Government (Audit) Regulations 1996* requires the following:

    (*3) The audit, risk and improvement committee must —*

    *(a) review the compliance audit return; and*

    *(b) report to the council the results of that review.*

    *(4) When reporting to the council, the audit, risk and improvement committee must make any recommendations that the committee considers appropriate in relation to the compliance audit return.*

*(5)The council must consider the compliance audit return and the results of the audit, risk and improvement committee's review (including any recommendations) at a meeting of the council.*

*(6) The council must —*

*(a) determine if any matters raised by the audit, risk and improvement committee require action to be taken by the local government; and*

*(b) either —*

*(i) adopt the compliance audit return; or*

*(ii) adopt the compliance audit return subject to amendments proposed by the council.*

Following adoption by Council, the CAR must be jointly signed by the Mayor and CEO and then submitted to the Inspectorate, together with the minutes of the OCM at which it was adopted, any recommendations of the Audit, Risk and Improvement Committee that accompanied it, and any information explaining or qualifying the audit.

**POLICY CONSIDERATIONS**

18. Governance 8 – Risk Management. The policy speaks to the overarching role of risk management within the context of regulatory non-compliance and the role of the Audit, Risk and Improvement Committee.

**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.

**COMMUNITY AND STAKEHOLDER ENGAGEMENT**

| **Internal Engagement** | |
|---|---|
| **Process** | **Outcome** |
| Key stakeholders identified and requested to provide information and answers for CAR questions. | Information provided, with follow-up information gathering and investigation where necessary. |

| **External Engagement** | |
|---|---|
| **Process** | **Outcome** |
| N/A | N/A |

**FINANCIAL CONSIDERATIONS**

19. Nil.

**SUSTAINABILITY**

20. Social

The CAR findings support community expectations that the City's regulatory activities are being monitored, statutory requirements are being followed and reported on in accordance with legislative requirements.

21. Economic

There are no economic implications however it is in the general interest of the organisation and the community that appropriate measures are maintained and tested by way audit to ensure opportunities for financial misconduct are prevented.

22. Environmental

There are no environmental implications. The statutory functions the subject of the CAR are not of an environmental nature or impact.

**RISK MANAGEMENT**

| Consequence | Event | Rating | Action |
|---|---|---|---|
| **Financial** | N/A | N/A | N/A |
| **Health & Safety** | N/A | N/A | N/A |
| **Reputation** | Community or media scrutiny due to failure to adopt and submit CAR by the due date | Medium | Submit the CAR by the due date |
| **Operation** | Inspectorate intervention due to failure to adopt and submit CAR by the due date | High | Submit the CAR by the due date |
| **Environment** | N/A | N/A | N/A |
| **Compliance** | Inspectorate intervention due to failure to adopt and submit CAR by the due date | High | Submit the CAR by the due date |
| **Project** | N/A | N/A | N/A |

**REGIONAL SIGNIFICANCE**

23. Nil.

**CONCLUSION**

24. It is encouraging to note that no breaches of legislation pertaining to high-risk areas for misconduct were detected. This mirrors previous CAR reporting periods at the City.

25. The non-compliance identified is in the process of being addressed, with a significant portion of the risk now having been ameliorated with a view to being fully resolved before 6 December 2026.

## 10.7.2. Strategic Risk Register

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

| | |
|---|---|
| Previous Items | N/A |
| Directorate | Office of the Chief Executive Officer |
| Business Unit | Governance |
| File Reference | N/A |
| Applicant | N/A |
| Owner | N/A |
| Voting Requirements | **Simple Majority** |
| Attachments | 1. Nil. |
| Confidential Attachments | 2. Strategic Risk Report<br>Reason for Confidentiality: "*Information the making public of which would be likely to endanger the security (including cybersecurity) of any of the local government's property or operations" [Act s.5.23(4)(e)]* |

**TYPE OF REPORT**

Executive

When Council is undertaking its substantive role of direction setting and oversight (eg accepting tenders, adopting plans, policies and budgets)

**EXECUTIVE SUMMARY**

1. This report presents the City of Kalamunda reviewed draft Strategic Risk Register for review and approval.

**OFFICER RECOMMENDATION**

That Council ENDORSE the Strategic Risk Register as contained at Confidential Attachment 1.

**BACKGROUND**

2. Risk management is a core component of corporate governance and an integral part of contemporary management practices. Risk management refers to the

coordination of activities that direct and control the organisation with regard to risk. It is acknowledged that risk management involves the management of potentially adverse impacts together with the realisation of opportunities.

2. The City of Kalamunda's (the City) Integrated Risk Management Plan outlines the Council as having responsibility (in part) for the management of the strategic risks associated with the City, captured within the Strategic Risk Register.

3. The Strategic Risk Register was last reviewed and adopted by Council in August 2024 following recommendation by the Audit and Risk Committee.

**COMMENT**

4. A strategic risk register is a risk management tool that identifies, assesses, monitors and tracks risks that could prevent an organisation from achieving its strategic objectives.

5. A strategic risk register identifies strategic risks, assesses risk exposure (likelihood, impact and overall level of risk), records controls and treatments and assigns accountability.

6. The review of the City's Strategic Risk Register included a review of the strategic risks relevant to the City. Consideration was given to the inherent risk rating for each of these strategic risks, reviewing the likelihood and severity before any controls were put in place.

7. Relevant treatments/controls for each of the strategic risks were identified and reviewed. The residual risk rating was then identified based on the residual likelihood and severity of the risk following the application of the treatments.

8. Once adopted by Council, each of these risks will be updated in the City's risk management software and regularly reviewed by the Administration to ensure the treatments are effective.

9. The current risk register was developed following a workshop with the City's Executive Management Team. In addition, the risk register was workshopped with Elected Members.

**OPTIONS**

10. Option 1 - Council may endorse the revised Strategic Risk Register with amendments if required.

11. Option 2 - Council may identify that further review is required and not endorse the revised Strategic Risk Register.

## LEGISLATIVE CONSIDERATIONS

12. N/A

## POLICY CONSIDERATIONS

13. Governance 8 – Risk Management

## 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.

## COMMUNITY AND STAKEHOLDER ENGAGEMENT

| **Internal Engagement** | |
|---|---|
| **Process** | **Outcome** |
| In person workshop held with Executive Leadership Team | Some changes were made to the register for review by Elected Members. |
| In person workshop held with Council | Some changes were made to the register |
| Final draft provided for further comment via email | No further changes were made to the register |

| **External Engagement** | |
|---|---|
| **Process** | **Outcome** |
| N/A | |

## FINANCIAL CONSIDERATIONS

14. N/A

## SUSTAINABILITY

15. Social

    N/A

16. Economic

    N/A

17. Environmental

    N/A

## RISK MANAGEMENT

| Consequence | Event | Rating | Action |
|---|---|---|---|
| **Financial** | N/A | | |
| **Health & Safety** | N/A | | |
| **Reputation** | N/A | | |
| **Operation** | The City fails to effectively manage risks impacting the delivery of objectives | Medium | Undertake a review of the City's risk registers on a regular basis. |
| **Environment** | N/A | | |
| **Compliance** | N/A | | |
| **Project** | N/A | | |

## REGIONAL SIGNIFICANCE

18. N/A

## CONCLUSION

19. The Strategic Risk Register has been reviewed including the treatments for each of the risks identified.

20. The Strategic Risk Register is recommended for endorsement.

## 11. Motions of Which Previous Notice has been Given

### 11.1. Notice of Motion - Revocation Motion - Hatch Court Light Industrial Area & Stirling Crescent Precinct Local Structure Plan – Public Advertising (Resolution 2026/104)

| **Voting Requirements: Absolute Majority** |
| --- |

That Council REVOKE the decision of Council made at the Ordinary Council Meeting on 25 August 2026 on Item 10.1.4 Hatch Court Light Industrial Area & Stirling Crescent Precinct Local Structure Plan – Public Advertising (Resolution 2026/104) and REPLACES it with the following:

That Council:

1. ADOPT the Hatch Court Light Industrial Area and Stirling Crescent Residential Precinct Local Structure Plan for the purpose of public advertising the Local Structure Plan, so far as it relates to the Hatch Court Precinct shown on Plan 1 of the Local Structure Plan report.

2. AUTHORISE the Chief Executive Officer to make such endorsements, annotations or amendments to the Hatch Court Light Industrial Area and Stirling Crescent Residential Precinct Local Structure Plan as are considered necessary in order to give effect to 1. above.

3. AUTHORISE advertising (further to 1 and 2 above) of the Local Structure Plan for the Hatch Court Precinct only to commence as soon as practicable, in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015.*

4. DEFER consideration of advertisement of the Hatch Court Light Industrial Area and Stirling Crescent Residential Precinct Local Structure Plan so far as it relates to the Stirling Crescent Precinct for a period of 60 days commencing on 25 August 2026.

5. REQUEST that the Chief Executive Officer engages with specific landowners involved in the yellow portion (Stirling Crescent Precinct) of the structure plan to allow them an opportunity to propose a potential way forward in relation to implementation.

6. REQUEST that following the elapse of the 60 day period referred to in 4. above, the Chief Executive Officer reports on or before the December Council meeting as to the outcome of any proposals made by Stirling Crescent Precinct landowners.

**Moved** Cr David Modolo

**Seconded** Cr Josh Clark

Third Councillor supporting: Cr Sue Bilich

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**Rationale:**

1. The draft Hatch Court Light Industrial Area and Stirling Crescent Residential Precinct Local Structure Plan relates to 25.824 Hectares of light industrial zoned land (Hatch Court light industrial precinct) and 6.058 Hectares of Urban Development zoned residential land (Stirling Crescent precinct). These are significantly different in a number of respects, including planning considerations as well as size, stage of development.

2. The Hatch Court Precinct landowners have not objected to the proposed advertising of the local structure plan. In contrast, a deferral of advertising of the Local Structure Plan has been requested by Statewest Planning on behalf of a number of Stirling Crescent Precinct landowners.

3. The Hatch Court Light Industrial Area has a significantly larger landowner stakeholding, which will be adversely affected by delays in progressing the Area's local structure plan. Furthermore, the progression of the local structure plan will assist with guiding development activities in the Hatch Court Precinct, which is the subject of development applications and approved developments. Officers have advised that it is possible to adopt the Local Structure Plan for the purposes of public advertising of the Local Structure Plan, so far as it relates to the Hatch Court Light Industrial Area and that in principle, the Local Structure Plan for Hatch Court can be progressed by the City independently of Stirling Crescent. Further delay to the Local Structure Plan for Hatch Court is therefore unnecessary.

4. An economic impact assessment forecasts that implementation of the proposed Local Structure Plan is expected to generate significant economic benefits, including projections of:-

   - $539.2 - $665.1 million of construction output (direct and indirect) to the economy.
   - The construction phase is estimated to generate between 335-414 direct construction jobs, plus another 451-556 production induced indirect FTE jobs and 425-524 consumption-induced indirect FTE jobs elsewhere in the economy.
   - The ongoing employment from within the Structure Plan will result in $887.2-$1,108.6 million in direct and indirect economic output per annum.

- The Stirling Crescent Precinct has the capacity to generate up to $14.5-$15.8 million in consumption expenditure per year.
- The industrial and residential development within the Structure Plan will generate approximately $1.6-$2.0 million of additional rates revenue per annum.

5. Allowing advertisement to proceed for the local structure plan, so far as to relates to the Hatch Court Light Industrial Area, will provide a means to move towards achieving most of these economic benefits.

6. The recommendation includes provision to allow public advertising of the Local Structure Plan for the Hatch Court Light Industrial Area, whilst continuing to accommodate the deferral of the Local Structure Plan, further to advocacy by Statewest Planning on behalf of a number of Stirling Crescent landowners.

**Officer Comment:**

1. At its meeting on 25 August 2026, Council considered an officer report and draft local structure plan for the Hatch Court Light Industrial Area and Stirling Crescent Residential Precinct, together with an officer recommendation to adopt the draft local structure plan for the purposes of initiating statutory public advertising. Council resolved as follows by resolution OCM 2026/104 :-

   *That Council:*

   *1. DEFER consideration of the matter of the Hatch Court Light Industrial Area and Stirling Crescent Residential Precinct Local Structure Plan for a period of 60 days.*
   *2. REQUEST that the Chief Executive Officer engages with specific landowners involved in the yellow portion of the structure plan to allow them an opportunity to propose a potential way forward.*

2. Analysis of the Hatch Court Light Industrial Area and Stirling Crescent Residential Precinct shows that they are significantly different in a number of respects, including planning considerations as well as size, stage of development. A brief comparison of some key differences is provided in the following table:-

| **Hatch Court Light Industrial Area** | **Stirling Crescent Residential Precinct** |
|---|---|
| 25.824 Hectares of light industrial land (21.57 Hectares net after deducting roads, wetlands & buffer, living stream) | 6.058 Hectares of residential land (4.92 Hectares net after deducting road and public open space/drainage) |
| LPS 3 contains a range of requirements which require a structure plan to be developed for this land to address a range of planning considerations, for example:-<br>• roads/traffic management; | LPS 3 objectives for the Urban Development zone provide for a structure plan to guide design principles and orderly and proper planning. |

| | |
|---|---|
| • interface with Stirling Crescent;<br>• protection of environmentally significant areas;<br>• bushfire risk, subdivision and development. | |
| Zoned Light Industrial. LSP does not envisage change in zoning. | Zoned Urban development. Draft LSP envisages residential classification with densities of R30 for 20 Stirling Crescent and R25 (with scope to consider R30) for the rest of the precinct. |
| Servicing of light industrial development does not require a mains sewer connection.<br><br>Development of the Hatch Court Light Industrial Area will not have technical reliance on the Stirling Crescent Precinct by way of drainage or servicing and access to both precincts is separate. This is such that the Hatch Court Light Industrial Area is capable of being serviced and developed, without development proceeding of the Stirling Crescent Residential Precinct. | Not capable of being serviced in terms of the draft LSP for R25/R30, without a mains sewer connection.<br><br>Key to implementation of the proposed R25/R30 densities will be the provision of sewer disposal, which is provisionally assessed as high risk in an Infrastructure and Servicing Strategy Report obtained by the City (the ISS Report). The ISS Report analyses a range of potential solutions, most of which are assessed as cost prohibitive or unlikely to occur. The ISS Report identifies an opportunity to service a portion of the planned residential area (albeit Water Corporation has previously advised that this is outside of the approved catchment to the south and would not be considered at this time). The ISS Report recommends that more formal approaches to Water Corporation will be required to secure the appropriate approvals, which the authors of the ISS Report believe are technically possible.<br><br>An escalated formal statutory referral of an advertised LSP to Water Corporation is expected to be necessary in order to achieve substantive progression of the appropriate approvals. This would occur in the event that the LSP for the Stirling Crescent Residential Precinct is adopted for advertising and formal statutory referral of the LSP. |

| | |
|---|---|
| Has been the subject in recent years of numerous development applications for light industrial development, with a number of light industrial developments having commenced. | Relatively low level of recent development activity and no subdivision activity, although informal consultation of SCP landowners has indicated that they are most invested in residential future use, with a preference for R30. |

3. Further information is available in the officer report and draft local structure plan at Item 10.1.4 of the agenda of the Council meeting of 25 August 2026.

4. It is possible to proceed with adoption of the draft Local Structure Plan insofar as it relates to the Hatch Court Light Industrial Area for the purpose of public advertising of the Local Structure Plan, so far as it relates to the Hatch Court Light Industrial Area. In the event that it is decided to proceed with this, amendments/endorsements/annotations will be made to the draft Local Structure Plan to enable public advertising to proceed in this way. At the time of preparing these comments, officers are scoping the extent of these changes and whether they are of a nature that can be made with internal resources (and if so, the impact on other work) or whether cost will be required for additional consultancy work. In principle and subject to Council's decision, the Local Structure Plan for Hatch Court can be progressed by the City independently from Stirling Crescent.

5. Council also has the option of resolving to proceed with the recommendation to August OCM, commencing formal public consultation on the entirety of the draft Local Structure Plan by advertising the draft Local Structure Plan for both the Hatch Court Light Industrial Area and Stirling Crescent Residential Precinct and to consider further changes arising from the outcome of the public consultation.

   Further to informal consultation with Stirling Crescent landowners during the course of preparing the draft LSP, the draft LSP already accommodates requests arising from Stirling Crescent landowner feedback. These are detailed in the officer report to the August OCM. Examples as to how the draft LSP was shaped by requests arising from Stirling Crescent landowner feedback include:-
   - Scope to consider changing the location of the connection to Stirling Crescent of the proposed residential subdivision road;
   - Reduction of the extent of the proposed public open space reservation over 20 Stirling Crescent, having regard to the wish of the owners to subdivide and retain their existing home with a lifestyle landholding;
   - Provision for R30 residential density requested by 20 Stirling Crescent having regard to various factors, including additional amenity provided by the dam (which is proposed to be subject to a public open space reservation);

6. To date, the progression by Council of the draft LSP for two very different precincts has achieved significant economies and efficiencies particularly in consultancy expenditure. The budget allocated to the preparation of the Local

Structure Plan may require consideration to ensure the appropriate use of resources towards planning processes, particularly if components are delayed or scope has changed. Options are available to make changes to the City's role if other landowners in the precinct are willing and able to progress.

## 12. Questions by Members Without Notice

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

**13.1.1** **Cr Josh Clark (Public Agenda Briefing Forum 8 September 2026)**
***Regarding item 10.1.1. Local Planning Policy 1.0 Development Assessment.***

Q1. Is Western Australian Planning Commission (WAPC) approval required for the proposed modification regarding boundary setbacks?

A1. The modification for lot boundary setbacks has been removed. This modification (and the entire draft Policy) was referred to the Western Australian Planning Commission (WAPC), but no response has been received at the time of the report being drafted. The Administration will pursue the consideration of lot boundary setback flexibility with the WAPC in the future.

**13.1.2** **Cr Lisa Cooper (Public Agenda Briefing Forum 8 September 2026)**
***Regarding item 10.2.1. Kalamunda Environmental and Sustainability Reference Group Nominations.***

Q1. Regarding advertising for this group, did anything go in the libraries down in the hill, such as Forrestfield or High Wycombe?

A1. Advertising was not undertaken at Forrestfield or High Wycombe libraries.

**13.1.3** **Cr Josh Clark (Public Agenda Briefing Forum 8 September 2026)**
***Regarding item 10.5.2. Adoption of Proposed Local Government Property Local Law 2026***

Q1. The report indicates that the amendment made to clause 3.1(4) of the proposed Local Law is not considered significant and therefore has not been impacted by section 3.13 of the *Local Government Act 1995*. I couldn't see how that didn't engage section 3.13. Did the City receive any advice on that particular part and if so, what was it?

A1. Advice received was that the proposed amendments are relatively limited in scope. This amendment is not considered significant.

Q2. Is the power to exclude someone from a facility delegated, and if so, what criteria governs how long an exclusion period will run? Will the Council receive any policies as referred to in paragraph 92 of the report before the local law comes into operation?

A2. The reference in the report to policies was more around the day-to-day aspects of local government property management, specifically hire and permits.

The ability to exclude someone from local government property is delegable to the Chief Executive Officer. Administrative practices will be in place to guide the CEO in using their discretion on this, recognising that to exclude somebody from a local government property is serious and the discretion is exercised rarely. Should a member of the public consider their exclusion to be unreasonable, they have the ability to have the decision reviewed by Council or the State Administrative Tribunal.

**13.1.4 Cr David Modolo (Public Agenda Briefing Forum 8 September 2026)**
***Regarding item 10.5.2. Adoption of Proposed Local Government Property Local Law 2026***

Q1. In relation to the clause within the Local Law around the expulsion of a person from a local government property, can the City shed any light on the process that will govern the grounds and the duration on the exclusion from a specific City property and what opportunity a person might have to respond to that?

A1. It should be noted that the City can already exclude a person from City property without relying on this clause within the local law.

Exclusion of someone from a City facility occurs rarely and cannot occur without just cause. Excluding someone is confined by the terms of the local law and the broader statutory and common law framework.

If a person is excluded from a local government facility, as dictated within the local law the reasons for this would be communicated in writing. They have the right for this to be reviewed by Council or the State Administrative Tribunal.

To exclude somebody from a local government property is serious and should only be used in circumstances where alternative attempts to correct problematic conduct by a member of the public have failed. The City has an obligation under the *Work Health and Safety Act 2020* and under general public liability principles to provide safe workplaces for its employees, and safe facilities for the public to use.

A user guide is being developed for officers to support them in their application of the local law and how to exercise their authorised powers.

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

## 15. Meeting Closed to the Public

## 16. Tabled Documents

16.1 Local Emergency Management Committee (LEMC) - Minutes - 2 September 2026

16.2 Public Agenda Briefing Forum (PABF) - Notes - 8 September 2026

## 17. Closure