

10.1.3. City of Kalamunda Local Planning Scheme and Local Planning Strategy - Consideration of Report of Review and Recommendations to the Western Australian Planning Commission

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

Previous Items	OCM 17/2024, OCM 93/2024
Directorate	Development Services
Business Unit	Strategic Planning
File Reference	3.009297, 3.010449, 3.010504
Applicant	NA
Owner	NA
Attachments	1. Local Planning Scheme and Local Planning Strategy - Report of Review [10.1.3.1 - 65 pages]

TYPE OF REPORT

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

STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2031

Priority 1: Kalamunda Cares and Interacts

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

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

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 1: Kalamunda Cares and Interacts

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

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

Priority 2: Kalamunda Clean and Green

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

Strategy 2.1.1 - Implementation of the Local Environment Strategy

Strategy 2.1.2 - Development and Implementation of the Urban Forest Strategy.

Strategy 2.1.3 - Development and implementation of the Local Biodiversity Strategy

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

Priority 2: Kalamunda Clean and Green

Objective 2.2 - To achieve environmental sustainability through effective natural resource management.

Strategy 2.2.1 - Manage the forecast impacts of a changed climate upon the environment.

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

Strategy 3.2.3 - Provide and advocate for improved transport solutions and better connectivity through integrated transport planning.

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.

Strategy 3.3.2 - Attract and enable new investment opportunities.

Strategy 3.3.3 - Plan for strong activity centres and employment areas to meet the future needs of the community, industry, and commerce.

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.

Strategy 3.4.2 - Advocate and facilitate Agri Tourism opportunities for rural properties to flourish.

Priority 4: Kalamunda Leads

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

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

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider the content of the City of Kalamunda (City) Local Planning Scheme and Local Planning Strategy Report of Review and recommended approach to undertaking a review of the local planning framework.
2. The local planning framework comprises two key elements; the Local Planning Scheme sets out the way land is to be used and developed, classifies areas for land use and includes provisions to coordinate infrastructure and development within the City, and a Local Planning Strategy aims to establish a 10-15year forward looking guide for planned growth and development within the district. The local planning framework is also supported by a suite of local planning policies, structure plans, development contribution arrangements and local development plans to guide strategic decisions and respond to development and subdivision proposals.
3. The Report of Review (Attachment 1) has been prepared to fulfill regulatory requirements, with the objective recommending whether the current Local Planning Scheme No. 3 (LPS3) and Local Planning Strategy:
 - a) Are satisfactory in their existing form; or
 - b) Should be amended; or
 - c) Should be repealed/revoked and a new scheme and local planning strategy be prepared.

4. Given that the LPS3 has been in operation for over 17 years and the Local Planning Strategy (prepared in 2010 and endorsed in 2013) in operation for over 13 years, and the significant changes to legislation and State Planning Framework during that time, it is considered that these instruments are no longer up-to-date or satisfactory, and should be replaced by a new local planning framework.
5. It is recommended that the Council approves the content of the Report of Review and recommends to the Western Australian Planning Commission (WAPC) that the LPS 3 be repealed, and a new Local Planning Scheme prepared in its place, and that Local Planning Strategy revoked and replaced with a new local planning strategy. It is noted that the repeal of the LPS 3 and revocation of the Local Planning Strategy will only occur following the gazettal and endorsement of a suitable new Local Planning Scheme and Local Planning Strategy respectively.

BACKGROUND

6. A detailed background to the Local Planning Strategy and Local Planning Scheme No. 4 Project Plan (2024 Update) was presented to the Council at the Ordinary Meeting held on 24 July 2024, whereby Council resolved (OCM 93/2024):

“That Council SUPPORT the program and approach for the preparation of the Local Planning Strategy and Local Planning Scheme No. 4 Project Plan (2024 Update), as per the Confidential Attachment.”

7. Presentation of the Report of Review to Council and follow up steps addresses Stage 1 of the Project Plan (2024 Update) and in accordance with legislative and regulatory requirements.

DETAILS AND ANALYSIS

8. The Report of Review presented in Attachment 1 has been prepared with the following structure:
 - a) Executive Summary
 - b) Background – Purpose, Governance & Strategic Alignment, and Consultation
 - c) Strategic Context – City Profile, Population & Demographics, Development Activity, and Key Planning Issues
 - d) Planning Framework – State & Local Planning Framework Changes, MRS Amendments, State Planning Policies, Local Planning Strategies, Local Environmental Strategies, and Investigation Areas.
 - e) Local Planning Scheme No. 3 Review – Legislative Alignment, Scheme Analysis, and Planning Instruments.

f) Conclusion – Review Comments and Recommendations.

The review findings, conclusion and next steps are summarised below.

9. Local Planning Scheme No. 3

Since gazettal of LPS3 in 2007, there has been significant changes to legislation and state planning framework impacting the function of LPS3. The review highlights that LPS3 is inconsistent with the Planning Regulations 2015 in terms of form and content. LPS3 has been in operation for over 17 years so repealing for replacement by new Local Planning Scheme is considered necessary to address key planning issues and to provide the City with appropriate standards for planning and development control throughout the municipal district.

10. The scheme must also be informed by a current local planning strategy, consistent with and addressing implementation of relevant legislation, the State planning framework and the City's corporate and planning frameworks. In addition, there are other key matters outlined in the review report that require further investigation, plus support and guidance with the State Government, such as normalising structure plan areas, planning area investigations, and addressing any planning framework anomalies.

11. Based on the above, is therefore considered necessary that LPS3 to be repealed and replaced with a new Local Planning Scheme No. 4.

12. Local Planning Strategy (2010)

The City of Kalamunda Local Planning Strategy (2010) was adopted by the WAPC in 2013, with an expected 20-year timeframe up to 2031. The Strategy addresses relevant State Planning Policies and Frameworks and interprets the impacts and requirements of these documents for the City. The Strategy provides context for the land use zones, reservations, and statutory provisions that are contained within the Scheme.

13. The strategy has been in operation for 13 years and prepared prior to the WAPC release in 2021 of the Local Planning Strategy Guidelines. In 2017, the City commenced a preliminary review of Local Planning Strategy (2010) and relevant sub-strategies. Between 2018 and 2023, seven new or reviewed local and environmental strategies have been adopted. Broad principles and key actions from the sub-strategies will require consolidation into a new local planning strategy.

14. Based on the above analysis and the modernisation of the planning framework since, a new local planning strategy should be prepared to address current planning directions and inform the new Local Planning Scheme No. 4.

15. Conclusion

Noting the above, it is recommended that a new Local Planning Strategy and Scheme be prepared to replace the existing LPS 3 and Local Planning Strategy (2010) respectively. This will enable the current state and local planning framework, and key planning directions and actions, to inform preparation the new scheme.

16. Next Steps

The Planning Regulations require the Report of Review and recommendations to be approved by resolution of Council, and then submitted to the WAPC. The WAPC then resolves to agree or disagree with the recommendation, therefore determining the next steps.

17. Once the WAPC ultimately agrees with the recommendations with the report (either as presented by Council or as modified following reconsideration at the direction of the WAPC), the City will progress with the agreed actions, as guided by Parts 3 and 4 of the Planning Regulations.

18. It should be noted that any review, amendment or replacement of the strategy and/or scheme will require community consultation and formal decisions by Council, prior to final approval by the WAPC and Minister for Planning. This has been previously reported to OCM through the 2024 Update (OCM 93/2024).

APPLICABLE LAW

19. *Planning and Development Act 2005*

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

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

APPLICABLE POLICY

22. Western Australian Planning Commission State Planning Policies

23. Western Australian Planning Commission Development Control / Operational Policies

24. City of Kalamunda Local Planning Policies

STAKEHOLDER ENGAGEMENT

25. Preliminary engagement with the DPLH for a review of LPS3 has been ongoing since 2020, with technical and informal advice received on a range of matters. Preliminary consultation with other relevant government agencies and adjoining local government authorities was undertaken with written comments received in 2022.
26. Should the WAPC agree with the content and recommendations of the Report of Review, the City must undertake public notification pursuant to Part 4, Division 1 of the Planning Regulations.
27. Formal requirements for community consultation for the preparation of a local planning strategy and local planning scheme are contained in Part 3 of the Planning Regulations.
28. As detailed in the Project Plan (2024 Update) presented to Council in July 2024, Stage Three of the plan includes extensive community visioning engagement including a series of neighbourhood workshops. A Community Engagement Plan is currently being developed for further consideration by Council.

FINANCIAL CONSIDERATIONS

29. No immediate financial costs are anticipated as a direct outcome of this report. Costs associated with publication of notices following a decision of the WAPC for the City decision to prepare a new scheme can be met through the Development Services annual budget.
30. As reported to Council in July 2024, the Local Planning Strategy and Local Planning Scheme No. 4 project is to be undertaken as a cross-functional in-house project, with most costs to be met through the Development Services annual budget and ongoing budget deliberations as required.

SUSTAINABILITY

31. Social Implications
Preparing a new local planning strategy and local planning scheme will contribute to achieve social and cultural objectives of Kalamunda Advancing, plus objectives and actions from Kalamunda Achieving and supporting sub-strategies such as the Local Housing Strategy and Community engagement Strategy.

32.

Economic Implications

Preparing a new local planning strategy and local planning scheme will contribute to achieving economic and employment objectives of Kalamunda Advancing, plus objectives and actions from Kalamunda Achieving and supporting sub-strategies such as the Activity centres Strategy and the Tourism Development Strategy.
33.

Environmental Implications

Preparing a new local planning strategy and local planning scheme will contribute to achieve environmental and sustainability objectives of Kalamunda Advancing, plus objectives and actions from Kalamunda Advancing and supporting sub-strategies including the Local Biodiversity Strategy and the Urban Forest Strategy.

RISK MANAGEMENT

34.

Risk: The Report of Review recommendations are not progressed in a timely manner and the City continues to regulate land use and development with an outdated planning framework and therefore unable to deliver the City’s vision.

Consequence	Likelihood	Rating
Major	Possible	High
Action/Strategy		
Support and implementation of the Report of Review will facilitate preparation of a new local planning scheme and supporting local planning strategy to ensure the City has a contemporary planning framework consistent with the Planning Regulations and provides appropriate planning and development standards and controls.		
35.

Risk: The Western Australian Planning Commission does not support the findings and recommendations of the Report of Review and instead instructs the City to amend LPS3 and Local Planning Strategy (2010), causing operational and reputational risks for the City.

Consequence	Likelihood	Rating
Significant	Unlikely	Medium
Action/Strategy		
Continued engagement with the Department of Planning, Lands and Heritage and the Western Australian Planning Commission, and other relevant stakeholders, will demonstrate the need for a full review of the local planning framework.		

CONCLUSION

- 36. Given that LPS3 has been in operation for over 17 years and the Local Planning Strategy (2010) in operation for over 13 years, and the significant changes to legislation and State Planning Framework during that time, it is considered that the LPS3 and Local Planning Strategy are no longer up-to-date or satisfactory.

- 37. Noting the above, it is recommended that the Report of Review is approved and forwarded to the WAPC, with a recommendation that a new Local Planning Strategy and Scheme be prepared to replace the existing Local Planning Scheme No. 3 and Local Planning Strategy (2010) respectively.

Voting Requirements: Simple Majority

RESOLVED OCM 145/2024

That Council:

- 1. APPROVE the content and recommendations of the Report of Review (Attachment 1) and forwards the report to the Western Australian Planning Commission for consideration, in accordance with Pursuant to Regulation 66 (1)(b) and (c) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- 2. RECOMMEND to the Western Australian Planning Commission that the City of Kalamunda Local Planning Scheme No. 3 be repealed and a new scheme be prepared in its place, in accordance with Regulation 66(3)(a)(iii) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- 3. RECOMMEND to the Western Australian Planning Commission that the City of Kalamunda Local Planning Strategy be revoked and a new local planning strategy be prepared in its place, in accordance with Regulation 66(3)(b)(iii) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- 4. NOTE that the repeal of the Local Planning Scheme No. 3 and revocation of the Local Planning Strategy (2010) will only occur following the gazettal and endorsement of a suitable new Local Planning Scheme and Local Planning Strategy respectively.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Geoff Stallard**

Vote: For: **Mayor Margaret Thomas, Cr Dylan O'Connor, Cr John Giardina, Cr Geoff Stallard, Cr Mary Cannon, Cr Brooke O'Donnell, Cr Lisa Cooper, Cr Kathy Ritchie and Cr David Modolo**

Against: **Nil**

CARRIED UNANIMOUSLY (9/0)