

Policy

Market Led Proposals

Policy Category	Governance
Responsible Directorate	Development Services
Responsible Business Unit	Strategic Planning & Property
Relevant Legislation	<i>Local Government Act 1995</i> <i>Local Government (Functions and General) Regulations 1996</i> <i>Freedom of Information Act 1992</i>

1. Purpose

The purpose of this Policy is to establish a clear and consistent framework for assessing Market-Led Proposals (MLPs) involving City-owned or managed land and property assets. An MLP is an unsolicited approach from a private proponent to Council, putting forward a commercial proposition where Council has not requested the proposal through a formal process.

This Policy provides a fair and merit-based process for evaluating unsolicited proposals—such as those seeking to lease, purchase, or develop City property outside a competitive process—and reflects the City's commitment to ethical and best-practice decision-making under the *Local Government Act 1995* (Act) and other relevant legislation. The Policy does not replace or override any statutory, environmental, or planning approvals, which will continue to take precedence.

Guiding principles include alignment with the City's Strategic Community Plan, transparency, probity, community benefit, financial sustainability, and effective risk management.

2. Applications and Exclusions

This Policy applies to City-owned freehold property, or Crown land under City management subject to Ministerial approval. This Policy does not apply to:

- Dispositions exempt under the *Local Government (Functions and General) Regulations 1996*;
- Standard commercial or community leasing and licensing processes;
- Routine property transactions managed through established City procedures.

3. Legislative Context

This Policy operates within the statutory framework established by section 3.58 of the Act for the disposal of property. Nothing in this Policy creates a separate authority to dispose of land. Any MLP that involves the potential disposal of property will comply with the public notice and decision-making requirements of section 3.58 of the Act.

4. Policy Statement

The City of Kalamunda welcomes innovative ideas and partnerships from private industry and other organisations that have the potential to deliver real benefits for the City's residents, businesses, and visitors. The City recognises that proposals received may involve the use of City land—whether through purchase, lease, or development—and that such opportunities can contribute to achieving the City's strategic objectives and community outcomes.

This Policy provides a framework that balances support for innovation with the City's responsibility to protect public interest, ensure value for money, and uphold probity, transparency, and fairness in all dealings. Approval to proceed with a proposal does not constitute endorsement or approval of a scheme amendment, development or land use pursuant to the City's Local Planning Scheme No. 3.

The City's standard practice is to offer land or property to the open market in accordance with the Act to ensure value for money and provide fair and equitable access for all potential purchasers and lessees. However, in limited circumstances, the City may consider entering exclusive negotiations. Any decision to enter exclusive negotiations is at the sole discretion of the City.

Until a Council resolution is made giving effect to a disposal of property, proponents acknowledge and accept that no contractual relationship exists, or will be implied, between the City and the proponent. Furthermore, the City is under no legal or contractual obligation to consider, evaluate, accept, or reject any proposal, nor is it required to provide feedback or reasons for its decisions regarding any submission.

5. Assessment Process

Guidelines outlining detailed assessment procedures will be made available to applicants or members of the public upon request. The guidelines will provide a general framework to guide decision-making and may be modified where appropriate, subject to compliance with legislative requirements and probity standards.

6. Assessment Criteria

Proposals will be evaluated on their overall merit, having regard to the following five categories. The weighting of each criterion may vary depending on the nature, scale, and purpose of the proposal.

6.1 Strategic and Land Use Alignment

- The proposal must align with the City's strategic objectives, policies, and priorities.
- The proposed use must be appropriate for the land's location, zoning, site constraints, and environmental context.

6.2 Community and Public Benefit

- The proposal should deliver measurable benefits to the community and residents — social, environmental, and/or economic.
- Proposals should demonstrate positive economic outcomes alongside strong environmental sustainability measures, delivering long-term value to the community.

6.3 Financial Considerations

- The proposal must provide a fair and reasonable return to the City.
- Assessment will include consideration of market value, opportunity cost, and any subsidy or financial exposure to the City.
- The proposal must not generate a long-term financial burden upon the City through maintenance, repairs, management or any other means.

6.4 Governance and Risk Management

- The proposal must support the City's responsibility to manage land safely, compliantly, and in a manner that delivers long-term community value.
- Key risks — financial, reputational, legal, environmental, and operational — must be identified, and an appropriate allocation of risk established between the City and the proponent.

6.5 Proponent Capability and Uniqueness

- The proponent must demonstrate the financial and technical capacity, capability, and relevant experience to successfully deliver the proposal.
- The uniqueness and value of the proposal must offer outcomes or capabilities not readily available through open-market competition, such as proprietary assets, innovative delivery models, or strategic partnerships.

7. Assessment Fees and Cost Recovery

The City is committed to ensuring assessment of all MLPs are undertaken in a transparent, fair and cost-neutral manner. Evaluation of proposals may require specialist expertise and additional resources, and it is appropriate for proponents to contribute to these costs.

A non-refundable application fee, as adopted by Council in the annual Schedule of Fees and Charges, applies upon written submission of an MLP. This fee is intended to recover the City's initial administrative and assessment costs and must be paid in full prior to the proposal being accepted for consideration.

Proposals that progress beyond the initial written submission will be assessed on a cost-recovery basis, with the proponent required to reimburse the City for any reasonable external costs incurred in evaluating the proposal.

Proponents are responsible for all costs associated with the preparation, submission and negotiation of their proposals. The City will not be liable for any expenses incurred by a proponent, whether or not the proposal progresses to approval or implementation.

8. Governance Arrangements

8.1 Decision-Making Authority

The Chief Executive Officer (CEO) or their delegate will have authority to undertake the preliminary assessment of MLPs in accordance with this Policy.

All proposals involving the potential sale, lease, or disposal of land, or which may commit the City to a binding agreement, will be determined by Council unless delegated in accordance the City's Delegations Register and relevant legislative provisions.

Council retains ultimate authority to approve or reject an MLP or to authorise the CEO to negotiate further with a proponent.

8.2 Probity and Transparency

All activities related to the evaluation and negotiation of MLPs must be conducted with the highest standards of probity, consistent with the public interest. The application of probity principles ensures that the decision-making process is fair, transparent, and defensible, and that all parties can have confidence in its integrity.

The following probity principles apply to the MLP process:

- Impartiality – Officers must act without bias and ensure that all proposals are assessed on merit.
- Accountability and Transparency – All decisions and actions must be clearly documented and open to scrutiny.
- Conflict of Interest Management – Any actual, potential, or perceived conflicts of interest must be declared and appropriately managed in accordance with the City's Code of Conduct and internal procedures.
- Confidentiality – All information relating to the proposal and evaluation process must be treated as confidential and not disclosed outside authorised channels.

Where a proponent attempts to offer an incentive or attempts to influence any City officer directly involved in the assessment or negotiation process, the proponent's submission will be disqualified from further consideration.

Canvassing of individual elected members or the CEO by a proponent will disqualify the proponent's submission.

The CEO may determine that an external auditor or consultant is to be appointed to review the process. Independent probity oversight may be deemed necessary for complex or high value proposals, with costs incurred by the City to be reimbursed by the proponent.

8.3 Conflict of Interest

To uphold the integrity and transparency of the MLP process, all officers involved in the assessment, negotiation, or decision-making stages must declare any actual, potential, or perceived conflicts of interest. This includes financial, indirect financial, proximity, personal, or professional interests that may influence, or be seen to influence, impartiality.

Prior to participating in any formal evaluations, conflict of interest declarations must be made in accordance with the City's Code of Conduct and relevant internal procedures, confirming that they:

- Have no financial interest in the proposal or association with the proponent, inclusive of land ownership/tenure in the immediate vicinity;

- Will maintain confidentiality throughout the evaluation process; and
- Will not disclose the results of the evaluation process.

Where a conflict is identified, appropriate steps must be taken to manage or eliminate the risk to ensure the integrity of the process and protect the public interest.

8.4 Disclosure

While the City will take all reasonable steps to protect the intellectual property and commercially sensitive information of proponents, proposal documentation is subject to disclosure requirements outlined in the Act and the *Freedom of Information Act 1992*. Participation in the MLP process is at the proponent’s own risk, and confidentiality cannot be guaranteed beyond the limits of applicable legislation and policy. Accordingly, any information considered commercially sensitive or confidential must be clearly marked as “confidential”.

Should an MLP progress to the stage where a Council decision is required, the outcome of the evaluation will be disclosed publicly.

8.5 Monitoring, Reporting and Transparency

Periodic reviews (at least annually) of the City’s Market-Led Proposals (MLP) Policy and supporting procedures will be undertaken to ensure continued alignment with legislative requirements, probity standards, and best practice in local government governance.

All MLPs received by the City will be recorded in a Register of Market-Led Proposals, regardless of the stage the proposal reaches. The Register will be maintained as an official governance record, accessible to Council for oversight and audit purposes.

To support transparency and continuous improvement, a summary of MLP activities—including the number of proposals received, assessed, progressed or declined—may be reported to Council on an annual basis.

Where appropriate and consistent with confidentiality requirements, a public version of the Register may also be published on the City’s website.

9. Relevant Legislation

Local Government Act 1995 - section 3.58

Local Government (Functions and General) Regulations 1996 - regulation 30

Freedom of Information Act 1992 - sections 31, 33

Version Control			
Relevant delegated authority	N/A		
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