



Public Agenda Briefing Forum

11 October 2022

Our Vision



Connected Communities, Valuing Nature and Creating our Future Together

Core Values

Service: We demonstrate a 'can do' attitude, we listen, we understand, and we go above and beyond when we serve others.

Professionalism: We look, speak, act & do what it takes to show others we are reliable, respectful and competent.

Quality: We think clearly, plan mindfully, act decisively, measure carefully and review regularly everything we do.

Aspirational Values

Courage: We make brave decisions and take calculated risks to lead us to a bold and bright future. We show courage in our pursuit for the protection of the environment, for the well being of our people and to support the economy.

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

Innovation: We believe in a workplace where you're safe to try new things—where we can push the boundaries of the norm and learn from things that don't always go according to plan. We strive for a just and blameless culture that respects people as individuals and paves the way to genuine learning and improvement.

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

kalamunda.wa.gov.au



INFORMATION FOR THE PUBLIC ATTENDING PUBLIC AGENDA BRIEFING

Agenda Briefing Forums will involve Elected Members, employees as determined by the Chief Executive Officer and external advisors (where appropriate) and will be open to the public. **The Briefing Session will be held at the City of Kalamunda commencing at 6.30pm.**

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

Acknowledgement of Traditional Owners

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

Emergency Procedures

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

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

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

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

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1. Official Opening

2. Attendance, Apologies and Leave of Absence

3. Declarations of Interest

3.1. Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matter to be discussed at the meeting. (Section 5.56 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Section 5.70 of the *Local Government Act 1995*.)

3.2. Disclosure of Interest Affecting Impartiality

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

4. Announcements by the Member Presiding Without Discussion

5. Public Question Time

Public questions will be allowed and received following the presentation of the report.

6. Public Statement Time

Public statements will be allowed and received following the presentation of the report.

7. Public Submissions Received in Writing

8. Petitions Received

9. Confidential Items Announced But Not Discussed

10. Reports to Council

10.1. Development Services Reports


10.1.1. **Amendment 111 to Local Planning Scheme No. 3 - Proposed Reclassification of Lot 201 (No.3) Salix Way, Forrestfield from Residential R60 to 'Public Purpose - Police Station' Local Scheme Reserve**

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

Previous Items	OCM 21/2022
Directorate	Development Services
Business Unit	Strategic Planning
File Reference	SL-01/003
Applicant	City of Kalamunda
Owner	State of Western Australia

Attachments	1. Form 2A - Amendment No.111 to Local Planning Scheme No.3 [10.1.1.1 - 6 pages]
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TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
Executive	When Council is undertaking its substantive role of direction setting and oversight (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 1.2 - To provide a safe and healthy environment for community to enjoy.

Strategy - 1.2.1 Facilitate a safe community 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.

EXECUTIVE SUMMARY

1. The purpose of this report is for the Council to consider and adopt, for the purpose of advertising, Amendment 111 to Local Planning Scheme 3 (LPS 3) to reclassify the current Residential zone on the existing Forrestfield Library site to a Local Scheme Reserve for Police purposes (Amendment 111).
2. In March 2021 the Western Australian State Government made an election pledge of \$22 million to construct a new Police Station in Forrestfield. Further, the preferred location is Lot 201 (No. 3), part of Crown Reserve lot 500 – R 54050 incorporating the existing police station land, Salix Way in Forrestfield, adjacent to the existing Police Station, and is freehold land owned by the City of Kalamunda (City) and currently housing the City's Forrestfield Library. The City agreed to sell the site to Western Australian Police (WAPOL) in May 2022.
3. One of the conditions of the Agreement for Sale is for the City, as vendor, within 6 months after settlement, to initiate an amendment to LPS 3 so that the land is reserved for 'Public Purposes – Police Station', and for the City to do all things reasonably within its power to have that amendment effected.
4. The Council is recommended to adopt Amendment 111 for the purposes of public advertising.

BACKGROUND

5. Lot 201 (No.3) Salix Way (part of Crown Reserve lot 500 – R54050 which incorporates the existing adjacent Police Station land), Forrestfield has a site area of approximately 5,000m² and is located within the Forrestfield District Centre Structure Plan 2012 (Structure Plan) area. It is identified in the Structure Plan as an 'opportunity' site. Opportunity sites have been identified as those areas or parcels of land within the centre which were identified as having weak frontages to the street and the potential for new development.

6. The Structure Plan further noted:
"The Shire is currently in negotiations with the Police whereby the site containing the library will be acquired by the Police for the expansion of the police facilities. It is anticipated that the library facilities will then be transferred to a new building to be constructed in the vicinity of the existing Woodlupine Community Centre, located to the south of the Woodlupine Creek Reserve."

7.



8. The site is currently zoned 'Urban' under the *Metropolitan Region Scheme* (MRS) and Residential R60 under LPS3.

9. The site has been developed and used as the City's Forrestfield library since its construction in 1979. It is included in the City's Municipal Inventory as a category 4, stating that its Level of Significance is "Little" and that it should be photographically recorded prior to development or demolition, and to recognise and interpret the site if possible.
10. Council considered the matter of the State Government's intent for a new Police Station at the February 2022 Ordinary Council Meeting in a confidential report. It resolved (OCM 21/2022) to adopt the recommendations within the report, including sale of the land to the State.
11. Works are underway to relocate the library to Forrestfield shopping centre and will ultimately be permanently located on the site currently occupied by the Woodlupine Family and Community Centre as part of a future community centre redevelopment.
12. The sale of the library site was executed by way of an Agreement for Sale on 18 May 2022.

DETAILS AND ANALYSIS

13. The subject site has been sold to the WAPOL for the purpose of expanding the Forrestfield Police Station. The Agreement for Sale was signed on 18 May 2022, with settlement within 42 days of the agreement (29 June 2022). One of the conditions of the Agreement for Sale is for the City, as vendor, within 6 months after settlement, to initiate an amendment to LPS 3 so that the land is reserved for Public Purposes – Police Station, and for the City to do all things reasonably within its power to have that amendment effected.
14. The proposed amendment will result in the reclassification of the land from the current Residential R60 zone to a Reserve for Public Purposes for Police. The Council will need to firstly adopt the proposed amendment for advertising.
15. Under the Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations) a resolution of a local government to prepare or adopt an amendment to a local planning scheme must be in a form approved by the Western Australian Planning Commission (WAPC). Attachment 1 (Form 2A) is the correct form for consideration by the Council and the WAPC.

APPLICABLE LAW

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

Pursuant to regulation 35(2) of the Regulations, the resolution of a local government to adopt an amendment must specify whether the amendment is a complex, standard or basic amendment.

17. Under the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) the proposed amendment is considered a “standard” amendment for the following reasons:

- a) The proposed amendment would have minimal impact on land in the scheme area that is not the subject of the amendment;
- b) The proposed amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;

18. The proposed amendment is neither complex nor basic, as defined under Part 5 of the Planning and Development (Local Planning Schemes) Regulations 2015.

19. Pursuant to regulation 47, and in accordance with sections 81 and 82 of the *Planning and Development Act 2005*, following adoption, the Amendment must be referred to the Environmental Protection Authority (EPA) for their comments before being advertised in accordance with the requirements of the Regulations for a minimum of 42 days.

20. **Metropolitan Region Scheme**

The Amendment remains consistent with the MRS zoning of Urban for the subject site.

APPLICABLE POLICY

21. **State Planning Policy 4.2 – Activity Centres for Perth and Peel**

The subject site forms part of the Forrestfield District Activity Centre which is one of four (4) District Centres within the north-east sub-region. The Amendment is therefore consistent with this designation.

22. **Draft State Planning Policy 4.2 – Activity Centres**

Draft State Planning Policy 4.2 – Activity Centres states that ‘precinct structure plans’ (PSP) should be endorsed by the Western Australian Planning Commission (WAPC) prior to a ‘major development’ being approved to ensure the development of the activity centre is integrated, cohesive and accessible.

23. The proposal, which will ultimately involve the expansion of the existing police station, does not meet the threshold of additional activity centre use floorspace and therefore, the requirement for a PSP is not triggered by this proposal. Furthermore, the Amendment is considered to address an immediate and demonstrated local need.
24. **City of Kalamunda Local Planning Strategy**
The Local Planning Strategy (LPS) acknowledges that the Forrestfield District Activity Centre has expansion potential owing to the residential and population growth in Wattle Grove and Forrestfield.
25. The subject amendment does not alter the intent of the strategy.
26. **City of Kalamunda Activity Centres Strategy**
The proposed amendment and ultimate expansion of the police station aligns with the City's Activity Centres Strategy (ACS).
27. **Forrestfield District Centre Structure Plan**
The site the subject of the Amendment is notated as an "opportunity" site. The ultimate use of this site for the expansion of the police station aligns with the intent of the Structure Plan.

STAKEHOLDER ENGAGEMENT

28. Should Council resolve to adopt the Amendment for public advertising, the Amendment will be advertised for a minimum period of 42 days in accordance with the Regulations and the City's Local Planning Policy 11 – Public Notification of Planning Proposals (LPP11).
29. LPP11 provides the City with the discretion to undertake preliminary advertising to affected residents and government agencies for a period of 28 days prior to Council giving formal consideration to adopting the proposed amendment for public advertising.
30. Having regard to the nature of the Amendment, which is essentially to expand the existing public purpose reservation currently on the adjoining site, the Amendment permits a use that is consistent with the function of a District Centre, and therefore preliminary advertising in addition to what is required under the Regulations is not considered necessary.

FINANCIAL CONSIDERATIONS

31. N/A

SUSTAINABILITY

32. N/A

RISK MANAGEMENT

33.	Risk: The proposed amendment is not supported or deferred resulting in the amendment not being initiated within the 6 months of the settlement of the sale of the land and, therefore, not meeting a condition of sale requirement.		
	Consequence	Likelihood	Rating
	Significant	Possible	High
	Action/Strategy		
	Ensure that the intent of the scheme amendment and requirements of sale of the site is understood.		

CONCLUSION

34. During the 2021 State Election, the McGowan Government made an election pledge to build a new Forrestfield Police Station.
35. The Council agreed to sell the current library site to WAPOL in February 2022. An Agreement for Sale of the land was signed on 18 May 2022 and contains a condition requiring an amendment to LPS 3 to change the classification of the land to a Reserve for Public Purposes for a Police Station.
36. It is recommended that the Council adopt the proposed LPS 3 amendment for advertising.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:


1. ADOPT proposed Local Planning Scheme Amendment No. 111 to Local Planning Scheme No. 3 – Lot 201 (No. 3) Salix Way, Forrestfield in accordance with Attachment 1, pursuant to section 75 of the *Planning and Development Act 2005* for the purposes of advertising.

2. CONSIDER Amendment No. 111 to Local Planning Scheme No. 3 as a Standard amendment under regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
 - a) An amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
 - b) An amendment to the scheme map that is consistent with a structure plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme does not currently include zones of all the types that are outlined in the plan;
 - c) An amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment; and
 - d) An amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
3. FORWARD proposed Amendment No. 111 to Local Planning Scheme No. 3 to the Environmental Protection Authority for comment pursuant to section 81 of the *Planning and Development Act 2005*.
4. ADVERTISE proposed Amendment No. 111 to Local Planning Scheme No. 3 for a period of 42 days pursuant to regulation 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Local Planning Policy 11 – Public Notification of Planning Proposals.

10.2. Asset Services Reports**No reports presented.****10.3. Corporate Services Reports****No reports presented.****10.4. Office of the CEO Reports****10.4.1. Jorgensen Park Overflow*****Declaration of financial / conflict of interests to be recorded prior to dealing with each item.***

Previous Items	OCM 301/2021
Directorate	Office of the CEO
Business Unit	Customer and PR
File Reference	
Applicant	
Owner	City of Kalamunda
Attachments	Nil

TYPE OF REPORT

	Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
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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 1: Kalamunda Cares and Interacts

Objective 1.2 - To provide a safe and healthy environment for community to enjoy.

Strategy - 1.2.3 Provide high quality and accessible recreational and social spaces and facilities.

Strategy - 1.2.1 Facilitate a safe community environment.

Priority 1: Kalamunda Cares and Interacts

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

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

Priority 3: Kalamunda Develops

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

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

Priority 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.

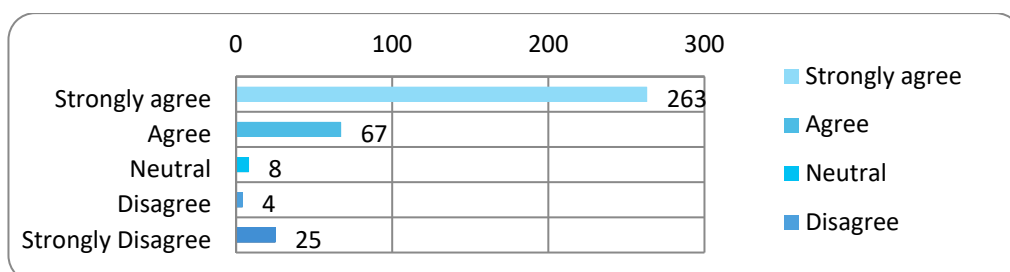
EXECUTIVE SUMMARY

1. The purpose of this report is to approve proposed future management options for the Jorgensen Park overflow carpark.
2. Post the opening of the Kalamunda Community Centre (Centre) council resolved to have the overflow carpark open during the day, with the rangers opening in the morning and neighbours closing at 7pm.
3. The City has reviewed the arrangements and received feedback on the current operations from nearby landowners involved in the locking of the gate in the evening.

BACKGROUND

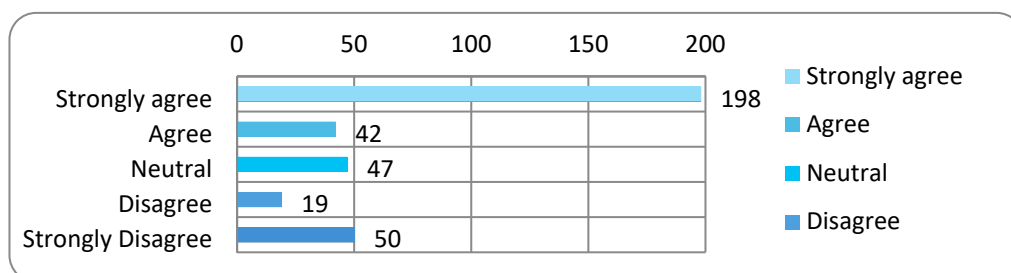
4. The overflow car park area was utilised during the construction of the Kalamunda Community Centre as a formal carpark (recognising some existing car parking was inaccessible during the works) and is popular with the wider community looking to access Jorgensen Park.
5. Post completion of the new Centre, the increased demand for both Centre users and Jorgensen Park users necessitated retention of the overflow car park on an ongoing basis.
6. Neighbours raised concerns in regard to safety and security, as well as amenity impacts of the overflow carparking area.
7. Community consultation was undertaken to understand the broad range of views on the issue, with a report to Council. There was strong support from users of the park to have the 'overflow' area as a permanent car parking space. Prior to community consultation and the gate being opened there were significant issues with available carparking at peak times.
8. Key highlights of the 2021 consultation, in which 373 responses were received., relevant to the Overflow carpark are as follows:

In my opinion, the parking and traffic is a significant problem that needs addressing:	
Strongly agree	263
Agree	67
Neutral	8
Disagree	4
Strongly Disagree	25



9.

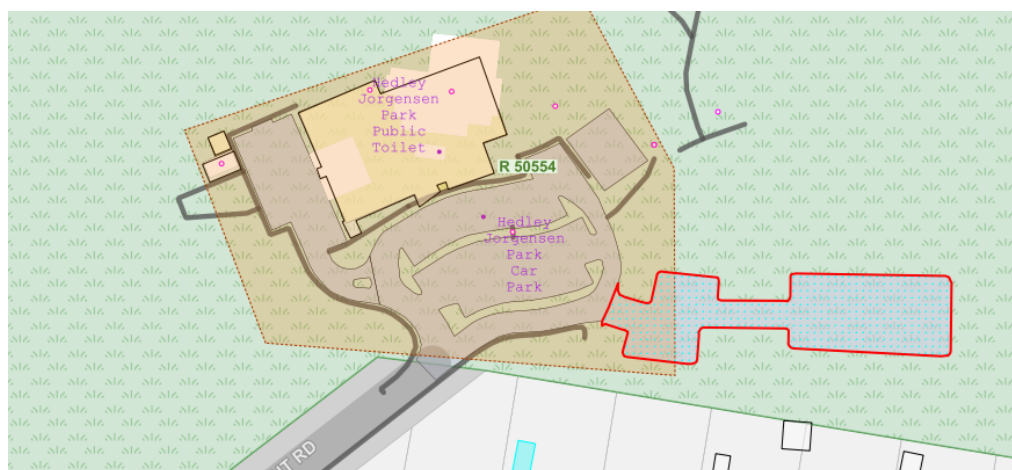
I support the overflow carpark being always open:	
Strongly agree	198
Agree	42
Neutral	47
Disagree	19
Strongly Disagree	50



10. A large number of responses from the 2021 consultation came from dog walkers who prefer the overflow car park area as the safest exit point and car park access to the Jorgensen Park.
11. Council resolved in part:
 That Council: 1. APPROVE the overflow carpark to be opened for parking at all times for a trial of twelve months.
 2. REQUEST the Chief Executive Officer monitor and review the impact of the overflow car parking area being utilised and report back to Council at the completion of the trial period.

DETAILS AND ANALYSIS

12. The area in question is highlighted in red in the map below.



13. The current operation of opening and closing the gate for the car park was enacted post the October 2021 decision of Council.

14. During the closure it has been noted by neighbours that the 7pm is considered late during winter. It is dark earlier and there are no issues with people being parked in the carpark.
15. Neighbours suggested a 5:30pm closure during winter would be a preferred option for the closure of the gates during Winter.
16. Neighbours remain concerned there is potential for anti-social behaviour and negative amenity impacts in the car park if it is left open at any time.
17. In contrast, the City has not received any complaints regarding the overflow area from any other stakeholders during the current operations on a day-today basis.
18. Special events continue to require management via the event application and approval process, with special event organisers are required to give notice to local neighbours in the lead up to events. Special events continue to utilise the overflow fairway area for additional parking.
19. Consideration now needs to be given to what a permanent operating scenario may look like. These may include:
 - a) Leaving the overflow carpark open
 - b) Retain the manual opening and closing process (no change to current costs)
 - c) Install automated and timed gates (possible \$30,000 cost)

APPLICABLE LAW

20. *Local Government Act 1995*

APPLICABLE POLICY

21. Service 5: Communication and Engagement

STAKEHOLDER ENGAGEMENT

22. Community consultation was previously undertaken on the issue
23. The City has maintained correspondence with local neighbours throughout the current arrangements and has received feedback and requests from those who are currently involved in locking of the gate in the evening.
24. The City's Community Safety team have provided feedback in regard to the opening of the gate in the morning.

FINANCIAL CONSIDERATIONS

25. There is a cost to the City in staff time, for the current opening of the gate each day.
26. Should Council consider an automated gate the expected cost is in the vicinity of \$25,000 for an automated chain gate system with power supply, exit loop and entry reader for out of hours access.

SUSTAINABILITY

27. The long-term sustainability of manually opening the gate each day is questionable. Long term an automated solution reduced potential of human error issues, saves fuel and officer time.

RISK MANAGEMENT

28.	Risk: Arrangements are not reviewed.		
	Consequence	Likelihood	Rating
	Moderate	Unlikely	Low
	Action/Strategy		
	Ensure a report is prepared to Council on the current operations with recommendations over the long term for the overflow Car park at Jorgensen Park. Continue to monitor statistics and feedback received from all stakeholders.		

CONCLUSION

29. The needs and wants of all stakeholders have been carefully considered in reviewing options for the Overflow Carpark at Jorgensen Park.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council APPROVE the overflow car park to remain open and continue to monitor for any issues or antisocial behaviour at the site.

10.4.2. Code of Conduct - Complaints Management

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

Previous Items	SCM 02/2022
Directorate	Office of the CEO
Business Unit	Governance and Legal
File Reference	
Applicant	
Owner	

Attachments	1. Draft Governance 20 Code of Conduct Complaints Management 2022 [10.4.2.1 - 9 pages]
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TYPE OF REPORT

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

STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2031

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider a recommendation from the Behaviour Complaints Committee (BCC) with respect to a proposed revised Council Policy Governance 20: Code of Conduct Complaints Management (Policy).

2. The review of the Policy was initiated by the BCC as a consequence of issues encountered during the consideration of initial complaints of alleged breaches of the City of Kalamunda Code of Conduct for Elected Members, Committee Members and Candidates (Code of Conduct).
3. It is recommended that Council accept the recommendation from the BCC and approve consequential changes to the complaint handling process.

BACKGROUND

4. The current Policy was developed from a pro-forma model provide by the WA Local Government Association (WALGA) to assist local governments and Councils fulfil their statutory obligations under the State Government mandated Code of Conduct introduced in early 2021.
5. The new provisions obligated local governments and Councils to consider and decide on complaints of alleged breaches of Divisions 2 and 3 of the Code of Conduct.
6. In order to assist Council undertake this task, it adopted a Complaint Management Policy, The Policy adopted by Council included provision for the establishment and operation of a Behaviour Complaints Committee.
7. During consideration of a complaint of an alleged breach of the Code of Conduct, the BCC identified a number of issues with the current Policy and process.

At a Special Council Meeting in February 2022, Council endorsed a proposal for the BCC to review and recommend changes to the Policy.

DETAILS AND ANALYSIS

8. Whilst it is imperative to have a complaint management policy/process, it is recognised that the process should also be efficient and provide for timely consideration of any complaints.
9. The BCC considered that one of the main concerns is the use of this style of committee to receive, consider and recommend outcomes to Council, adds an unnecessary layer of bureaucracy/red tape to process and delays the timely consideration of complaints.
10. It was also considered that a number of other processes in the current Policy were not suitable to ensure effective and timely consideration of complaints.

11. A revised Governance 20 Policy has been developed and is provided as Attachment 1. The revised Policy is based on similar policies adopted by local governments, particularly the City of South Perth.
12. The major changes to the current Policy are:
 - a) Abolition of the Behaviour Complaints Committee
 - b) Deletion of the Alternate Dispute Resolution provision (was clause 4.4 f).
 - c) Stream-lining provisions with respect to receipt, handling, the assessment and investigation of complaints.

The revised Policy still retains the assessment and investigation of complaints by an independent third party.
13. Additionally, research of other local government processes has revealed that the Chief Executive Officer should be the appointed Complaints Officer. This role requires the CEO to receive all complaints, decide as to the validity of the complaint, and if valid, issue the complaint to an independent party.
14. The CEO is not required to assess, investigate, or determine complaints as this would place the CEO in a position of perceived bias. The CEO is essentially the administrator of the complaint process, and if required, can delegate the role to a City officer or an external party.
15. Once a complaint is referred to an external party an independent assessment and report with recommendations will be issued. The CEO will issue the report and the findings to the Council. The Council can either accept or reject or alter the recommendations of the independent party's report.
16. This process is the same process that occurred prior to the Model Code of Conduct coming into effect.

APPLICABLE LAW

17. *Local Government Act 1995.*
Local Government (Model Code of Conduct) Regulations 2021.
City of Kalamunda Code of Conduct for Elected Members, Committee Members and Candidates

APPLICABLE POLICY

18. *City of Kalamunda Governance 20 - Complaints Management Policy*

STAKEHOLDER ENGAGEMENT

19. The consideration and development of the revised Policy has been undertaken by the BCC.
20. It is not considered appropriate to seek community comment on this Policy as it is effectively an internal process.

FINANCIAL CONSIDERATIONS

21. No additional expenditure is expected to be incurred as a consequence of adopting the revised Policy.

SUSTAINABILITY

22. N/A

RISK MANAGEMENT

- 23.
- | | | |
|--|-------------------|---------------|
| Risk: The lack of a simple and fast process for handling complaints will result in higher costs, undue stress for those involved and could be seen as being unfair. | | |
| Consequence | Likelihood | Rating |
| Moderate | Likely | Medium |
| Action/Strategy | | |
| Adopt the revised model being presented in this report. | | |

CONCLUSION

24. The revised Policy provides for a more efficient and stream-lined process for the management of complaints of alleged breaches of the Code of Conduct.

Voting Requirements: Absolute Majority

RECOMMENDATION

That Council:

1. NOTE the review of Governance Policy 20 – Code of Conduct Complaints Management.


2. ADOPT revised Governance Policy 20 – Code of Conduct Complaints Management (Attachment 1).
3. Pursuant to section 5.8 of the *Local Government Act 1995*, DISBAND the Behaviour Complaints Committee.
4. Pursuant to clause 11.3 of the City of Kalamunda Code of Conduct Elected Members, Committee Members and Candidates, RECIND the appointments of the Director Corporate Services and Governance Advisors as Complaints Officers and APPOINTS the Chief Executive Officer.

10.4.3. Local Government Reform: Election Transition Arrangements - Election of Mayor, Council Size and Wards

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

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

TYPE OF REPORT

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

Kalamunda Advancing Strategic Community Plan to 2031

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

EXECUTIVE SUMMARY

1. The purpose of this report is to seek Council's adoption of a preferred model for the forthcoming local government reforms relating to:
 - the size of the Council
 - the election of the mayor
 - the structure of wards.
2. On the 20 September 2022 the Minister for Local Government formally advised the City in writing of the forthcoming amendments to the Local Government Act and requested the Council provide written formal response on these matters by the 28 October 2022.
3. This report outlines implications of the reforms being proposed and offers a range of options that Council may choose to adopt.

BACKGROUND

4. On 3 July 2022, the Minister for Local Government Mr Carey announced the final package of proposed local government reforms, following a review of public submissions. As part of the reforms to strengthen local democracy and increase community engagement, new requirements will be introduced to provide for:
 - The introduction of optional preferential voting.
 - Directly elected Mayors and Presidents for band 1 and 2 local governments. Note the City of Kalamunda is a band 2 Local Government.
 - Councillor numbers based on population; and
 - The removal of wards for band 3 and 4 local governments.Work on a Bill to amend the Local Government Act 1995 (the Act) is ongoing, and a Bill is expected to be introduced into Parliament in early 2023.
5. Many of the reform proposals related to council representation are based on recent trends and are intended to provide greater consistency between districts according to the Minister's advice.
6. The reform proposals do require the City of Kalamunda to reduce the number of elected members on council in accordance with population proposed thresholds as follows:
 1. For a population of up to 5,000 – five councillors (including the President)
 2. ***For a population of between 5,000 and 75,000 – five to nine councillors (including the Mayor/President)***

3. population of above 75,000 – nine to fifteen councillors (including Mayor).

The City of Kalamunda has a population of 60,803 and hence will be required to reduce to at least 8 councillors and a mayor which is a total of nine elected members.

7. The City of Kalamunda Council will need to resolve to change the method for the election of the Mayor from a council elected Mayor to a directly elected Mayor by all electors of the district.
8. The Amendment Act will also provide that optional preferential voting will apply for all future local government elections commencing in 2023. Optional preferential voting means that all electors have the choice to number preferences for as many or as few candidates as they choose.

Presently Councillors are elected on a 'first past the post' method.

9. The Act already provides that local governments may:
 - Resolve, by absolute majority of the council, to change the method of filling the office of the Mayor or President to a direct vote by the electors of the district,
 - Initiate proposals to change arrangements related to the size or structure of the Council through a Ward and Representation Review.
10. The Minister further advised that this can be achieved either by a voluntary pathway or by the compulsory reform election pathway.

11. **Voluntary Pathway**
Using this method, the City of Kalamunda may formulate a plan to implement these changes on a voluntary basis. This pathway will require the City commences the steps required immediately and could involve staging any larger changes in the number of councillors over two ordinary elections. This pathway provides the greatest possible lead time to plan for the 2023 ordinary elections.

12. If Council wishes to undertake this process, it should, by 28 October 2022:
 - Advise the DLGSC of its intention to undertake a voluntary process. This advice should include a high-level plan outlining the potential changes to be implemented for the ordinary elections to be held in 2023 (and in 2025, if applicable).
 - Pass a resolution to change the method of electing the Mayor to a direct vote by the electors of the district under section 2.11(2) of the Act; and
 - Initiate a Ward and Representation Review in accordance with Section 2.2 of the Local Government Act 1995 to determine the specific

changes to the structure of the Council for the 2023 and 2025 ordinary elections, to be completed by 14 February 2023.

13. *The Local Government Act 1995 Section 2.2. states:
Districts may be divided into wards
(1) The Governor, on the recommendation of the Minister, may make an order*
 a) dividing a district into wards; or
 b) creating new wards in a district that is already divided into wards; or
 c) changing the boundaries of a ward; or
 d) abolishing any or all of the wards into which a district is divided; or
 e) as to a combination of any of those matters.
(3) Schedule 2.2 (which deals with wards and representation) has effect.
(4) The Minister can only make a recommendation under subsection (1) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.
14. The Local government Act 1995 Schedule 2.2 states:
*Point 8. Matters to be considered in respect of wards
Before a local government proposes that an order be made —*
(a) to do any of the matters in section 2.2(1), other than discontinuing a ward system; or
(b) to specify or change the number of offices of councillor for a ward, or proposes under clause 4(2) that a submission be rejected, its council is to have regard, where applicable, to —
(c) community of interests; and
(d) physical and topographic features; and
(e) demographic trends; and
(f) economic factors; and
(g) the ratio of councillors to electors in the various wards
15. **Reform Election Pathway**
Alternatively, it is intended that the Amendment Act will provide for all changes to be implemented through reform elections in 2023 should the voluntary pathway not be taken.
16. This pathway would provide that all the council offices can be declared vacant, all wards be abolished, and the number of council offices would be set based on the reform proposals. It is unknown now if this pathway would adopt the maximum allowed councillors being 9 or the lowest being 5. The DLGCI will be responsible for setting the number in readiness for the 2023 election.
17. Elections in 2023 would then be held to fill all council offices, with a split between two and four-year terms as might be necessary to re-establish an ordinary election cycle that requires 50% of council offices to be put to an election every two years.

18. The newly elected council would then be able to consider whether to establish new wards, through a future Ward and Representation Review.
19. Whichever pathway the Council opts for, the Council must advise the Department of Local Government and Cultural Industries (DLGSCI) by 28 October 2022.

DETAILS AND ANALYSIS

20. In considering the reforms outlined by the Minister the following options are presented for Council to consider. In all cases, it is proposed that the City comprise 8 Councillors and a Mayor as a balanced representation across existing (and potential new) wards.
21. The first decision for Council is to determine the size of the Council. The City has over 60,000 residents and is expected to reach over 70,000 by 2035-2040. Given the size, both in population and in land mass as well as the diverse communities within the area, it is recommended Council opt for 8 councillors and a mayor. This brings the total to 9 which accords with the reform proposals.
22. Before deciding on a preferred model Council will need to decide if it wishes to retain wards.

Clause 8 of Schedule 2.2 of the *Local Government Act 1995* requires local governments to have specific regard to the ratio of councillors to electors in the various wards. The Local Government Advisory Board (Board) under direction from the Minister, accepts a deviation in the ration of plus/minus 10%. Unless there are extenuating circumstances the Board will not approve a proposal which does not meet this criteria.

23. The following table highlight the Council's existing arrangement.

***Table 1**

Current arrangements – Total Electors as of 4 July - 41,713

12 Councillors equals 3476 electors/councillor

Ward	Councillors	Elector	Electors to councillor	Complies
North	3	9823	3274	Yes
South-East	3	10038	3346	Yes
North-West	3	11390	3797	Yes
South-West	3	10462	3487	Yes

	12	41713		
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24. The City has developed three options for wards with the reduced number of councillors being 8. The mayoral position will no longer be placed within any ward as it will be separate position representing the whole of the district.

The models retain the existing four ward structure as well as two models for a two-ward structure based on different areas being included.

They are outlined as follows:

***Table 2 - Model 1 Four wards (4 July 2022)**

Wards	Councillors	Electors	Electors To councillor	10% rule Complies
North	2	9823	4912	Yes
South-East	2	10038	5019	Yes
North-West	2	11390	5695	Yes
South-West	2	10462	5231	Yes
	8	41713		

***Table 2 - Model 2 Two Wards (30 June 2022)**

Wards	Councillors	Electors	Electors to councillor	10% rule Complies
Hills Ward North Ward and South-West Ward and Wattle Grove	4	21158	5289	Yes
Foothills Ward High Wycombe, Forrestfield & Maida Vale	4	20574	5143	Yes
	8	41732		

***Table 2 - Model 3 Two Wards (30 June 2022)**

Wards	Councillors	Electors	Electors to Councillor	10% rule Complies
Hills Ward Combining North and South-East Wards and Maida Vale	4	20198	5049	Yes
Foothills Ward	4	21534	5383	Yes

Combining High Wycombe, Forrestfield, and Wattle Grove				
	8	41732		

****Please Note that the elector number statistics are provided by the WA Electoral Commission and vary because of the specific details available on suburb enrolments only being provided periodically.***

25. The City has developed 8 pathways that would most likely meet the Local Government Advisory Boards assessment and they are outlined as follows:

Options for Wards and Filling Positions		
1	No wards (this is the reform pathway option)	Election of all 8 council offices in 2023
The following options are all voluntary pathways.		
2	4 wards – which is the existing structure	Election of all 8 council offices in 2023
3	4 wards - which is the existing structure	Retain 6 existing members and election for 2 council offices in 2023.
4	2 Wards Hills Ward - North Ward and South-East Ward Foothills Ward comprising High Wycombe, Forrestfield, and Maida Vale.	Election of all 8 council offices
5	2 Wards Hills Ward - North Ward and South-East Ward Foothills Ward comprising High Wycombe, Forrestfield, and Maida Vale	Retain 6 existing members and election for 2 council offices in 2023.
6	2 Wards	Election of all 8 council offices

	Hills Ward -North Ward with South-East Ward and Maida Vale Foothills Ward -High Wycombe, Forrestfield, and Wattle Grove	
7	2 Wards Hills Ward -North Ward with South-East Ward and Maida Vale Foothills Ward -High Wycombe, Forrestfield, and Wattle Grove	Retain 6 existing members and election for 2 council offices in 2023.
8	No wards	Retain 6 existing members and election for 2 council offices in 2023.

26. It should be noted that all options contain the election of a mayor by the electors. All the options are outlined in detail as follows.

27. **Option 1 – Choose the Reform election pathway and advise the DLGSC of this decision.**

The result of choosing this pathway would be in the 2023 ordinary election: -

- There would be no wards and 8 council offices (Councillors) to be selected through an optional preferential voting system.
- There would be a separate election for the mayor by all electors.

		2023 Election
Whole of District	8 councillors	4 x 4-year terms 4 x 2-year terms
Whole of district	Mayor	1 x 4-year term

28. **Option 2 - Choose a voluntary pathway that:**

- Retains the existing 4 ward structure with two council offices (Councillors) within each Ward.
- Declare the Mayor is elected by all electors of the district for a four-year term.
- Declare that 4 of existing council offices one in each ward be abolished to reduce overall number of councillors to 8.

- Declare that all 8 remaining council offices become vacant for the 2023 election.
- Declare the candidate elected with the highest vote count in each ward would have a four-year term and the candidate with the second highest vote count would have two-year term as follows.

		2023 Election
North Ward	2 councillors	1 x 4-year term 1 x 2-year term
North-West Ward	2 councillors	1 x 4-year term 1 x 2-year term
South-West Ward	2 councillors	1 x 4-year term 1 x 2-year term
South-East Ward	2 councillors	1 x 4-year term 1 x 2-year term
Whole of district	Mayor	1 x 4-year term

- This approach would achieve the outcome that would re-establish an ordinary election cycle whereby 50% of the council offices are put to an election every two years.
- As of October 2023, the Council will comprise of 8 councillors and 1 Mayor - a total of 9 which conforms with the reform guidelines.

29.

Option 3 - Choose a voluntary pathway that:

- Retain the existing 4 Ward structure with two council offices (Councillors) within each Ward.
- Declare the Mayor is elected by all electors of the district for a four-year term.
- Declare that 4 of existing council offices one in each ward be abolished to reduce the overall number of councillors to 8.
- Declare that all positions existing that currently have a four-year term remain as Councillors in their respective Wards until 2025.
- Declare the vacant council office remaining in South-East Ward and South-West Ward be filled at the ordinary election in 2023.

		2023/2025 Elections
North Ward	2 councillors	The two existing Councillors with their terms expiring in 2025 remain, and no election would occur for North Ward until 2025.

North-West Ward	2 councillors	The two existing Councillors with their terms expiring in 2025 would remain, and no election would occur for North-West Ward until 2025.
South-West ward	2 councillors	The existing Councillor with their term expiring in 2025 would remain until 2025 and there would be an election for the one council office in 2023 with a four-year term.
South East Ward	2 councillors	The existing Councillor with their term expiring in 2025 would remain until 2025 and there would be an election for the one council office in 2023 with a four-year term.
Whole of district	Mayor	1 x 4-year term

- Declare for the 2025 ordinary election that the terms for the council offices in North Ward and North-West Ward will be four years for the candidate with the most votes in each Ward and the second highest vote recipient would have two-year term.
- This approach would achieve the outcome that would re-establish an ordinary election cycle whereby 50% of the council offices are put to an election every two years.

30.

Option 4 - Choose a voluntary pathway that:

- Undertakes a Ward review and establish 2 Wards.
- The two wards would be a Foothills Ward comprising High Wycombe, Forrestfield and Maida Vale and a Hills Ward combining North Ward and South-East Ward
- Each Ward would comprise of four council offices (Councillors).
- Declare the Mayor is elected by all electors of the district for a four-year term.
- Declare that 4 existing Council offices 2 in each ward be abolished to reduce the number of councillors to 8.
- Declare all 8 council offices remaining vacant.
- Declare all 8 council offices be filled at the ordinary election in 2023 as follows.

Wards	Councillors	2023 Election
Hills Ward	4 councillors	2 x 4-year terms

North Ward and South-East Ward		2 x 2-year term
Foothills Ward comprising High Wycombe, Forrestfield and Maida Vale	4 councillors	2 x 4-year terms 2 x 2-year term
Whole of district	Mayor	1 x 4-year term

- Declare for the 2023 ordinary election that the terms for the 2 council offices in the Hills Ward and 2 council offices in the Foothills Ward would be the candidates who receive the highest number of votes will have a four-year term and the candidates with the third and fourth highest vote would have a two-year term.
- This approach would achieve the outcome that would re-establish an ordinary election cycle whereby 50% of the council offices are put to an election every two years.

31.

Option 5 - Choose a voluntary pathway that:

- Undertakes a Ward review and establish 2 Wards.
- The two wards would be a Foothills Ward comprising High Wycombe, Forrestfield and Maida Vale and a Hills Ward combining North Ward and South-East Ward.
- Each Ward would comprise of four council offices (Councillors).
- Declare the Mayor is elected by all electors of the district for a four-year term.
- Declare that 4 existing council offices - one in each ward be abolished to reduce the number of councillors to 8.
- Declare that all 6 council offices due to expire in 2025 remain as Councillors whereby 3 are in the Foothills ward and 3 are in the Hills ward.
- Declare the vacant council offices remaining for each Ward would be filled at the ordinary election in 2023 as follows.

Wards	Councillors	2023/2025 Election
Hills Ward North Ward and South-East Ward combined	4 councillors	The three existing Councillors with their terms expiring in 2025 would remain, and an election for one council office would occur in 2023 with four-year term. In 2025 an election for 3 positions would occur with one position being a two-year term.
Foothills Ward	4 councillors	The three existing Councillors with their terms expiring in

High Wycombe Forrestfield and Maida Vale		2025 would remain, and an election would occur for one other position in 2023 with a four-year term. In 2025 an election will be held for 3 positions with one position being for a two-year term.
Whole of district	Mayor	1 x 4-year term

- Declare for the 2025 ordinary election that the terms for the 2 council offices in Hills Ward and 2 council offices in the Foothills Ward will be four-year terms for the two candidates who receive the highest number of votes in that ward and the candidate with the third highest vote would have a term of two years.
- This approach would achieve the outcome that would re-establish an ordinary election cycle whereby 50% of the council offices are put to an election every two years.

32.

Option 6 - Choose a voluntary pathway that:

- Undertakes a Ward review and establish 2 Wards.
- The two wards would be a Foothills Ward comprising High Wycombe, Forrestfield and Wattle Grove and a Hills Ward combining North Ward with South-East Ward and Maida Vale.
- Each Ward would comprise of four council offices (Councillors).
- Declare the Mayor is elected by all electors of the district for a four-year term.
- Declare that 4 existing Council offices 2 in each ward be abolished to reduce the number of councillors to 8.
- Declare all 8 council offices remaining vacant.
- Declare all 8 council offices be filled at the ordinary election in 2023 as follows.

		2023 Election
Hills Ward North Ward with South-East Ward and Maida Vale	4 councillors	2 x 4-year terms 2 x 2-year term
Foothills Ward High Wycombe, Forrestfield and Wattle Grove	4 councillors	2 x 4-year term 2 x 2-year term
Whole of district	Mayor	1 x 4-year term

- Declare for the 2023 ordinary election that the terms for the 2 council offices in the Hills Ward and 2 council offices in the Foothills Ward would be the candidates who receive the highest number of votes will have a four-year term and the candidates with the third and fourth highest vote would have a two-year term.
- This approach would achieve the outcome that would re-establish an ordinary election cycle whereby 50% of the council offices are put to an election every two years.

33.

Option 7 - Choose a voluntary pathway that:

- Undertakes a Ward review and establish 2 Wards.
- The two wards would be a Foothills Ward comprising High Wycombe, Forrestfield and Wattle Grove and a Hills Ward combining North Ward with South-East Ward and Maida Vale.
- Each Ward would comprise of four council offices (Councillors).
- Declare the Mayor is elected by all electors of the district for a four-year term.
- Declare that 4 existing council offices - one in each ward be abolished to reduce the number of councillors to 8.
- Declare that all 6 council offices due to expire in 2025 remain as Councillors whereby 3 are in the Foothills ward and 3 are in the Hills ward.
- Declare the vacant council offices remaining for each Ward would be filled at the ordinary election in 2023 as follows.

		2023/2025 Election
Hills Ward North Ward with South- East Ward and Maida Vale.	4 councillors	The three existing Councillors with their terms expiring in 2025 would remain and an election for one council office would occur in 2023 with a four-year term. In 2025 an election for 3 positions would occur with one position being a two-year term.
Foothills Ward High Wycombe Forrestfield and Wattle Grove	4 councillors	The three existing Councillors with their terms expiring in 2025 would remain, and an election would occur for one other position in 2023 with a four-year term. In 2025 an election will be held for 3 positions with one position being for a two-year term.

Whole of district	Mayor	1 x 4-year term
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- Declare for the 2025 ordinary election that the terms for the 2 council offices in Hills Ward and 2 council offices in the Foothills Ward will be four-year terms for the two candidates who receive the highest number of votes and the candidate with the third highest vote would have a term of two years.
- This approach would achieve the outcome that would re-establish an ordinary election cycle whereby 50% of the council offices are put to an election every two years.

34.

Option 8 – Choose a Voluntary pathway

- Abolish all four Wards
- Declare all 6 council offices existing remain as Councillors until their terms expire in 2025.
- Declare 4 of the existing Council offices be abolished.

		2023/2025 Election
Whole of District	8 councillors	The six existing Councillors with their terms expiring in 2025 would remain as councillors until 2025. An election for two council offices would occur in 2023 one with a 4-year term and one with a 2 year term.
Whole of district	Mayor	1 x 4-year term

- Declare the 2 vacant council offices be filled at the ordinary election in 2023 one with a 4-year terms and one with two-year term.
- Declare for the 2025 ordinary election that the terms for the 3 candidates who receive the highest number of votes will have a four-year term and the 3 candidates in fourth to sixth place will have 2-year terms.
- This approach would achieve the outcome that would re-establish an ordinary election cycle whereby 50% of the council offices are put to an election every two years.

35.

Requirements and time frames

The following steps will need to occur to allow the City to meet the **30 June 2023** timeframe of publication in the Government Gazette of any

proposed ward and representation review changes, ahead of the October 2023 local government elections.

36. **Ward and representation review process and deadlines**

Process	Due Date
Council resolves change the method for election of the Mayor and to undertake a ward and representation review.	25 October 2022
Council formally advise the DLGSC of Council's decisions.	28 October 2022
A comprehensive discussion paper is developed and adopted by Council at the Ordinary Council Meeting in November.	22 November 2022
Council advertises that it is conducting a review and the associated public submission period opens (minimum 6 weeks) and the discussion paper is made available to the community for consideration, and public submissions are invited on the matter	25 November 2022
Public submission period closes	20 January 2023
Assessment of all submissions are considered against the relevant factors to be considered, and a draft report is prepared for Council decision.	31 January 2023
The draft report is presented to Council on the outcome of the public submissions and the proposed ward and/or boundary changes. Council resolves to adopt a preferred option for submitting to the Advisory Board.	Special Council Meeting 7 February 2023.
The preferred option is submitted to the Advisory Board via the formal report, for the Board's consideration and recommendation.	10 February 2023
The Advisory Board considers the	February to June 2023

Council's review report, and a recommendation is submitted to the Minister, which can either be accepted or rejected

If accepted gazettal occurs and changes are in effect for the October 2023 election.

30 June 2023

APPLICABLE LAW

37. *Local Government Act 1995.*

APPLICABLE POLICY

38. Nil.

STAKEHOLDER ENGAGEMENT

39. If the Council chooses a voluntary pathway a 6-week consultation period will be required.

FINANCIAL CONSIDERATIONS

40. The reduction in Council numbers by 3 will result in a saving of around \$90,000 per year.

SUSTAINABILITY

41. A key matter in making decision about the future council structure is one that needs to be considered in the context of how the decisions may impact on the sustainability of the City and the Community. The City is currently experiencing significant growth and change as it gentrifies and redevelops its infrastructure base, ensuring there is historical knowledge within the council is a critical component to the future success of the City.

RISK MANAGEMENT

42.	Risk: Should Council decide not to self-determine its future, it may be viewed by the community as not demonstrating leadership.		
	Consequence	Likelihood	Rating
	Moderate	Possible	Medium
	Action/Strategy		
	That Council ensure they understand the Ministers requirements and act proactively.		

CONCLUSION

43. This paper presents many options and there are possibly many other options that could be considered in the fullness of time, but the Minister for Local government has not provided unlimited time and decisions are required to be made promptly.
44. Notwithstanding the above issue about time, the key to this decision will be in how the Council will consider the reforms in the context of what is in the best interest of the community and what decision will provide the best pathway for continuity and stability of the Local Government.

Voting Requirements: Absolute Majority

RECOMMENDATION

That Council:

1. AGREE to undertake a voluntary election reform process.
2. Pursuant to section 2.11 (2) of the *Local Government Act 1995* AGREE to change the method of filling the office of mayor from the Council method to the election by the electors method in 2023.
3. REQUEST the Chief Executive Officer to prepare a Ward Boundary Review discussion paper, including all possible appropriate options, for consideration by Council in November 2022 and for the purpose of issuing the discussion paper for an 8-week public advertising period.

- 4.
5. REQUEST the Chief Executive Officer to advise the Department of Local Government, Sport of Cultural Industries by the 28 October 2022 of its preferred voluntary reform pathway and submit a high-level plan outlining the potential changes to be implemented for the ordinary elections to be held in 2023 (and in 2025, if applicable) as outlined in this report.

11. Closure