



Public Agenda Briefing Forum 13 April 2021

Notes



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1. Official Opening

The Presiding Member opened the meeting at 6:32pm and welcomed Councillors, Staff and Members of the Public Gallery. The Presiding Member also acknowledged the Traditional Owners of the land on which we meet the Whadjuk Noongar people.

2. Attendance, Apologies and Leave of Absence**Councillors****South East Ward**

John Giardina

Geoff Stallard

South West Ward

Lesley Boyd

Mary Cannon

North West Ward

Sue Bilich

Lisa Cooper

Dylan O'Connor (Presiding Member)

North Ward

Cameron Blair

Kathy Ritchie

Margaret Thomas JP (Mayor)

Members of Staff**Chief Executive Officer**

Rhonda Hardy

Executive Team

Gary Ticehurst - Director Corporate Services

Nicola Parker - A/Director Asset Services

Peter Varelis - Director Development Services

Management Team

Darren Jones - Manager Community Development

Nic Dexter - Leisure Planning Project Manager

James Wickens - Manager Environmental Health & Community Safety

Douglas Bartlett - Manager Asset Planning

Administration Support

Darrell Forrest - Governance Advisor

Donna McPherson - Executive Assistant to the CEO

Members of the Public 22**Members of the Press Nil.**

Apologies

Cr Janelle Sewell

Cr Brooke O'Donnell

Observers

Brett Jackson - Director Asset Services

Jamie Paterson - Manager IT

Leave of Absence Previously Approved Nil.**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.

3.2.1 Cr Lesley Boyd declared an Interest Affecting Impartiality on Item 10.4.1 Draft Hartfield Park Master Plan - Stage Two. Cr Boyd is the coach of a team at Forrestfield Football Club.

3.2.2 Cr Mary Cannon declared an Interest Affecting Impartiality on Item 10.4.1 Draft Hartfield Park Master Plan - Stage Two. Cr Cannon's husband is a committee member, and her children play football at the Forrestfield Football Club.

3.2.3 Cr Geoff Stallard declared an Interest Affecting Impartiality on Item 10.4.1 Draft Hartfield Park Master Plan - Stage Two. Cr Stallard is a member of the Forrestfield Bowling Club which is considered for redevelopment.

3.2.4 Rhonda Hardy declared an Interest Affecting Impartiality on Item 110.4.3 City of Kalamund Standards for Recruitment, Performance Appraisal and Termination of the Chief Executive Officer. Ms Hardy is the Chief Executive Officer of the City of Kalamunda and will be assessed under the Standards.

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4. Announcements by the Member Presiding Without Discussion

4.1 Nil.

5. Public Question Time

5.1 Nil.

6. Public Statement Time

6.1 Nil.

7. Public Submissions Received in Writing

7.1 Nil.

8. Petitions Received

8.1 Nil.

9. Confidential Items Announced But Not Discussed

9.1 Nil.

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10. Reports to Council**10.1. Development Services Reports**

No Reports presented.

10.2. Asset Services Reports**10.2.1. Zig Zag Scenic Drive: Next Steps**

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

The Manager Asset Planning provided a presentation on this Item.

Ms Victoria Laurie represented the Zig Zag Park Improvement Reference Group, and Mr Harry Pannekoek spoke in support of the recommendations of the report and Council with concepts which could be implemented within the Park.


Mr Adam Harper spoke in support of the recommendation. Mr Harper also provided Council with information of incidents of dangerous behaviours at the Park which he had been witness to.

Mr Peter Forrest provided comments in relation to the future use of the Zig Zag Scenic Drive.

Council sought clarification on aspects of the report.

Previous Items	OCM 187/2012; OCM183/2013; OCM74/2014; OCM 90/2014; SCM 43/2020; OCM 211/2020
Directorate	Asset Services
Business Unit	Asset Planning
File Reference	ZG-01/GEN
Applicant	N/A
Owner	N/A
Attachments	<ol style="list-style-type: none"> 1. Zig Zag Scenic Drive Community Engagement - Executive Summary [10.2.1.1 - 37 pages] 2. Community Engagement Report - Future of Zig Zag Scenic Drive [10.2.1.2 - 743 pages]

TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
 Executive	When Council is undertaking is substantive role of direction setting and oversight (e.g. accepting tenders, adopting plans and budgets)

Information	For Council to note
Legislative	Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person's rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

STRATEGIC PLANNING ALIGNMENT*Kalamunda Advancing Strategic Community Plan to 2027***Priority 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 3.2** - To connect community to quality amenities.**Strategy 3.2.2** - Provide and advocate for improved transport solutions and better connectivity through integrated transport planning.**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 4.2** - To proactively engage and partner for the benefit of community.**Strategy 4.2.1** - Actively engage with the community in innovative ways.**EXECUTIVE SUMMARY**

1. The purpose of this report is to consider a recommended course of action regarding Zig Zag Scenic Drive (ZZSD) taking into account the results of the community engagement on the status of the Zig Zag Scenic Drive, outcomes of the trial closure to vehicle traffic and recommendations of the Zig Zag Reference Group and City of Kalamunda Advisory Committees.
2. The community engagement received 1,373 responses consisting of 1,337 survey responses and 36 separate written submissions.

3. Significant information regarding changes that occurred during the trial closure of ZZSD to vehicles has been collated.
4. A Zig Zag Park Improvement Reference Group (Reference Group), chaired by the Hon Matthew Hughes MLA also convened and has made recommendations regarding the future of ZZSD. Key advisory committees of the City of Kalamunda (City) have also considered the matter.
5. There is understanding of the impacts of ZZSD being closed at all times and being open at all times to vehicles. The City does not have any data reflecting outcomes from a scenario whereby ZZSD is open to vehicles during the day/early evening but closed at night.
6. The recommendation is for Council to:
 - a) maintain the current closure of ZZSD to vehicles until 1 July 2021;
 - b) endorse a twelve month trial commencing 1 July 2021 of having ZZSD open to vehicles from the morning to one hour after sunset but closed at night to vehicles and consider a report on the outcomes;
 - c) note the inclusion of funding in the draft 2021/22 budget to implement management procedures during this trial; and
 - d) endorse that an advocacy campaign is undertaken to develop a staged improvement plan for ZZSD and surrounds.

BACKGROUND

7. Given the long history of concerns and Council reports as far back as 2012 regarding ZZSD, only the three recent Council decisions are relevant to the consideration of the next steps with ZZSD.
8. The first is the City of Kalamunda Bicycle Plan which was adopted in June 2018. Council resolved (EN BLOC RESOLUTION OCM 107/2018):

That Council:

 1. *ADOPTS the City of Kalamunda Bicycle Plan 2017 Technical Report and City of Kalamunda Bicycle Plan 2017 Summary Report for implementation.*
 2. *ENDORSES a funding level of up to \$500,000 per year in municipal funds for consideration in the Long-Term Financial Plan and respective capital budgets.*
 3. *NOTES that a report on a community engagement program to consider options for pedestrian, cycling and vehicle access through the Zig Zag Scenic Drive will be presented to Council for consideration before proceeding with this program.*

9. Due to an increasing number of complaints regarding speeding and antisocial behaviours along the ZZSD, a report was presented to Council in April 2020. Council resolved (SCM 43/2020):
That Council:
1. *NOTE provision of traffic calming measures for Lascelles Parade will be listed for consideration by Council as part of the draft 2020/2021 Budget process.*
 2. *UNDERTAKE a six-month trial of closing Zig Zag Scenic Drive to vehicles at all times to commence by 30 May 2020.*
 3. *REQUEST the Chief Executive Officer provide a report on the results of the temporary closure, and a recommendation for a permanent solution including recommendations for preparing a resultant Tourism strategy for this area.*
10. During the trial closure, the City of Kalamunda (City) undertook community engagement on this subject. There was a large number of surveys and submissions made and in order to allow the City to assess the community consultation results, a further report was provided to the October 2020 Ordinary Council Meeting where Council resolved (OCM 211/2020):
That Council EXTEND the temporary closure of Zig Zag Scenic Drive to all vehicles to no later than 31 May 2021 unless determined by Council at an earlier date.

DETAILS AND ANALYSIS

11. This report, by the very nature of the details to be discussed, will need to be read in sections pertaining to:
- a) the Community Engagement outcomes;
 - b) further stakeholder feedback;
 - c) outcomes found during the trial closure period;
 - d) analysis of issues raised in the Engagement Report; and
 - e) conclusions drawn.
12. **Community Engagement Outcomes**
13. The City undertook community consultation to understand the level of interest and issues regarding the future use of ZZSD. The primary tool used was a feedback survey however the City also accepted separate submissions from the community during this time. The Consultation period ran from 30 July 2020 to 7 September 2020.
14. The City received 1,337 survey responses and 36 separate submissions on the topic making it the largest community feedback exercise in recent times. The Community Engagement Report (Report) on the Future of Zig Zag Scenic Drive has been subsequently prepared.

15. An Executive Summary of the Report is provided as Attachment 1. The full Report is 743 pages long and is provided as Attachment 2.
16. The Report provided empirical information based on the closed questions and quite substantive information based on the open-ended questions. The views of the community can then be understood based on synthesising the information provided.
17. It would be expected the response of greatest interest would be the question "Would you be supportive of the site remaining closed to vehicles on Zig Zag Scenic Drive". 1,334 respondents answered this question with 767 saying 'No' and 567 saying 'Yes'. The majority view was not to support Zig Zag remaining closed. A breakdown by suburb of responses shows:

Suburb	Overall responses	Stay Closed	Re-Open	Prevailing View
Gooseberry Hill	198	144	54	Stay Closed
Kalamunda	178	62	116	Re-Open
High Wycombe	109	20	89	Re-Open
Lesmurdie	91	44	47	Even
Maida Vale	64	26	38	Re-Open
Forrestfield	58	9	49	Re-Open
Helena Valley	30	11	19	Re-Open
Darlington	26	15	11	Stay Closed
Other Suburbs / Suburb not provided	580	236	344	Re-Open

18. One key outcome from the consultation was to understand the community's view of preferred future for ZZSD area. This was sought via Question 13 in the survey "Is there 'one big thing' that you would like to see in this area?". Irrespective of the view about whether ZZSD should be open or closed, the majority of responses were aligned to the following themes:
- a) providing a walking, hiking and pedestrian environment;
 - b) preventing speeding, hooning and associated dangerous behaviours;
 - c) making the most of our scenery and protecting flora and fauna;
 - d) providing a unique place and promoting tourism;
 - e) managing or reducing litter and waste; and

f) parking at the top.

19. In consideration of the speeding and hooning concerns that have been raised, the survey sought feedback on some suggested measures that could be undertaken. The summary of these responses is:

Measure	Overall Perception	Mostly Effective	Not effective or Dangerous
Traffic slowing devices	Not effective	541	659
Closing the road for certain times	Marginally not effective	539	618
Regular police presence	Effective	750	363
CCTV	Effective	743	369
Increased punishment	Effective	760	395
Decrease speed limit	Not effective	432	758
Anti-burnout surface	Even	533	449

Discussion below will comment further on these matters.

20. The open-ended questions regarding impacts upon respondents, improvements during the trial closure and vision for the future generated a significant number of discussion items. These are then discussed later in the report where common ideas and themes are commented upon.
21. This engagement process also drew a large number of comments on social media. The known comments are provided within the Report however the views are basically polarised between the desire for pedestrian and cyclists to use ZZSD and the desires for cars to be able to drive down. There was also an active component of commentary seeking support for the restoration of ZZSD for a train.
22. If a summary could be made of the community feedback it generally would be aligned to allowing cars to use ZZSD but also make it safe for pedestrians and cyclists, make it a tourism icon, deal with hooning and antisocial behaviour and protect the natural environment. Other suggestions such as closing the road at night to vehicles but allowing vehicles during the day were also numerous. As discussed later in the report, there is no 'quick fix' to solving all of these needs.

Further Stakeholder Feedback

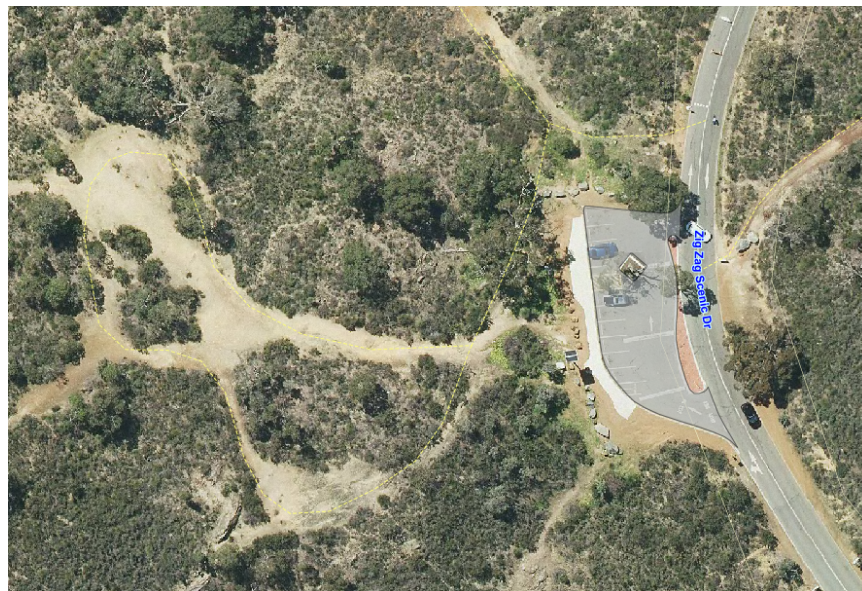
23. The City also sought the views of key Advisory Committees regarding their position on whether to keep ZZSD closed or re-open in regard to their relevant Terms of Reference. A summary of their resolutions are:

Committee	Resolution	Commentary
Kalamunda Environmental Advisory Committee	ZZSD remains closed	Aligns to enhancing the environmental outcomes for adjacent Park
Community Safety and Crime Prevention Committee	ZZSD is reopened with conditions	Conditional upon significant upgrades in infrastructure aligned to enhancing community safety and crime prevention
Kalamunda Tourism Advisory Committee	ZZSD is closed at night with exceptions	Ability to open at night for tourism events
Kalamunda Arts Advisory Committee	No conclusion drawn	Challenged City to research and identify that ZZSD becomes an arts activated place
Disability and Carers Advisory Committee	Based on a small number of responses, DACAC were unable to reach a consensus view	DACAC also wished any subsequent decision of Council on this issue to be referred back to them for information

The views of these Committees should be noted.

24. The Hon Matthew Hughes MLA and the City enabled the formation of a Zig Zag Reference Group (Reference Group) chaired by himself with membership of the Mayor and Deputy Mayor, CEO, City Staff, Community representatives, Department of Biodiversity and Attractions (DBCA) (managers of Gooseberry Hill National Park through which ZZSD travels), Officer in Charge Forrestfield Police Station and a volunteer psychologist.
25. This Reference Group convened in November 2020 and has met through to February 2021 to discuss the ZZSD issues and determine if there is a feasible joint State, City and Community way forward on this issue.

26. The Reference Group settled on a shared vision for the future of this area to be:
- a) Curated and well-designed areas for people to park, picnic and take in the views and enjoy the scenery with a focus on Noongar heritage.
 - b) Allow people to drive down ZZSD instead of stopping.
 - c) No immediate progression into activated commercial areas such as restaurants and the like.
 - d) Protect the natural environment and Gooseberry Hill National Park.
27. The Reference Group also adopted a position that ZZSD is opened at day to vehicles and closed at night with an accompanying series of infrastructure and other management initiatives to address antisocial behaviour. This was not a unanimous recommendation with one dissenting vote from the membership.
28. The Reference Group determined that if short term improvements were to be undertaken for visitor amenity that they should focus on enhancing the area around the existing sealed car park at the top of ZZSD with a Noongar inspired series of walkways, contemplation points, a lookout, expanded car parking and public toilets within the DBCA area. DBCA have offered to investigate if they could fund a concept design for this area. The area of interest is at the start of ZZSD as it meets Lascelles Parade as shown below:



29. Finally, the Reference Group commended that once the City determined the future of ZZSD that a Master Plan be developed and advocacy undertaken to fund improvements.

Outcomes found during trial closure period

30. During the closure of the ZZSD, the City experienced the following:
- a) a significant reduction in litter and dumping;
 - b) a significant reduction in complaints requiring Ranger services;
 - c) an increase in parking and stopping in unsuitable locations such as Ocean View Parade;
 - d) a significant reduction in complaints regarding speeding and hooning, including along the approach roads; and
 - e) supportive comments from the community regarding the ability to walk, and cycling uphill (the road previously was one way downhill).
31. DBCA also have commented anecdotally that a reduction in damage to the National Park has been found during the trial closure.
32. In November 2019 (when ZZSD was open) the City collected 507 kg of litter from ZZSD excluding green waste and tyres. The same exercise was conducted during August 2020 while the road was closed to traffic with only 17 kg of litter collected.
33. The closure of the road has not only had a dramatic decrease in the mass of litter, there was also:
- a) no illegal dumping, especially no asbestos;
 - b) no vandalism of rubbish bins;
 - c) no drug bags, bongs, condoms and so on;
 - d) reduction in needles (from around eight a week to only two since closed);
 - e) reduction in dead animals on the road;
 - f) reduction of campfires and camping gear left behind;
 - g) materials that are dumped are left at the gate rather than scattered along the road; and
 - h) reduction in servicing time for the City. There is the possibility of utilising one staff member to service the road instead of two, and staff are not having to go down banks to access litter over edges with obvious safety improvements.

34. There has been no change in the number of 'nangs' that have been discarded in ZZSD. Nangs are small compressed nitrous oxide canisters that are inhaled for their illicit effects. A photo of 'nangs' is shown below:



This suggests that their use is mainly by people who don't drive down ZZSD.

35. For reference, during the closure there was no noticeable increase in litter or Illegal dumping in other locations such as Lion's Lookout, Palm Terrace, Honey Road, and Falls Road.
36. WA Police provided reporting statistics on incidences relating to ZZSD (note these reflect numbers of reports, not actual Police attendance which may have been higher). Prior to the closure of the ZZSD, from February to May (four months) there were 73 incident reports, while during the June to September (four months) there were 22 incident reports.
- It is noted that the first data set also coincided with the Covid-19 travel restrictions and milder autumn weather.
37. It is to be noted however that there was a case of an assault upon a resident of Ocean View Parade during the trial closure and upon investigation of the circumstances it is reasonable to assume that the assailant's vehicle was parked on Ocean View Parade due to ZZSD being closed.
38. In terms of parking and related compliance issues, the City's experience prior to the closure was:
- a) Rangers staff patrolled the area daily and in 2019 (12 months) attended to 44 reported incidents;
 - b) the matters most reported were related to waste dumping and littering, vandalism, antisocial behaviour, hooning and off-road vehicle activity, camping and illegal fires; and
 - c) the Rangers aimed to display a presence in the area as a deterrent to unacceptable activities.

39. The City's experience during the closure has been:
- a) 19 recorded incidents in 2020 (nine months) including periods of open and closed;
 - b) 130 Ranger patrols required; and
 - c) a decline in illegal behaviours as reported, regarding litter experiences (outlined above) and the WA Police report.
40. In terms of traffic and parking:
- a) anecdotal experiences of ZZSD, prior to the closure, were that in the evenings every parking spot a vehicle could squeeze into was being used. The City and DBCA regularly had to move and place rocks to prevent four-wheel drive vehicles from leaving the road reserve;
 - b) during the trial there were instances initially of vehicles congregating at the top gate near Ocean View Parade causing amenity issues for residents however this has tapered off;
 - c) as a result of a number of complaints regarding parking and stopping along Ocean View Parade, the City implemented 'No Stopping' yellow lines along the length of this road. Ocean View Parade is four metres wide, thus any vehicle stopping or parking is doing so illegally as the vehicle is blocking the road; and
 - d) the top sealed carpark became very popular for visitors for lookout purposes with a manageable increase in litter.
41. In summary, during the trial closure, the City found that there were significant reductions in antisocial behaviour, criminal behaviour, and littering and dumping. It is also noted that damage to the vegetation and habitat adjacent to ZZSD inside Gooseberry Hill National Park was reduced and recovery of vegetation is underway. The trial closure has had positive impacts.

Engagement Report – Analysis

42. This section of the report provides commentary regarding issues raised in the Engagement Report for noting.
43. The commentary within will speak to the need for a Master Plan to be developed for ZZSD and environs as also recommended by the Reference Group.

Speeding and Traffic Calming

44. Within the Report, comments were raised by 315 respondents that included words associated with "speeding". In addition, comments about the future of ZZSD also identified from 268 respondents the ongoing need to manage speeding.

45. From a technical perspective, the ZZSD is not conducive to traffic calming devices as placing speed humps or chicanes on the very narrow road would result in an increased risk of crashes. The road is currently three metres wide along most parts and has three 180 degree bends with very small radii. To provide traffic calming would require a larger scale solution, involving road widening into the adjacent National Park and extensive series of crash barriers.
46. It is recognised that chicane type traffic calming measures have been installed on ZZSD prior to the top gate and on Lascelles Parade with some effectiveness in reducing hooning however these parts of the road (being of nominal normal width) do not present the same hazards identified above if these treatments were used on the narrow section of ZZSD.
47. An anti-burnout surface spray, as suggested in the community consultation, is a more abrasive surface that prevents tires from sliding across the surface and causes them to lose rubber more quickly. These treatments are suited to specific locations such as intersections. If a resurfacing of ZZSD was being considered, this issue would be explored further.
48. With regard to speed limits, the nature of ZZSD, being narrow with steep verges and sharp bends, creates a low speed environment for most users. Traffic counts were not taken immediately prior to the closure. Count data from 2017 shows 85th percentile speeds around the 46 km/hr range in the 40 km/hr speed zone. In April 2020, the 85th percentile speed just north of the sealed carpark was 55.4 km/hr (50 zone).
49. The community consultation question 11 showed that the community perceive a decrease in the speed limit to be not effective. Similarly, the community perceive that traffic slowing devices would not be effective.
50. To reduce the speed limit below 40 km/hr requires special consideration for "place" characteristics over vehicle movement, as part of the Main Roads WA speed zoning criteria. A "place" characteristic would include retail shopping and pedestrian generators. In this case there are no "place" characteristics so a reduction in speed zone would not be approved by Main Roads WA. Those who will travel significantly in excess of the speed limit would also not be likely to comply with a change to the speed limits.
51. Separately to the community consultation, the City has received a number of complaints regarding speeding along Lascelles Parade and Williams Street. Traffic calming improvements for Lascelles Parade and Williams Street will be listed for consideration in the 2021/22 capital works budget.

52. The City has noticed an increase in the number of “long-boarders” filming their descent with cameras. These riders may be a hazard for other users and also at risk if vehicles were using ZZSD at the same time.

Policing

53. As provided by the WA Police web site (<https://www.police.wa.gov.au/>):
“The Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004 and subsequent amendment legislation, commonly known as Hoon Legislation, empowers police to impound vehicles that:
- are driven in a reckless manner,
 - do a burnout; or
 - are driven at a speed equal to or greater than 45km/h over the posted speed limit.”

Part of the effectiveness of deterrents and punishments is the ability to catch the offenders, which requires coordination of the WA Police, camera systems, and supporting resources. Reports of hooning can be made online at <https://www.police.wa.gov.au/Police-Direct/Traffic/Traffic-Complaint-Form/Questions-A>.

54. The community consultation question 11 confirmed that the community perceive a regular police presence and increased punishment to be effective. Comments from the consultation were received from 26 people on policing and 315 people on speeding.
55. In acknowledging the limited WA Police resources, a solution needs to be found that makes the best use of those resources, balanced with the severity of the concerns and associated risks. Keeping ZZSD closed will lead to an ongoing lower level of criminal activity in the area and free up WA Police resources to support other areas.
56. In the community consultation, question three identified that 585 of the 1,373 respondents drive and in addition to the many walkers it is presumed that a large number of these drive and park nearby. The sentiment towards parking needs was not directly identified in the community consultation.
57. On the basis of the City’s experiences with parking compliance and behaviours, it is proposed to plan for an improvement in parking facilities to support the area regardless of whether the road remains closed or is reopened.

- CCTV including Speeding Cameras*
58. The City has an adopted CCTV Policy and Strategy which has as its preamble:
“CCTV surveillance is acknowledged as a valuable and effective tool for the protection of people and property. CCTV plays an active deterrence role to reduce and manage antisocial behaviour, drug and alcohol related crime, offences against persons and property and as a powerful investigative tool for local Police. Alongside crime deterrence, the public CCTV system improves the perception of community safety and property protection.”
59. The community consultation question 11 confirmed that the community perceive CCTV to be effective. Comments from the consultation however were only received from 30 people on CCTV. It is proposed therefore that CCTV only be considered should the road be reopened, to help manage antisocial behaviours and speeding.
- Litter and Waste*
60. In the community consultation, comments about littering were received from 240 people. The management of litter also was important as 203 comments on the future of the area mentioned litter.
61. If ZZSD was restricted to pedestrians and cyclists, the City would need to implement a slight increase in the number of litter bins along the length of ZZSD with the view that these users would use the bins in preference to dropping their litter on the roadside.
62. If ZZSD was open to vehicles and areas provided for off road parking, a similar increase in litter bins would also be required.
63. However, it is noted that allowing vehicle access is almost certain to lead to an increased level of illegal dumping given the relative solitude of the area.
- Exercise*
64. Question four in the community consultation identified that 977 people visit the ZZSD for exercise (walking, hiking or cycling). Feedback on the future of the road identified a combined 494 comments seeking exercise opportunities.
65. There were 346 comments in the community consultation about providing a walking, hiking and pedestrian environment. These issues need to be considered in any future Master Planning for the area.

Social Connection

66. The road also provides a high value to social connection, with 208 comments mentioning social connections, family and friends. Feedback on the future of the road provided 87 comments on socialising. These seemed to be independent of views regarding the road being opened or closed.

A unique place and tourism

67. The Report notes comments about the ZZSD being a unique place were received from 133 people that mentioned words such as “unique”, “Iconic”, “fantastic” and “wonderful”. Tourism related words were mentioned 200 times, and words related to the scenery were mentioned 363 times.
68. Feedback on the future of the road identified similar sentiment, with 105 comments on a unique place, 251 comments about the benefits to tourism, and 221 mentions of scenery. All of these aspects can be supported whether the road is closed or reopened, as part of the tourism response again within the context of a Master Plan.

Mobility

69. A few comments in the community consultation covered elderly people with mobility limitations, or people with full or partial physical disability who objected to being unable to drive or be driven down ZZSD to park to enjoy the scenery, views and National Park.
70. This matter would need to be addressed in a deliberate fashion through the Master Planning process noting that potential other nearby areas can be developed for enjoying the scenery, views and the National Park.

Zig Zag Train Restoration Proposal

71. There was commentary raised that the City should develop ZZSD for the Zig Zag Train Restoration and cease further discussions regarding vehicle access in terms of open or closed.
72. The City has dealt with this issue in a report to Council in December 2020 in which the proponents of the Train Restoration were provided with an extensive list of issues that they need to address (including ZZSD) as part of any subsequent proposal to be presented to the City. No further consideration within this Report regarding the Train is necessary.

Conclusions Drawn

73. As demonstrated above, the trial closure has seen significant reductions in the antisocial, criminal and environmental damage in the area. The City has also received many compliments from cyclists and pedestrians regarding the amenity that this provides.
74. The outcome for ZZSD when considering the values associated with exercise, social connection, a unique place, and tourism, may be to keep the road closed to prevent antisocial behaviours but accessible with appropriate facilities to support exercise, social and tourism values. These benefits have come at a small cost to the City (supply and installation of the gates).
75. It is recognised that the majority view of respondents was to reopen the road. Should the road be reopened, the City will need to provide a greater level of enforcement and controls than before, thus preventing detracting from the community values.
76. As it stands, the City can adopt one of two outcomes – the road remains closed to vehicles (excluding permitted use) at all times or the road is reopened to vehicles at all times. The implications are discussed below:
77. In both Options it is recognised that there is need for an overarching Master Plan for ZZSD and environs to address the physical and emotional needs of the community, tourism and environment.
78. *Option 1: Zig Zag Scenic Drive Remains Closed*
In this option, the key implications are:
- a) for the organisation, minimal resourcing and monitoring concerns, and this is the lowest operating cost option;
 - b) the WA Police, Department of Fire and Emergency Services (DFES) and DBCA would experience a similar outcome as the City in terms of reduced need to respond;
 - c) the City will require capital costs arising from the need to improve the safety for pedestrians and cyclists (on the closed road), and the eventual need to resurface the ZZSD for pedestrian and cyclists; and
 - d) the majority of the feedback from the community consultation was for the road to not remain closed to vehicles, thus there will be dissatisfaction from most parts of the community if this option is selected.
79. *Option 2: Zig Zag Scenic Drive is Opened Fully*
In this option, the key implications are:
- a) for the City, resume resourcing and monitoring including daily Ranger visits, weekly litter collection visits, and responding to the many complaints;

- b) a probable dramatic increase in dumped rubbish and litter, antisocial behaviours, and speeding;
 - c) the WA Police, DFES and DBCA would experience a similar outcome as the City in terms of needing to respond to issues;
 - d) the City will require capital costs arising from the need to make the road safer and try to lower vehicle speeds safely, provide pedestrian and cyclists facilities separated from traffic, and the impending need to resurface the ZZSD for vehicles; and
 - e) the majority of the feedback from the Gooseberry Hill residents in the community consultation was for the road to remain closed to vehicles, thus there may be dissatisfaction from this localised part of the community if this option is selected.

- 80. The community consultation sought perceptions from people on “Closing the roads during certain times e.g. 6pm-7am”. Question 11 in the community consultation identified that more people considered this to be not effective (618) than effective (539). Further analysis of the sentiment was not possible from the survey.

- 81. Having the road open for certain periods of time during the day may provide opportunities to understand if the negative impacts of vehicle access is mainly caused at night and as such, daytime use by vehicles may not be as problematic.

- 82. However, it has to be set out that ZZSD roadway is narrow and there is limited capability to safely permit pedestrians and cyclists two way access to ZZSD with cars being restricted to one way downhill flow without a higher risk of accidents.

- 83. It is recognised that the City does not have data to understand the outcomes of a day open / night closed to vehicles scenario specifically to determine if the majority of antisocial and criminal behaviour and environmental damage occurs at night. It is believed that a third option may exist for the future of ZZSD.

- 84. *Option 3: Zig Zag Scenic Drive Is Opened for Set Times*
 In this option, the time controls are intended to manage undesirable behaviours while supporting positive experiences. The implications of this option may be:
 - a) for the City, resume resourcing and monitoring including daily Ranger visits, weekly litter collection visits, and responding to complaints;
 - b) provide a gate opening and closing service with the authority to issue move-along orders;
 - c) potential increase in dumped rubbish and litter, antisocial behaviours, and speeding;

- d) the WA Police, DFES and DBCA may experience a similar outcome as the City;
 - e) the City will require capital costs arising from the need to make the road safer and try to lower vehicle speeds safely, provide pedestrian and cyclists facilities separated from traffic, and review the impending need to resurface the ZZSD for vehicles;
 - f) for the community, there will be a loss of exercise amenity during road open times, but gain for those whom prefer to drive down the road (highly valued); and
 - g) there will be conflict at each opening and closing time as the enforcement agency separates pedestrians, cyclists, and drivers.
85. If this solution was implemented as a permanent outcome, the City would develop further consideration as to whether an unmanned automated gate opening and closing system in lieu of manned patrols would be effective and cost efficient.
86. The benefits of opening for a set time each day may include:
- a) enabling full access for all levels of mobility;
 - b) protecting the access, driving experiences and associated values experienced by people from being able to drive down the road; and
 - c) possibly a stronger tourism attraction and potential for associated activities than if the road was closed.
87. A probable negative impact of this Option would be that cyclists could not use ZZSD as two-way flow during the opening time as an unacceptable risk of vehicle – cyclist impact will result. The City would need to undertake overt communication to the community on this matter, given that cyclists have been using ZZSD in two-way mode for a while.
88. As noted above, whilst the City can estimate the possible positive and negative outcomes of this Option, it has no material facts of testing this option to work with.
89. It is therefore considered that Council should undertake a trial of having ZZSD:
- a) opened in the morning at 10am, by City Ranger staff;
 - b) Authorised Officers attend to ZZSD in the evening one hour after sunset; close the top gate and move down ZZSD directing visitors to move on and leave the area via the bottom gate; and
 - c) subsequently close the bottom gate.

It is envisaged that the closure and clearing of site may take one hour each day.

90. The time of sunset varies during the year. During the trial sunset would be:
- a) 1 July 2021 – 5:23 pm
 - b) 1 October 2021 – 6:18 pm
 - c) 1 January 2022 – 7:26 pm
 - d) 1 April 2022 – 6:13 pm
91. Currently the City's Ranger staff do not have rosters extending beyond 7pm on weekdays and 4pm on weekends. As such, the most cost effective solution to implement this trial is to engage external Contractors for the night time closures. The anticipated cost of this is \$25,500 for a twelve month trial.
92. This trial should commence 1 July 2021 so as to provide sufficient time to inform the community of the change in the usage of ZZSD and to provide budget funding within the 2021/22 Budget, as no budget exists to commence the trial earlier.
93. By undertaking the re-opening each day at 10 am, this still provides the early morning for pedestrians and cyclists to have free access to ZZSD which may partially mitigate the concerns raised once the road is re-opened to vehicles.
94. It is proposed to provide a subsequent report to Council in May 2022 detailing the outcomes from an antisocial, criminal and environmental perspective. Council may then be able to make a final determination on the status of ZZSD before the planned termination of the trial on 30 June 2022.
- Zig Zag and Environ Master Plan**
95. To coordinate the many actions that have been identified from the community consultation, the City should prepare a Zig Zag and Environ Master Plan. This would include:
- a) improving pedestrian access and trails;
 - b) improving and expanding parking facilities;
 - c) implementing better traffic calming along Lascelles Parade and Williams Street (as are also being separately planned);
 - d) investigating larger scale facility improvements in the future such as lookouts and potentially a café; and
 - e) promoting the tourism attributes of the area.

APPLICABLE LAW

96. S3.50 of the *Local Government Act 1995* covers the closing of certain thoroughfares to vehicles. This is supported by section 4 of the *Local Government (Functions and General) Regulations 1996*.

97. The *Road Traffic Act 1974* and *Road Traffic Code 2000* cover the authority to regulate parking and driver activities.

APPLICABLE POLICY

98. Service Policy 4 Asset Management – covers a number of areas that are addressed in this report, including community consultation and values, and considering impacts of decisions relating to assets.
99. Service Policy 5 Communication and Engagement – particularly ensuring that the decision-making process is transparent in the way it refers to community consultation.

STAKEHOLDER ENGAGEMENT

100. The Executive Summary and full Community Engagement Report and are provided as Attachments 1 and 2 (respectively) to this report.
101. The WA Police, DFES and DBCA were advised of the survey and pending Council report and invited to submit their concerns or suggestions in writing.
102. The WA Police responded by providing statistics on system reports as stated previously. Responses from DFES and DBCA have not been received.
103. It would be intended that the Council determination of this report would be communicated to the community, including those who, as part of their survey response requested to be kept informed, Advisory Committees, relevant State Agencies and Members of Parliament.

FINANCIAL CONSIDERATIONS

104. The closure of the Zig Zag Scenic Drive, installing gates and so on, has cost the City of Kalamunda \$25,300. The road is due to be resurfaced, however should the road remain closed this will not be needed for many years.
105. Should the road be reopened, the City will incur ongoing operational costs in Ranger and Contractor attendance, litter collection, and general maintenance of the road. Note that the park is managed by DBCA and four-wheel drive damage becomes a state government cost.
106. The cost of any improvements identified as part of the proposed Zig Zag and Environs Master Plan will be identified in that plan.

107. Traffic calming treatments have been identified for Lascelles Parade and Williams Street that, if constructed, will cost \$176,000 and \$100,000 respectively. The priority for these projects are not contingent upon the status of the ZZSD.

SUSTAINABILITY

Social Implications

108. As identified in the themes arising from the community consultation ZZSD is highly valued by the community for the social opportunities it creates, and from its history. Any change to the access for the drive needs to ensure the social values are protected.
109. Should the drive be reopened to vehicles, the speeding and associated antisocial behaviours will cause a negative social impact. This will need to be managed, while acknowledging the difficulty for the City and enforcement agencies in doing so.

Economic Implications

110. Based on responses to the community consultation, approximately 7,300 visitors visit ZZSD annually from outside the City. Using an event impact modelling scenario, the economic contribution of visitors to the area is estimated at \$500,000 per year adding to the gross regional product of Kalamunda. The combination of all direct, industrial and consumption effects would result in an estimated increase of employment equivalent to seven annual jobs located in the City of Kalamunda.
111. If the ZZSD remained closed, it results in an approximate economic loss of \$500,000 and seven local jobs (as may have already been realised). A partial opening would have a positive impact commensurate with the increase in vehicle-based visitation.

Environmental Implications

112. As identified in the themes arising from the community consultation, the ZZSD is highly valued by the community for the natural experiences it creates. Any change to the access for the drive needs to ensure the environmental values are protected.
113. Should the drive be reopened to vehicles, the natural environment needs to be protected, and littering and damaging environmental activities need to be prevented. This will need to be managed, while acknowledging the significant level of littering that was experienced when the road was open, and the difficulty for the City and enforcement agencies in preventing such behaviours.

RISK MANAGEMENT

114.

Risk: Reputational impacts from community members dissatisfied with the resolution of Council in regard to this report.		
Consequence	Likelihood	Rating
Moderate	Likely	Medium
Action/Strategy		
Provide further communication to the community on the survey results and reasons for the decisions.		

115.

Risk: A decline in reputation of the City due to injury to the community or damage to public or private property arising if the ZZSD is reopened and dangerous or antisocial behaviours arise.		
Consequence	Likelihood	Rating
Significant	Possible	High
Action/Strategy		
Manage driving behaviours and user behaviours through established control and enforcement methods.		

116.

Risk: A decline in reputation of the City due to a decline in economic activity or negative effect on tourism as a result of the ZZSD remaining closed.		
Consequence	Likelihood	Rating
Significant	Likely	High
Action/Strategy		
Investigate other ways to make the area attractive to walkers and cyclists, and thus maintain or improve economic activity.		

CONCLUSION

117. At this time there is no solution of opening or closing ZZSD that will address every community issue to their satisfaction. A long-term solution developed through a Master Planning process with community consultation is seen as the way forward.
118. The City does not have data surrounding if the negative impacts of having ZZSD open can be reduced if the road was open in the day but closed at night. There is benefit in undertaking a trial of this scenario in order to have the complete picture.

Public Agenda Briefing Forum 13 April 2021

119. The community engagement process undertaken has resulted in the highest level of response in recent years. As such, it should be viewed as representative of the views of the community at large.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:


1. MAINTAIN the current closure of Zig Zag Scenic Drive to unauthorised vehicles until 30 June 2021.
2. ENDORSE a trial of opening Zig Zag Scenic Drive at 11am each day and closing it at one hour after sunset each day until 30 June 2022.
3. UNDERTAKE a community awareness campaign to advise the community, key stakeholders and Advisory Committees of this further trial.
4. NOTE the inclusion of \$25,500 of additional operating costs within the draft 2021/22 Budget to undertake this trial.
5. RECEIVE a report on the outcomes of this trial in May 2022 to allow a final decision on the status of Zig Zag Scenic Drive in regard to vehicles.
6. SEEK the support of the Department of Biodiversity, Conservation and Attractions (DBCA) in developing a concept plan for improved visitor parking and amenities, boardwalk and lookout within Gooseberry Hill National Park at the current location of the sealed carpark at the start of Zig Zag Scenic Drive.
7. ENDORSE development of a Zig Zag and Environs Master Plan upon further resolution of the status of Zig Zag Scenic Drive regarding vehicles access.

10.3. Corporate Services Reports**10.3.1. Proposed Dedication as Road - Portion of Lot 56 Courtney Place, Wattle Grove***Declaration of financial / conflict of interests to be recorded prior to dealing with each item.*

The Director Corporate Services provided a presentation on this Report.

Previous Items	Nil
Directorate	Corporate Services
Business Unit	Commercial and Cultural Services
File Reference	CR-16/GEN
Applicant	Taylor Burrell Barnett
Owner	State of Western Australia
Attachments	<ol style="list-style-type: none"> 1. Application Letter - Dedication of Portion of Lot 56 Courtney Place - Redacted [10.3.1.1 - 1 page] 2. Plan - Dedication of Portion of Lot 56 Courtney Place [10.3.1.2 - 1 page] 3. Submission Table - Dedication of Portion of Lot 56 Courtney Place [10.3.1.3 - 3 pages] 4. MRWA Submission - Dedication of Portion of Lot 56 Courtney Place - Redacted [10.3.1.4 - 9 pages] 5. Applicant Response to MRWA Submission - Dedication of Portion of Lot 56 Courtney Place - Redacted [10.3.1.5 - 2 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 2027

Priority 3: Kalamunda Develops

Objective 3.1 - To plan for sustainable population growth.

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

EXECUTIVE SUMMARY

1. The purpose of this report is to consider an application to dedicate a portion of Lot 56 on Diagram 65526, Wattle Grove ("Lot 56") as road.
2. Lot 56 is a pedestrian access way (PAW) that is approximately 10-cm wide. It operates as a "spite strip"; its purpose is to prevent direct access onto Welshpool Road East.
3. The proposed dedication is required to facilitate a fast-food outlet development at Lots 10 and 9007 Courtney Place and Lot 56 Welshpool Road East, Wattle Grove.
4. It is recommended that Council support the proposal, subject to the applicant paying all costs of and incidental to the proposal.

BACKGROUND

5. On 24 June 2020, the Metro Outer Joint Development Assessment Panel (JDAP) approved a fast-food outlet development at Lots 10 and 9007 Courtney Place and Lot 56 Welshpool Road East, Wattle Grove (DAP/19/01680).
6. The development provides for direct access onto Welshpool Road East. However, Lot 56 is a "spite strip" and prevents direct access onto Welshpool Road East. This proposal seeks to remove the "spite strip" at the proposed point of access to enable the development to proceed.
7. On 15 September 2020, the City received an application from Taylor Burrell Barnett (applicant) requesting that the City dedicate a portion of Lot 56 as road. A copy of the application letter is attached (**Attachment 1**). A copy of the plan showing the portion of Lot 56 proposed to be dedicated is also attached (**Attachment 2**).

8. The City met with Main Roads WA (Main Roads) in January 2021 and were provided with further information on the future planning for Welshpool Road East.
9. Main Roads are proceeding with planning and design for the major upgrade of Orrong Road from Leach Highway to Great Eastern Highway. They are also proceeding with planning work to upgrade Orrong Road from Leach Highway to Roe Highway, and this will extend to Welshpool Road East and Tonkin Highway.
10. Although the timing of the Welshpool Road East upgrade is unconfirmed and likely to be ten years away, two key aspects of the plan for Welshpool Road East are known:
 - a) The road will need to be widened to provide three lanes each way; and
 - b) Access will need to be restricted with existing driveway access points possibly removed (noting this is speculative at this point).
11. In addition to this application for dedication of land as road and the JDAP approval, the applicant will need to obtain Main Roads' approval to the proposed crossover. The approval of the crossover is a separate process.

DETAILS AND ANALYSIS

12. Lot 56 is designed to prevent direct access onto the Welshpool Road East road reserve, which is managed by Main Roads (the trees, vegetation, paths and minor assets are City assets). If the subject site is dedicated as road, direct access onto Welshpool Road East will no longer be prevented.
13. From a traffic engineering perspective, the proposal is not desirable considering future road network upgrades.
14. However, it is noted that the road upgrade is likely to be ten years away. Further, as was noted by the JDAP when considering the related JDAP application (DAP/19/01680), in the event of future roadworks, mechanisms are in place to alter the road network and, if considered necessary, remove this access point at that time.
15. From a planning perspective, this proposal is consistent with the related JDAP approval for a fast-food outlet, which the City supported and recommended be approved.

16. It is logical that since the City supported the JDAP approval, it also supports this proposal, which is required to enable the applicant to act on the JDAP approval.

APPLICABLE LAW

17. *Land Administration Act 1997 s. 56 and Land Administration Regulations 1998 r. 8*

APPLICABLE POLICY

18. Nil

STAKEHOLDER ENGAGEMENT

19. The proposal was advertised in the Echo Newspaper on 18 December 2020 and on the City's website. Comments closed on 22 January 2021.
20. The proposal was referred to the adjoining landowner, utility service providers and Main Roads.
21. Please refer to **Attachment 3** for a table summarising the submissions received and the City's responses to the submissions. Refer to **Confidential Attachment 1** for a Submitter Table providing the identity of the individual who lodged a submission.
22. A copy of Main Roads' full submission is provided at **Attachment 4**. A copy of the applicant's response to Main Roads' submission is provided at **Attachment 5**.
23. The City received non-objections from the individual who lodged a submission and the utility service providers.
24. The only objection received was from Main Roads. Main Roads objects to any modification or removal of the PAW, which currently prohibits access to a State Road. It is noted that Main Roads objected to the related JDAP application on the same basis. Despite Main Roads' objection, the JDAP approved the application, noting as follows:
- a) "In noting Main Roads objection, panel members were cognisant of the fact that there are no current plans for the alteration/upgrading of Welshpool Road East and the intersection with Logistics Boulevard/Hale Road intersection and that any alterations are likely to be some years into the future. Further, members were satisfied that under existing circumstances, it has been adequately demonstrated that traffic conditions for the proposed access meet

acceptable traffic engineering standards. It was considered that the provision of the access, to provide a more direct connection between this development, and planned adjacent development, and the residential land on the north side of Welshpool Road East, has a desirable and valid planning purpose. It was further noted that, in the event of future roadworks, mechanisms are in place to alter the road network and if considered necessary, remove this access point at that time."

FINANCIAL CONSIDERATIONS

- 25. The most significant costs of the proposal are the survey costs. The amount of these costs will be determined by the relevant surveyor.
- 26. Other costs of the proposal include Department of Planning, Lands & Heritage (DPLH) advertising costs, DPLH document preparation fees and Landgate lodgement fees. The amount of these costs will be determined by the relevant State government departments.
- 27. No service relocations or easements are required.
- 28. Since the proposal is for the benefit of the applicant and is required to enable the applicant to proceed with a development, it is recommended that the applicant be responsible for all costs of and incidental to the proposal.

SUSTAINABILITY

- 29. There are no environmental implications as the subject site is currently Crown land managed by the City and will continue to be Crown land managed by the City following dedication (although Welshpool Road East is managed by Main Roads, the verge is managed by the City).
- 30. From an economic and social perspective, the proposal will enable a fast-food outlet development to proceed.

RISK MANAGEMENT

- 31.
- | | | |
|--|-------------------|---------------|
| Risk: The City suffers reputational damage due to not supporting a proposal which is consistent with a JDAP approval that the City supported and recommended be approved. | | |
| Consequence | Likelihood | Rating |
| Moderate | Likely | Medium |
| Action/Strategy | | |
| City to support the proposal, which is consistent with its support of, and recommendation to approve, the related JDAP application (DAP/19/01680). | | |
- 32.
- | | | |
|--|-------------------|---------------|
| Risk: This proposal provides direct access onto Welshpool Road East. However, once Welshpool Road East is upgraded, access onto Welshpool Road East will need to be restricted. | | |
| Consequence | Likelihood | Rating |
| Moderate | Likely | Medium |
| Action/Strategy | | |
| City to note that the road upgrade is likely to be ten years away. Further, as was noted by the JDAP, in the event of future roadworks, mechanisms are in place to alter the road network and, if considered necessary, remove this access point at that time. | | |
- 33.
- | | | |
|--|-------------------|---------------|
| Risk: This proposal proceeds, but the development does not occur. | | |
| Consequence | Likelihood | Rating |
| Moderate | Unlikely | Low |
| Action/Strategy | | |
| City to note that it is unlikely the development will not occur and that the rating of this risk is low. | | |
- 34.
- | | | |
|--|-------------------|---------------|
| Risk: This proposal proceeds, but Main Roads does not approve the proposed crossover. | | |
| Consequence | Likelihood | Rating |
| Moderate | Possible | Medium |
| Action/Strategy | | |
| City to support this proposal, given that the City supported the related JDAP application. Main Roads' decision regarding the crossover is a separate process. | | |

CONCLUSION

35. It is recommended that the City support the proposal (subject to the applicant paying all costs), given that the proposal is consistent with the JDAP approval for a fast-food outlet, which the City supported and recommended be approved (DAP/19/01680).
36. It is noted that Main Roads proposes to upgrade Welshpool Road East in the future (likely to be ten years away). In the event of future roadworks, mechanisms are in place to alter the road network and, if considered necessary, remove the proposed access point at that time.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. REQUEST the Minister for Lands to dedicate as road that portion of Lot 56 on Diagram 65526 shown delineated and marked as "Area of existing PAW proposed to be closed (1.4322m²) and incorporated within Welshpool Road East Road Reservation" (Attachment 2), pursuant to section 56 of the *Land Administration Act 1997* (WA), subject to the applicant being responsible for all costs of and incidental to the proposal, including but not limited to the costs of advertising, surveys, approvals, service relocations, easements, document preparation and lodgement, and any fees.
2. UNDERTAKE to comply with section 56(2) of the *Land Administration Act 1997* (WA).
3. INDEMNIFY the Minister for Lands and the Department of Planning, Lands & Heritage against any claims for compensation and costs that may be reasonably incurred by the Minister in considering and granting the request to dedicate as road Lot 56 on Diagram 65526, in accordance with section 56(4) of the *Land Administration Act 1997* (WA).

10.4. Office of the CEO Reports**10.4.1. Draft Hartfield Park Master Plan - Stage Two***Declaration of financial / conflict of interests to be recorded prior to dealing with each item.*

The Manager Community Development provided a presentation on this Report.


Kimberley Hortin and Michael Peirce, representing the Kalamunda and Districts Hockey Club, provided a deputation to the meeting. Ms Hortin and Mr Peirce spoke against the recommendation as presented.

Mr Graham English, representing the Kalamunda Bulldogs Rugby League Club, provided a statement to the meeting. Mr English advised the club was not in support of some aspects of the Masterplan as presented in the report and therefore was not supportive of the recommendation as presented.

Council sought clarification on some aspects of the Masterplan Stage Two. Clarification was provided by the City.

Previous Items	OCM 235/2020
Directorate	Chief Executive Officer
Business Unit	Leisure Planning
File Reference	
Applicant	City of Kalamunda
Owner	City of Kalamunda
Attachments	1. Draft Hartfield Park Master Plan - Stage 2 - Final [10.4.1.1 - 158 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 2027

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 3: Kalamunda Develops

Objective 3.1 - To plan for sustainable population growth.

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

Priority 3: Kalamunda Develops

Objective 3.2 - To connect community to quality amenities.

Strategy 3.2.1 - Optimal management of all assets.

EXECUTIVE SUMMARY

1. The purpose of this report is to receive the draft Hartfield Park Master Plan – Stage Two (the Plan) for the purposes of seeking public comment (Attachment 1).
2. The Plan outlines development opportunities and recommendations in terms of collocation opportunities, playing field expansion and other future opportunities to guide the sustainable development of community sporting and recreation facilities at Hartfield Park.
3. It is recommended Council:
 - a) Endorses the Draft Hartfield Park Master Plan – Stage Two (Attachment One) for the purposes of public advertising.
 - b) Notes the community engagement process and strategy.

BACKGROUND

4. Hartfield Park is a Class A Reserve, located in Forrestfield, on Crown Land vested with the City of Kalamunda (City) for the purposes of recreation. The reserve is approximately 159 hectares (ha) in size and is a registered Aboriginal Heritage site with known heritage value.
5. Hartfield Park is the City's largest active sporting reserve, consisting of five main playing field spaces, eight sporting clubrooms, one scout's facility, the Hartfield Park Recreation Centre (HPRC), Hartfield Park Golf Club (HPGC) and supporting sporting infrastructure. Hartfield Park is well utilised by a range of users including: AFL, Bowls, Cricket, Football (Soccer), Hockey, Little Athletics, Scouts, Softball, Rugby League, Rugby Union, Tennis and Teeball.
6. The key factors providing the catalyst for the development of the Plan include:
 - a) An increasing number of significant requests from user groups to improve and upgrade their facilities;
 - b) The need to reduce single use sporting club facilities at the site by collocating sporting and community groups into shared use facilities as identified in the Hartfield Park Master Plan 2010 (HPMP 2010) – Stage One;
 - c) The need to cater for increasing usage demands on the reserve;
 - d) The need to investigate potential options to maximise the efficient usage of the existing playing fields, multiple sports clubrooms and supporting facilities; and
 - e) The need to undertake a coordinated approach towards any future development at Hartfield Park.
7. A primary aim of the Plan is to investigate the opportunity for the following facility collocations being:
 - a) Collocation of Forrestfield District Bowling Club (FDBC), Forrestfield Tennis Club (FTC) and Foothills Men's Shed (FMS).
 - b) Collocation of Kalamunda Districts Rugby Union Club (KDRUC), Kalamunda Bulldogs Rugby League Club (KBRLC), Forrestfield Cricket Club (FCC) and the 1st Forrestfield Scouts Group (FSG).
 - c) Collocation of Forrestfield Football Club (FFC) and the Forrestfield Little Athletics Club (FLAC).
8. The Plan is also investigating the facility needs of the Forrestfield United Football Club (FUFC), who utilise the HPRC adjoining changing facilities. Outside of the FUFC's usage, the HPRC facility was not considered as part

of the Plan. Further to this the following facilities located on Hartfield Park were not considered in the Plan:

- HPGC facilities as these are privately operated.
- New Hockey / Teeball clubrooms and playing fields as these works were recently completed in 2018 as part of the HPMP 2010.

9. Dave Lanfear Consulting (the Consultant) were engaged in September 2019 to develop the Plan. The Plan is now presented to Council for consideration and endorsing for the purposes of seeking public comment.
10. At the November 2020, OCM235/2020 Council resolved to leverage the \$2m Federal Government funding commitment at Hartfield Park by submitting a State Government grant application to the Community Sporting and Recreation Facilities Fund (CSRFF) for the following priority projects being:
 - a) AFL / Little Athletics' Clubrooms (unisex changerooms) - Stage One at Reid Oval.
 - b) Little Athletics Infrastructure – New long jump pits at Reid Oval.
 - c) Rugby League Clubrooms (unisex changerooms).
 - d) Collocation of Tennis with Bowls.
11. The priority projects are effectively known as HPMP Stage Two. All remaining projects identified within the Plan, will be known as HPMP Stage Three and will be subject to the City securing future advocacy funding.

DETAILS AND ANALYSIS

12. The Plan aims to provide a clear framework and strategic planning tool to assist the City in planning, developing, implementing and evaluating sustainable sport and recreation facilities at Hartfield Park into the future.
13. The initial stages of the Plans development included a visual audit of all assets, document review, analysis of facility needs, sporting trends and community demographics.

Several key trends emerged across all existing buildings including:

 - functional requirements of the user groups not being met, particularly in relation to unisex changerooms and accessibility requirements, thus resulting in them not being fit for purpose.
 - building and accessibility compliance matters, that would be triggered due to development.
 - ageing assets that require investment to meet modern standards and community expectations.

The information obtained from this process has been analysed to determine future collocation opportunities and upgrades at Hartfield Park.

14. Consultation with user groups as to the initial collocation opportunities determined that:
- Rugby League and Rugby Union being collocated would prove problematic as they are both winter sports, who require similar access. This will likely prove difficult to manage and may require additional amenities, thus reducing any benefits.
 - Tennis, Bowls and Men's Shed also operate at similar times, potentially resulting in issues around infrastructure availability and noise concerns from the Men's Shed activities.
 - The location of the Men's Shed workshop was deemed cost prohibitive given it would require a new car parking area, access road and installation of new services.
 - AFL and Little Athletics are complimentary seasonal users, with Little Athletics being well suited to Reid Oval.
15. Based on the findings of the initial consultation, a revised facility collocation approach was developed including:
- A collocated facility between Rugby Union and Cricket as they currently share oval space and are complimentary seasonal users.
 - A separate facility for Rugby League, which can be shared with Scouts for meetings and Cricket for changerooms. As sporting clubs and trends evolve over time, additional summer users may emerge, and can potentially be collocated into this facility.
 - A collocated facility between Tennis and Bowls with dedicated socialisation and food preparation space, to aid clubs operating at similar times year-round. The proposed facility would include shared areas including toilets, changerooms and storage areas.
 - A dedicated Men's Shed facility adjacent to the existing Hockey / Teeball clubroom at Hartfield Park. The Men's Shed can potentially utilise aspects of the Hockey / Teeball facility, thus reducing facility requirements, as it is complimentary for all users.
 - The proposed AFL and Little Athletics collocated facility remained unaltered.
16. The key proposed future collocation opportunities and facility developments identified within the HPMP Stage Two, are:
- a) New shared AFL and Little Athletics clubrooms at Reid Oval and new Little Athletics infrastructure.
 - b) New shared Rugby Union and Cricket clubrooms at Morrison Oval.
 - c) New unisex changerooms for Rugby League.
 - d) Extension of the existing Bowls facility to establish a collocated facility with Tennis.

- e) Conversion of grass bowling green to synthetic.
- f) New Foothills Mens Shed at the existing Hockey and Teeball Clubroom site.
- g) Extension of Morrison Oval and upgraded sports floodlighting.
- h) Upgrade of FUFC Clubrooms and unisex changerooms at HPRC.
- i) Car parking improvements.
- j) Future of the Scouts facility.

New Shared AFL and Little Athletics clubrooms at Reid Oval and new Little Athletics Infrastructure

- 17. The clubroom facilities located at Reid Oval are provided in two standalone ageing assets that do not meet the functional requirements of the user groups being, FFC and FLAC. In particular, the facilities do not meet accessibility requirements, nor provide unisex changeroom facilities and are considered small in scale. The existing location of the facilities is poorly situated and would be better located in a centralised position on Reid Oval for improved access and spectator viewing.
- 18. An upgrade of the existing facilities will trigger building and accessibility requirements, that will prove costly. As a result, it has been determined that a new clubroom facility should be developed in a centralised position across two stages being changeroom infrastructure first, followed by club amenities. It is proposed the existing AFL Clubroom and changeroom facilities will continue to operate until the completion of Stage 2.
- 19. To facilitate the relocation of FLAC from the rugby league and soccer fields at Hartfield Park, athletics infrastructure such as long jump pits and throwing circles are required, to be located on the periphery of the main oval. Reid Oval would be utilised as a grassed running track.

New Shared Rugby Union and Cricket clubrooms at Morrison Oval

- 20. KDRUC and FCC currently utilise single use clubroom facilities. Both clubroom facilities do not meet existing building and accessibility requirements, nor are they considered functional given their ad hoc development over time. Upgrades to both single use facilities are likely to prove costly, with a more sustainable approach being the development of a new collocated facility.
- 21. The proposed location for the new shared clubrooms is in between the existing Morrison Oval and rugby union playing fields (eastern ovals). The principle benefit of the location is that it provides good access to each users playing fields and reduces site constraints.

New unisex changerooms for Rugby League

22. The Rugby League facility (old hockey club building) is an ageing asset that requires building and accessibility upgrades and a range of functionality improvements, such as unisex changerooms and universally accessible toilets.
23. The Plan has identified that these issues can be addressed through the refurbishment and reconfiguration of the existing Rugby League facility and identifies that the facility can be extended to accommodate new unisex changerooms, universally accessible toilet, umpires changeroom, first aid room and storage areas.
24. The proposed facility can be shared with Scouts to allow for meeting room space and other summer users including FCC, Lesmurdie Mazenod Cricket Club and Lesmurdie Mazenod Junior Cricket Club for change room infrastructure.

Extension of the existing Bowls facility to establish a collocated facility with Tennis

25. The existing Bowls and Tennis facilities are both ageing assets that require building and accessibility upgrades and a range of functionality improvements. In particular, the tennis facility operates a detached open aired toilet block which isn't considered to meet modern standards.
26. The Plan has identified that these issues can be addressed through the redevelopment and extension of the existing Bowls facility to accommodate Tennis. Each user would have a dedicated social and kitchen space, with the changerooms, toilets and storage areas developed as shared spaces.
27. In order to accommodate Tennis within the new collocated Bowls and Tennis facility, two new tennis courts are required to be provided, over a portion of the existing bowls car park. This ensures Tennis facilities are provided within close proximity to their playing area. The provision of two additional tennis courts is subject to, a further demand assessment at the time of development.

Conversion of grass bowling green to synthetic

28. The FDBC has already converted one of its two grass bowling greens to a synthetic surface. The Plan identifies that the second grass bowling green should also be converted to a synthetic surface. Two synthetic surfaces will significantly reduce the burden on club volunteers to maintain the grass surfaces and provide year round access. The FDBC will need to

establish an asset replacement fund to ensure sustainability into the future.

New Foothills Men's Shed at the existing Hockey / Teeball Clubrooms

29. The FMS are currently located at Anderson Road Community Centre. The existing workshop facilities are too small and limit club activities thereby restricting membership growth, therefore are not fit for purpose.
30. Further development of the Anderson Road Community Centre site is restricted by the buildings having heritage value and the site requiring service upgrades to power supply and septs.
31. A new facility is proposed in the area behind the current Hockey / Teeball facility at Hartfield Park, and would provide the group with a new purpose-built workshop suited to their requirements.
32. Aboriginal Heritage approval for this site is understood not to be required, due to the previous approvals received through the development of the hockey / teeball clubrooms and playing field site. This is to be reaffirmed as part of the ongoing discussions regarding Aboriginal Heritage Approvals for the site.

Extension of Morrison Oval and upgraded sports floodlighting

33. Morrison Oval is a well utilised area of Hartfield Park, particularly during the winter season. An opportunity exists to maximise the grassed playing field space to the North East. This will allow for field configurations on Morrison Oval to be altered to provide better alignment of Rugby Union, Rugby League and Football (Soccer) fields, which will better cater for training and competitions of the winter users.
34. To further maximise the playing field space, new sports floodlighting across Morrison Oval is required, as the existing infrastructure is inadequate and does not meet current Australian Standards for lighting. The installation of sports floodlighting will relieve pressure on the existing lit spaces at Hartfield Park.

Upgrade of FUFC Clubrooms and unisex changerooms at HPRC

35. The existing FUFC Clubrooms and grandstand were upgraded as part of HPMP 2010 (Stage One), providing users with improved functionality. The FUFC utilise the HPRC changerooms for their away teams, however these are small and not unisex compliant.

36. The Plan has identified that the FUFC Clubrooms are predominately constrained, that the home and away changerooms require upgrading to be unisex compliant. Further improvements are identified through a minor extension to the social area and reconfiguration of the office and storage area to improve functionality.

Car parking improvements

37. A detailed car parking demand analysis was undertaken by the Consultant which identified a shortage of car parking across the site during peak demand periods.
38. To service the proposed new collocated facilities, their associated existing car parking areas will be required to be altered and where practical, expanded. It is proposed that new car parking areas be developed at Reid Oval along Morrison Road and existing Tennis Clubrooms as an informal overflow area. In total, car parking across the site is estimated to increase by 116 bays.
39. The proposed additional car parking bays will increase the supply of available car parking during peak times, however it is unrealistic to achieve neutrality for car parking demand, considering peak demand periods only occur within a small timeframe each week. The winter sporting users are encouraged to continue to work together and with the City on scheduling of game and event fixtures, to minimise parking issues.

Future of Scouts Facility

40. The existing Scouts facility is nearing the end of its useful life and is currently leased to Scouts WA until 2025. The 1st Forrestfield Scouts Group previously utilised the facility however they ceased operating in mid-2020 and are unlikely to be re-established. Scouts WA currently use the facility on a monthly basis for meetings and a BMX group.
41. Local Scouts representatives have identified the need for meeting space and storage in a new facility or at another existing facility.
42. As the Scouts facility is reaching the end of its useful life, it is located in an area of bushland that contains rare flora and fauna and the local 1st Forrestfield Scouts Group has disbanded, it is proposed that the facility be decommissioned upon expiration of the existing lease agreement. This will then enable the natural bushland to be better protected. Scouts WA meetings can be held at any City of Kalamunda facility for hire or at the existing Rugby League facility.

Proposed Facility Management Models

43. The Plan proposes the following facility management models:
- Three separate joint lease agreements for the new shared AFL / Little Athletics, rugby union / cricket and bowls / tennis facilities.
 - A seasonal (winter) lease agreement for Rugby League, while all other usage (i.e. Scouts or Cricket) is proposed to be managed through individual Memorandums of Understandings with users as required.
 - A year-round lease agreement for the Foothills Men's Shed facility.
 - The existing FUFC's lease agreement is to remain.

APPLICABLE LAW

44. Local Government Act 1995 Section 3.18 (c) – Effective Management of Local Government Services and Facilities.
45. Aboriginal Heritage Act 1972.
46. Environmental Protection Act 1986.

APPLICABLE POLICY

47. Capital Grants Clubs & Community Group (Governance 11) provides key principles, priorities, needs and assessment criteria for future upgrades or new community and recreation infrastructure.
48. Reserve Sports Floodlighting Policy (Service 13) provides guidance on the provision and operational impact of sports floodlighting on the City's sports reserves.
49. Community Group Leases (Service 9) provides guidance on the management of community assets through lease arrangements with community groups.

STAKEHOLDER ENGAGEMENT

50. The following engagement strategy and process was undertaken between the Consultant and affected user groups of Hartfield Park in order to develop the Plan including:
- a) Individual surveys.
 - b) A series of workshops.
 - c) One on one discussions.

51. The Consultant obtained input and feedback from various service areas within the City including: Parks, Environment, Recreation Services, Development Services, Asset Services and Asset Delivery.
52. The Consultant presented a summary of key consultation feedback, demand analysis and proposed development opportunities to Councillors in September 2020.
53. To determine that the Plan meets the needs of the user groups, it is recommended that the Plan be discussed through consultation meetings with the user groups per each co-location Site.
54. The community engagement process and strategy for the Public Advertising period will involve:
 - a) A series of community consultation workshops to be conducted by the Consultant with affected user groups and the City's Reconciliation Action Plan working group.
 - b) A copy of the Plan is to be provided to all affected user groups and stakeholders.
 - c) The City's website and other social media channels.
 - d) Publish on *Engage Kalamunda*.
 - e) A copy of the Plan will be located at key City of Kalamunda locations.
 - f) A media release and advertisement will be placed in the local newspaper.
 - g) A feedback survey.

FINANCIAL CONSIDERATIONS

55. The overall cost of implementing the recommendation outlined within the Plan (Stage Two and Three) is estimated at \$13,767,719. It should be noted that at this stage these figures are high level indicative costs only, inclusive of preliminaries, contingencies and professional fees. Detailed capital and whole of life costings will be developed prior to the implementation of each project identified within the Plan.
56. Implementation of components of the Plan will be considered as part of Council's Long Term Financial Plan and will continue to be subject to annual budget deliberation processes and competing priorities.
57. The Federal Government has committed \$2m funding at Hartfield Park. In December 2020, the City submitted a Request for Information form to the Federal Government outlining the priority projects for the site as resolved by Council (OCM 235/2020).

58. The proposed funding strategy for HPMP Stage Two is:

Funding Source	Estimated Amount
Federal Government Election Commitment	\$2,000,000
State Government – CSRFF Program	\$1,261,000
City of Kalamunda*	\$ 524,000
TOTALS	\$3.785M

59. * Any City of Kalamunda funding contributions will be considered as part of Council's annual budget deliberation processes and considered against other competing priorities, which is anticipated to be in the 2022/23 and the 2023/24 financial years.
60. All projects identified, as HPMP Stage Three will form part of the City's future advocacy campaigns.
61. It is reasonable to expect that a 15-year timeframe may be required to complete the implementation of the entire Plan, with the schedule of works being staged in such a manner that will ensure maximum opportunity for the City to leverage external funding.

SUSTAINABILITY

Social Implications

62. The Plan has identified current and future community needs in respect to sport and recreation infrastructure based on sports participation data and a community demographic analysis. The Plan will provide strategic direction, guidance and a long-term sustainable approach to the provision of sport and recreation facilities at Hartfield Park.
63. Investment in Hartfield Park with updated sport and recreation facilities increases the value of the City's assets. It also provides improved opportunities for participation in various sports, which leads to increased physical activity and health benefits for the local community, improves community safety and enhances the user and player experiences for their training and competitions.
64. Aboriginal Heritage approval is required for all projects identified within the Plan, as per the Aboriginal Heritage Act 1972, noting that confirmation will be sought to confirm that the FMS development is exempt.
65. Previously the Aboriginal Heritage approval process has included consultation with the Whadjuk Working Group and South West Aboriginal Land Sea Council. Currently these groups are not in operation, as a result

of the legislative changes arising from the new Aboriginal Heritage Act 2020.

The City are liaising with the Department of Lands, Planning and Heritage regarding the approval process required for projects at Hartfield Park.

The City intends to seek Aboriginal Heritage approval for all projects identified within the HPMP Stage 2 and develop a Standard Noongar Heritage Agreement for the site, to aid in future approval processes. This may include the development of a new Cultural Heritage Management Plan for the site.

Economic Implications

- 66. The implementation of the Plan may assist in providing local job opportunities and provide increased economic activity to the City of Kalamunda during the construction phase.
- 67. It has been estimated that implementation of the Plan will result in over 230 employment opportunities and add \$32.72 million value to the local economy.

Environmental Implications

- 68. Hartfield Park is a registered Bush Forever site and is home to a variety of rare flora and fauna. The Plan considered areas of high conservation value at the site.
- 69. Any new development will need to ensure that any significant trees are identified through a detailed environmental assessment and, where appropriate, retained and protected.
- 70. Any new developments will need to ensure appropriate connection to the local sewerage system or installation of modern wastewater affluent systems, such as Aerobic Treatment Unit's, which provide enhanced environmental benefits.
- 71. During the detailed design stage, sustainability measures such as the installation of solar panels, will be investigated for inclusion within the individual project budgets.

RISK MANAGEMENT

72.

Risk: Without the Plan, the City's approach to future upgrades at Hartfield Park would be adhoc and it would be difficult to advocate effectively for external funding.		
Consequence	Likelihood	Rating
Moderate	Possible	Medium
Action/Strategy		
To adopt the Plan to ensure future upgrades are planned effectively and advocacy opportunities are maximised.		
73.

Risk: The Plan may raise community expectation for improvements that may not be affordable in the near future.		
Consequence	Likelihood	Rating
Moderate	Possible	Medium
Action/Strategy		
Ensure community is informed as part of the communications process that improvements are subject to external funding and budget availability.		
74.

Risk: The Plan may not align with the strategic vision of all individual users.		
Consequence	Likelihood	Rating
Moderate	Possible	Medium
Action/Strategy		
A thorough community consultation process has been undertaken in the development of the Plan and further workshops are identified with users to attain feedback, prior to final consideration of Council.		

CONCLUSION

75. The Plan is a strategic planning tool that can be integrated with Council's other related plans and documents, providing clear direction for future developments at Hartfield Park.
76. The Plan has been developed in a manner that endeavours to prioritise and stage components of any developments.
77. The main outcomes for the community will be increased opportunities to participate in sporting and recreational activities and improved provision of community facilities and services.

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78. In summary, it is recommended that Council receive the Draft HPMP Stage 2 and advertises it to the community, as per the proposed community engagement process and strategy with results then presented to Council for final consideration.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

- a) ENDORSE the Draft Hartfield Park Master Plan – Stage Two (Attachment 1) for the purposes of public consultation.
- b) NOTE the community engagement process and strategy.

10.4.2. Code of Conduct - Council Members, Committee Members and Candidates*Declaration of financial / conflict of interests to be recorded prior to dealing with each item.*

The Chief Executive Officer provided a presentation on this report.

Council sought clarification on the role of the independent investigations and the definition of an independent, appropriately experienced, and qualified person. The Chief Executive Officer and the Governance Advisor provided clarification.

Council sought clarification on the reference to the 'local government' within the Code of Conduct. The Governance Advisor provided clarification.

Council sought clarification on the management of a complaint and the role of the Chief Executive Officer. The Chief Executive Officer provided clarification in relation to administrative support role.

Council asked if there would be opportunities for training in relation to the implementation of the Code. The Chief Executive Officer advised she was not certain as to what training would be made available.

Mr Peter Forrest sought clarification as to the Code of Conduct being applied to Advisory Committee's of Council. Chief Executive Officer provided clarification and advised the induction process for members would be adjusted accordingly.

Previous Items	OCM 240/2020
Directorate	Office of the CEO
Business Unit	Governance
File Reference	
Applicant	
Owner	

Attachments	1.	City of Kalamunda Code of Conduct Feb 21 [10.4.2.1 - 10 pages]
	2.	Code of Conduct Regulations Expalnatory Notes [10.4.2.2 - 6 pages]
	3.	Code of Conduct Complaint Form [10.4.2.3 - 2 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 2027

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 the adoption of a new Code of Conduct.
2. Adoption of a new Code of Conduct is required following the gazettal of the *Local Government (Model Code of Conduct) Regulations 2021*, on 2 February 2021.
3. It is recommended that Council withdraw the previous Code of Conduct and adopt the new Code of Conduct – Council Members, Committee Members and Candidates.

BACKGROUND

4. The *Local Government (Model Code of Conduct) Regulations 2021* were gazetted on 2 February 2021 and took effect on 3 February 2021. This change immediately introduced a Model Code of Conduct that applies to every local government in Western Australia.

5. These regulations bring into effect sections 48 to 51 of the *Local Government Legislation Amendment Act 2019*. A detailed summary of these regulations is contained in Attachment 2 Model Code of Conduct – Explanatory Notes.
6. Public comment was recently sought by the Department of Local Government, Sport and Cultural Industries (the Department) about this regulation, the City provided comment in late 2020. At the 24 November 2020 OCM, Council resolved the following (in part):
"That Council:
ENDORSE the following comments being submitted to the Department of Local Government, Sport and Cultural Industries:
 (a) The City of Kalamunda objects to
 - i. the proposed Local Government (Model Code of Conduct) Regulations and Model Code of Conduct.
 - ii. the cost and responsibility shifting that would be introduced through the proposed Local Government (Model Code of Conduct) Regulations and Model Code of Conduct.
 - iii. the removal of an independent, objective body from the consideration, investigation and judgement of allegations and breaches of the proposed Model Code of Conduct.
 - iv. to the inclusion of candidates for election in a Code of Conduct that applies to current elected members and committee members.
 (b) The City of Kalamunda would support a Model Code of Conduct that provides some guidance and standardisation for local government but that does not include the provisions objected to in point (a).

DETAILS AND ANALYSIS

7. Each local government was previously required to develop their own code of conduct and manage behaviour in accordance with that code. The CEO undertook the role of Complaints Officer, registering all complaints, maintaining records, assessing the validity of the complaint, seeking additional evidence or information if required and liaising with the Mayor in accordance with the City's Code of Conduct.

The new regulations replace these individual codes by introducing a model code that applies to all Council Members, Committee Members and Candidates.

8. It also provides for a high-level process to deal with complaints to ensure a more consistent approach between local governments and across the sector. The intent of the model code is to address behaviour through education rather than sanctions.

9. Local governments are required to prepare and adopt the model code within three months of these regulations coming into effect (by 3 May 2021). In adopting the model code, local governments can include additional behaviours under Division 3 provided these are consistent with the model code.
10. Local governments may not amend Division 2 (Principles) or Division 4 (Rules of Conduct). Additional behaviour requirements can be included in Division 3 (Behaviours) if deemed appropriate by the local government. Any additions must be consistent with the model code of conduct, section 5.104(3) of the *Local Government Act 1995*.
11. In preparing the model code for adoption, local governments are encouraged to review their existing code and consider incorporating any additional behaviour requirements that are not represented in the model code. This may include specific dress standards or the appropriate use of technology.
12. In preparation for this report, the City's current Code of Conduct was analysed and there were no additional prohibited behaviours identified that could be included in the Model Code of Conduct. As a result, it is recommended that the Model Code of Conduct is adopted as written.
13. The purpose of the model code is to guide decisions, actions and behaviours. It also recognises that there is a need for a separate code for Council Members, Committee Members and Candidates (as opposed to an employee Code of Conduct) to clearly reflect community expectations of behaviour and ensure consistency between local governments.
14. The Model Code Regulations provide for:
 - (a) Division 2, General Principles - to guide behaviour;
 - (b) Division 3, Behaviours - managed internally by local governments and
 - (c) Division 4, Rules of Conduct - breaches which are considered by the Standards Panel.
15. A new Code of Conduct for Council Members, Committee Members and Candidates for Local Government Elections containing the new Model Code of Conduct has been included as Attachment 1 for Council adoption.
16. **Complaints About Behaviour**
 The *Local Government (Model Code of Conduct) Regulations 2021* state that:
'11. Complaint about alleged breach

(1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a

requirement set out in this Division.

(2) A complaint must be made –

(a) In writing in the form approved by the local government; and

(b) To a person authorised under subclause (3); and

(c) Within 1 month after the occurrence of the alleged breach.

(3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

17. This Regulation means complaints of alleged breaches and behavioural requirements are required to be dealt with by the local government including investigating any complaints, determining validity of a complaint and at times determining any appropriate actions if the complaint is upheld.

18. As outlined in the background to this report, the City provided comment to the Department in 2020, recommending that the City should not be responsible for investigating complaints about its own Councillors.

Elaborating on this feedback, the primary reason provided was the conflict of interest that would arise between the Chief Executive Officer (CEO) and any Councillor who was the focus of a complaint. Unfortunately, this feedback was not implemented in the final Regulation.

19. It is recommended that complaint officers are appointed to reduce the likelihood of conflicts of interest and to maximise objectivity and fairness. It is recommended that complaints officers are appointed as follows:
- i. Complaints against Councillors, Committee Members and Councillor Candidates that become Councillors, excluding complaints made by the Mayor – The Mayor to be appointed complaints officer.
 - ii. Complaints made by the Mayor against Councillors, Committee Members and Councillor Candidates that become Councillors - The Deputy Mayor to be appointed complaints officer.
 - iii. Complaints about the Mayor, excluding complaints made by the Deputy Mayor – The Deputy Mayor to be appointed complaints officer.
 - iv. Complaints about the Deputy Mayor, made by the Mayor; or complaints about the Mayor, made by the Deputy Mayor – A Committee made up of remaining Councillors, be appointed as the complaint's officers.
20. It is proposed that the complaints officer be authorised to refer any complaints for investigation to an independent person who is appropriately experienced in assessing and investigating these types of complaints. This process will require administrative support by the CEO.

21. It is recommended that a Council policy be developed specifically dealing with the investigation of complaints for behavioural breaches. This future policy could provide guidance as to how an investigation would take place and how any decisions relating to the outcome of an investigation may be made. It is anticipated that having such a policy would provide fairness and transparency to the investigation process. A draft policy for this purpose will be presented to a future Audit & Risk Committee Meeting.
22. Council is also required to adopt a complaints form. The Department of Local Government, Sport and Cultural Industries have provided a model complaints form, provided as Attachment 3 to this report.

APPLICABLE LAW

23. *Local Government Act 1995*
Local Government (Model Code of Conduct) Regulations 2021

APPLICABLE POLICY

24. N/A

STAKEHOLDER ENGAGEMENT

25. As this is a mandated requirement, no community consultation has been undertaken.

FINANCIAL CONSIDERATIONS

26. Whilst there is no direct financial expenditure from adoption of the new Code of Conduct, there could be indirect expenditure if a complaint needs to be investigated.

SUSTAINABILITY

27. N/A

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RISK MANAGEMENT

28.	Risk: Noncompliance with regulations will likely attract Departmental attention.		
	Consequence	Likelihood	Rating
	Major	Possible	High
	Action/Strategy		
	Ensure the Council has an adopted Code of Conduct.		

CONCLUSION

29. The proposed Code of Conduct is considered suitable for adoption by Council.

Voting Requirements: Absolute Majority

RECOMMENDATION

That Council:

1. WITHDRAW the current Code of Conduct – Elected Members.
2. Pursuant to section 5.104 of the *Local Government Act 1995*, ADOPT the new Code of Conduct for Council Members, Committee Members and Candidates, (Attachment 1).
3. Pursuant to the clause 11 (2) of the *Local Government (Model Code of Conduct) Regulations 2021* ADOPT the Complaint - Alleged Breach Form (Attachment 3).
4. Pursuant to the clause 11 (3) of the *Local Government (Model Code of Conduct) Regulations 2021* AUTHORISE the Mayor to receive complaints and withdrawals.
5. Pursuant to Clause 11(3), authorises the following persons to receive complaints and withdrawals of complaints, relating to Council Members, Committee Members and Candidates:
 - i) Complaints against Councillors, Committee Members and Councillor Candidates that become Councillors, excluding complaints made by the Mayor – The Mayor to be appointed complaints officer.

- ii) Complaints made by the Mayor against Councillors, Committee Members and Councillor Candidates that become Councillors, - The Deputy Mayor to be appointed complaints officer.
 - iii) Complaints about the Mayor, excluding complaints made by the Deputy Mayor – The Deputy Mayor to be appointed complaints officer.
 - iv) Complaints about the Deputy Mayor made by the Mayor; or complaints about the Mayor made by the Deputy Mayor – a committee comprising all remaining Councillors.
- 6. AUTHORISE the Complaints Officer, as outlined in point 5, to refer any complaints received requiring independent investigation to an independent, appropriately experienced, and qualified person.
- 7. NOTE the Chief Executive Officer will retain responsibility for the administration of complaints including record keeping, maintaining the complaints register, engagement and payment of an independent investigator if required.
- 8. REQUEST that the Chief Executive Officer draft a policy to assist with the investigation of complaints for behavioural breaches.
- 9. Pursuant to section 5.104(7) of the Local Government Act 1995, REQUEST the Chief Executive Officer to ensure the approved Code of Conduct is published on the City's website as soon as practicable.

10.4.3. City of Kalamunda Standards for Recruitment, Performance Appraisal and Termination of the Chief Executive Officer

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

The Chief Executive Officer provided a presentation in relation to this report.

Council sought clarification in relation to the appointment of an Acting Chief Executive Officer. The Chief Executive Officer and the Governance Advisor provided clarification.

Council sought clarification in relation to a clause in relation to Termination. The Chief Executive Officer provided clarification in relation to the process. The Governance Advisor also provided further clarification on aspects of the process.

Previous
Items

Directorate Office of the Chief Executive Officer
Business Unit People services

File Reference
Applicant
Owner

- | | |
|-------------|--|
| Attachments | <ol style="list-style-type: none"> 1. Draft City of Kalamunda Standards for the Recruitment Performance Appraisal [10.4.3.1 - 9 pages] 2. Draft Policy Governance Recruitment Performance Review Termination of CEO [10.4.3.2 - 10 pages] 3. Draft Policy Governance Appointment of Acting CEO vrs 2 [10.4.3.3 - 2 pages] 4. Guidelines Recruitment, Performance Appraisal, and termination of CEO [10.4.3.4 - 22 pages] 5. Local Government Administration Regulations 1996 03 m0 00 [10.4.3.5 - 90 pages] 6. Schedule 2 Model Standards [10.4.3.6 - 10 pages] 7. CEO Standards Overview LGSCI [10.4.3.7 - 4 pages] |
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TYPE OF REPORT

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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
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STRATEGIC PLANNING ALIGNMENT*Kalamunda Advancing Strategic Community Plan to 2027***Priority 4: Kalamunda Leads****Objective 4.1** - To provide leadership through transparent governance.**Strategy 4.1.1** - Provide good governance.**EXECUTIVE SUMMARY**

1. The purpose of this report is for Council to consider and adopt new processes and procedures Standards for the Recruitment, Performance Appraisal and Termination of the Chief Executive Officer (CEO).
2. The need for these requirements is as a consequence of the finalisation and gazettal on 2 February 2021 of phase two of the *Local Government Legislation Amendment Act 2019* resulting in the *Local Government (Administration) Amendment Regulations 2021* (Regulations) taking effect.
3. These Regulations provide Model Standards that need to be included in the process and procedures as a minimum requirement.
4. Changes to an existing Council Policy and adoption of a new Policy with respect to the appointment of an Acting CEO are also required.

5. It is recommended that Council adopt:-
- a) the City of Kalamunda Standards for the Recruitment, Performance Appraisal and Termination of the Chief Executive Officer (Standards). (Attachment 1).
 - b) revised Council Policy – Governance 12 - CEO Recruitment, Performance & Salary Review and Termination (Attachment 2)
 - c) new Council Policy – Appointment of Acting CEO (Attachment 3).

BACKGROUND

6. In 2017, the State Government announced a review of the *Local Government Act 1995* (Act) which is the first significant reform of local government conducted in more than two decades. The objective of the review is for Western Australia to have a new, modern Act that empowers local governments to better provide for their communities.
7. The review was conducted in two stages; the first phase focused on making information available online, building capacity through reducing red tape and meeting public expectation around standards and performance. The second phase focussed on delivering an Act for the community based on the key themes of agile, smart and inclusive.
8. The new regulations were gazetted on 2 February 2021 and took effect on 3 February 2021. New sections of the Act that provided for the new Regulations were proclaimed concurrently and are also now in effect.

DETAILS AND ANALYSIS

9. An outline of the amendments to the Act and the new regulations and actions required by Council are set out below:

Local Government (Administration) Amendment Regulations 2021 and Local Government Legislation Amendment Act 2019

Include a requirement for standards covering the recruitment and selection, performance review and termination of employment of local government Chief Executive Officers (CEOs).

These reforms are intended to ensure best practice and greater consistency in these processes between local governments. The Department of Local Government, Sport and Cultural Industries (DLGSC) have developed guidelines on the Model CEO Standards (Attachment 4).

The CEO Standards amend the *Local Government (Administration) Regulations 1996* (Admin Regulations) to prescribe model standards under Schedule 2 of the Admin Regulations. Under Section 5.39B(2) of the Act, the Council must adopt standards that incorporate the model standards

within three months and until this time, the model standards are taken to be the adopted standards.

10. Council will meet the minimum Standards for the Recruitment, Performance Appraisal and Termination of the CEO if the following provisions are included in the Standards adopted.

11. **Recruitment and Selection**

- a) The council has identified and agreed to the qualifications and selection criteria necessary to effectively undertake the role and duties of the CEO within that particular local government context.
- b) The council has approved, by absolute majority, the Job Description Form (JDF) which clearly outlines the qualifications, selection criteria and responsibilities of the position. The JDF is made available to all applicants.
- c) The local government has established a selection panel to conduct the recruitment and selection process. The panel must include at least one independent person who is not a current elected member, human resources consultant, or staff member of the local government.
- d) The local government attracts applicants through a transparent, open and competitive process (this is not necessary for vacancies of less than one year). The local government must advertise a vacancy for the position of CEO in the manner prescribed.
- e) The local government has assessed the knowledge, experience, qualifications and skills of all applicants against the selection criteria.
- f) The local government has verified the recommended applicant's work history, qualifications, referees and claims made in their job application.
- g) The appointment is merit-based, with the successful applicant assessed as clearly demonstrating how their knowledge, skills and experience meet the selection criteria.
- h) The appointment is made impartially and free from nepotism, bias or unlawful discrimination.
- i) The council has endorsed by absolute majority the final appointment.
- j) The council has approved the employment contract by absolute majority.
- k) The local government re-advertises the CEO position and undertakes a recruitment and selection process after each instance where a person has occupied the position for ten (10) consecutive years.

Performance Appraisal

- a) Performance criteria is specific, relevant, measurable, achievable and time-based.

- b) The performance criteria and the performance process are recorded in a written document, negotiated with and agreed upon by the CEO and council.
- c) The CEO is informed about how their performance will be assessed and managed and the results of their performance assessment.
- d) The collection of evidence regarding performance outcomes is thorough and comprehensive.
- e) Assessment is made free from bias and based on the CEO's achievements against documented performance criteria, and decisions and actions are impartial and transparent.
- f) The council has endorsed the performance review assessment by absolute majority.

Termination

- a) Decisions are based on assessment of the CEO's performance as measured against the documented performance criteria in the CEO's contract.
- b) Performance issues have been identified as part a performance review (conducted within the preceding 12 months) and the CEO has been informed of the issues. The council has given the CEO a reasonable opportunity to improve and implement a plan to remedy the performance issues, but the CEO has not subsequently remedied these issues to the satisfaction of the local government.
- c) The principle of procedural fairness is applied. The CEO is informed of their rights, entitlements and responsibilities in the termination process. This includes the CEO being provided with notice of any allegations against them, given a reasonable opportunity to respond to those allegations or decisions affecting them, and their response is genuinely considered.
- d) Decisions are impartial and transparent.
- e) The council of the local government has endorsed the termination by absolute majority.
- f) The required notice of termination (which outlines the reasons for termination) is provided in writing.

- 12. Having assessed the Model Standards against current practices it is considered that adoption of the Model Standards will meet the needs of Council. Any additional provisions that are consistent with the model standards can always be added at any time.
- 13. Key changes arising out of the adoption of the Standards are:-
 - a) the requirement for an independent person to be appointed to the selection panel when recruiting a CEO.
 - b) the requirement for local government to re-advertise the CEO position and undertake a recruitment and selection process after

each instance where a person has occupied the position for ten consecutive years.

14. Council should also note should it decide to terminate a CEO's contract of employment, the decision must be compliant with the CEO Standards and consistent with employment and contract law.
15. The DLGSC guidelines indicate that a local government should seek independent legal, employment or industrial relations advice prior to a termination. A council should also seek independent advice during the termination process including advice on the relevant employment legislation affecting CEO employment and the application of that legislation to their specific circumstances. This will ensure that a council complies with employment law during the entire termination process.
16. As a consequence of adopting the Standards, amendments are required to current Council Policy – Governance 12 – CEO Performance and Salary review. A new draft policy incorporating required changes is submitted for council consideration (Attachment 2).
17. Additionally, section 5.39C of the Act requires Council to develop and implement a policy that outlines the arrangements to temporarily replace a CEO for any period less than twelve months, for example, when a CEO is on planned or unplanned leave. The policy must include the decision-makers for appointing an acting CEO.
18. A new draft policy to meet these requirements is submitted for council consideration (Attachment 3).

APPLICABLE LAW

19. *Local Government Act 1995 and Local Government (Administration) Regulations 1996.*

APPLICABLE POLICY

- 20.

STAKEHOLDER ENGAGEMENT

21. The subject matter of this Report does not require any stakeholder engagement.

FINANCIAL CONSIDERATIONS

22. None from this Report.

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SUSTAINABILITY

23. None from this Report.

RISK MANAGEMENT

24.	Risk: Noncompliance with legislation if the model standards are not adopted		
	Consequence	Likelihood	Rating
	Moderate	Unlikely	Low
	Action/Strategy		
	Adopt the model standards to ensure there is no departmental intervention or enquires which will impact on the reputation of the City.		

CONCLUSION

25. It is considered that the proposed Standards, amended and new Council Policies will provide an appropriate framework for the Council to effectively undertake one of its most important and vital functions of Recruiting and Appraising the Performance of the CEO.

The model CEO termination standards also provides the CEO with procedural fairness which in turn protects the City from unfair dismissal litigation.

Voting Requirements: Absolute Majority

RECOMMENDATION

That Council ADOPT:-

- a) the City of Kalamunda Standards for the Recruitment, Performance Appraisal and Termination of the Chief Executive Officer (Standards). (Attachment 1).
- b) revised Council Policy – Governance 12 - CEO Recruitment, Performance & Salary Review and Termination (Attachment 2).
- c) new Council Policy – Appointment of Acting CEO (Attachment 3).

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11. Closure

There being no further business, the Presiding Member declared the Meeting closed at 8.39pm.

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

Signed: _____
Presiding Member

Dated this _____ day of _____ 2021.