



AGENDA

Ordinary Meeting of Council

Tuesday 19 December 2023

6.00pm

Council Chambers



NOTICE OF AN ORDINARY COUNCIL MEETING

Dear Mayor and Councillors

The next Ordinary Meeting of the City of Albany will be held on Tuesday 19 December 2023 in the Council Chambers, 102 North Road, Yakamia commencing at 6.00pm.

Andrew Sharpe
CHIEF EXECUTIVE OFFICER

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ORDINARY COUNCIL MEETING AGENDA
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1. DECLARATION OF OPENING

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

“Heavenly Father, we thank you for the peace and beauty of this area. Direct and prosper the deliberations of this Council for the advancement of the City and the welfare of its people. Amen.”

“We would like to acknowledge the Noongar people who are the Traditional Custodians of the Land.

We would also like to pay respect to Elders past, present and emerging”

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor

G Stocks

Councillors:

Councillor

P Terry (Deputy Mayor)

Councillor

L MacLaren

Councillor

A Cruse

Councillor

C McKinley

Councillor

T Brough

Councillor

R Sutton

Councillor

M Lionetti

Councillor

M Traill

Councillor

D Baesjou

Councillor

S Grimmer

Staff:

Chief Executive Officer

A Sharpe

Executive Director Corporate & Commercial Services

M Gilfellon

Executive Director Infrastructure, Development
& Environment

P Camins

Executive Director Community Services

N Watson

Manager Planning and Building Services

J Van Der Mescht

Meeting Secretary

J Williamson

Apologies:

4. DISCLOSURES OF INTEREST

Name	Report Item Number	Nature of Interest
Councillor Terry	DIS376	Financial. The nature of the interest being that Councillor Terry would be classified as a closely associated person with at least one of the named Director or Shareholder of the proponent.
Councillor Grimmer	DIS376	Impartiality. The nature of the interest being that Councillor Grimmer was involved in a community group which opposed the original development application.

5. REPORTS OF MEMBERS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

During Public Question Time at the Ordinary Council Meeting held on 28 November 2023, Ms Juliana Allen asked questions regarding the Smart Cities initiative. At the request of the Mayor, Ms Allen has submitted those questions in writing in order that a response may be provided. Ms Allen's written submission is as follows:

Good evening Councillors, I am most grateful to you for allowing me to express my concerns for the community. I am unsure of the current project name, but the agenda is from the United Nations to get conforming councils to implement 15 minutes boundaries that restrict community members movement to within 15 minutes from the CBD.

Is this council still in process of implementing this agenda for Albany?

*If so...will this council notify the community so that we are aware of the **Massive Breach** against our rights as rate payers.*

*If Yes!...as a rate payer in this community will this council be **Open & Honest** and inform the community of this agenda and will there be a vote taken for this agenda by the people who should have a say on such an important agenda that will un doughtily effect our way of lives and freedom and the way we conduct our daily business forever as there will be **NO** going back once the council signs us up with the UN'*

Response: 15-minute cities are a planning concept focused on providing amenities local to where people live. The concept allows residents to access most daily amenities within a 15-20 minute walk, bike or other mode of transportation from any point in a town or city.

The concept is intended to provide neighbourhoods with the basic things they need such as shops, schools, parks, leisure options and health care within a 15-minute radius by walking or cycling. The concept is intended to reduce our reliance on motor vehicles and contain the urban sprawl.

The City of Albany is unaware of any proposal by the UN to restrict movements of its residents.

7. PUBLIC QUESTION TIME

In accordance with City of Albany Standing Orders Local Law 2014 (as amended):

Clause 4 (6) The total time allowed for public question time will be no more than 30 minutes.

Any extension to the time period defined by the City of Albany Standing Orders Local Law 2014 (as amended) will be at the discretion of the Presiding Member.

In accordance with City of Albany Standing Orders Local Law 2014 (as amended):

Clause 5) The Presiding Member may decide that a public question shall not be responded to where—

- (a) the same or similar question was asked at a previous Meeting, a response was provided and the member of the public is directed to the minutes of the Meeting at which the response was provided;*
- (b) the member of the public asks a question or makes a statement that is offensive, unlawful or defamatory in nature, provided that the Presiding Member has taken reasonable steps to assist the member of the public to rephrase the question or statement in a manner that is not offensive, unlawful or defamatory.*

8. APPLICATIONS FOR LEAVE OF ABSENCE

9. PETITIONS AND DEPUTATIONS

10. CONFIRMATION OF MINUTES

DRAFT MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the minutes of the Ordinary Council Meeting held on 28 November 2023, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

11. PRESENTATIONS Nil

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

CCS559: CLIMATE CHANGE ACTION DECLARATION

Proponent / Owner : City of Albany
Attachments : Revised Climate Change Action Declaration - 2023
Report Prepared By : Community Development Coordinator (T Flett)
Authorising Officer: : Executive Director Community Services (N Watson)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Planet
 - **Outcomes:** Shared responsibility for climate action.

In Brief:

- To adopt the updated City of Albany Climate Action Declaration, reviewed in collaboration with the Youth Advisory Council.

RECOMMENDATION

CCS559: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the revised City of Albany Climate Change Action Declaration be ADOPTED.

CCS559: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR MACLAREN
SECONDED: COUNCILLOR TERRY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 8-2

Record of Vote

Against the Motion: Councillors McKinley and Lionetti.

CCS559: AUTHORISING OFFICER RECOMMENDATION

THAT the revised City of Albany Climate Change Action Declaration be ADOPTED.

RESOLUTION (PROCEDURAL MOTION)

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR BROUGH

THAT the item be DEFERRED for consideration and re-presented to a future Council Meeting post the October 2023 Ordinary Local Government Election.

CARRIED 8-5

Against the Motion:

Councillors Thomson, Traill, Smith, Baesjou and Terry.

Councillor Comment:

The Climate Change Action Declaration was developed in consultation with the Youth Advisory Group. Any proposed changes to the agreed Declaration should be made in consultation the Youth Advisory Group and, if deemed necessary, the wider community.

Councillor Sutton then moved a Procedural Motion to defer this item.

CCS559: AMENDMENT BY COUNCILLOR THOMSON
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR THOMSON
SECONDED: COUNCILLOR TRAILL

THAT the revised City of Albany Climate Change Action Declaration be ADOPTED with amendments as follows:

THE CITY OF ALBANY:

1. ACKNOWLEDGES THAT:

- climate change is occurring and requires immediate and urgent action;
- climate change will continue to have significant effects on Albany's environment, society and economy; and
- local government **can and should** play an important role **in reducing** carbon emissions through **its** own actions and advocating for change within the community.

2. ACCEPTS THE:

- environmental, social and economic benefits of addressing climate change immediately; and
- science that underpins **the recognition of** climate change.

3. SUPPORTS THE:

- development and implementation of local, state and federal policies for climate change action; **and**
- ongoing delivery of actions relating to climate change in the City's Corporate Energy Plan, Community Strategic Plan (including developing a sustainable, low waste, circular economy), Local Planning Strategy (specifically vegetation conservation and compact city measures) and Urban Tree Strategy.

4. AND SHALL:

- **implement as many as are feasible, and relevant to the City's sphere of influence, of the seven mitigation and adaptation options outlined in the Intergovernmental Panel of Climate Change's (IPCC's) sixth assessment report (i.e. C3.2 to C3.8 of 2023, pp. 30-32) as necessary to "achieve deep and sustained emissions reductions and secure a liveable and sustainable future for all";**
- develop a tool to measure and report on corporate and community greenhouse gas emissions;
- develop a Roadmap to Net Zero targeting 2050 with interim targets for 2030 for the City of Albany and the community;
- advocate to state and federal government to implement key climate change actions;
- develop communications to engage, encourage and empower the Albany community on climate change actions;
- engage with the Youth Advisory Council and wider community on climate change initiatives;
- review this declaration every two years to ensure it remains relevant to community priorities and to any changes to the **above-mentioned IPCC mitigation and adaptation options; and**
- **every two years, publicly report on progress toward achieving the measures promised above.**

Councillor Thomson then moved an amendment to the Authorising Officer Recommendation that the Climate Change Action Declaration be adopted with his proposed amendments:

CCS559: AUTHORISING OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR TERRY

THAT the revised City of Albany Climate Change Action Declaration be ADOPTED.

BACKGROUND

2. The City of Albany is playing a key role in leading localised action on climate change due to its impacts on all aspects of the City's operations and the Albany community.
3. Following a youth-led Climate Strike on 20th September 2019, a Declaration on Climate Change petition containing nearly 1,000 signatures was submitted by the Albany Youth Advisory Council (YAC) and received by Council at its October 2019 Ordinary Council Meeting (OCM).
4. This submission led to a commitment from Council to work with the YAC to develop a City of Albany Climate Change Action Declaration, and ultimately the adoption of the Declaration at the October 2020 OCM.
5. The agreement included a commitment to review the Declaration every two years.
6. From the Declaration, a number of key initiatives have been progressed including Council's adoption of a Corporate Power Plan, which outlines the City's commitment to transition to 100% renewable energy for City-owned and operated buildings by 2030.

DISCUSSION

7. Under the United Nations Framework Convention on Climate Change, Australia is a signatory to the Paris Agreement which aims to limit global temperature rises to well below two (2) degrees Celsius, and to pursue efforts to limit this even further to 1.5 degrees Celsius.
8. The Government of Western adopted a greenhouse gas emissions policy in 2020 for major projects assessed by the Environmental Protection Authority (EPA), as the state government commits to working with all sectors of the WA economy to achieve net zero greenhouse gas emissions by 2050.
9. In 2018, the Western Australia Local Government Association (WALGA) developed a WALGA Climate Change Policy statement for local governments.
10. WALGA reports 51 local governments have endorsed either a climate declaration or a climate emergency declaration.
11. The City's Declaration acknowledges that climate change is occurring and requires immediate and urgent action, acknowledges the City's support for climate change and sustainability initiatives, and includes a number of actions in an effort to reduce carbon emissions and increase renewable energy technology.
12. The City began the process of reviewing the Declaration in collaboration with YAC in September 2020 and has held multiple workshops and meetings to work through a number of changes.
13. One of the key changes of the revised Declaration is its acknowledgement of the science that underpins climate change, and recognition of the key areas of influence identified by the Intergovernmental Panel on Climate Change that impact the City.

14. The following table details the changes made to the Declaration through the review workshops with Council and the YAC:

Header	Original Statement	Updated Statement
The City of Albany acknowledges that: <i>(No change to header wording.)</i>	Local government plays an important role in eliminating, or where not possible significantly reducing, carbon emissions.	Local government plays an important role towards eliminating carbon emissions through our own actions and advocating for change within the community.
The City of Albany supports the: <i>(No change to header wording.)</i>	Development of State and Federal policies for climate change action.	Development and implementation of local, state and federal policies for climate change action.
	Climate change and sustainability initiatives that have already been achieved in the energy efficiencies and renewable, transport, water, environment and waste areas in line with the City of Albany Community Strategic Plan and the Carbon Footprint Reduction Strategy.	Ongoing delivery of the actions relating to climate change in the Albany Community Strategic Plan and Corporate Energy Plan. Science that underpins climate change and recognises the Intergovernmental Panel on Climate Change (IPCC) key areas of influence that impact the City of Albany.
The City of Albany will: <i>(Header wording changed from "commits to" to "will".)</i>	Measuring and reporting on our corporate and community greenhouse gas emissions, and developing emission reduction targets.	Develop a tool to measure and report on corporate and community greenhouse gas emissions.
	Developing a Corporate Energy Plan that aims to transition the City's assets to renewable energy to achieve 100% renewable energy by 2030.	Develop a Roadmap to Net Zero targeting 2050 with interim targets for 2030 for the City of Albany and the community.
	Advocating to State and Federal government to implement key climate change actions in line with international agreements to access regionally specific opportunities.	Advocate the state and federal governments to implement key climate change actions.
	Undertake a review of strategic plans and strategies to ensure that climate change actions reflect climate change management priorities.	Removed.
	Developing a climate change communications strategy to effectively engage, encourage and empower the Albany community on climate change actions.	Develop communications to engage, encourage and empower the Albany community on climate change actions.
	Continued engagement with young people and Youth Advisory Council as the next generation of community leaders on climate change.	Engage with the Youth Advisory Council and wider community on climate change initiatives.
	Reviewing the Climate Change Action Declaration every two years to ensure that climate actions identified within the declaration are undertaken.	Review the Climate Change Action Declaration every two years to ensure it remains relevant to community priorities and any changes to key focus areas outlined by the IPCC.

GOVERNMENT & PUBLIC CONSULTATION

15. The following workshops have been held with Council and the Youth Advisory Council to inform the review of the Climate Action Declaration:

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Collaborate	Workshop with YAC	30 September 2022 21 March 2023	7 elected members 5 YAC members 12 elected members 4 YAC members	N/A
Consult	Feedback session with YAC	3 February 2023 4 August 2023	5 YAC members 4 YAC members	N/A N/A

STATUTORY IMPLICATIONS

16. Not Applicable.

POLICY IMPLICATIONS

17. This item relates to the City of Albany Environmental Policy (Climate Change).

RISK IDENTIFICATION & MITIGATION

18. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational:</i> Should the updated Climate Action Declaration not be adopted, the City may be perceived as not taking the climate concerns of the community seriously.	Unlikely	Moderate	Medium	If the proposed policy is not endorsed, officers will support Council and YAC to address the areas of concern.
<i>Financial:</i> Actioning the commitments made in the Climate Change Action Declaration may require expenditure not currently budgeted for.	Likely	Minor	Medium	Seek external grant funding to support activity delivery. Seek Council approval for additional budget requirements as necessary.
<i>Opportunity:</i> Demonstrate the City’s commitment to climate change action, its leadership on environmental sustainability issues and an ongoing commitment to engage with the Youth Advisory Council.				

FINANCIAL IMPLICATIONS

19. Any actions that result from the commitments in the Climate Declaration which incur a direct cost to the City will be undertaken within existing budget, seeking external grant funding, or prioritised through future budgets.
20. Any initiatives pursued by the City in response to the Declaration will support activity undertaken as part of the Corporate Power Plan (2023).

LEGAL IMPLICATIONS

21. Not applicable

ENVIRONMENTAL CONSIDERATIONS

- 22. The Declaration relates to and will support activity delivered through the Corporate Power Plan (2023) (which supersedes the Carbon Footprint Reduction Strategy 2021) and the City of Albany Environmental Policy.

ALTERNATE OPTIONS

- 23. Council may choose not to adopt the revised Climate Change Action Declaration and continue business as usual through the review and implementation of the City of Albany Environmental Policy and Corporate Power Plan (2023), however this is not recommended.
- 24. Council may choose to make further amendments to the Climate Change Action Declaration.

CONCLUSION

- 25. The City has a strong track record of achievement on environmental sustainability and emissions reduction efforts. Adopting the revised Climate Change Action Declaration consolidates these efforts and demonstrates Council’s ongoing leadership on the issue of carbon abatement.

Consulted References	:	City of Albany Environmental Policy; Carbon Footprint Reduction Strategy (2021); Corporate Power Plan (2023) IPCC AR6 Synthesis Report: Climate Change (2023)
Previous Reference	:	Resolution CCS298 – OCM 20/10/2020

CCS582: MONTHLY FINANCIAL REPORT – OCTOBER 2023

Proponent / Owner : City of Albany
Attachments : Monthly Financial Report – October 2023
Report Prepared By : Manager Finance (S van Nierop)
Authorising Officer: : Executive Director Corporate & Commercial Services
(M Gilfellon)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Leadership.
 - **Outcome:** Strong workplace culture and performance

IN BRIEF

- Under the Local Government Financial Management Regulations, a local government is to prepare monthly a statement of financial activity that is presented to Council.
- Under changes to the Regulations in June 2023, a local government is now required to also prepare monthly a statement of financial position that is presented to Council.
- The City of Albany’s Monthly Financial Report (inclusive of the statement of financial activity and the statement of financial position) for the period ending 31 October 2023 has been prepared and is attached.
- In addition, the City provides Council with a monthly investment summary to ensure the investment portfolio complies with the City’s Investment of Surplus Funds Policy.
- The financial information included within the Monthly Financial Report for the period ended 31 October 2023 is preliminary and has not yet been audited.

RECOMMENDATION

**CCS582: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the Monthly Financial Report for the period ending 31 October 2023 be RECEIVED.

CCS582: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR TRAILL

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS582: AUTHORISING OFFICER RECOMMENDATION

THAT the Monthly Financial Report for the period ending 31 October 2023 be RECEIVED.

DISCUSSION

2. To fulfil statutory reporting obligations, the Monthly Financial Report prepared provides a snapshot of the City's year to date financial performance. The report provides the:
 - (a) Statement of Financial Activity by nature classifications (satisfying Regulation 34 of the Local Government (Financial Management) Regulations 1996);
 - (b) Statement of Financial Position (satisfying Regulation 35 of the Local Government (Financial Management) Regulations 1996);
 - (c) Basis of Preparation
 - (d) Explanation of material variances to year-to-date budget;
 - (e) Net Current Asset & Funding Position;
 - (f) Investment Portfolio Snapshot;
 - (g) Receivables; and
 - (h) Capital Acquisitions.
3. Additionally, each year a local government is to adopt a percentage or value to be used in the Statement of Financial Activity for reporting material variances. Under Council item CCS545, Council approved that a variance between actual and budget-to-date of greater than \$100,000 is a material variance for reporting purposes in the Statement of Financial Activity for 2023/2024.
4. The Statement of Financial Activity and Statement of Financial Position may be subject to year-end adjustments and have not been audited.
5. It is noted that rounding errors may occur when whole numbers are used, as they are in the reports that follow. The 'errors' may be \$1 or \$2 when adding sets of numbers. This does not mean that the underlying figures are incorrect."

STATUTORY IMPLICATIONS

6. The Local Government (Financial Management) Regulations 1996 were amended (SL2023/106) and published on 30 June 2023. The changes, effective from 1 July 2023, have an impact on the reporting of the financial activity statement required each month (Section 34). The below outlines the new reporting requirement under Section 34:
 - 34(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22 (1)(d), for the previous month (the "relevant month") in the following detail:
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the relevant month; and
 - (c) actual amounts of expenditure, revenue and income to the end of the relevant month; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the relevant month and a note containing a summary explaining the composition of the net current assets.
 - 34(1B) The detail included under subregulation (1)(e) must be structured in the same way as the detail included in the annual budget under regulation 31(1) and (3)(a).
 - 34(1C) Any information relating to exclusions from the calculation of a budget deficiency that is included as part of the budget estimates referred to in subregulation (1)(a) or (b) must be structured in the same way as the corresponding information included in the annual budget.

- 34(2) Each statement of financial activity is to be accompanied by documents containing-
- (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- 34(3) The information in a statement of financial activity may be shown according to nature classification.
- 34(4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —
- (a) presented at an ordinary meeting of the council within 2 months after the end of the relevant month; and
 - (b) recorded in the minutes of the meeting at which it is presented.
- 34(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.
7. An amendment to the *Local Government (Financial Management) Regulations 1996*, effective from 1 August 2023, is the addition of Regulation 35, with Local Governments now required to report a financial position statement each month. The additional Regulation 35 is as follows:
- 35(1) A local government must prepare each month a statement of financial position showing the financial position of the local government as at the last day of the previous month (the previous month) and —
- (a) the financial position of the local government as at the last day of the previous financial year; or
 - (b) if the previous month is June, the financial position of the local government as at the last day of the financial year before the previous financial year.
- 35(2) A statement of financial position must be —
- (a) presented at an ordinary meeting of the council within 2 months after the end of the previous month; and
 - (b) recorded in the minutes of the meeting at which it is presented.

POLICY IMPLICATIONS

8. The City's 2023/24 Annual Budget provides a set of parameters that guides the City's financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

FINANCIAL IMPLICATIONS

10. Expenditure for the period ending 31 October 2023 has been incurred in accordance with the 2023/24 budget parameters.
11. Details of any budget variation more than \$100,000 (year to date) is outlined in the Statement of Financial Activity. There are no other known events, which may result in a material non-recoverable financial loss or financial loss arising from an uninsured event.

LEGAL IMPLICATIONS

12. Nil.

ENVIRONMENTAL CONSIDERATIONS

13. Nil.

ALTERNATE OPTIONS

14. Nil.

CONCLUSION

15. The Authorising Officer's recommendation be adopted.

16. It is requested that any questions regarding this report are submitted to the Executive Director Corporate & Commercial Services by 4pm of the day prior to the scheduled meeting time. All answers to submitted questions will be provided at the Committee meeting. This allows a detailed response to be given to the Committee in a timely manner.

Consulted References	:	<i>Local Government (Financial Management) Regulations 1996</i>
File Number	:	FM.FIR.7

CCS583: LIST OF ACCOUNTS FOR PAYMENT – NOVEMBER 2023

Business Entity Name : City of Albany
Attachments : List of Accounts for Payment
Report Prepared By : Manager Finance (S Van Nierop)
Authorising Officer: : Executive Director Corporate and Commercial Services (M Gilfellon)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar/Priority:** Leadership.
 - **Outcome:** Strong workplace culture and performance.

IN BRIEF

2. Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the City's municipal and trust funds. In accordance with Regulation 13 of the Local Government (Financial Management) Regulations 1996, a list of accounts paid by the Chief Executive Officer is to be provided to Council.

RECOMMENDATION

**CCS583: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 November 2023 totalling \$8,416,705.08 be RECEIVED.

CCS583: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR CRUSE
SECONDED: COUNCILLOR MCKINLEY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS583: AUTHORISING OFFICER RECOMMENDATION

THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 November 2023 totalling \$8,416,705.08 be RECEIVED.

DISCUSSION

3. The table below summarises the payments drawn from the City's Municipal and Trust funds for the period ending 15 November 2023. Please refer to the Attachment to this report.

Fund	Transaction Type	Amount (\$)
Municipal	Credit Cards	\$31,999.61
Municipal	Payroll	\$1,759,490.75
Municipal	Cheques	\$1,343.90
Municipal	Electronic Funds Transfer	\$6,623,870.82
Trust	N/A	\$0.00
TOTAL		\$8,416,705.08

4. Included within the Electronic Funds Transfers from the City's Municipal account are Purchasing Card transactions, required to be reported under Regulation 13(A), totalling: \$2,111.78.
5. The table below summaries the total outstanding creditors as at 15 November 2023.

Aged Creditors	Amount (\$)
Current	\$866,111.13
30 Days	\$1,698,099.04
60 Days	\$66,116.42
90 Days	16,548.74
TOTAL	\$2,646,875.33
Cancelled Cheques	Nil

STATUTORY IMPLICATIONS

6. Regulation 12(1)(a) of the *Local Government (Financial Management) Regulations 1996*, provides that payment may only be made from the municipal fund or a trust fund if the Local Government has delegated this function to the Chief Executive Officer or alternatively authorises payment in advance.
7. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
8. Regulation 13 of the *Local Government (Financial Management) Regulations 1996* provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.
9. As part of the Local Government Regulations Amendment Regulations 2023 (SL2023/106), additional reporting is now required by Local Governments. Regulation 13(A), a new regulation, is required, as follows:

13A. Payments by employees via purchasing cards

(1) If a local government has authorised an employee to use a credit, debit or other purchasing card, a list of payments made using the card must be prepared each month showing the following for each payment made since the last such list was prepared

- (a) the payee's name;*
- (b) the amount of the payment;*
- (c) the date of the payment;*
- (d) sufficient information to identify the payment.*

(2) *A list prepared under subregulation (1) must be*

- (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
- (b) *recorded in the minutes of that meeting.*

10. Regulation 13(A) comes into operation from 1 September 2023.

POLICY IMPLICATIONS

11. Expenditure for the period to 15 November 2023 has been incurred in accordance with the 2023/2024 budget parameters.

FINANCIAL IMPLICATIONS

12. Expenditure for the period to 15 November 2023 has been incurred in accordance with the 2023/2024 budget parameters.

LEGAL IMPLICATIONS

13. Nil

ENVIRONMENTAL CONSIDERATIONS

14. Nil

ALTERNATE OPTIONS

15. Nil

CONCLUSION

16. That the list of accounts have been authorised for payment under delegated authority.

17. It is requested that any questions on specific payments are submitted to the Executive Director Corporate Services by 4pm of the day prior to the scheduled meeting time. All answers to submitted questions will be provided at the Committee meeting. This allows a detailed response to be given to the Committee in a timely manner.

Consulted References	:	<i>Local Government (Financial Management) Regulations 1996</i>
File Number	:	FM.FIR.2

CCS584: DELEGATED AUTHORITY REPORTS – 16 OCTOBER 2023 to 15 NOVEMBER 2023

Proponent / Owner	: City of Albany
Attachments	: Executed Document and Common Seal Report
Report Prepared By	: PA to Mayor and Councillors (D Clark)
Authorising Officer:	: Chief Executive Officer (A Sharpe)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Leadership.
 - **Outcome:** A well informed and engaged community.

RECOMMENDATION

**CCS584: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the Delegated Authority Reports 16 October 2023 to 15 November 2023 be RECEIVED.

CCS584: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR MCKINLEY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS584: AUTHORISING OFFICER RECOMMENDATION

THAT the Delegated Authority Reports 16 October 2023 to 15 November 2023 be RECEIVED.

BACKGROUND

2. In compliance with Section 9.49A of the *Local Government Act 1995* the attached report applies to the use of the Common Seal and the signing of documents under Council's Delegated Authority:
 - **Delegation: 006** – Sign Documents on Behalf of the City of Albany (Authority to Executive Deeds & Agreements and apply the Common Seal)
 - **Delegation: 009** – Provide Donations, Sponsorship, Subsidies & Authority to Apply for Grant Funding (Including the provision of sponsorship through the waiver of fees & charges)
 - **Delegation: 018** – Award Contracts (Supply of Equipment, Goods, Materials & Services)

**CCS585: ADOPTION OF THE BUDGET REVIEW FOR THE PERIOD
ENDING 31 OCTOBER 2023**

Proponent : City of Albany
Attachments : Budget Review for the period ending 31 October 2023
Report Prepared by : Business Analyst/Management Accountant (D Harrison)
Authorising Officer : Executive Director Corporate & Commercial Services
(M Gilfellon)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Leadership.
 - **Outcome:** Strong workplace culture and performance.

In Brief:

- This review is for the period ending 31 October 2023, and is therefore outside the requirements of regulation 33A of the Local Government (Financial Management) Regulations 1996. A further budget review is required to satisfy this regulatory obligation.
- This review is for the period ending 31 October 2023, and achieves a balanced budget (nil surplus or deficit as at 30 June 2024) inclusive of the proposed budget review allocations.

RECOMMENDATION

**CCS585: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT the Budget Review for the period ending 31 October 2023 be ADOPTED.

CCS585: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR MACLAREN
SECONDED: COUNCILLOR TRAILL

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS585: AUTHORISING OFFICER RECOMMENDATION

THAT the Budget Review for the period ending 31 October 2023 be ADOPTED.

BACKGROUND

2. The Department of Local Government, Sport and Cultural Industries (“DLGSCI”) recommends a review of the budget early in the financial year to amend carry forward projects from forecast to actual. This was completed by the City in September 2023 under agenda item CCS563.
3. Under legislation (regulation 33A(1) of the Local Government (Financial Management) Regulations 1996, Local Governments are required to conduct a budget review between 1 January and the last day of February each financial year.
4. This budget review is not a legislative requirement, however it is prepared and presented to Council to provide additional and more accurate transparency regarding the financial performance of the City, as well as the request to fund particular services and projects the City is desiring to undertake.
5. Council adopted the FY2023/24 budget on 25 July 2023 (CCS545). The total adopted budget expenditure of \$142.2m was comprised of:
 - a. \$52.4m capital works;
 - b. \$1.8m debt reduction; and
 - c. \$88.0m in operating expenditure.
6. The current budget (inclusive of budget amendments already endorsed by Council throughout FY2023/24) has expenditure totalling \$141.6m.

DISCUSSION

7. Key elements of this proposed budget review include:
 - a. An amendment to the City’s opening funding position (municipal funds) of \$(218,828) as at 1 July 2023, due to movement in accrued expenditure as at 30 June 2023.
 - b. An increase in funds required of \$4.45m to complete the proposed amendments, sourced as follows:
 - i. \$2.35m: Reduction in expenditure
 - ii. \$1.43m: Increase in grants and general revenue.
 - iii. \$0.88m: Increase in reserves funding required.The total of which is \$4.67m, with additional funds required to the offset the movement in the City’s opening funding position.
 - c. This Review Maintains Council's Budget in a Balanced Position as at 30 June 2024.
 - d. Total expenditure of \$146.6m in FY2023/24, comprised of:
 - i. \$55.8m capital works;
 - ii. \$1.8m debt reduction; and
 - iii. \$89.0m in operating expenditure.
8. A detailed copy of the budget review for the period ending 31 October 2023 is attached.
9. Budget adjustments thereafter, including the mandatory review required under regulation 33A(1), will be brought to Council as an item to be discussed when required and actioned outside of this review.

GOVERNMENT & PUBLIC CONSULTATION

10. DLGSCI guidelines were followed in the preparation of this report.
11. City of Albany employees with budget responsibility were consulted in the preparation of this budget review.

STATUTORY IMPLICATIONS

12. Under the *Local Government Act 1995*, section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
 - a. is incurred in a financial year before the adoption of the annual budget by the local government;
 - b. is authorised in advance by a resolution (absolute majority required); or
 - c. is authorised in advance by the Mayor in the event of an emergency.
13. If a local government wishes to impose any new fees or charges after the annual budget has been adopted, it must, before introducing the fees or charges, give local public notice of 7 days and (a) its intention to do so; and (b) the date from which it is proposed the fees or charges will be imposed. This budget review is not inclusive of any new fees or charges.
14. The voting requirement of Council is **Absolute Majority**.

POLICY IMPLICATIONS

15. There are no policy implications related to this report.

RISK IDENTIFICATION & MITIGATION

16. The risk identification and categorisation relies on the City's Enterprise Risk & Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation & Organisation's Operations. Non approval of the budget review may result in significant delays to achieving deliverables.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>In the short term the existing Annual Budget would apply and proposed amendments would not apply. Adopt the Budget Review with amendments (as specified by Council).</i>
<i>Opportunity: Provides Council with an additional opportunity to review the City's current budget position</i>				

FINANCIAL IMPLICATIONS

17. Please refer to the attachment: Budget Review for the period ending 31 October 2023.

LEGAL IMPLICATIONS

18. Nil.

ENVIRONMENTAL CONSIDERATIONS

19. Nil.

ALTERNATE OPTIONS

20. For the period ending 31 October 2023, Council may consider to:
- a. Adopt the Budget Review as recommended; or
 - b. Adopt the Budget Review with amendments (as specified by Council).

SUMMARY CONCLUSION

21. It is recommended that the Authorising Officer's Recommendation is adopted.

Consulted References		<ul style="list-style-type: none"> • Adopted Budget 2023/2024 • Local Government Act 1995
File Number	:	<ul style="list-style-type: none"> • FM.BUG.12
Previous Reference	:	<ul style="list-style-type: none"> • Adopted Budget 2023/2024 – OCM 25/07/2023 Resolution CCS546 • Budget Review Period Ending 31 July 2023 - OCM 26/09/2023 Resolution CCS563

CCS586: COUNCIL AND COMMITTEE MEETING SCHEDULE 2024

Attachments : Proposed Meeting Schedule 2024
Report Prepared By : Senior Team Leader (J Williamson)
Authorising Officer: : Chief Executive Officer (A Sharpe)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Leadership.
 - **Outcome:** A well-informed and engaged community.

In Brief:

- Council is requested to adopt the proposed Ordinary Council Meeting and Committee Meeting Schedule for 2024, in accordance with the *Local Government Act 1995* and associated regulations.

RECOMMENDATION

CCS586: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council, for the purpose of giving Public Notice:

1. **APPROVE** the following Committee Meeting Schedule for 2024:

Community & Corporate Services Committee	Development & Infrastructure Services Committee
<i>No meeting scheduled for January 2024</i>	
Tuesday 13 February 2024	Wednesday 14 February 2024
Tuesday 12 March 2024	Wednesday 13 March 2024
Tuesday 09 April 2024	Wednesday 10 April 2024
Tuesday 14 May 2024	Wednesday 15 May 2024
Tuesday 11 June 2024	Wednesday 12 June 2024
Tuesday 09 July 2024	Wednesday 10 July 2024
Tuesday 13 August 2024	Wednesday 14 August 2024
Tuesday 10 September 2024	Wednesday 11 September 2024
Tuesday 08 October 2024	Wednesday 09 October 2024
Tuesday 12 November 2024	Wednesday 13 November 2024
Tuesday 03 December 2024	Wednesday 04 December 2024

2. **APPROVE** the proposed Ordinary Council Meeting Schedule for 2024:

- Tuesday 27 February 2024
- Tuesday 26 March 2024
- Tuesday 23 April 2024
- Tuesday 28 May 2024
- Tuesday 25 June 2024
- Tuesday 23 July 2024
- Tuesday 27 August 2024
- Tuesday 24 September 2024
- Tuesday 22 October 2024
- Tuesday 26 November 2024
- Tuesday 17 December 2024

CCS586: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR MACLAREN
SECONDED: COUNCILLOR CRUSE

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS586: AUTHORISING OFFICER RECOMMENDATION

THAT Council, for the purpose of giving Public Notice:

1. APPROVE the following Committee Meeting Schedule for 2024:

Community & Corporate Services Committee	Development & Infrastructure Services Committee
<i>No meeting scheduled for January 2024</i>	
Tuesday 13 February 2024	Wednesday 14 February 2024
Tuesday 12 March 2024	Wednesday 13 March 2024
Tuesday 09 April 2024	Wednesday 10 April 2024
Tuesday 14 May 2024	Wednesday 15 May 2024
Tuesday 11 June 2024	Wednesday 12 June 2024
Tuesday 09 July 2024	Wednesday 10 July 2024
Tuesday 13 August 2024	Wednesday 14 August 2024
Tuesday 10 September 2024	Wednesday 11 September 2024
Tuesday 08 October 2024	Wednesday 09 October 2024
Tuesday 12 November 2024	Wednesday 13 November 2024
Tuesday 03 December 2024	Wednesday 04 December 2024

2. APPROVE the proposed Ordinary Council Meeting Schedule for 2024:

- Tuesday 27 February 2024
- Tuesday 26 March 2024
- Tuesday 23 April 2024
- Tuesday 28 May 2024
- Tuesday 25 June 2024
- Tuesday 23 July 2024
- Tuesday 27 August 2024
- Tuesday 24 September 2024
- Tuesday 22 October 2024
- Tuesday 26 November 2024
- Tuesday 17 December 2024

BACKGROUND

2. In accordance with the Local Government Act 1995 and the Local Government (Administration) Regulations 1996, local public notice must be given at least once per year detailing when Council and Committee meetings which are open to the public will be held.
3. Ordinary Council Meetings are held monthly, except January which has no scheduled meetings.

DISCUSSION

4. Meetings of Council which are open to the public commence at 6.00pm in order to facilitate attendance by members of the public and elected members.
5. Council may choose to undertake a review of the frequency and start time of meetings before setting the meeting dates and times for 2024.
6. Council may also wish to review the distribution date of agendas for Council and Committee meetings. Currently, the agenda for Ordinary Council Meetings is distributed on the third Tuesday of each month (except January when there are no scheduled meetings).

GOVERNMENT & PUBLIC CONSULTATION

7. The start times of Council and Committee meetings takes into account previous public feedback.
8. Community feedback has confirmed that a start time of 6.00pm of those meetings open to the public enables attendance by members of the public.
9. Council may choose to consult with the community to determine if there is a strong desire to change the start time of 6.00pm.

STATUTORY IMPLICATIONS

10. The *Local Government (Administration) Regulations 1996* section 12(2) states that:
11. *“The CEO must publish on the local government’s official website the meeting details for the following meetings before the beginning of the year in which the meetings are to be held – Ordinary Council Meetings;*
12. Committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public.”
13. Any change to the advertised meeting schedule must be published on the City’s website as soon as practicable after the change is made.

POLICY IMPLICATIONS

14. Nil.

RISK IDENTIFICATION & MITIGATION

15. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><i>Business Operation, Reputation</i> <i>Risk: The proposed meeting calendar is not adopted, and local public notice is not given of the date and times of meetings prior to January 01 2024.</i></p>	<p><i>Unlikely</i></p>	<p><i>Moderate</i></p>	<p><i>Medium</i></p>	<p><i>Staff will work with Council to develop a meeting schedule which complies with legislative requirements and meets Council’s expectation.</i></p>
<p><i>Opportunity: Consistency and understanding of rules for both councillors and staff that pertain to travel and accommodation expenditure.</i></p>				

FINANCIAL IMPLICATIONS

16. Nil.

LEGAL IMPLICATIONS

17. Nil.

ENVIRONMENTAL CONSIDERATIONS

18. Nil.

ALTERNATE OPTIONS

19. Council may choose to not hold monthly meetings.

CONCLUSION

20. It is recommended that the Authorising Officer Recommendation is adopted.

Consulted References	:	<i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i>
File Number	:	N/A
Previous Reference	:	Report Item CCS498 OCM 13/12/2022

CC587: PROPOSED NEW LEASE FOR AIRPORT CAFÉ

Land Description	: Lot 5643 on Deposited Plan 157458 the subject of Certificate of Title Volume 2088 Folio 492, Drome
Proponent	: Walczak Investments Trust (ABN 87 569 472 174) Trust Director – Wayne Michael Walczak
Owner	: City of Albany
Report Prepared By	: Team Leader Property & Leasing (T Catherall)
Authorising Officer:	: Executive Director Corporate & Commercial Services (M Gilfellon)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Prosperity
 - **Outcome:** A highly sought after tourist destination

Maps and Diagrams:



In Brief:

- Council is requested to consider a new lease for the Airport Café to Wayne Michael Walczak following an Expression of Interest (EOI) process.
- The café recently reopened in June 2023 on a short-term trial basis after an extended closure period to assess its viability at the Airport. The trial ends on 26 November 2023.
- Prior to this date, there had been no café operating at the Airport since 2019. During this period the City received many complaints from visitors and locals alike about the lack of a café service. This prompted the City to conduct a short-term trial.
- The trial, despite its marginal profitability, highlighted the importance of cafe services for Airport users. The feedback from Airport attendees has been overwhelmingly positive. This led to an EOI process for experienced operators to lease the café for a term of five years. Two submissions were received.
- After assessing both submissions, it was identified that Wayne Walczak was the preferred applicant due to his experience operating similar businesses and has a strong business model.
- It is recommended that the proposed new lease be approved.

RECOMMENDATION

**CCS587: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVES a new lease to Walczak Investments Trust for café services at the Albany (Harry Riggs) Regional Airport Terminal, subject to the terms outlined in section 22 of this report.

CCS587: COMMITTEE RECOMMENDATION

**MOVED: MAYOR STOCKS
SECONDED: COUNCILLOR TERRY**

THAT the Authorising Officer Recommendation be ADOPTED

CARRIED 10-0

CCS587: AUTHORISING OFFICER RECOMMENDATION

THAT Council APPROVES a new lease to Walczak Investments Trust for café services at the Albany (Harry Riggs) Regional Airport Terminal, subject to the terms outlined in section 22 of this report.

BACKGROUND

2. The Airport Café is located within the Albany (Harry Riggs) Regional Airport terminal building, owned and operated by the City, located at 35615 Albany Highway, Drome.
3. The café was previously leased from 2008 until May 2015. After mutual agreement, the lease was surrendered.
4. An interim short-term licence was then granted to a new café operator approved by Council in August 2017. However, due to ill health and viability concerns, the lease was surrendered in October 2018.
5. To maintain café services an interim arrangement was established allowing the operator to provide services temporarily, paying \$500 per week to the operator. This arrangement ended in 2019, resulting in the installation of vending machines.

6. Concerns about the café's viability led the City to explore various options including seeking a café operator/contract through a procurement process in February 2019 (unsuccessful), engaging real estate agents to find a new tenant (unsuccessful) and advertising a lease opportunity in 2019 (with no successful applicants).
7. The Airport cafe remained vacant until June 2023, when a short-term trial began to assess its viability. During the trial given the café's historical marginal profitability, the operator pays \$1 in rent while the City covers the utilities.
8. The operator's responsibilities during the trial include serving outgoing flights, maintenance, insurance, cleaning and providing consumables.
9. The trial is scheduled to end on 26 November 2023.
10. The terminal services Regional Express Pty Ltd (REX) with approximately 24 outgoing Regular Passenger Transport (RPT) movements per week, catering to about 62,000 passengers annually. Additionally, there are six charter flights scheduled on Tuesdays and Wednesdays for fly-in fly-out workers.
11. The Airport also supports general aviation, the Royal Flying Doctor Service, charter services, RAAF activities and car hire businesses.

DISCUSSION

12. Following discussions about the future of the Airport Café post the trial, it was determined the best way to continue cafe services as it contributes to a positive experience for Airport users, was to progress an EOI seeking experienced operators interested in leasing the café.
13. The EOI closed on 10 November 2023, with two submissions received.
14. The first submission met the criteria but requested an annual payment of \$51,850 from the City to operate the café, although this was later withdrawn. It proposed a yearly rent of \$1 with the City covering utilities and maintaining the use of the coffee machine provided by the City.
15. The second submission exceeded the criteria in skills and experience operating a similar business. It offered a yearly rent of \$1 with the City covering utilities, similar to the recent trial terms, and providing their coffee machine.
16. Experience has shown that it has not been possible for an operator to run the café profitably at a commercial rent and paying for utilities.
17. After a thorough assessment the second submission presented by Wayne Walczak was the preferred choice. Wayne has experience operating similar businesses such as Levis' Coffee Cup and Reuben's Kitchen at the Albany Plaza.
18. The Airport team has been consulted and supports the new lease.

Lease terms

19. The Property Management (Leases and Licences) Policy determines the rent for commercial leases be based on a market valuation provided by a licensed Valuer.
20. However, recognising the café operates as a service to Airport users with known marginal profitability and a history of previous operators withdrawing their service offering early, Council is requested to approve the relaxation of this provision.
21. The lease will be subject to the provisions of the *Commercial Tenancy (Retail Shops) Agreements Act 1985 (WA)*, noting a guaranteed five-year term will be applied as per the Act.

22. The table below summarises the key terms of the proposed new commercial lease:

Item	Details
Tenant	Wayne Michael Walczak
Land Description	Lot 5643 on Deposited Plan 157458 the subject of Certificate of Title Volume 2088 Folio 492, Drome
Land Ownership	City of Albany
Lease Area	Approx. 28.4m ²
Permitted Use	Operating an Airport cafe
Fee	\$1.00 + GST per annum
Term	5 years
Maintenance	Tenant is responsible for maintenance
Insurance	Tenant responsible for own insurance
Utilities & Outgoings	Landlord will be responsible for utilities (electricity and water)
Special Conditions	<ul style="list-style-type: none"> The Tenant has access to a 104m² seating area with tables and chairs, although this area is not part of the lease area. The Tenant is responsible for its upkeep during café trading hours. The café is expected to serve food and beverages to outgoing RPT (REX) flights, beginning one hour before the scheduled departure times and continuing 15 minutes after. Serving additional flights is at the discretion of the Café operator. Until a commercial grade dishwasher is installed, disposable cutlery and crockery must be used to comply with Health regulations. Deep frying is not allowed until a commercial exhaust fan system is installed to comply with Health regulations. Tenant required to supply their own point-of-sale equipment. Landlord fixtures and fittings are available to the Tenant and form part of the Landlord's Fixtures and Fittings property under lease.

23. Wayne Walczak has agreed in principle with the above terms, subject to Council approval.

GOVERNMENT & PUBLIC CONSULTATION

24. Section 3.58 of the *Local Government Act 1995* (Act) outlines the processes by which the City can dispose of property. For the purposes of this section, a local government can dispose of property following a public tender process to a person that makes the most acceptable tender in the opinion of local government.

25. The EOI process that was undertaken meets the requirements of Section 3.58, as the form and function of the process was that of a public tender.

26. The City owns the land being disposed of in freehold title and therefore no approval from the Minister for Lands is required under the provisions of the *Land Administration Act 1997*

27. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Advertised proposed disposition of property in local newspaper and City's website inviting submissions from the public	A two-week period	Open to the public	Section 3.58 of the <i>Local Government Act 1995</i>

STATUTORY IMPLICATIONS

- 28. Section 3.58 of the *Local Government Act 1995* allows for the disposal of property, including both leased land and buildings.
- 29. The lease agreement will be governed by the *Commercial Tenancy (Retail Shops) Agreements Act 1985* and aligns with the requirements of governing the disposal of property.

POLICY IMPLICATIONS

- 30. The Property Management (Leases and Licences) Policy aims to support the equitable access and effective management of City owned and managed properties in line with statutory procedures.
- 31. Under this policy, rent is usually based on a market valuation provided by a licensed Valuer.
- 32. Council’s support of the proposal to waive lease rental and utility costs (water and electricity) is requested. The relaxation is proposed to maintain this valuable service for the benefit of the community, visitors and Airport users. It acknowledges the difficulties the service faces due to limited profitability.
- 33. All other terms of the lease agreement will align with the policy.

RISK IDENTIFICATION & MITIGATION

- 34. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation: New Lease not approved – no café service for Airport users and visitors</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction</i>
<i>Opportunity: The lease aligns with the City’s Strategic Community Plan 2032 objective, which aims to create a competitive and sustainable tourism offering.</i>				
<i>Opportunity: To support activities within the Albany Airport and provide cafe services to Airport users and visitors contributing to a positive experience.</i>				

FINANCIAL IMPLICATIONS

- 35. All costs associated with the development, execution and completion of the lease documentation will be met by the City in line with the *Commercial Tenancy (Retail Shops) Agreements Act 1985*.

LEGAL IMPLICATIONS

- 36. The lease will be prepared by the City’s lawyers with enforceable terms and conditions to ensure any risk to the City is appropriately mitigated.
- 37. The City will provide the required statutory disclosure statements to the Tenant. Failure to do so could result in the Tenant having the right to terminate the lease and/or seek an order for compensation from the State Administrative Tribunal (SAT).

ENVIRONMENTAL CONSIDERATIONS

- 38. There are no environmental considerations related to this report.

ALTERNATE OPTIONS

- 39. Council may:
 - a. Approve the new lease;
 - b. Support some parts of the new lease although not in its entirety; or
 - c. Not agree to the new lease request.
- 40. Having no café service for airport users would be highly undesirable.
- 41. The City could consider running a café service although it is understood this is likely to result in financial losses for the City.
- 42. Alternatively consider re-installing vending machines although not preferred based on previous experience.
- 43. The café lease arrangement is seen as the best choice to ensure a café for the benefit of Airport users, the community and visitors.

CONCLUSION

- 44. After the recent short-term trial, it's evident that providing café services is crucial for the benefit of the Airport users, the community and visitors.
- 45. It was agreed the fairest and most effective approach to secure café services was to undertake an EOI process.
- 46. Following the EOI process, Wayne Walczak was determined as the preferred applicant. Mr Walczak brings extensive experience in operating similar businesses, along with a robust and resilient business model.
- 47. While acknowledging profitability challenges, the proposed new lease offers a viable means to ensure café services continue.
- 48. It is recommended the proposed lease be approved.

Consulted References	:	<ul style="list-style-type: none"> • Property Management (Leases and Licences) Policy • <i>Local Government Act 1995</i> • <i>Commercial Tenancy (Retail Shops) Agreements Act 1985</i>
File Number (Name of Ward)	:	CR.ENQ.4, A64802
Previous Reference	:	Nil

CCS588: LEASE AND LICENCE FINAL APPROVAL – REGIONAL EXPRESS PTY LTD (REX) – ALBANY TERMINAL

Land Description : Lot 5643 on Deposited Plan 157458 the subject of Certificate of Title Volume 2088 Folio 492, Drome

Proponent : Regional Express Pty Ltd (REX) ACN 101 325 642

Owner : City of Albany

Attachments : Schedule of Submissions

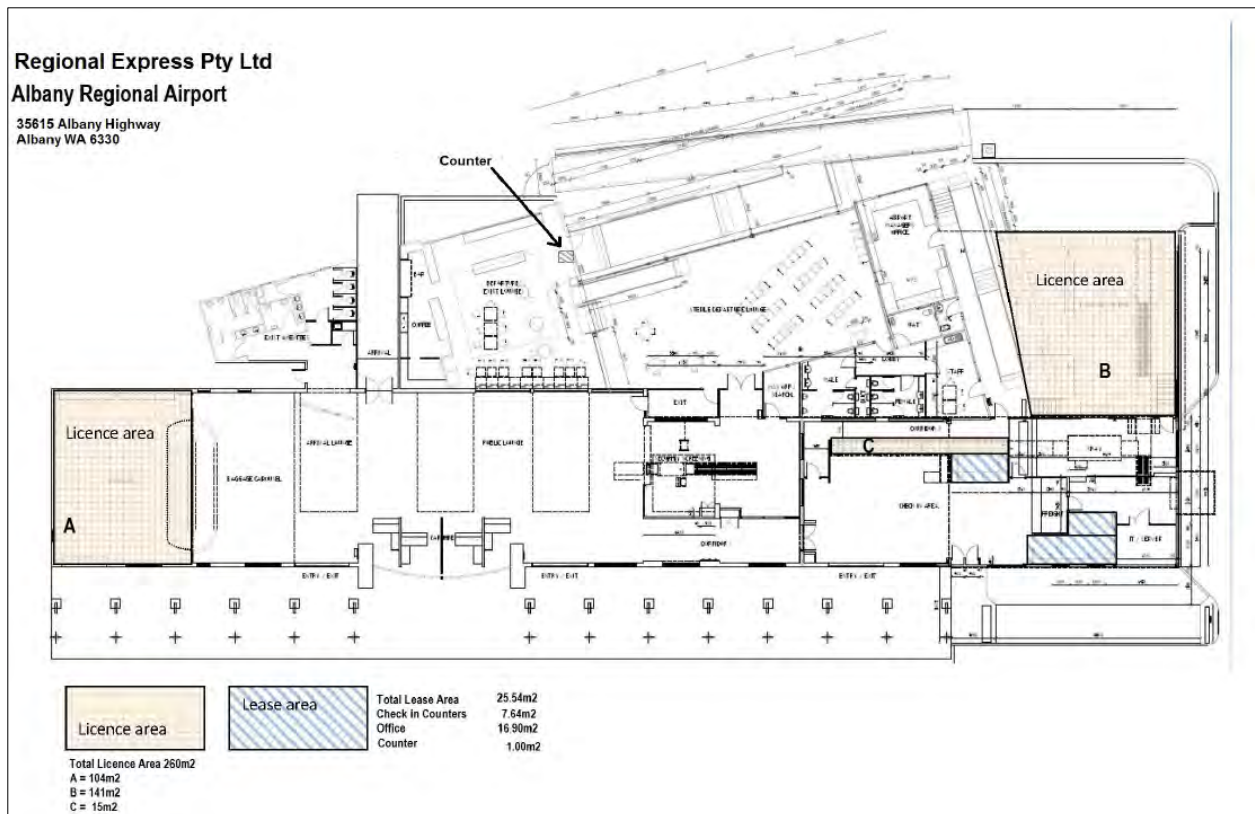
Report Prepared By : Team Leader Property and Leasing (T Catherall)

Authorising Officer: : Executive Director Corporate & Commercial Services (M Gilfellon)

STRATEGIC IMPLICATIONS

- This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - Pillar:** Prosperity
 - Outcome:** A highly sought-after tourist destination.

Maps and Diagrams:



In Brief:

- Council, at its meeting on 26 September 2023 supported a lease and licence proposal allowing REX to continue providing Regular Public Transport (RPT) airline services at the Airport terminal for the Perth to Albany route.
- The lease and licence proposal aligns with the agreement between REX and the Department of Transport (DoT).
- The proposed lease and licence were advertised for two weeks closing on 10 November 2023, resulting in 11 submissions from the public.
- Council is requested to consider the submissions before determining whether or not to grant final approval of the lease and licence to REX.

RECOMMENDATION

**CCS588: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council GRANT the final lease and licence approval to Regional Express Pty Ltd (REX) over part of the Albany Regional Airport terminal, in line with the previous resolution of 26 September 2023 as outlined in section 5 in this report. This decision considers all submissions received during the advertising period.

CCS588: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BAESJOU
SECONDED: COUNCILLOR SUTTON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS588: AUTHORISING OFFICER RECOMMENDATION

THAT Council GRANT the final lease and licence approval to Regional Express Pty Ltd (REX) over part of the Albany Regional Airport terminal, in line with the previous resolution of 26 September 2023 as outlined in section 5 in this report. This decision considers all submissions received during the advertising period.

BACKGROUND

2. The City of Albany owns and operates the Albany Regional Airport located at 35615 Albany Highway, Drome.
3. REX formally requested a new lease and licence to continue using Airport facilities for RPT services. The term will align with the RPT agreement commencing 2 October 2023 to 2 July 2028.
4. Following Council's endorsement at its meeting on 26 September 2023, the proposed lease and licence to REX for Airport terminal use was advertised for two weeks inviting submissions from the public, closing on 10 November 2023.

5. The table below summarises the essential terms of the proposed lease and licence.

Item	Details
Tenant	Regional Express Pty Ltd.
Land Description	Lot 5643 on Deposited Plan 157458 the subject of Certificate of Title Volume 2088 Folio 492, Drome
Lease Area	Approx 25m ²
Licence Area	Approx 260m ²
Land Ownership	City of Albany
Permitted Use	<ul style="list-style-type: none"> Lease: Airline reception, office space and associated airline operations to accommodate the Albany RPT air service Licence: Transfer terminal, baggage handling and associated airline activities to accommodate the Albany RPT air service
Term of Lease	4 years, 9 months and 1 day (from 2 October 2023 to 2 July 2028) to align with the expiry of the RPT Agreement
Rent	\$1.00 plus GST payable on demand
Outgoings	Tenant responsible for all outgoings, including insurance
Special Conditions	REX remains the exclusive operator of the RPT Perth to Albany route to retain the lease and licence

6. Following the close of advertising 11 submissions were received, all objecting to the proposed \$1.00 per annum rental.
7. A summary of the submissions received during the public consultation period is provided in the Schedule of Submissions (refer Attachment 1).

DISCUSSION

8. REX's payment for terminal use is funded through aircraft landing fees. The specific payment details between REX and the City of Albany are part of a confidential agreement, ensuring continued weekly air services as per the current State Government and REX contract.
9. The Airport's projected income in the current annual budget exceeds \$2 million, with REX's agreement contributing to this revenue.
10. While REX's past poor service delivery is noted, the decision has been made at the State government level to renew the REX contract. The past poor service should not now be a factor in determining what are the appropriate commercial terms of the new lease arrangements.
11. Notwithstanding received comments and submissions, it is recommended, based on the above points, to proceed with final approval for the lease and licence to REX.

GOVERNMENT & PUBLIC CONSULTATION

12. The provisions of Section 3.58 of the *Local Government Act 1995* (Act) require that public advertising be undertaken for the disposal of property. For the purposes of this section, a lease is considered to be a disposal.
13. The proposed lease and licence were advertised for two weeks inviting submissions closing on 10 November 2023.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Advertising of proposed lease and licence in local newspaper and City's website inviting submissions from the public closed on 10 November 2023	A two-week period of advertising closed on 10 November 2023	11 submissions received as a result of advertising	Section 3.58 of the <i>Local Government Act 1995</i>

14. 11 submissions were received and have been acknowledged that a further item will be presented to the December Council meeting.
15. The City owns the land being disposed of in freehold title and therefore no approval from the Minister for Lands is required under the provisions of the *Land Administration Act 1997*.

STATUTORY IMPLICATIONS

16. Section 3.58 of the *Local Government Act 1995* allows for the disposal of property such as leased/licenced land and buildings and associated advertising requirements.

POLICY IMPLICATIONS

17. The City’s Property Management (Leases and Licences) Policy aims to support equitable access, and the effective management of City owned and managed properties in line with statutory procedures.
18. Under this policy, rent reviews be conducted annually, with market valuations of the lease every three years and CPI increases in between.
19. Council has previously agreed to waive lease rental for REX under the current lease and licence. Council’s continued support for this arrangement was reconfirmed at the 26 September 2023 meeting, acknowledging REX terminal use is covered by Airport landing fees and the confidential agreement with the City.
20. Council is requested to support this arrangement again to ensure ongoing RPT services.
21. All other terms of the lease and licence agreement will be in line with the policy.

RISK IDENTIFICATION & MITIGATION

22. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation: New Lease and Licence not approved – major disruption to RPT service.</i>	<i>Unlikely</i>	<i>Major</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
<i>Opportunity: Support the City and State Government commitment to provide an RPT service from Perth to Albany</i>				
<i>Opportunity: The lease aligns with the City’s Strategic Community Plan 2032 objective, which aims to improve access to marine, rail, and aviation transport to support population growth, tourism, and economic development. It also contributes to economic growth and tourism.</i>				

FINANCIAL IMPLICATIONS

23. All costs associated with the lease and licence documentation will be met by the City as part of its confidential agreement with REX, supporting the RPT service.

LEGAL IMPLICATIONS

24. The lease and licence will be prepared by City’s lawyers with enforceable terms and conditions to ensure any risk to the City is appropriately mitigated.

ENVIRONMENTAL CONSIDERATIONS

25. There are no environmental considerations related to this report.

ALTERNATE OPTIONS

26. Council may:
- a. Approve the new lease and licence;
 - b. Support some parts of the new lease and licence although not in its entirety; or
 - c. Not agree to the new lease and licence request.
27. If Council does not agree to the new lease and licence, it will cause major disruptions to RPT services. It will put at risk the REX service to Albany.
28. REX will need to work with the City to find an alternate location within the terminal for flight reception and baggage handling services, potentially impacting service provisions.

CONCLUSION

29. REX operates the RPT Perth to Albany air service route under a State Government contract and holds a lease and licence with the City allowing Airport terminal use, currently on holding over arrangements.
30. REX formally requested a new lease and licence to continue using Airport facilities for RPT services. The term will align with the RPT agreement commencing 2 October 2023 to 2 July 2028.
31. Council previously supported a new lease and licence for REX during its meeting on 26 September 2023.
32. 11 submissions were received during the advertising period, all objecting to the \$1.00 per annum rental.
33. REX’s terminal use is covered by aircraft landing fees per the confidential agreement with the City.
34. After considering the submissions, it is recommended that Council grants final approval to the lease and licence to REX.

Consulted References	:	<ul style="list-style-type: none"> • Property Management (Leases and Licences) Policy • <i>Local Government Act 1995</i> • <i>Land Administration Act 1997</i>
File Number (Name of Ward)	:	PRO415, A64802
Previous Reference	:	OCM 15.12.2015 Item ED029, OCM 22.03.2016 Item CSF227 OCM 26.09.2023 Item CCS565

CCS589: REGIONAL EVENTS SPONSORSHIP 2024

Proponent : City of Albany
Report Prepared By: : Manager Community Relations (E. van Gorp)
Authorising Officer: Executive Director Community Services (N Watson)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar/Priority:** Prosperity.
 - **Outcome:** A highly sought-after tourist destination.

In Brief:

- To endorse the proposed Regional Event Sponsorship Assessment Panel recommendations.

RECOMMENDATION

CCS589: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

1. THAT the Regional Event Sponsorship Assessment Panel recommendations as outlined in Paragraph 24 – Table 1 of this report be ENDORSED.
2. THAT Council NOTE a budget amendment for Regional Event Sponsorship will be required, and the 2024-2025 allocation in the Long-Term Financial Plan will be amended accordingly.

CCS589: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR MACLAREN
SECONDED: COUNCILLOR SUTTON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS589: AUTHORISING OFFICER RECOMMENDATION

1. THAT the Regional Event Sponsorship Assessment Panel recommendations as outlined in Paragraph 24 – Table 1 of this report be ENDORSED.
2. THAT Council NOTE a budget amendment for Regional Event Sponsorship will be required, and the 2024-2025 allocation in the Long-Term Financial Plan will be amended accordingly.

BACKGROUND

2. The City of Albany's Regional Events Sponsorship (RES) program is designed to attract and support the staging of events that are regional economic drivers for Albany as a destination.
3. A Regional Event is defined as possessing the capability to attract significant numbers of visitors from outside the region and is more than just a local festival; it must possess substantial drawing power.

4. Council allocated \$100,000 in its 2023-2024 budget for RES. This included the addition of \$20,000 to fund film/television projects that deliver regional benefit. This reflects Council's continued commitment to have budget capacity to support community and regional events in a recovering economy, and to support and nurture the growth of Albany as a developing film hub.
5. In recent years RES has been staged across two funding rounds each financial year to align funding commitments with the current budget. The most recent funding round was Round 1 2023-2024 for events being held between 1 July and 31 December 2024.
6. Due to a number of factors affecting timing of assessment and approval of a second round of funding for 2023-2024, the decision was made to open applications for the full 2024 calendar year.
7. Following several years emerging from the impact COVID-19 had on events, it is evident from the number of applications for this round – the most competitive for some years – that confidence has returned to the events industry.

DISCUSSION

Program Overview

8. Applications for RES funded events or film/television projects being held between 1 January 2024 to 31 December 2024 opened for applications on 1 September 2023 and closed on 30 September 2023.
9. The City received 10 applications for events for the 2024 calendar year and were aware that an additional two (2) previously funded organisations had not submitted applications for their 2024 events.
10. The RES 2024 funding program expanded to include film/television sponsorship opportunities. Film/television projects are to engage local creative businesses and artists, and/or encourage the growth of the film support industries in Albany and the Great Southern.
11. The RES program 2024 objectives include:
 - a. Generate additional tourism income by increasing visitor expenditure in the Albany region (economic impact).
 - b. Involve and inspire the local community (social benefits).
 - c. Attract media coverage that will help to raise the profile of Albany as a visitor destination (media impact).
 - d. Demonstrate continuity and potential to engage the community in the future (sustainability).
12. The program is a competitive funding application process. The sponsorship criteria and application processes follow a similar format to the State Government's Regional Events Scheme Program administered by Tourism Western Australia.
13. Events that are supported for funding by Council are required to enter into a contractual agreement with the City inclusive of post-event acquittals, project reports and milestone payments where relevant.

Assessment

14. Applicants were encouraged to shape their proposed activities to the funding and event or film/television sponsorship criteria.
15. An assessment panel comprising Mayor Stocks, Councillor Terry, Councillor Sutton and Councillor MacLaren received an overview of applications and guidance from City officers.

16. The application assessment process included a pitch from the applicants. Applicants presented their events to the assessment panel on November 14, with the exception of one applicant that was unable to pitch due to technical difficulties.
17. Applications were evaluated by City officers using an event assessment matrix tool developed to measure the economic value, visitor numbers and financial sustainability of each application.
18. The panel felt that three (3) of the applications did not meet the RES funding criteria as outlined in the application guidelines. The three events were recommended for consideration for other available sponsorship such as Community Events funding which is administered by officers under delegation.
19. The assessment panel supported the remaining seven (7) applications and made its funding recommendations based on the funding criteria, information supplied and applicant presentations.
20. The panel were aware that two events previously funded through RES did not apply for funding for 2024 and anticipate that they may subsequently approach the City for support for their events.
21. The seven applications deemed eligible for RES funding have sponsorship requests totalling \$108,500 which fall across both the second half of the 2023-2024 and the first half of the 2024-2025 financial years.
22. However as most of the events recommended for funding are scheduled for delivery in the first half of 2024, there will be a cashflow shortfall in the current budget which will need to be addressed through a future budget review. This is explained further under Financial Implications (points 33-41 of this report).
23. Noting the above, the panel recommended supporting seven (7) applications.

Panel Recommendations

24. A summary of applications recommended for funding is outlined in Table 1.

Table 1 - Regional Events Sponsorship – Assessment Panel Recommendations

	Applicant / Event	Event Type	Panel Comments	Amount Requested	Panel Recommendation
1.	Albany Speedway Club <i>National Titles for Super Sedans</i>	<u>Sporting Event</u> Motorsport	Showcases Albany as a premier motorsport destination nationally. National Titles attract participation and attention from across Australia. Peak period event on March long weekend.	\$20,000	\$15,000
2.	Tarmac Events WA Pty Ltd <i>Tarmac Albany Sprints and Quaranaup Rally sprint.</i>	<u>Sporting Event</u> Motorsport	Returning to Albany after a one-year hiatus. Includes three events with more than 100 cars participating in the main Middleton Beach sprint. Expected to attract 1000 intrastate visitors based on past events.	\$20,000	\$15,000
3.	Taste Great Southern: <i>Food and Wine Festival</i>	<u>Tourism Event</u> Proposed series of food and wine events across the Great Southern region.	A regional festival which has been running since 2012 and celebrates local food and beverages, with about a dozen events in Albany in the 2024 program. Currently also supported with funding by Tourism WA. Attracts more than 1,500 visitors from outside the region.	\$20,000	\$10,000

Table 1 - Regional Events Sponsorship – Assessment Panel Recommendations

	Applicant / Event	Event Type	Panel Comments	Amount Requested	Panel Recommendation
4	Adam Morris <i>Frederickstown</i>	<u>Film Event</u> Third of 10 films being produced in Albany.	Contributes to the growth of Albany as both a tourism and a film hub destination. The third of 10 films to be produced in Albany in 10 years. Entirely Albany-based production team & crew with exception of nationally recognised lead roles. Skill development opportunities plus community investment and support, with both national and international recognition received for previous films produced.	\$20,000	\$17,000
5	Albany Entertainment Centre <i>Out of Bounds</i>	<u>Cultural Event</u> Season of live performances and community engagement activities	Diverse performers targeted to extend community reach and engagement with youth (15-25). Proposal does not demonstrate significant visitation attraction in line with funding criteria. Target audience and community engagement is acknowledged and was recommended for consideration through a Community Event funding application.	\$20,000	Nil. Apply for Community Event Funding.
6	Albany Pride <i>Pride Festival and Dolly Parton Show</i>	<u>Cultural Event</u> An established regional festival celebrating LGBTQIA+ community.	Albany Pride Festival is the biggest regional Pride festival in the State. A diverse and unique range of events invite the regional community and visitors to participate and invest in the Albany community. Attracting significant participation from outside the region. Includes the popular Dolly Parton Tribute Show as a flagship event in the 2024 program.	\$20,000	\$15,000
7	Albany Shanty Fest Inc <i>Albany International Folk & Shanty Festival</i>	<u>Music Festival</u> Unique international festival celebrating folk n shanty music	Only folk n shanty festival in the southern hemisphere, attracting more than 1000 visitors to the region. Strong alignment with Albany Maritime Festival and opportunity to collaborate and grow visitation in non-peak visitor season. Vision to grow and develop festival leading into 2026 Bicentenary.	\$20,000	\$20,000
8	Hunted Interactive <i>Dark Lake Origins & Firelight – a Season of Experiences for Albany</i>	<u>Tourism Event</u> Two interactive and immersive horror experiences – Lake Seppings & Brig Amity	Strong economic results with evidence of capacity building and future planning, including collaboration with local businesses to develop complete packages for visitors (including food and accommodation). Dedicated captured audience with repeat global customers, including Asian “horror” audience. Committed to developing experiences underpinned by unique local heroes and stories. Interested in developing program for 2026.	\$18,500	\$16,500

Table 1 - Regional Events Sponsorship – Assessment Panel Recommendations

	Applicant / Event	Event Type	Panel Comments	Amount Requested	Panel Recommendation
9.	Perth Festival <i>DanceNorth - Wayfinder</i>	<u>Cultural Event</u> Part of Perth Festival's 2024 Touring WA program	Aiming to connect with communities by bringing dance performance to local communities and engaging through community networks and organisations. Community connections in infancy and has not demonstrated capability to attract significant visitation to Albany. Recommended for consideration through a Community Event funding application.	\$15,000	Nil. Apply for Community Event Funding support.
10.	Prepare Produce Provide <i>Kinjarling Djinda Ngardak</i>	<u>Cultural Event</u> Six (6) day program that supports and showcases Aboriginal youth and Aboriginal Tourism in WA.	Program providing WA Aboriginal youth with educative/training opportunities and cultural community exchanges. Limited numbers of local participants in program. High-end pricing, event includes opportunities for whole of state aboriginal participants/contributors. Has not demonstrated capability to attract significant visitation to Albany. Recommended for consideration through a Community Event or Community Development funding application.	\$20,000	Nil. Apply for Community Event Funding support.
Totals				\$193,500	\$108,500

25. The table of panel recommendations is for cash support only.

GOVERNMENT & PUBLIC CONSULTATION

26. Not applicable.

STATUTORY IMPLICATIONS

27. Nil.

POLICY IMPLICATIONS

28. The Regional Events & Film Sponsorship program aligns with the City of Albany Sponsorship Policy & Guidelines.

29. Approval of RES funding recommendations is required by Council.

30. Funded applications are required to enter into a funding contract with the City.

31. Funded applicants are required to submit an event approval application to the City no later than 3 months prior to their event, where applicable.

RISK IDENTIFICATION & MITIGATION

32. The risk identification and categorisation relies on the City’s Enterprise Risk & Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation: Events declined for funding do not proceed and this reflects negatively on the City.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>A rigorous assessment process has been undertaken and recommendations are based on the funding criteria and merit. Unsuccessful applications have been recommended for consideration through other funding streams.</i>
<i>Financial: Most of the events recommended for funding occur in the first half of 2024 and exceed the current RES budget balance.</i>	<i>Almost Certain</i>	<i>Minor</i>	<i>High</i>	<i>Progress a budget amendment in the 2023-2024 financial year.</i>
<i>Community: Community safety is put at risk by not following appropriate event or health and safety guidelines.</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Applicants will be required to complete an event approval application in line with the City’s event approval guidelines.</i>

FINANCIAL IMPLICATIONS

- 33. Management and oversight of funding and event sponsorship is undertaken using existing staff resources within the Community Relations business unit, within existing allocated budgets.
- 34. The recommended funding allocations are also within the existing capacity of the allocations in the current budget and Long-Term Financial Plan (LTFP).
- 35. Council has allocated \$100,000 for the Regional Event & Film Sponsorship program in 2023-2024, with this amount also reflected in the LTFP as an allocation in future years.
- 36. The current budget is partially allocated (\$57,273) from previous rounds, leaving a balance of \$42,727.
- 37. Additionally, Council has allocated \$10,000 in the 2023-2024 Budget for sponsorship of the Taste Great Southern festival.
- 38. With the majority of milestone payments for the events recommended for funding due to fall in the 2023-2024 financial year, this will create a cash flow shortfall of \$41,273 in the current budget.
- 39. A budget amendment will be progressed at the next opportunity to address this shortfall.
- 40. In light of the minimal funding commitments in the second half of 2024, the allocation in the LTFP for the 2024-2025 financial year will be reviewed as part of the 2024-2025 Budget process.
- 41. The next RES round will open in the second half of 2024 and will be limited to events being held from 1 January 2025 to 30 June 2025 to return funding commitments to a financial year cycle.

LEGAL IMPLICATIONS

- 42. Nil.

ENVIRONMENTAL CONSIDERATIONS

- 43. Hunted Interactive will be required to consider and manage environmental impact regarding use of Lake Seppings. This will be assessed and conditioned as part of the event approval process.

ALTERNATE OPTIONS

44. Council could make alternative recommendations for funding, including substitute dollar amounts, for recommended applicants. This is not recommended given the rigorous assessment process undertaken which has carefully considered each application on its merits.

SUMMARY CONCLUSION

45. The process for RES Application Assessment is considered transparent and equitable.
46. It is recommended that the Responsible Officer’s recommendation be endorsed.

Consulted References	:	<ul style="list-style-type: none"> • City of Albany Sponsorship Policy & Guidelines • City of Albany Regional Events Sponsorship Guidelines
File Number	:	CR.SPO.44
Previous Reference	:	Regional Event Sponsorship Round 1 2023/2024 – CCS522 (OCM: 26/04/2023)

CCS590 STIDWELL BRIDLE TRAIL DETERMINATION

Land Description	: City of Albany, DPLH, Water Corporation
Proponent / Owner	: City of Albany
Attachments	: Consolidated Stakeholder Feedback & Reference Maps Officer Report (Minutes and associated attachment, Report CCS555) Strategic Briefing Presentation
Report Prepared By	: Manager Governance & Risk (S Jamieson) Manager Recreation Services (M Green) Manager City Reserves (J Freeman)
Authorising Officers:	: Executive Director Community Services (N Watson)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** People.
 - **Outcome:**
 - A happy, healthy, and resilient community
 - A safe community.
 - **Pillar:** Leadership
 - **Outcome:** A well-informed and engaged community.

In Brief:

- Council resolved on 22 August 2023 to give public notice of the proposed determination.
- Council is requested to consider the proposed determination in light of stakeholder and community feedback given.

Purpose & Effect:

- **Purpose:** Determine horse and authorised vehicle-only sections of the Stidwell Bridle Trail.
- **Effect:** Sections will be restricted to Horse and Authorised Vehicle Use Only.

Maps:

- Maps are detailed in the attachments to this report.

RECOMMENDATION

**CCS590: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT:

- (1) The public and stakeholder submissions received be NOTED.**
- (2) The proposed Stidwell Bridle Trail (SBT) determination under the City of Albany Local Government Property Local Law 2011, be ADOPTED:**

**City of Albany
Local Government Act 1995
Local Government Property Local Law 2011
DETERMINATION
STIDWELL BRIDLE TRAIL – DESIGNATED
HORSE AND AUTHORISED VEHICLE USE ONLY**

Determination:
The Stidwell Bridle Trail (SBT) sections depicted, by a “Purple Dashed Line on top of a Yellow Line”, are designated as “Horse and Authorised Vehicle Use Only”.

Map:

Stidwell Bridle Trail Determination Map

Legend:
UCL Lot 500
Access Trails
Stidwell Bridal Trail
Horse and Authorised Vehicles Only

Version: 15/08/2023

Scale: 1:18,056
0 0.23 0.45 0.9 mi
0 0.35 0.7 1.4 km
Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community
City of Albany

Legend:

Purple Dashed/Yellow Line –  - Horse and Authorised Vehicle Use Only.

Note: High resolution maps can be sourced from the City of Albany website: www.albany.wa.gov.au

- (3) NOTE that a management plan will guide the ongoing use of the trail, through the use of educational signage and gates where appropriate.**

CCS590: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TRAILL
SECONDED: COUNCILLOR TERRY

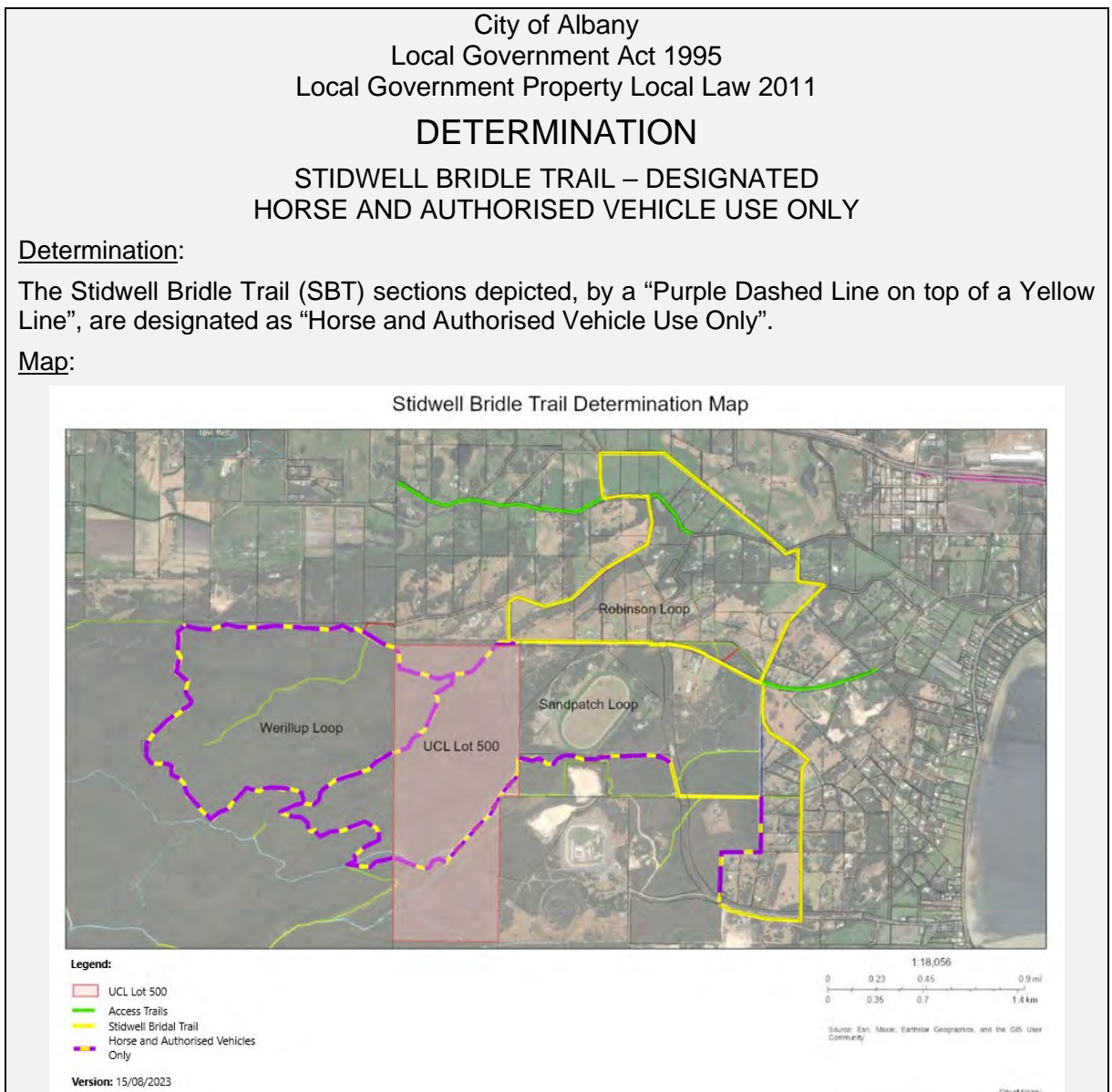
THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0


CCS590: AUTHORISING OFFICER RECOMMENDATION

THAT:

- (1) The public and stakeholder submissions received be NOTED.
- (2) The proposed Stidwell *Bridle Trail (SBT) determination under the City of Albany Local Government Property Local Law 2011, be ADOPTED:*



Legend:

Purple Dashed/Yellow Line –  - Horse and Authorised Vehicle Use Only.

Note: High resolution maps can be sourced from the City of Albany website: www.albany.wa.gov.au

- (3) NOTE that a management plan will guide the ongoing use of the trail, through the use of educational signage and gates where appropriate.

BACKGROUND

2. The Stidwell Bridle Trail (SBT) is a recognised Horse Exercise Area under the City of Albany Animals Local Law 2020.
3. The proposed determination aims to address user conflicts, enhance safety, and improve management within the trail area under the City of Albany Property Local Law 2011.
4. This is in response to recommendations from the Tredwell Report, an independent study of the Robinson Precinct and SBT commissioned in 2021 to review various issues and inform future management of the area and trail maintenance.
5. At the Ordinary Council Meeting of August 2023, the Council resolved to present the feedback from stakeholders and the community regarding the proposed determination at the December 2023 Council meeting.

DISCUSSION

6. The feedback from stakeholders and the community is presented in this report.
7. Officers presented the results of the public comment period to the strategic workshop on Tuesday, November 21 and copies of the survey comments and submissions have been made available to elected members.
8. The Council is requested to critique the submissions made and the cause-and-effect analysis and proposed mitigation strategies, cognisant of protection of the environment and other trail recreational usage (i.e., access to fishing spots by registered vehicles, trail walkers and cyclists).

Balancing Environmental and Community Concerns

9. This section offers a comprehensive overview of the findings from the community and stakeholder consultation on the proposed Stidwell Bridle Trail Determination. The consultation took place between August 31 and October 25, 2023.
10. Engagement Overview: Stakeholders and the community were invited to provide feedback through various channels, including an online survey, written comments via email to the Manager of Recreation Services, and outreach through various methods like direct emails to key stakeholders, letterbox drops, social media, the City's website, and media releases.
11. Survey Analysis: A total of 214 responses were received. The majority of respondents were above the age of 18, with recreational vehicle use and horse riding as the predominant activities. About half of the respondents supported the proposed determination.
12. Additional Survey Comments: Of the 163 respondents who provided additional comments, the majority favoured the proposed determination due to concerns related to safety and the environmental impact of vehicles on the trail.
13. Written Submissions: A total of 18 written submissions were received, with 16 in support of the proposed determination. Main Roads and WA Police remained neutral and provided information. Submissions raised concerns similar to the survey comments.

Analysis of the cause and effect of potential consequences

14. Feedback reflected a diversity of opinions on the proposed changes.

Feedback opposed to the determination:

15. The key points from those who strongly oppose the proposal to designate the SBT as horse and authorised vehicle-only, expressed concerns about the impact on other recreational activities such as motorbike riding, four-wheel driving, walking, and cycling.

16. The key points against the determination include:

Perceived Unfair Exclusivity:

- Key Point: Opponents express concern about the perceived unfairness of limiting the trail to horses and authorised vehicles.
- Comments:
"It seems unfair to exclude motorbike riders and four-wheel drivers, especially considering the available spaces for horse riding."
"The prioritisation of horses over other users is frustrating, and it feels like certain groups are being unfairly excluded."

Safety and Shared Use Advocacy:

- Key Point: Some critics argue for shared use of the area, emphasising the importance of addressing safety concerns through education rather than exclusivity.
- Comments:
"Exclusive designations may not be necessary; instead, focus should be on educating all users about trail etiquette."
"Safety concerns could be better addressed through awareness campaigns and shared use rather than restrictive determinations."

Environmental Impact Concerns:

- Key Point: Concerns about the environmental impact of horse waste are raised, questioning the need for exclusivity based on these concerns.
- Comments:
"Horse-related environmental impact should be considered, and exclusivity might not be the most effective solution."
"If environmental concerns are the focus, a more comprehensive approach addressing all users could be explored."

Advocacy for Alternative Solutions:

- Key Point: Several responses propose alternative solutions, including designated trails for different activities, licensing for horse riders, and promoting responsible trail use through education.
- Comments:
"Rather than exclusive designations, explore alternatives like designated trails for various recreational activities."
"Education and licensing could be more effective in promoting responsible use without resorting to exclusivity."

Resistance to Horse Riders' Prioritisation:

- Key Point: There is strong opposition to what is perceived as preferential treatment for horse riders and a desire for more inclusive access.
- Comments:
"The apparent favouritism towards horse riders is met with resistance, and many express a need for more inclusive access."
"Equality in access is crucial; giving priority to one group over others is not well-received."

Feedback in support of the determination:

17. The following key points reflect the positive sentiments and support from individuals who endorse the proposal to designate the SBT for horse and authorised vehicle use only.

Safety Enhancement:

- Key Point: Many supporters highlight the potential for the determination to enhance safety on the SBT.
- Comments:
"I believe restricting access will significantly improve safety for equestrian riders and other trail users."
"The current mix of users poses a safety risk, and the proposed designation can address this concern effectively."

Positive Environmental Impact:

- Key Point: Supporters acknowledge the positive environmental impact of limiting vehicle access.
- Comments:
"Reducing vehicle access will contribute to the preservation of the natural environment along the trail."
"Environmental conservation is crucial, and restricting vehicles aligns with this goal."

Compliance with Study Findings:

- Key Point: Some feedback emphasises the alignment of the proposal with findings from the Tredwell Study.
- Comments:
"The Tredwell Study's recommendations are sound, and the determination reflects a commitment to follow those recommendations."
"It's reassuring to see the City of Albany taking steps in line with the study's key findings."

Community Safety and Peace of Mind:

- Key Point: Supporters express the belief that the determination will contribute to overall community safety and peace of mind.
- Comments:
"Knowing that only authorised vehicles will be on the trail brings peace of mind for both riders and walkers."
"Safety is paramount, and this decision will create a more secure environment for everyone."

Reducing Conflicts and Tensions:

- Key Point: Positive feedback emphasises the potential to reduce conflicts and tensions among different trail users.
- Comments:
"Conflicts between horse riders and motorised vehicles have been a concern; this determination can alleviate those tensions."
"A designated use will minimise clashes and promote a more harmonious trail experience."

Support from Equestrian Community:

- Key Point: The proposal receives strong support from the equestrian community.
- Comments:
"As an active equestrian trail user, I fully support the decision to limit access to horses and authorised vehicles."
"Equestrians appreciate the consideration given to their safety and enjoyment of the trail."

Consistency with Water Reserve Management:

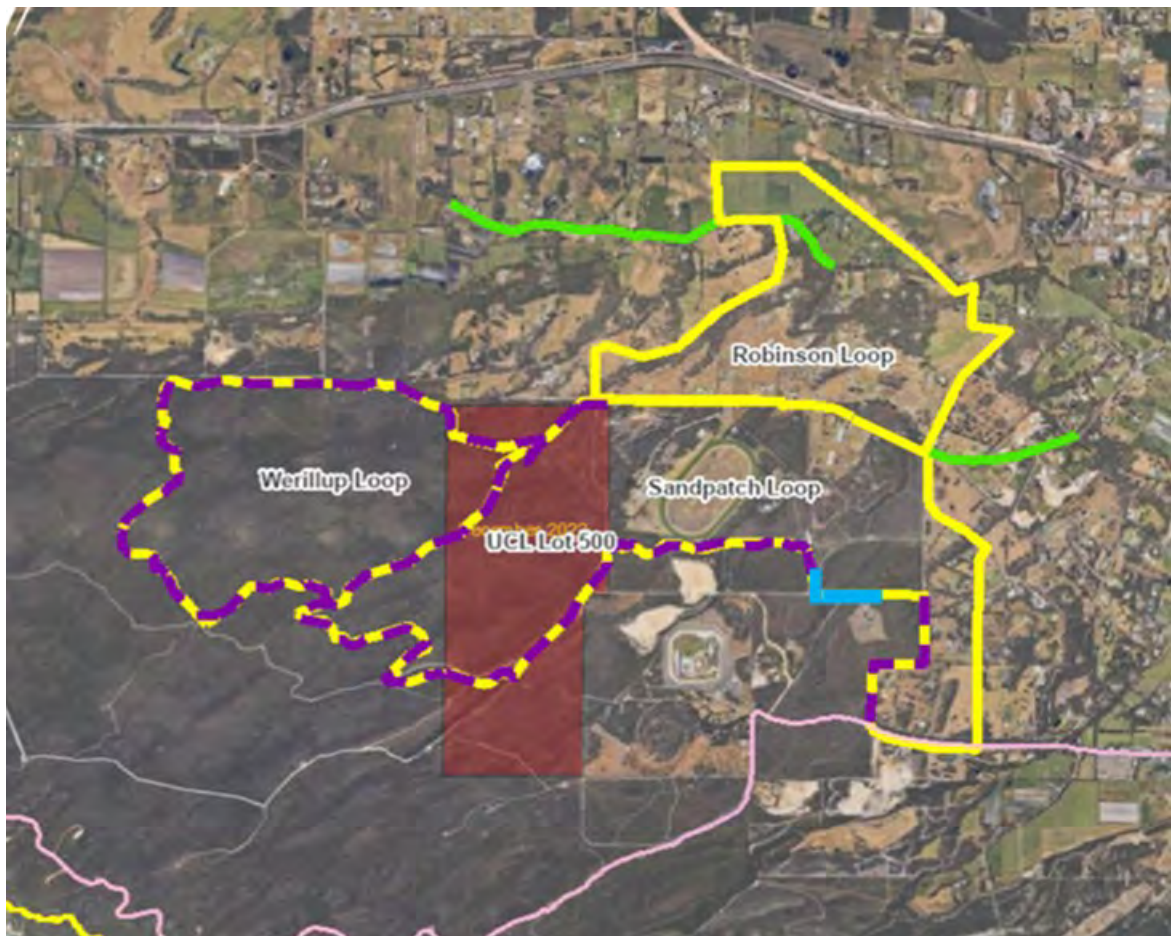
- Key Point: Feedback underscores the consistency of the determination with water reserve management goals.
- Comments:
"Preserving the South Coast Water Reserve is vital, and restricting certain vehicle access aligns with this preservation effort."
"The determination is a step towards responsible management of our water reserves."

Encouraging Responsible Trail Use:

- Key Point: Supporters believe that the determination encourages responsible trail use.
- Comments:
"Designating specific uses promotes responsible behaviour and respect for the environment."
"Users will appreciate the clarity and purpose that comes with a designated trail use policy."

Requested change/addition to the determination:

18. In its submission, the Friends of Stidwell Bridle Trail (FSBT) requested an addition to the proposed determination to include a section of bridle trail that runs on the west side of the Albany Model Aero Club gate through to the back of the Albany Race Course.
19. **Fig 1:** Blue lines indicating FSBT's proposed addition to the determination



20. This section of trail is used for access to water corporation wellheads and bores, the Albany Model Aero Club and the operational lime pit which is located nearby. It is also in close proximity to the Albany Regional Prison.
21. Given this section of trail was not included in the proposed determination, stakeholders that may be affected by this change have not had the opportunity to comment.
22. Because of this, officers are of the view that this represents a substantive addition to the determination and would require further public comment to consider the cause of effect of its implementation.
23. Therefore, this addition has not been recommended for inclusion in this determination.
24. The determination can be reviewed and amended in future if required.

GOVERNMENT & PUBLIC CONSULTATION

25. Extensive stakeholder consultation was conducted, considering both environmental concerns and community perspectives (refer to points 7-11 of this report).
26. Public notices were published on the City's website and published in local newspapers to inform the public about relevant matters.
27. The feedback from government stakeholders emphasised the importance of protecting Albany's drinking water sources.
28. In addition to the 18 written submissions received, the following agencies referred to previous advice provided regarding the SBT;
 - o Department of Water & Environmental Regulation (DWER);
 - o Water Corporation; and
 - o Department of Planning, Lands & Heritage.
29. 14 other agencies and community groups were directly invited to provide comment on the proposed determination, but no written submissions were received.

STATUTORY IMPLICATIONS

Local Government Act 1995

30. The Local Government Act 1995 promotes community participation, open meetings, and access to information, allowing residents to influence matters that directly impact them.
31. The Act discourages exclusivity, emphasising inclusivity and fairness in decision-making.

Control of Vehicles (Off-road Areas) Act 1978

32. The Off-Road Vehicles (ORV) Act regulates the illegal use of ORV inside designated Prohibited Areas.
33. The ORV Act's application has been confirmed to encompass the entire City of Albany municipality, including public land and areas vested with the City.
34. DWER advises that the ORV Act also applies to any public drinking water source area (i.e., drinking water catchments and wellheads) across the State.
35. The ORV Act does not prohibit licensed vehicles from the land seaward side of South Coast Highway in the City of Albany, noting off-road vehicles are defined as any vehicle that is not fully road registered (Class A) under the Road Traffic (Vehicles) Act 2012 (WA).
36. The City of Albany has not established any Off-Road Vehicle (ORV) areas under the Control of Vehicles (Off-road Areas) Act 1978.

Operational Policy 13 – Recreation in public drinking water source areas

- 37. DWER’s Operational Policy 13 is part of the State’s legal framework for the protection of PDSWA’s on crown land. Under this policy, licensed and unlicensed off road vehicles are an incompatible use within PDWSA’s unless it is an approved pre-existing use.
- 38. The City has taken guidance from DWER and other relevant State agencies regarding compliance with Policy 13 in relation to the SBT and the development of the local law determination.
- 39. It is DWER’s understanding that “the only pre-existing approved use of the SBT is for horse riding. The management tracks which are provided for water infrastructure and fire management on crown land within the SBT area are not considered pre-existing recreational facilities, or public roads...therefore use of vehicles on these routes by members of the public is not permitted”.

POLICY IMPLICATIONS

- 40. Licensed four-wheel drive vehicles and motorbikes are generally prohibited on City of Albany-managed reserves, parks, and beaches unless specific signage indicates otherwise. This reflects the City’s commitment to community safety.
- 41. Under the Local Government Act, where a local law is inconsistent with any State or Federal law, it becomes inoperative. Noting the legal weight of Policy 13 (refer points 33-35), the determination is seeking to align the City’s local law with the State law so that the local law remains operative.
- 42. This also responds to the recommendation of the Tredwell Report to update the relevant City local laws with respect to the use of the SBT and the PDSWA.

RISK IDENTIFICATION & MITIGATION

- 43. The determination aims to mitigate user conflict through education and compliance.
- 44. Potential risks include challenges in residents accepting changes to track access and health and safety concerns. Clear signage, information, and education are key mitigations, with a focus on balancing environmental preservation and community needs.
- 45. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><i>Reputation: Public Perception and User Conflict.</i> <i>Risk: The proposed determination for the SBT may lead to dissatisfaction among users, particularly motorbike riders and four-wheel drivers, resulting in conflicts and negative public perception.</i></p>	High	Moderate to Major	High	<p><i>Risk Analysis: Noting there is a high likelihood of user dissatisfaction, which could escalate to conflicts and negatively impact the public perception of the City’s decisions.</i> <i>Mitigation: Implement a comprehensive communication plan to inform the public about the reasons for the determination. Establish a dedicated communication channel for users to express concerns and seek clarifications.</i></p>
<p><i>People’s Health & Safety: Ranger Resource Strain & Safety.</i> <i>Risk: Increased complaints from horse riders may strain ranger resources, impacting their availability and safety, especially in the remote sections of the trail.</i></p>	Possible	Moderate	Medium	<p><i>Risk Analysis: The likelihood of increased complaints and requests for ranger intervention on current ranger resourcing, could compromise effective enforcement and lead to potential safety hazards for rangers.</i> <i>Mitigation: Evaluate and adjust ranger schedules to ensure adequate coverage during peak usage times. Provide specialized 4x4 training for rangers.</i></p>

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
				Enhance communication and coordination between rangers and other relevant city departments to optimise resource allocation.
<p>Legal & Compliance, and Safety: Continued Unauthorized Vehicle Use. Risk: Despite the determination, there may be continued unauthorised vehicle use on the SBT.</p>	Likely	Moderate to High	High	<p>Risk Analysis: There is a likelihood of users not complying with the determination, posing risks of legal and safety consequences. Mitigation: Enhance enforcement efforts through regular patrols and monitoring. Introduction of technological solutions such as trail cameras for continuous monitoring. Clearly communicate the consequences of non-compliance, including legal actions and penalties. Collaborate with other law enforcement agencies, such as:</p> <ul style="list-style-type: none"> • Albany Police. • Water Corporation Rangers (Authorised Persons). • DWER Authorised Persons.
<p>Legal & Compliance: Limited Identifying Evidence for Complaints. Risk: Difficulty in obtaining identifying evidence for motorbike riders due to helmet use and lack of license plates, hindering effective enforcement of complaints.</p>	Possible	Moderate	High	<p>Risk Analysis: Challenges in obtaining identifying evidence may reduce the effectiveness of enforcing complaints and issuing infringements. Mitigation: Explore technology solutions, such as trail cameras, to capture evidence of unauthorised vehicle use. Engage the community in reporting incidents and providing additional identifying information.</p>
<p>Opportunity: A bi-annual review of mitigation strategies will provide an opportunity to gain feedback from the community to ensure ongoing effectiveness.</p>				

FINANCIAL IMPLICATIONS

- 46. The cost of public advertising for the determination was incurred, and future costs for signage and other implementation works depend on budget allocation.
- 47. This reflects the City's financial responsibility to address community concerns.

LEGAL IMPLICATIONS

- 48. Various local laws, including those related to activities on thoroughfares and public places and animal use, are relevant to the determination.
- 49. Failure to comply with a determination is associated with prescribed offences and penalties, reflecting the legal framework that governs this process, being the “Local Government Property Local Law 2011”.
- 50. Land Administration Act 1997: Enforcement action on the portion of UCL (Unallocated Crown Land) Lot 500 on DP60582 may be undertaken by the City of Albany pending formal permission being granted by DPLH.

ENVIRONMENTAL CONSIDERATIONS

51. In the context of environmental considerations related to water source areas and public trails:
 - a. Water Corporation supports the City's position regarding the protection of drinking water sources.
 - b. Existing trails and new feeder trails are subject to assessment and approval under Policy 13, with the goal of balancing environmental protection with community needs.
 - c. The proposed 'horse and authorised vehicle only' sections of the trail align with Policy 13.
52. Any proposed changes to the existing trail or feeder trails will be required to be referred to DWER to assess under Operational Policy 13.
53. The community feedback also addressed the environmental impact that vehicles and horses make against the natural environment.

ALTERNATE OPTIONS

54. The Council has the option to adopt the determination, not decide at this time, or seek additional public comment, recognising the need to balance environmental and community concerns.

CONCLUSION

55. The City places a high priority on environmental protection, public safety, and ensuring the well-being of the community.
56. In relation to the SBT, this requires responsible consideration of the safety of all trail users, environmental preservation, and the intended use of specific trail sections.
57. The proposed determination and control measures represent an improvement to the SBT, considering both environmental and community perspectives.
58. It is recommended that Council adopts the proposed determination, acknowledging resource limitations for enforcement.

Consulted References	:	<ul style="list-style-type: none"> • <i>City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011</i> • <i>City of Albany Animals Local Law 2020</i> • <i>City of Albany Local Government Property Local Law 2011</i> • <i>Control of Vehicles (Off-road Areas) Act 1978</i> • <i>Land Administration Act 1997</i> • <i>Local Government Act 1995</i> • <i>Operational Policy 13 – Recreation in public drinking water source areas on Crown land</i> • <i>Robinson Precinct and Stidwell Bridle Trail Study Report by Tredwell</i>
File Number:	:	EM.PLA.5 – Environmental Management – Planning
Previous Reference	:	<ul style="list-style-type: none"> • Ordinary Council Meeting held in August 2023, Resolution CCS555. • Corporate & Community Services Committee, held in August 2023. • Strategic Workshop Briefing – 20 June 2023. • Robinson Precinct and Stidwell Bridle Trail – Implementation Briefing – 28/11/2022. • Ordinary Council Meeting July 2022, Resolution CCS455.

CCS591: ALBANY 2026 BICENTENARY: FLAGSHIP AND COMMUNITY PILLARS

Proponent / Owner	: City of Albany
Attachments	: Confidential Attachments: 1. Officer recommendation table - Financial 2. Summary panel and officer recommendation 3. Flagship portfolio
Report Prepared By	: Bicentenary Coordinator (B Findlay)
Authorising Officer:	: Executive Director Community Services (N Watson)

CONFIDENTIAL REPORT

This report is considered confidential in accordance with section 5.23(2)(c) of the Local Government Act 1995, being: a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** People.
 - **Outcomes:**
 - A happy, healthy and resilient community.
 - A diverse and inclusive community.
 - **Pillar:** Prosperity.
 - **Outcome:** A highly sought-after tourist destination.

In Brief:

- To provide an overview of submissions received to the Albany 2026 Bicentenary Flagship Sponsorship Grant.
- Brief Council on the outcomes of the assessment panel and subsequent officer recommendation.
- Seek Council's approval to progress an application to Lotterywest for the Albany 2026 Bicentenary Flagship program.
- Seek Council's support to progress the Grassroot Community Event pillar process.

RECOMMENDATION

**CCS591: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

1. **APPROVE** the Albany 2026 Bicentenary Flagship proposals as outlined in Confidential attachment 1 and 2;
2. **REQUEST** the CEO to progress an application to Lotterywest for the Bicentenary Flagship proposals, with a co-contribution of \$1.8 million from the City of Albany;
3. **ENDORSE** officers to commence an Expression of Interest process for funding for grassroots community events for 2026; and
4. **NOTE** that an allocation of \$400,000 from the Bicentenary reserve will be included in the 2024-2025 Draft Annual Budget to underwrite a grant process for grassroot community events in 2026.

CCS591: COMMITTEE RECOMMENDATION

MOVED: MAYOR STOCKS
SECONDED: COUNCILLOR TRAILL

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS591: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

1. APPROVE the Albany 2026 Bicentenary Flagship proposals as outlined in Confidential attachment 1 and 2;
2. REQUEST the CEO to progress an application to Lotterywest for the Bicentenary Flagship proposals, with a co-contribution of \$1.8 million from the City of Albany;
3. ENDORSE officers to commence an Expression of Interest process for funding for grassroots community events for 2026; and
4. NOTE that an allocation of \$400,000 from the Bicentenary reserve will be included in the 2024-2025 Draft Annual Budget to underwrite a grant process for grassroot community events in 2026.

CCS592: MONTHLY FINANCIAL REPORT – NOVEMBER 2023

Proponent / Owner	: City of Albany
Attachments	: Monthly Financial Report – November 2023
Report Prepared By	: Manager Finance (S van Nierop)
Authorising Officer:	: Executive Director Corporate & Commercial Services (M Gilfellon)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Leadership.
 - **Outcome:** Strong workplace culture and performance

IN BRIEF

- Under the Local Government Financial Management Regulations, a local government is to prepare monthly a statement of financial activity that is presented to Council.
- Under changes to the Regulations in June 2023, a local government is now required to also prepare monthly a statement of financial position that is presented to Council.
- The City of Albany’s Monthly Financial Report (inclusive of the statement of financial activity and the statement of financial position) for the period ending 30 November 2023 has been prepared and is attached.
- In addition, the City provides Council with a monthly investment summary to ensure the investment portfolio complies with the City’s Investment of Surplus Funds Policy.
- The financial information included within the Monthly Financial Report for the period ended 30 November 2023 is preliminary and has not yet been audited.

RECOMMENDATION

**CCS592: AUTHORISING OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the Monthly Financial Report for the period ending 30 November 2023 be RECEIVED.

DISCUSSION

2. To fulfil statutory reporting obligations, the Monthly Financial Report prepared provides a snapshot of the City’s year to date financial performance. The report provides the:
 - (a) Statement of Financial Activity by nature classifications (satisfying Regulation 34 of the Local Government (Financial Management) Regulations 1996);
 - (b) Statement of Financial Position (satisfying Regulation 35 of the Local Government (Financial Management) Regulations 1996);
 - (c) Basis of Preparation
 - (d) Explanation of material variances to year-to-date budget;
 - (e) Net Current Asset & Funding Position;
 - (f) Investment Portfolio Snapshot;
 - (g) Receivables; and
 - (h) Capital Acquisitions.

3. Additionally, each year a local government is to adopt a percentage or value to be used in the Statement of Financial Activity for reporting material variances. Under Council item CCS545, Council approved that a variance between actual and budget-to-date of greater than \$100,000 is a material variance for reporting purposes in the Statement of Financial Activity for 2023/2024.
4. The Statement of Financial Activity and Statement of Financial Position may be subject to year-end adjustments and have not been audited.
5. It is noted that rounding errors may occur when whole numbers are used, as they are in the reports that follow. The ‘errors’ may be \$1 or \$2 when adding sets of numbers. This does not mean that the underlying figures are incorrect.”

STATUTORY IMPLICATIONS

6. The Local Government (Financial Management) Regulations 1996 were amended (SL2023/106) and published on 30 June 2023. The changes, effective from 1 July 2023, have an impact on the reporting of the financial activity statement required each month (Section 34). The below outlines the new reporting requirement under Section 34:
 - 34(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22 (1)(d), for the previous month (the “relevant month”) in the following detail:
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the relevant month; and
 - (c) actual amounts of expenditure, revenue and income to the end of the relevant month; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the relevant month and a note containing a summary explaining the composition of the net current assets.
 - 34(1B) The detail included under subregulation (1)(e) must be structured in the same way as the detail included in the annual budget under regulation 31(1) and (3)(a).
 - 34(1C) Any information relating to exclusions from the calculation of a budget deficiency that is included as part of the budget estimates referred to in subregulation (1)(a) or (b) must be structured in the same way as the corresponding information included in the annual budget.
 - 34(2) Each statement of financial activity is to be accompanied by documents containing-
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
 - 34(3) The information in a statement of financial activity may be shown according to nature classification.
 - 34(4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the relevant month; and
 - (b) recorded in the minutes of the meeting at which it is presented.
 - 34(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

7. An amendment to the *Local Government (Financial Management) Regulations 1996*, effective from 1 August 2023, is the addition of Regulation 35, with Local Governments now required to report a financial position statement each month. The additional Regulation 35 is as follows:
- 35(1) A local government must prepare each month a statement of financial position showing the financial position of the local government as at the last day of the previous month (the previous month) and —
- (a) the financial position of the local government as at the last day of the previous financial year; or
 - (b) if the previous month is June, the financial position of the local government as at the last day of the financial year before the previous financial year.
- 35(2) A statement of financial position must be —
- (a) presented at an ordinary meeting of the council within 2 months after the end of the previous month; and
 - (b) recorded in the minutes of the meeting at which it is presented.

POLICY IMPLICATIONS

8. The City's 2023/24 Annual Budget provides a set of parameters that guides the City's financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

FINANCIAL IMPLICATIONS

10. Expenditure for the period ending 30 November 2023 has been incurred in accordance with the 2023/24 budget parameters.
11. Details of any budget variation more than \$100,000 (year to date) is outlined in the Statement of Financial Activity. There are no other known events, which may result in a material non-recoverable financial loss or financial loss arising from an uninsured event.

LEGAL IMPLICATIONS

12. Nil.

ENVIRONMENTAL CONSIDERATIONS

13. Nil.

ALTERNATE OPTIONS

14. Nil.

CONCLUSION

15. The Authorising Officers recommendation be adopted.
16. It is requested that any questions regarding this report are submitted to the Executive Director Corporate & Commercial Services by 4pm of the day prior to the scheduled meeting time. All answers to submitted questions will be provided at the Committee meeting. This allows a detailed response to be given to the Committee in a timely manner.

Consulted References	:	<i>Local Government (Financial Management) Regulations 1996</i>
File Number	:	FM.FIR.7

DIS373: DRAFT LOCAL PLANNING POLICY 3.1: CARAVAN PARK AND TOURIST DEVELOPMENT USES IN THE RURAL OR PRIORITY AGRICULTURE ZONES – DRAFT LOCAL PLANNING SCHEME NO. 2

Land Description	: City of Albany
Proponent / Owner	: City of Albany
Business Entity Name	: City of Albany
Attachments	: Draft Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones
Supplementary Information & Councillor Workstation	: Submission
Report Prepared By	: Coordinator Planning Services (J Wardell-Johnson)
Authorising Officer:	: Executive Director Infrastructure, Development and Environment (P Camins)

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making its decision, Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2019* (the Planning Strategy) and *Strategic Community Plan – Albany 2032*.
3. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Place
 - **Outcome:** Interesting, vibrant and welcoming places.
 - **Pillar:** Planet
 - **Outcome:**
 - Sustainable management of natural areas; balancing conservation with responsible access and enjoyment; and
 - A resilient community that can withstand, adapt to, and recover from natural disasters.
 - **Pillar:** Prosperity
 - **Outcome:**
 - A strong, diverse and resilient economy with work opportunities for everyone; and
 - A highly sought-after tourist destination.
 - **Pillar:** Leadership
 - **Outcome:** Grow awareness, understanding and engagement in City projects, activities and decisions.

In Brief:

- Draft *Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones* (LPP3.1) was advertised for public comment during October and November 2023, following Council's endorsement to advertise at its meeting in September.
- One submission was received during the advertising period, with matters raised in the submission relevant to the draft policy including: that all proposals to be required to meet all policy and other legislative requirements, that no discretion be granted to any proposal, and that decisions on proposals to be made consistently in accordance with the policy. These matters are discussed in further detail below.

- The policy in its current form is considered to adequately address relevant matters raised during advertising, and therefore staff recommend Council proceed to resolve to adopt LPP3.1, without modification.

RECOMMENDATION

**DIS373: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

1. **ADOPT Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones, pursuant to Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**
2. **NOTE that Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones will come into effect following publication of a notice by the local government, as per Schedule 2, clause 87 of the Planning Regulations, following gazettal of City of Albany Local Planning Scheme No. 2.**

DIS373: AUTHORISING OFFICER RECOMMENDATION

MOVED: COUNCILLOR TRAILL
SECONDED: COUNCILLOR SUTTON

THAT the Authorising Officer Recommendation be ADOPTED

CARRIED 10-0

DIS373: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

1. ADOPT Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones, pursuant to Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
2. NOTE that Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones will come into effect following publication of a notice by the local government, as per Schedule 2, clause 87 of the Planning Regulations, following gazettal of City of Albany Local Planning Scheme No. 2.

BACKGROUND

4. The Western Australian Planning Commission has advised that draft Local Planning Scheme No. 2 (LPS2) is expected to be finalised for gazettal by the end of 2023.
5. Draft LPS2 is therefore considered to be a seriously entertained document under the local planning framework, enabling the City to develop local planning policies prepared in alignment with the new draft scheme.
6. Draft LPP3.1 has been prepared to provide guidance on the new requirements and standards outlined under draft LPS2 in relation to incidental Caravan Park and Tourist Development land use proposals located on land zoned Priority Agriculture or Rural.
7. Refer to previous report item DIS364 (September 2023) for further information and background on the draft policy.
8. Should Council resolve to adopt LPP3.1, the policy will be added to the City's current suite of local planning policies, pending gazettal of LPS2.

DISCUSSION

9. Draft LPP3.1 was advertised for public comment between October and November 2023, with one submission received.
10. Matters raised in the submission relevant to the draft policy include:
 - All proposals being required to meet all policy and other applicable legislative requirements;
 - No discretion to be granted to any proposal;
 - Proposals to be determined consistently in accordance with the requirements of the policy.
11. The following comments are outlined the address the relevant matters identified in the submission received during advertising.
12. Draft LPP3.1 has been prepared to ensure consistent advice and decision-making by the local government when considering Caravan Park and Tourist Development land use proposals in the Priority Agriculture or Rural zones.
13. As previously mentioned, the policy was developed to guide the application of new standards and requirements for these land uses under draft LPS2, that aim to address matters such as:
 - Proposals are incidental in use and scale to the predominant agricultural activities, ensuring the primacy of existing agricultural activities and demonstrating compatibility can be maintained;
 - Caravan Parks and Tourist Development land uses are considered sensitive premises, with proposals for such incidental land uses on rural land required to demonstrate that the risk of potential detrimental impacts between and on existing agricultural activities on the subject site, as well as adjoining properties and the broader locality can be mitigated;
 - Proposals demonstrate that location, siting, design and operational objectives and requirements have been met and that consideration has been made to minimise environmental impact and mitigate vulnerability to natural hazards (such as coastal or bushfire);
 - Proposals can be managed effectively, through the submission of a management plan, in addition to standard development application requirements, that addresses specific matters outlined under the policy, as well as any additional management measures that the City may identify, to ensure outstanding issues or concerns can be adequately addressed and mitigated.
14. The following exclusions apply under the draft policy, and are addressed separately through other relevant requirements of the local planning framework:
 - Proposals for Caravan Park and Tourist Development land uses located in other zones.
 - Other forms of tourist accommodation, proposed on land zoned Priority Agriculture or Rural in accordance with LPS2, including hosted and unhosted short-term rental accommodation.
 - Short-term accommodation facilities on rural land that are not tourist accommodation.
15. Draft LPP3.1 does not contain specific requirements for advertising of proposed Caravan Park and Tourist Development land uses as they are proposed to be designated as 'I' under the Zoning Table for Priority Agriculture and Rural zones of draft LPS2.

16. There are no minimum requirements for the advertising development proposals that involve an ‘I’ use, as the intention of the designation is to ensure uses that are small scale, low-key and incidental to the predominant land use of the land.
17. However, where in the officer’s opinion there is potential impact by a development proposal on the environment and/or amenity of adjoining properties or the locality, draft LPS2 provides discretion to undertake advertising to further inform the local government’s consideration of the proposal.
18. It should also be noted that the provisions for Caravan Parks and Tourist Development land uses contained under draft LPS2, and the associated requirements in the draft policy provides for the limited application of discretion to certain aspects of a proposal.
19. Development of performance criteria to consider discretion being sought was not considered necessary for this draft policy, as the assessment framework in its current form is considered to provide sufficient scope and guidance to consider variations, through advertising of a proposal, as well as assessment against the policy objectives, the LPS2 zone objectives and relevant matters for consideration by local government as set out under the Planning Regulations.
20. Following the above, the policy in its current form is considered to adequately address relevant matters raised in during advertising, as it meets the overarching purpose and intent of providing guidance and supporting information to the community, landowners, local government and relevant stakeholders in the City’s consideration of incidental Caravan Park and Tourist Development land uses in the Rural or Priority Agriculture Zones.
21. Staff therefore recommend Council proceed to resolve to adopt LPP3.1, without modification.

GOVERNMENT & PUBLIC CONSULTATION

22. The draft policy was advertised in accordance with Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Planning Regulations), for a minimum period of 21 days.
23. Details of advertising as follows:

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Notice in Advertiser	24/10/2023	1 submission received	Yes
Consult	Public comment – City website	23/10/2023-14/11/2023		Yes

24. After the expiry of the period within which submissions may be made, the local government must review the proposed policy in the light of any submissions made; and resolve to proceed with the policy without modification; or proceed with the policy with modification; or not to proceed with the policy.

STATUTORY IMPLICATIONS

25. Voting requirement for this item is **SIMPLE MAJORITY**.
26. Consideration of draft new LPPs requires resolution of Council for endorsement to advertise and final adoption following advertising, with or without modifications, in accordance with the Planning Regulations.
27. As outlined above, draft LPS2 is a seriously entertained document under the local planning framework, therefore enabling the ability to prepare and undertake preliminary advertising of draft LPPs that are prepared in alignment with the new draft scheme.
28. Draft LPP3.1 was therefore prepared for Council’s consideration and endorsement to undertake preliminary advertising and stakeholder consultation, prior to formal gazettal of LPS2.
29. Should Council resolve to adopt draft LPP3.1, with or without modification, a notice must be published as per 87 of the Planning Regulations. The notice will be published following formal gazettal of LPS2, with the policy coming into effect at that time.

POLICY IMPLICATIONS

30. There are no policy implications relating to adopting draft LPP3.1.

RISK IDENTIFICATION & MITIGATION

31. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Operational Not adopting draft LPP3.1 could result in inconsistent advice, consideration and determination of applicable development proposals, resulting in undesired outcomes and detrimental impacts on existing agricultural operations as well as the amenity of the locality</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>Policy provisions are consistent with the scheme standards and requirements, to provide guidance and supporting information for the consideration applicable proposals.</i>
<i>Opportunity: Ensure high-quality land use and development outcomes that align with zone objectives and potential detrimental impacts on environmental and amenity considerations are adequately mitigated.</i>				

FINANCIAL IMPLICATIONS

32. There are no financial implications beyond what will be used for notice of adoption.

LEGAL IMPLICATIONS

33. Subject to following the applicable processes set out under the Planning Regulations, there are no legal implications relating to preparing, amending or revoking policy positions.

ENVIRONMENTAL CONSIDERATIONS

34. There are no broader environmental implications relating to the adoption of draft LPP3.1, further to what is intended to be considered and addressed under the policy.

ALTERNATE OPTIONS

35. Council has the following alternate options in relation to this item, which are:
 - To resolve to proceed with the policy with modification.
 - To resolve not to proceed with the policy.

CONCLUSION

- 36. Based on the discussion above, staff recommend Council resolve to adopt *Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones* without modification.
- 37. Should Council resolve to adopt draft LPP3.1, with or without modification, a notice will be published following formal gazettal of LPS2, with the policy coming into effect at that time.

Consulted References	:	Draft <i>Local Planning Scheme No. 2 Planning and Development (Local Planning Schemes) Regulations 2015</i>
File Number	:	LP.POL.2
Previous Reference	:	DIS364 (September 2023) – New Draft Local Planning Policy 3.1: Caravan Park And Tourist Development Uses In The Rural Or Priority Agriculture Zones – Draft Local Planning Scheme No.2 DIS333 (February 2023) - Adoption of Draft Local Planning Scheme No. 2

DIS374: GREY STREET TREE PLANTING

Land Description	: Grey Street East Road Reserve – between York St and Aberdeen St
Proponent / Owner	: Road Reserve (Crown) managed by City of Albany
Business Entity Name	: City of Albany
Attachments	Grey St East - Concept Plan and Perspective
Report Prepared By	: Major Projects Officer (N Walker) Manager Major Projects (A McEwan)
Authorising Officer:	: Executive Director Infrastructure, Development & Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Place
 - **Outcome:** 8 Interesting, vibrant and welcoming places.
 - **Objective:** 8.2 Provide attractive, well maintained streetscapes, verges and trees.

Maps and Diagrams:



In Brief:

- Implementing Resolution 15.2 from the July 2023 Ordinary Council Meeting (OCM), this proposal introduces a revised concept plan for the installation of street trees on Grey Street East.
- It is proposed to allocate funds in the budget for the 2024/25 financial year.

RECOMMENDATION

DIS374: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council NOTE:

1. The revised concept plan to install street trees and furniture on Grey Street East between York Street and Aberdeen Street.
2. That an allocation of approximately \$90,000 will be considered in the 2024/25 draft budget to install street trees and furniture on Grey Street East between York Street and Aberdeen Street.

DIS374: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BAESJOU
SECONDED: COUNCILLOR TERRY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

DIS374: AUTHORISING OFFICER RECOMMENDATION

THAT Council NOTE:

1. The revised concept plan to install street trees and furniture on Grey Street East between York Street and Aberdeen Street.
2. That an allocation of approximately \$90,000 will be considered in the 2024/25 draft budget to install street trees and furniture on Grey Street East between York Street and Aberdeen Street.

BACKGROUND

2. A concept plan to return Grey Street East between York Street and Aberdeen Street to two-way traffic was unanimously endorsed by Council in February 2019.
3. The concept included planting 8 street trees and related street furniture items.
4. The trees were not installed during the civil works phase in 2022 due to budget constraints and service clashes.
5. Concern over the lack of street trees were raised by the community to Elected Members.
6. Council requested by Notice of Motion (Resolution 15.2, July 2023 OCM):

THAT the council instructs the Chief Executive Officer to arrange for a report to be presented at an ordinary meeting of council before December 2023 outlining:

- ***A timeline and implementation plan to plant street trees as per the concept plan for Grey Street East that was unanimously endorsed by the council in February 2019; or***
- ***Options and rationale for an alternative course of action to that endorsed by the council in February 2019 with regard to street trees in the segment of Grey Street East between York and Aberdeen Streets.***

7. A review of underground and overhead services, timeline and budget has since been carried out, and a revised concept plan has been produced.

DISCUSSION

8. Street trees provide important amenity to our residential, commercial and civic public environments, and should be integrated wherever allowable by services, road safety considerations and budget.
9. Planning and budgeting for road asset upgrades such as kerbs, pavements, asphalt and drains should consider opportunities for the planting of street trees and the installation of associated amenities such as street lights, seats and benches, litter bins, public art, and interpretive/wayfinding signage.
10. The proposed street tree planting (shown in the revised concept plan) matches recent successful installations carried out as part of streetscape and asset upgrades along Stirling Terrace and central/upper York Street, using the same tree species, detailing around the tree pits, and the combination with street furniture and pedestrian wayfinding & interpretation signage.

11. A revised concept plan has been provided for endorsement as part of the implementation plan.
12. Once confirmed in the 2024/25 budget, tree stock can be sourced from an advanced tree nursery and planted early in the 2024/25 financial year.

GOVERNMENT & PUBLIC CONSULTATION

13. Elected Members have received ongoing feedback from the public concerned with the lack of street trees along this particular section of street upgrade.
14. Further community consultation is not required for the installation of street trees.

STATUTORY IMPLICATIONS

15. Nil

POLICY IMPLICATIONS

16. Nil

RISK IDENTIFICATION & MITIGATION

17. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational: The lack of street trees will create negative publicity for not following through on adopted public amenity concepts and proposals.</i>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>Address community concern by installing street trees.</i>
<i>Reputational Opportunity: There is an opportunity to positively respond to community demand for public amenity in our historic city streetscapes.</i>				

FINANCIAL IMPLICATIONS

18. The estimated cost of the streetscape works is \$90,000 and will require a capital budget line allocation for next financial year.

LEGAL IMPLICATIONS

19. Nil

ENVIRONMENTAL CONSIDERATIONS

20. There are no direct environmental considerations related to this item.

ALTERNATE OPTIONS

21. Nil

CONCLUSION

22. The proposal aims to enhance Grey Street East by facilitating the installation of street trees and street furniture. This proposal is in direct response to community feedback and aligns more closely with the adopted concept plan, ensuring a harmonious integration of greenery and amenities into the urban landscape.

Consulted References	:	
File Number	:	CP.DEC.150
Previous Reference	:	DIS147 - OCM 26/2/2019 Resolution 15.2 - OCM 25/7/2023

DIS375: DRAFT COUNCIL POLICY: TRADING IN PUBLIC PLACES

Land Description	: City of Albany
Proponent / Owner	: City of Albany
Business Entity Name	: City of Albany
Attachments	: Draft City of Albany Policy: Trading in Public Places
Supplementary Information & Councillor Workstation	: City of Albany Public Places Policy Activities on Thoroughfares and Public Places and Trading Local Law 2011 Local Government Property Local Law 2011
Report Prepared By	: Senior Planning Officer (D Ashboth)
Authorising Officer:	: Executive Director Infrastructure, Development & Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Place
 - **Outcome:** Interesting, vibrant and welcoming places.
 - **Pillar:** Prosperity
 - **Outcome:** A strong, diverse and resilient economy with work opportunities for everyone.

In Brief:

- The current City of Albany Public Places Policy has been in place since 2009, with minor reviews undertaken in 2010, 2017 and 2020.
- There are a number of key matters which are consistently raised regarding this policy which will benefit from clarification and refinement in the form of a revised policy.
- The draft revised Trading in Public Places Policy is proposed to replace the existing adopted policy. Amendments to the existing policy were undertaken with a view of specifically addressing the following:
 - Reference to community interest when considering commercial use of public places.
 - Clarify management/operational requirements for the use of public land.
 - Providing more fixed location sites and opportunities to traders
 - Reducing impact of itinerant traders on existing bricks and mortar business
 - Clarifying information requirements for applicants submitting a permit application, including reference to community interest.
- Council is requested to resolve to approve the amended Trading in Public Places Policy for advertising purposes.

RECOMMENDATION

**DIS375 COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council, RESOLVE to endorse draft City of Albany Trading in Public Places Policy for the purpose of advertising with amendments to the time at Lower King Boat Ramp, Foundation Park, Lake Weerlara, Lakeside Park, Lower King Road to 7am - 8pm

DIS375 COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR SUTTON

THAT Council, RESOLVE to endorse draft City of Albany Trading in Public Places Policy for the purpose of advertising with amendments to the time at Lower King Boat Ramp, Foundation Park, Lake Weerlara, Lakeside Park, Lower King Road to 7am - 8pm

CARRIED 10-0

DIS375: AMENDMENT BY COUNCILLOR TERRY

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR SUTTON

THAT the Authorising Officer Recommendation be AMENDED to include the following wording:

Council, RESOLVE to endorse draft City of Albany Trading in Public Places Policy for the purpose of advertising *with amendments to the time at Lower King Boat Ramp, Foundation Park, Lake Weerlara, Lakeside Park, Lower King Road to 7am -8pm.*

CARRIED 10-0

Councillor Terry then moved an Amendment to the Authorising Officer Recommendation.

DIS375: AUTHORISING OFFICER RECOMMENDATION

MOVED: COUNCILLOR MACLAREN
SECONDED COUNCILLOR LIONETTI

THAT Council, RESOLVE to endorse draft City of Albany Trading in Public Places Policy for the purpose of advertising.

BACKGROUND

2. The Trading in Public Places Policy is prepared as a Council Policy in accordance with the *Local Government Act 1995*.
3. The Trading in Public Places Policy provides direction to City staff in the processing of enquiries and permit applications for trading in public places under the “*Activities on Thoroughfares and Public Places and Trading Local Law 2011*” and the “*Local Government Property Local Law 2011*”. The policy also provides a clear set of controls for operators to trade under.
4. The Trading in Public Places policy provides guidance for permit applications relating to the commercial use of public places including itinerant traders, fixed location traders, stallholders, market operators and alfresco dining.
5. The City of Albany deals with a number of enquiries in relation to or applications for trading permits each year. These enquiries most often relate to requests for itinerant trader permits for food vans.
6. Staff also from time to time receive comments and/or complaints from formal “brick and mortar” business owners about these traders. These comments or complaints normally relate to breaches of policy provisions or are competition/equity related.

DISCUSSION

Community interest

7. Permit applications for the use of public land for commercial purposes are provided for under the *City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011*, the *Local Government Property Local Law 2011* and the provision of the Trading in Public Places Policy.
8. There are substantial benefits afforded to commercial traders operating on public land including, but not limited to:
 - no rent or rates (aside from permit fees)
 - low startup and operational costs
 - access to high amenity, unique locations
9. Although there are benefits to the City in encouraging entrepreneurs and startups through the use of public places, it is also important to ensure that support for these businesses/operations is in the community interest and not just the interest of the operators.
10. Amendments to the Policy are therefore proposed to ensure applicants are aware that any application to use public land for commercial benefit must align with the community interest.
11. Applicants will also be required to address the matters of community interest identified under provision 9 of the Policy with any application to trade on a public place.

Mobile food vendors

12. Notwithstanding the above, those seeking to trade in public places also have a role to play within the local economy, particularly mobile food vendors. Benefits can include:
 - Increasing the overall vibrancy of the City,
 - Activating underutilized public spaces;
 - Providing passive surveillance to public places;
 - Creating opportunity for small business to be establish and perhaps progress towards a formal business; and
 - Mobile food vehicles can provide more food choices, attraction and vibrancy to residents and visitors during times that the City's existing bricks and mortar businesses choose not to be open.
13. However, it is important to ensure that mobile food vehicles operate in a way which complements existing food businesses and do not unfairly compete with the City's existing bricks and mortar businesses.
14. This is also the primary issue most frequently raised by the community, which is intended to further addressed by the proposed updates to the Policy.
15. With the benefits of mobile food vendors in mind, and the concerns with impacts on bricks and mortar businesses considered, the amended policy proposes to add additional fixed trader locations at:
 - Centennial Park
 - Lower King
 - Forts Carpark
 - Lakeside Park
 - Chipana Drive Public Carpark
 - Lower King Road
 - Stirling Terrace East
 - Mira Mar.

16. It is considered the best way of addressing the conflict between bricks and mortar businesses and mobile food vendors was to provide more fixed locations for available to mobile food vendors, which are located well outside of the City CBD.
17. This will allow mobile food vendors to activate underutilised public spaces in the suburbs without impacting on existing business.
18. Those new fixed locations that are closer to existing businesses such as Centennial Park and the Forts Carpark will be limited to selling ice creams, confectionery, snacks and drinks to minimise impacts on existing businesses.
19. A fixed trader location has also been proposed on Stirling Terrace East between the hours of 10.00pm and 3.00am to serve the nighttime economy in that area.
20. Further restrictions are proposed to itinerant traders (those not utilising fixed locations) including:
 - Remove existing “Special Permit to trade in the CBD” due to conflict with existing businesses in York Street and confusion surround inconsistent operating hours of existing businesses; and
 - Increasing the distance that itinerant traders must maintain from existing businesses and schools when operating (outside of the CBD) from 150m to 200m.
21. The amended Policy also states that the City may limit the number of itinerant food trader permits issued, if it is determined the operation of itinerant food vendors is causing undesired impacts to local amenity, the operation of existing bricks and mortar businesses, or any other issue considered relevant by the City.

Non-food vendors

22. The existing Trading in Public Places Policy has one location available for non-food traders which is located at Middleton Beach. The draft trading in Public Places Policy does not propose to increase the number of locations available for non-food operators.
23. Notwithstanding the above, officers have noted a significant increase in requests to use public land for non-food related purposes over the last 12 months.
24. At this stage, it is considered that the majority of non-food commercial uses are better suited to private property rather than public land, unless substantial community benefits can be identified (i.e e-scooters). Additional fixed locations have therefore not been proposed as part of this amendment.
25. This position can be revisit following the advertising period, if required.

Waste disposal

26. The existing Trading in Public Places Policy provides little information/guidance on the waste management / disposal obligations of the operator.
27. The proposed amendments to the policy aims to provides further clarification and guidance including the stipulation that no waste or litter generated by the operation shall be disposed by operators into the City of Albany public place bins.
28. This includes the requirement for traders to provide adequately sized waste bins to collect patron and operation generated waste, and require removal of all waste from the approved location at the end of trade.

29. The amended policy also states that wastewater, solid waste, litter or any other pollutant must not be placed or discharged anywhere on the site or allowed to enter the stormwater drainage system.
30. Proposed amendments require that mobile food vehicles must have a holding tank for wastewater to be disposed of correctly outside of public land.
31. This approach to trader management of wastewater and litter is consistent with that taken by other local governments supporting businesses on public land.

Information requirements

32. The amended policy seeks to clarify application requirements to ensure applicants are aware of what is required by them when submitting the application and operating their business following issuing of a permit.
33. In addition to the clarification of current information requirements, applicants will now be required to address community interest (refer above) and provide a Management Plan to accompany their application.
34. The Management Plan requires details on the following information:
 - How will amenity of the public place/s be maintained
 - How the potential for public nuisance will be minimised.
 - Waste generation and method for ensuring location/s remains clean, tidy and free of litter
 - Provision of power, water, gas or other servicing requirements.
 - Any other information deemed relevant by the City of Albany (Applicants are advised to discuss information requirements with the City of Albany as early as possible).
35. The Management Plan is a formal, stamped document and will form part of the approval for any operator using public land for commercial purposes.
36. Requiring this information ensures applicants put measures in place to minimise impacts on the public place and also gives our compliance team the ability to investigate any operators who may not be operating in accordance with the measured documented under the approved Management Plan.

GOVERNMENT & PUBLIC CONSULTATION

37. The draft policy is proposed to be advertised for public comment in accordance with the following:

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Notice in Local Paper	09/01/2024 – 30/01/2024	Open	No
Consult	Public comment – City website	09/01/2024 – 30/01/2024		No

38. After expiry of the advertising period, the local government will be required to:
 - Review and implement modifications to the policy, taking into account submissions received during advertising; and
 - Resolve to either adopt the policy with or without modification, or not to proceed with the policy.

STATUTORY IMPLICATIONS

39. There are no statutory implications relating to endorsing the proposed Draft Trading in Public Places Policy for advertising.
40. Voting requirement for this item is **Simple Majority**.

POLICY IMPLICATIONS

- 41. The proposed updates to the Trading in Public Places aims to provide clarification and guidance to the existing regulatory framework for use of public places, taking into account community interest, and in accordance with the applicable local laws.
- 42. The revised policy will replace the previous version upon formal adoption.
- 43. The existing Trading in Public Places Policy will be revoked via a notice of revocation published on the City of Albany website.

RISK IDENTIFICATION & MITIGATION

- 44. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Operational</i> Not approving the amended policy for advertising would result in the continued use of an existing policy that is no longer considered fit for purpose.	Almost Certain	Minor	High	Approving the amended policy for advertising. The amended can be further amended once feedback from advertising is assessed.
<i>Opportunity: Reduce conflict between street traders and bricks and mortar businesses. Ensure the use of public places for commercial purposes is consistent with community interest.</i>				

FINANCIAL IMPLICATIONS

- 45. There are no financial implications beyond what will be used for advertising the proposed policy.

LEGAL IMPLICATIONS

- 46. There are no legal implications relating to adopting the revised policy.

ENVIRONMENTAL CONSIDERATIONS

- 47. There are no environmental implications relating to adopting revised policy.

ALTERNATE OPTIONS

- 48. Council has the following alternate options in relation to this item, which are:
 - To resolve to proceed with advertising the policy subject to modification; or
 - To resolve to proceed with advertising the policy without modification; or
 - To resolve not to proceed with advertising the policy.

CONCLUSION

- 49. The policy has been amended and refined to better address the common issues which arise from informal trading operations and the implementation of the existing policy.
- 50. The revised policy has been prepared with a view of specifically addressing the following;
 - a. Reference to community interest when considering commercial use of public places.
 - b. Clarify management/operational requirements for the use of public land.
 - c. Providing more fixed location sites and opportunities to traders
 - d. Reducing impact of itinerant traders on existing bricks and mortar business
 - e. Clarifying information requirements for applicants submitting a permit application, including reference to community interest.
- 51. Council is requested to resolve to approve the amended Trading in Public Places Policy for advertising purposes.

Consulted References	:	1. <i>Local Government Act 1995</i> 2. <i>Activities on thoroughfares and Public Places and Trading Local Law 2011</i> 3. <i>Local Government Property Local Law 2011.</i>
File Number	:	CM.STD.7
Previous Reference	:	OCM 25/02/2020 DIS195

**DIS376: AMENDMENT OF CONDITIONS 2, 4, 17 & 43 OF P2160670
INDUSTRY – EXTRACTIVE (LIME) AT LOT 9005 EDEN ROAD,
NULLAKI**

- Land Description** : Lot 9005 Eden Road, Nullaki.
- Proponent / Owner** : Graeme Robertson & Great Southern Lime Partnership.
- Business Entity Name** : **Great Southern Lime (WA) Pty Ltd**
Director Kenneth Walter Court
Director Scott Robert Neil Smith
Director Anette Gaebrielle Howie
Shareholders: Ryan Douglas Neil Smith, Scott Robert
Neil Smith, Frederick Lloyd Wells, Faye Judith Wells,
Samuel Napier Williams, Joseph William Burton,
Camballup Pastoral Co, Summit Rural (WA) Pty Ltd,
Eversilk Pty Ltd, Minchton Pty Ltd, Phillip James Howie,
Anette Gaebrielle Howie
Frenesi Pty Ltd
Directors and Shareholders: Graeme James Robertson
and Peter James Robertson
Camarri Nominees Pty Ltd ABN 47 614 073 910
Directors and Shareholders: Bruno Giovanni Camarri
and Erica Mary Camarri
- Attachments** :
 - Development Application (as submitted).
 - Revised/updated plans
 - State Administrative Tribunal decision WASAT 3 2019.
 - Schedule of Survey Submissions
- Supplementary Information & Councillor Workstation** :
 - Site Visit photographs of vegetation.
 - Fauna assessment
 - Acoustic Report
 - Australasian Bittern research
 - Copy of Submissions
 - Legal Advice (confidential)
 - DWER Clearing Permit in principle decision-Confidential
 - DWER Clearing Permit Decision Report-Confidential
- Report Prepared By** : Senior Planning & Development Compliance Officer
(T Wenbourne)
- Authorising Officer:** : Executive Director Infrastructure, Development &
Environment (P Camins)

STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed development, the Council is obliged to draw conclusion from its adopted City of Albany Local Planning Strategy 2019 and City of Albany Strategic Community Plan 2032.
3. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Leadership.
 - **Outcome:** A well-informed and engaged community.
4. The proposal is consistent with the strategic directions identified in the Planning Strategy.

Maps and Diagrams:





In Brief:

- Council is asked to consider an application to amend conditions 2, 4, 17 & 43 of P2160670 for Industry – Extractive (Lime) at Lot 9005 Eden Road, Nullaki. This is an existing non-conforming land use on this lot.
- The application was advertised for public comment via direct mail out to nearby landowners. There was also a notice on the City of Albany website with a link to a survey for comments to be made.
- The majority of the 74 submissions received were opposed. Some submissions were duplicated.
- The requested amendments to conditions have been assessed against the relevant regulations, guidelines and policies. Advice from State agencies and relevant matters raised during the advertising period have been considered as part of the City's assessment.
- The proponent has made changes to their application detail in response to additional information and recommendations from reports as well as addressing some of the concerns raised during the advertising and public consultation period.
- Due to the number of concerns raised, the application is being referred to Council for determination.
- The recommendations are not entirely what was originally sought by the proponent but are considered a suitable compromise that address and mitigate the concerns raised whilst also providing the operator a viable amendment of the existing conditions. The proponent has been advised of the recommendations. These have been discussed and mostly accepted with the exception of condition 17, that the applicant is seeking greater flexibility than what is proposed in the officer recommendation.
- Staff therefore recommend that Council approve the documented amendments to the conditions of approval.

RECOMMENDATION

**DIS376: COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council AMEND Condition 2 of P2160670 to read:

The Industry – Extractive activity shall be contained within the areas as depicted on Drawing number 21980-23C dated 11-10-2023 as follows:

Area A – Excavation, processing/screening and storage of lime and stockpiled overburden shall be contained within the 8 hectare area (Area A). A maximum of 4 hectares of Area A shall be open and used for these activities at any one time. The perimeter of the area to be worked must be pegged and clearly marked to ensure that all earthworks are contained within the approved area.

Area B – Stockpiling of lime and loading of road transport vehicles for haulage offsite shall be contained within Area B as depicted on Drawing number 21980-14E dated 11-10-2023 and Drawing number 2530-01-300 F dated 17.10.23. The stockpiles within the areas indicated on Drawing number 2530-01-300 F shall not exceed a height of 6m.

Area C – Expanded area of hardstand (Area C) for use as a layby and onsite turning area for vehicles as depicted on Drawing number 21980-22A dated 18-04-23.

**DIS376: COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council AMEND Condition 4 of P2160670 to read:

Except as otherwise approved by the City of Albany, the hours of operation of the various elements of the extractive industry activities shall be restricted as follows:

- 1) Excavation, processing/screening and associated activities within Area A between the hours of 7.00am - 5.00pm Monday to Friday, and 8.00am - 5.00pm Saturday, with no operation of the extractive industry permitted on Sundays or Public Holidays;***
- 2) Transportation of lime onsite from the extraction site (Area A) to the stockpile area (Area B) within the period of 2 January to 31 August (inclusive) between the hours of 7.00am - 5.00pm Monday to Friday, and 8.00am - 5.00pm Saturday, with no operation of this activity permitted on Sundays or Public Holidays;***
- 3) Transportation of lime offsite within the period of 2 January to 30 April (inclusive) between the hours of 7.00am - 5.00pm Monday to Friday, and 8.00am - 5.00pm Saturday, with no operation of this activity permitted on Sundays or Public Holidays.***

**DIS376: COMMITTEE RECOMMENDATION 3
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council AMEND Condition 17 of P2160670 to read:

Transportation offsite of extracted lime shall not exceed 50,000 tonnes in any 12 month period. Laden vehicle movements removing lime from the Lot shall not exceed an average of fourteen (14) vehicles per operating day over a seven (7) day period.

**DIS376: COMMITTEE RECOMMENDATION 4
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council AMEND Condition 43 of P2160670 to read:

The applicant shall submit an annual compliance report to the City of Albany by 30 June each year. The annual compliance report shall include:

- a) an internal compliance audit of all the development and licence approval conditions and Management Plan requirements undertaken by a suitably qualified person to the reasonable satisfaction of the City;***
- b) details of all community complaints and complaint responses;***
- c) annual tonnage of extracted material in the previous calendar year;***
- d) log of cartage trucks to and from the site recorded on a daily basis during period of operation;***
- e) evidence of the allocation and expenditure of the funds required to be spent pursuant to condition 45; and***
- (f) other information reasonably requested by the City relevant to management of any impact arising from the operation of the extractive industry.***

DIS376: COMMITTEE RECOMMENDATION 1

**MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR LIONETTI**

THAT the Authorising Officer Recommendation 1 be ADOPTED.

CARRIED 6-3

Record of Vote

Against the Motion: Councillors MacLaren, Traill and Grimmer.

DIS376: AUTHORISING OFFICER RECOMMENDATION 1

THAT Council AMEND Condition 2 of P2160670 to read:

The Industry – Extractive activity shall be contained within the areas as depicted on Drawing number 21980-23C dated 11-10-2023 as follows:

Area A – Excavation, processing/screening and storage of lime and stockpiled overburden shall be contained within the 8 hectare area (Area A). A maximum of 4 hectares of Area A shall be open and used for these activities at any one time. The perimeter of the area to be worked must be pegged and clearly marked to ensure that all earthworks are contained within the approved area.

Area B – Stockpiling of lime and loading of road transport vehicles for haulage offsite shall be contained within Area B as depicted on Drawing number 21980-14E dated 11-10-2023 and Drawing number 2530-01-300 F dated 17.10.23. The stockpiles within the areas indicated on Drawing number 2530-01-300 F shall not exceed a height of 6m.

Area C – Expanded area of hardstand (Area C) for use as a layby and onsite turning area for vehicles as depicted on Drawing number 21980-22A dated 18-04-23.

DIS376: COMMITTEE RECOMMENDATION 2

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR LIONETTI

THAT the Authorising Officer Recommendation 2 be ADOPTED.

CARRIED 6-3

Record of Vote

Against the Motion: Councillors Traill, Grimmer and MacLaren.

DIS376: AUTHORISING OFFICER RECOMMENDATION 2

THAT Council AMEND Condition 4 of P2160670 to read:

Except as otherwise approved by the City of Albany, the hours of operation of the various elements of the extractive industry activities shall be restricted as follows:

- 1) *Excavation, processing/screening and associated activities within Area A between the hours of 7.00am - 5.00pm Monday to Friday, and 8.00am - 5.00pm Saturday, with no operation of the extractive industry permitted on Sundays or Public Holidays;*
- 2) *Transportation of lime onsite from the extraction site (Area A) to the stockpile area (Area B) within the period of 2 January to 31 August (inclusive) between the hours of 7.00am - 5.00pm Monday to Friday, and 8.00am - 5.00pm Saturday, with no operation of this activity permitted on Sundays or Public Holidays;*
- 3) *Transportation of lime offsite within the period of 2 January to 30 April (inclusive) between the hours of 7.00am - 5.00pm Monday to Friday, and 8.00am - 5.00pm Saturday, with no operation of this activity permitted on Sundays or Public Holidays.*

DIS376: COMMITTEE RECOMMENDATION 3

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR MCKINLEY

THAT the Authorising Officer Recommendation 3 be ADOPTED.

CARRIED 9-0

DIS376: AUTHORISING OFFICER RECOMMENDATION 3

THAT Council AMEND Condition 17 of P2160670 to read:

Transportation offsite of extracted lime shall not exceed 50,000 tonnes in any 12 month period. Laden vehicle movements removing lime from the Lot shall not exceed an average of fourteen (14) vehicles per operating day over a seven (7) day period.

DIS376: COMMITTEE RECOMMENDATION 4

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR MCKINLEY

THAT the Authorising Officer Recommendation 4 be ADOPTED.

CARRIED 9-0

DIS376: AUTHORISING OFFICER RECOMMENDATION 4

THAT Council AMEND Condition 43 of P2160670 to read:

The applicant shall submit an annual compliance report to the City of Albany by 30 June each year. The annual compliance report shall include:

- a) an internal compliance audit of all the development and licence approval conditions and Management Plan requirements undertaken by a suitably qualified person to the reasonable satisfaction of the City;*
- b) details of all community complaints and complaint responses;*
- c) annual tonnage of extracted material in the previous calendar year;*
- d) log of cartage trucks to and from the site recorded on a daily basis during period of operation;*
- e) evidence of the allocation and expenditure of the funds required to be spent pursuant to condition 45; and*
- f) (f) other information reasonably requested by the City relevant to management of any impact arising from the operation of the extractive industry.*

BACKGROUND

5. The subject site lies to the western side of Lower Denmark Road and to the southern side of Eden Road, approximately 40km west of Albany City centre. Access is provided by the newly constructed and upgraded Lee Road. The lot has an area of approximately 437 hectares and is zoned 'Conservation' and listed as No. CZ1 in Schedule 12 of City of Albany *Local Planning Scheme No. 1*.
6. The subject lot is bounded by reserved land to the south and east. The land to the north and west is zoned Conservation. The Bibbulmun Track runs through the reserve to the east of the subject site.
7. Due to the environmental properties of the land, and in order to secure long term land use protection, the Nullaki Peninsula is zoned Conservation under Local Planning Scheme No.1.
8. The lot has an existing land use right (non-conforming land use) for an 8 hectare area towards the south-east corner of the lot to be used for an extractive industry producing lime.
9. The existing extractive industry was granted development approval by the State Administrative Tribunal in January 2019, subject to 45 conditions.
10. On 24 May 2019 Local Planning Scheme amendment 29 (AMD29) was gazetted. In addition to other matters, AMD29 clarified that an Industry – Extractive was to be considered an X use within Conservation Zone CZ1. An X use means the land use is not permitted by the Scheme.
11. The Industry – Extractive use on part of Lot 9005 was lawful when approved by the Tribunal on 10 January 2019, but it became a non-conforming use after the gazettal of LPS1 AMD29 on 24 May 2019. A non-conforming use can lawfully continue operating, subject to meeting specific criteria set out under the local planning scheme.

DISCUSSION

12. The subject development application seeks amendment to some of the conditions of approval set down by the Tribunal in its decision of 10 January 2019.
13. The conditions requested for amendment are conditions 2, 4, 17 and 43 of P2160670 for Industry – Extractive (Lime) at Lot 9005 Eden Road, Nullaki.

Proposal

14. The proponent is seeking to change their method of operation at the site for the following reasons:
 - Safety concerns raised regarding the 18% gradient haul road to the pit location.
 - Operator required to verify onsite equipment using the haul road is fit for purpose, but external transport vehicles are beyond the operator's scope of control.
 - A stockpile area at the bottom of the hill close to the site entrance means the external transport vehicles won't need to use the steep slope and the operator can use their controlled and verified vehicles to take the material to the stockpile area.
 - The smaller, slower haul truck will need to operate over a longer period to establish the stockpiles, but the haulage of lime offsite will still only occur over 4 months (January – April).
 - An increase from 3ha to 4ha for the operational area at the pit location is required to better accommodate the excavation, screening, some storage as well as accommodating the access in and around the pit.
 - Seeking flexibility in truck movements so a shortfall of trucks on one day can be made up for on another day. This will be the same total number of trucks over the period.
 - The requested change on the reporting period provides the same 2-month timeframe for reports to be prepared following the end of carting since December – March was varied to January – April. This also aligns with the Extractive Licence term and the end of financial year.
15. The proponent has considered alternative options for transferring the lime down the hill, such as a slurry pipeline.
16. All options explored proved challenging and ultimately unviable. These other options also still required the space at the bottom of the hill for stockpiling material and loading it onto vehicles to transport it offsite.
17. To effect these proposed changes, the proponent is seeking amendment of four (4) conditions of the existing approval.
18. These conditions are 2, 4, 17 & 43. In part these requested changes are to overcome safety issues related to topographical constraints, but also to assist in general operations.

Condition 2 – Areas of Activity

19. The existing condition reads:

'Excavation, storage and extraction activities shall be contained within an eight hectare area in the location depicted in the plan and entitled "Lot 9005 Eden Road, Nullaki Peninsula Concept Final Contour Plan" drawn by Landform Research dated 21 August 2018 which is annexed to these conditions.

A maximum of three hectares will be open for extraction and storage of extracted material at any one time. The perimeter of the area to be worked must be pegged and clearly marked to ensure that all earthworks are contained within the approved area.'

20. The requested amendment to this condition is:

'Excavation, storage and extraction activities shall be contained within areas A and B depicted on the site plan drawing number 21980-23A prepared by Harley Dykstra. Area A is the 8 hectare excavation, storage and extraction depicted in the Landform Research dated 21 August 2018 which is annexed to these conditions. The perimeter of Area A must be pegged and clearly marked to ensure that all earthworks are contained within the approved area. A maximum of four (4) hectares of Area A will be open for excavation, extraction and operation activities at any one time.

Area B is a three (3.0) hectare area for storage of screened extracted material and truck loading operations. A maximum of 50,000 tonnes of screened material shall be stored within two and half (2.5) hectares of Area B.

Area C is an area of 2,920m² to be used as a layby and a turning circle for trucks on the site.'

21. This change to Condition 2 seeks to increase the open (in use) area within the 8 hectare extraction site; create a 3ha area at the base of the hill for stockpiling lime and loading it on to trucks for carting from the site; and increasing the size of the layby area at the entrance of the site to enable truck turning.

Condition 4 – Time Restrictions on Activity

22. The existing condition reads:

'Except as otherwise approved by the City of Albany, the hours of operation of the extractive industry, including the movement of trucks in or out of the site, shall be restricted to:

- a) the period of 1 January to 30 April; and*
- b) the hours of 7.00am - 5.00pm Monday to Friday, and 8.00am - 5.00pm Saturday, with no operation of the extractive industry permitted on Sundays or Public Holidays.'*

23. The requested amendment to this condition is:

'Except as otherwise approved by the City of Albany the hours of operation of the extractive industry, shall be restricted to the hours of 7.00am – 5.00pm Monday to Friday and, 8.00am - 5.00pm Saturday with no operation of the extractive industry permitted on Sundays or public holidays.

The movement of trucks for the haulage of extracted material out of the site shall be restricted to the period of 1 January to 30 April annually.'

24. This change to condition 4 seeks to allow onsite lime production activities to be undertaken year round, with the trucks carting lime being restricted to only operate during the 4 month window of January to April each year.

Condition 17 – Volume and Vehicle Movement Limits

25. The existing condition reads:

'Extraction from the excavation site shall not exceed 50,000 tonnes in any 12 month period. Laden truck movements from the site shall not exceed fourteen (14) per day.'

26. The requested amendment to this condition is:

'Extraction from the excavation site (Area A) shall not exceed 50,000 tonnes in any 12 months period and the haulage out of the site (Area B) for each haulage operation period (January – April) shall not exceed a daily average of 14 truck movements over each haulage operation period.'

27. This change to condition 17 seeks to permit a daily average of 14 trucks per day with the average being over the 4 month haulage season rather than the set daily 14 truck limit.

Condition 43 – Compliance Report

28. The existing condition reads:

*'The applicant shall submit an annual compliance report to the City of Albany by **30 May** each year. The annual compliance report shall include:*

- (a) an internal compliance audit of all the development and licence approval conditions and Management Plan requirements undertaken by a suitably qualified person to the reasonable satisfaction of the City;*
- (b) details of all community complaints and complaint responses;*
- (c) annual tonnage of extracted material in the previous calendar year;*
- (d) log of cartage trucks to and from the site recorded on a daily basis during period of operation; and*
- (e) other information reasonably requested by the City relevant to management of any impact arising from the operation of the extractive industry.'*

29. The requested amendment to this condition is:

*'The applicant shall submit an annual compliance report to the City of Albany by **30 June** each year. The annual compliance report shall include:*

- (a) an internal compliance audit of all the development and licence approval conditions and Management Plan requirements undertaken by a suitably qualified person to the reasonable satisfaction of the City;*
- (b) details of all community complaints and complaint responses;*
- (c) annual tonnage of extracted material in the previous calendar year;*
- (d) log of cartage trucks to and from the site recorded on a daily basis during period of operation; and*
- (e) other information reasonably requested by the City relevant to management of any impact arising from the operation of the extractive industry.'*

30. This change to condition 43 seeks to alter only the date highlighted in bold with the purpose to reinstate the 2 month report preparation period following cessation of carting lime from the site.

Public Consultation

31. The concerns or objections raised that are directly relevant to the requested condition amendments relate primarily to the following:

- No expansion or increased clearing of vegetation should be allowed.
- This area is zoned Conservation and mining goes directly against conservation principles.
- Impacts on fauna and in particular potential impacts on the habitat and breeding ability of the endangered Australasian Bitterns in the local area.
- Increased span of operation will increase the period of noise and disturbance from the site.
- The noise will have an impact on the Bibbulmun Track year-round.
- No confidence in the owner/operator to meet and abide by the conditions of approval.
- The change from a truck limit per day to an average daily limit over the whole period is effectively no limit as missed trucks could be caught up over a shorter, concentrated period of time.
- A greater concentration of trucks on the road increases the risk and danger to local road users.

32. The proposal was also referred to the Department of Water and Environmental Regulation (DWER), the Department of Biodiversity, Conservation and Attractions (DBCA) and to the Department of Mines, Industry Regulation and Safety (DMIRS).

Assessment

33. As a result of the concerns raised during the submission period, but also in pursuit of the required clearing permit, the applicant arranged for a Fauna Survey of the proposed stockpile and truck turn around areas (Areas B & C). The Fauna Survey recommended that the area of clearing for the stockpile area (Area B) be altered to avoid a pocket of bush that is likely to provide high quality foraging for black cockatoos.
34. In response to this recommendation, the applicant has reduced Area B to avoid this foraging vegetation. Area B has been reduced in size from 3ha to 2.58ha in area.
35. The assessment of the application is based on the latest revised information.
36. The use of the land for Industry – Extractive was previously approved on review by the State Administrative Tribunal and the approval granted has been implemented by the developer within the allowed timeframe. Whilst the Scheme has subsequently been amended to clarify the non-permissibility of Industry – Extractive in the Conservation zone; this change does not affect the legality of this activity under the previous approval. The land use on this lot benefits from a non-conforming use right and under planning regulations can be continued.
37. The City has sought legal advice on whether the City can consider the requested amendment of conditions or if the request should be treated as an entirely new application. The advice received is clear, that under clause 3.9.1(a) of the Scheme, the City can consider an application to alter or extend a non-conforming use of land. The advice has also cited case law around the matters raised including:
 - Re Shire of Carnarvon: Ex Parte Humphry (2005) WASCA 182
 - City of Mitcham v Fusco (2002) 124 LGERA 196
 - Prestige Car Sales Pty Ltd v Walkerville Town Corporation (1979) 20 SASR 514
 - Royal Agricultural Society (New South Wales) v Sydney City Council (1987) 61 LGRA 305.
38. Relevantly to this matter, the above-referenced Royal Agricultural Society case at paragraph 310 stated:

"The courts have done so by refusing to categorise an 'existing use' so narrowly that natural changes in the method of using the land or carrying on a business or industry will render an existing use right valueless. At the same time, the courts have been concerned not to categorise the purpose of an existing use so widely that the land or premises could be used for a prohibited purpose which was not part of its use at the commencement of the legislation."
39. Accordingly, on the basis of these legal determinations, the requested amendments should be considered within the context of the existing approved activity, as they are an extension of the same and do not constitute a change of use or request for a new activity.

Condition 2 – Areas of Activity

40. This land use on this property is a Class 3 extractive industry under the City of Albany Extractive Industries and Mining Policy. Typically, a Class 3 extractive industry is greater than 3 hectares in size. Whilst the current approval is for an area of 8 hectares, the imposed limit on area to be open at any one time is 3 hectares. The requested increase to 4 hectares (if approved) represents the operator being allowed to open 50% of the total approved area at any one time.
41. Area A depicted on Drawing 21980-23B (initially submitted as part of this application) is the 8 hectare area permitted for extractive operations in the existing approval. Indicated within this are the 3 stages originally envisaged whereby each stage is less than 3 hectares in area.
42. The requested increase to 4 hectares being open for extraction operations represents a change to a two (2) stage approach to the lifespan of the extractive.

43. The area already cleared of vegetation where extraction activity commenced in early 2023 is approximately 2.85 hectares in size.
44. The extraction activity in this area has for the most part removed the peaks and undulations of the previous landform and produced a fairly uniform level across the area. As extraction progresses, it will become an excavation.
45. As the excavation goes deeper, access to the working surface level will be required and an access track into and out of the excavation will be required.
46. The deeper the excavation goes, the more horizontal space will be required for the access track and the base excavation area becomes increasingly smaller.
47. The operator has cited operational safety as justification for the requested increase. Whilst it may be difficult to comprehend how 3 hectares of operating area could be a constraint to safe working practices, as explained above, the deeper the excavation goes, the smaller the operating space becomes.
48. Due to this, it is also envisaged the requested increase will be a more efficient use of the overall 8 hectare limit imposed in the original approval which is now a non-conforming use.
49. In one of the Department of Mines, Industry Regulation and Safety (DMIRS) inspection reports for the site, mention is made of the importance of safely excavating sand faces and planning safe mine face heights to prevent equipment being buried in the case of a collapse.
50. The operator advises that 6m is the recommended maximum height for an active excavation face (also mentioned in DMIRS Code of Practice – Excavation). Having additional available working space away from the active excavation face has been verbally communicated as part of the safety considerations behind the request for the additional open area in Area A.
51. As the extraction operation has reached the point where it becomes an excavation, the additional hectare of working area is not envisaged to have any discernible impact outside of the immediate setting onsite.
52. Area B has been presented as an operational solution to safety concerns raised by the DMIRS relating to a safe system of work for haulage of lime sand down the hill. The issue of concern was that road transportation vehicles when loaded had to exit the site via the steep gradient haul road.
53. The existing internal haul road is acceptable for unladen trucks to enter the extraction pit area but considered too steep for loaded road trucks to safely use to leave the property. In addition, the haul road is a straight run down the hill which adds to the concerns.
54. The City was advised that a suggestion was made for an alternative exit route from the extraction pit at a lower gradient incline be explored and thus establish a one-way truck route onsite.
55. This was considered but to achieve an acceptable gradient for these third-party road vehicles, the exit road would be a long winding route through the property.
56. The route to achieve this would be through the area of the lot subject to the Conservation Covenant and to create this would require significantly more vegetation to be cleared than the requested Area B.

57. This proposal means that the site operator is in control of and responsible for the operation of vehicles transporting the extracted material (lime) down the steep incline to a place where it can be loaded onto the road transport trucks for haulage offsite. These road trucks do not then need to navigate the steep descent.
58. Area B is proposed as a stockpile and loading area only. This is where the operator's vehicles would deposit the lime from the extraction pit.
59. The deposited material can then be loaded onto the road trucks for haulage offsite. Plans have been provided to show the separation of these vehicle types and the circulation for their varying activities.
60. Guided by the legal advice received, the area of clearing for the stockpiles and truck loading (Area B) is considered an associated activity intrinsically linked to the existing use right to extract lime from Area A.
61. The reason for requesting the use of this area is to overcome the safety concerns raised by DMIRS in relation to the internal haul road and provide the required safe system of work for haulage of lime sand down the hill. Without this, or some other solution, the extractive cannot operate and the existing land use right would be valueless.
62. Other solutions have been explored and this is considered the least environmentally intrusive option.
63. Area B was selected as it is in close proximity to the existing haul road. It has previously been cleared and used for running stock and it is relatively low lying, so is not readily visible from outside the site.
64. In addition, it is set behind an area of more established vegetation to further screen it from the eastern lot boundary.
65. The vegetation survey provided is a broad identification of the vegetation type across the area. The survey identified that the vegetation proposed to be cleared is not representative of threatened or priority ecological communities and does not contain threatened (declared rare) or priority species.
66. Whilst in good to excellent condition, the type of vegetation is common and widespread in the locality.
67. The extent of Area B (stockpile and loading area) has been revised to avoid a parcel of vegetation to the east of the proposed stockpile areas.
68. This arose from a recommendation from the new fauna survey due to this parcel of vegetation likely to provide high quality foraging for black cockatoos. This survey and the plan showing the revised extent of Area B has been referred to the relevant government agency (DWER) for consideration of any change or update on their original comments.
69. The DWER has noted the alteration of the area proposed to be cleared and has advised this does not alter their previous advice.
70. The areas identified for the stockpile locations are approximately 250m away from the lot boundary and the loading ramp for the loading of road trucks for lime to be taken offsite is in excess of 200m from the lot boundary. The established bush to be avoided and retained lies between the stockpile areas and loading ramp, and the boundary.
71. The Environmental Protection Authority Guidance for the Assessment of Environmental Factors – *Separation Distances between Industrial and Sensitive Land Uses* (June 2005) suggests buffer distances for various industrial activities from sensitive receptors – generally houses and other forms of human accommodation.

72. This guidance suggests a buffer distance for an Extractive Industry for sand or limestone that does not involve grinding or milling should have a setback buffer of 300-500m depending on its size.
73. This is considered the applicable reference for consideration of the depositing and loading of the lime in the proposed stockpile area as the processing (crushing and screening) would still be undertaken in the existing extraction pit area at the top of the haul road.
74. The Bibbulmun Track overnight shelter at the Nullaki is located to the northeast of the loading ramp at a distance of almost 600m.
75. The closest residential property is 61 Lee Road which is also to the northeast of the loading ramp at a distance of almost 1500m.
76. In addition, the closest area of water visible on aerial images of the Eungedup Wetland referenced in many of the consultation responses is approximately 1000m east-southeast of the loading ramp.
77. Area C is an area of almost 3,000m² that forms a bulge towards the southern end of the truck stacking/parking area close to the site entrance.
78. This area is requested to widen this end of the truck area to allow a road train to turn around onsite, if required, without the need to travel to the pit area or through the Area B loading loop past the stockpile locations.
79. Again, the vegetation survey identified that the vegetation proposed to be cleared is not representative of threatened or priority ecological communities and does not contain threatened (declared rare) or priority species.
80. Area C contains a very small area of low open woodland type vegetation. This woodland type is less common than the other 2 identified vegetation types in the survey area, but is still widespread and well represented on low lying areas in the locality.
81. The shape of Area C has been selected to retain the more mature vegetation specimens.
82. Whilst the requested amendment to the condition references particular drawings, this was reflective of the original submission. The plans have subsequently been amended in response to queries raised and each revised drawing has a new version number.

In Summary:

83. The increase of open area from 3ha to 4ha within Area A is considered to have no discernible impact outside of the immediate vicinity now that the extractive has reached the stage where it will become an excavation.
84. This would still be within the original approved 8 hectare area and is considered to be consistent with the requirements of the Extractive Industries and Mining Policy.
85. The Area B stockpile area will overcome the identified safety issue of the steep gradient haul road.
86. The area has previously been grazed and the vegetation is less established than surrounding areas, which together with it being low-lying also help in obscuring direct views from the adjoining reserve to the east.
87. The clearing and use of Area B as a stockpile and loading area only will have less environmental impact than an alternative access route that would have to be longer to achieve the required gentle gradient.

88. The proponent has taken additional steps to minimise the impact by altering the size and shape of the area to avoid the identified habitat providing high quality foraging for black cockatoos.
89. This established vegetation also provides an element of visual screening from the adjoining reserve. It is appropriate that the height of the stockpiles is limited to ensure the screening is achieved.
90. The size and shape of Area C has been selected to retain the more established vegetation whilst providing space to facilitate truck turning (if necessary) without travelling further through the site.
91. Together the proposed clearing of Areas B & C is now less than 3ha in area and the vegetation that would be cleared is for the most part common and widespread throughout the area.
92. On this basis, it is considered that an amendment of Condition 2 can be approved. Although not to the exact description applied for but achieving the same intended outcome with a more robust and concise wording.

Condition 4 – Time Restrictions on Activity

93. The requested amendment seeks to allow year-round operation onsite, but still limit the haulage of lime offsite to the approved 4 month period each year. The reason for this is to allow replenishment of the proposed stockpiles at the bottom of the hill over a longer period of time due to the use of the operator's smaller, slow moving haul truck.
94. For efficiency of operations, the City has been informed that extraction and processing at the pit would not occur during the haulage period when road trucks are loaded from the stockpiles.
95. The loader used in the pit to load the haul truck would be relocated to the stockpile area and used to load the road trucks for haulage of lime offsite.
96. The haul truck is a slow moving vehicle. Getting loaded at the pit and making the 3km round trip to unload at the stockpile area to return to the pit is estimated to take 30 minutes.
97. Therefore, a single haul truck would be using the haul road up to 4 times per hour during the hours of operation.
98. In the consultation responses, the noise impact on the Bibbulmun Track and the Nullaki camp shelter was raised as a concern.
99. The existing approved period of operation (January to April) is already established, and it is only the requested additional operating time that can be considered as part of this request.
100. Whilst the camp shelter is almost 600m from the loading ramp, it is approximately 450m from the closest point of the haul road that would be used by the haul truck. However, the Bibbulmun Track to the south of the Nullaki shelter meanders through the landscape and comes within 5m of the haul road at one point on the steep slope.

101. The proponent has provided an acoustic assessment that indicates noise levels produced by various vehicles that would be used onsite – road trucks, haul truck and the front end loader.
102. Computer modelling has been used to determine the noise level impact from the vehicles at the Nullaki shelter as a sensitive premises. It is noted that the acoustic report has used the previously proposed Lee Road realignment as a reference point for the road trucks.
103. The road trucks are not relevant to this request, so the findings relating to these vehicles at the incorrect and much-reduced distance are not required and can be dismissed.
104. At the shelter, the modelled noise level from the haul truck and the front end loader have been determined to be 35 and 37 dB(A) respectively. Even if a 5dB(A) penalty is applied for a tonal component, these levels are still below the 45dB(A) assigned outdoor noise levels for a highly sensitive area during regular working hours.
105. These modelled noise levels would comply with the requirements set out in the *Environmental Protection (Noise) Regulations 1997*.
106. Given the hours of operation of the site are 7am to 5pm Monday to Friday, it is expected that most users of the shelter would be walking the track between shelters during the greater part of these times and therefore would not be at the shelter.
107. It is also recognised that walking the Bibbulmun Track is not an entirely traffic or noise free experience. Walkers continuing through on this track section may experience 2 or 3 haul truck movements as they pass through during the daytime operating period.
108. In addition to the noise impact on users of the Bibbulmun Track, the noise impact on fauna and in particular the Australasian Bitterns was raised as a concern.
109. These endangered birds nest and breed in the area between September and December. Their successful breeding relies on females hearing the males' booming calls, so there is concern that noise may have a significant disruptive impact.
110. Although the acoustic assessment has followed the guidance and assessed the noise level at a noise sensitive premises as required, the Bittern habitat is further away from the haul road than the Bibbulmun Track Nullaki shelter.
111. Accordingly, it is anticipated that operating vehicle noise will be even less noticeable at this location.
112. Furthermore, in response to the concerns raised, the proponent has through their Environmental Consultant undertaken and provided research and analysis of published scientific data on the Australasian Bitterns.
113. This research suggests that any noise from onsite activities may not necessarily impact the Bitterns ability to breed as their 'booming' calls are mostly at dawn and dusk during the mating season and they rest hidden away during the day.
114. In response to the findings from this research, the proponent has offered a variation of their requested use of the haul road and activities in the stockpile location (Area B) to the hours of 8am to 5pm during the September to December period.
115. It is suggested that doing so would avoid the dawn and dusk times when the males make their 'booming' mating calls to females and therefore be unlikely to impact the breeding of the Australasian Bitterns.
116. Whilst this offered change alleviates some of the concern on impacts to the Bitterns, the provided research does say the mating calls are mostly at dawn and dusk, not exclusively at these times.
117. Therefore, potential remains for some, albeit reduced, impact on the Bitterns mating conditions.
118. If the use of the haul road and activity in the stockpile location (Area B) were to cease during the September to December breeding season, there would still be over 100 days after the export period for the stockpiles to be replenished.

119. Replenishment of 50,000 tonnes of lime could be achieved during this time with 17 haul truck loads per day assuming a minimum 30 tonnes of material in each load.
120. Cessation of this activity during Spring would also remove any disturbance to users of the Bibbulmun Track during this busier period of track use.
121. The amended request from the proponent is for a twelve month per year operation onsite within the standard hours for an Extractive Industry, but for the use of the internal haul road and the proposed stockpile area to be restricted to 8am to 5pm Monday to Saturday from 1 September to 31 December each year.
122. Also to continue the limitation of haulage of lime material offsite during 1 January to 30 April each year.
123. However, as per the considerations set out above, limiting operational use of the internal haul road and the stockpile area (Area B) to the January to August (inclusive) period is considered to afford the operator plenty of opportunity to replenish the lime stockpiles within Area B.
124. This period avoids the spring breeding season of the bitterns and also the busier period of Bibbulmun Track use.
125. On this basis, it is considered that an amendment of Condition 4 can be approved. The recommended revised wording provides a clear distinction and separation of the activities onsite and the limitations on these activities.

Condition 17 – Volume and Vehicle Movement Limits

126. The requested amendment seeks to allow truck movements hauling lime from the site to be averaged over the period rather than a fixed daily maximum number of 14 trucks. The proponent suggests a limit of an average of 14 trucks per day would be achieved and adhered to.
127. The proponent advises that from their first partial season of operation they experienced difficulties with reliability of trucks.
128. Although they had a booking system in place, some trucks were cancelled at short notice, and it was too late to arrange a replacement to fill the booked slot. From this, they see the 14 trucks per day limit as overly restrictive and inflexible.
129. Whilst solving an operational obstacle for the operator, the requested average raises potential issues for the local community, and this was commented on in some of the consultation responses.
130. The requested average of 14 trucks per day over the 4-month operating period would give a free reign (subject to operational capacity for loading trucks) to double or triple the number of trucks each day in the last period of operation to make up for any shortfall across the period.
131. Whilst this may not be the intent, the requested amendment could allow that eventuality.
132. The current 14 laden trucks each day is 28 road train movements during the 10-hour window each normal weekday.
133. Although the roads along the haulage route have been constructed and upgraded to accommodate these vehicles, any significant increase in the number of trucks would have an impact on the local community residing along and using these relatively quiet rural roads.
134. The proponent has advised that during their initial season they made efforts to book the maximum number of trucks allowed, but on occasion there were circumstances beyond their control which meant they fell short.

135. It would be reasonable to allow some flexibility to enable lost capacity to be caught up, but this needs to be balanced with possible impact on the local community with the associated increased heavy traffic.
136. As highlighted, the requested change to average over the entire 4-month season leaves too little control over the potential impacts on the local community and local road users.
137. The current 14 laden trucks per day over a typical 6-day week is a total of 84 trucks per week. If allowance were given for an average of 14 laden trucks per day over the week, a truck cancelling on Monday could be re-booked or have its place re-assigned to another truck later the same week.
138. This minor and low level redistribution of the traffic volume will likely have little discernible impact, but stretching this out over a longer period could compound the impact with significantly increased numbers of trucks.
139. In reply to the concerns raised, the proponent has responded with a revision on their request and suggest they could work with an average of 14 trucks per day over a rolling 4-week period. They foresee an issue whereby there may be limited truck availability at the commencement of the season and any lesser period will not allow them opportunity to catch up.
140. They see this as still affording them the required flexibility of operation without the ability to disproportionately increase the number of trucks towards the end of the haulage period. Whilst this was not their intent, they recognise this could have been possible within their original request.
141. Whilst the opportunity to catch up may be an operational consideration, as previously discussed, averaging over a longer time period carries the potential to facilitate disproportionately loading the later part of the period and still remain compliant. Any significant increase in truck movements will have an impact on the local community using these relatively quiet rural roads.
142. Methods of road traffic count measurements include average daily traffic (ADT), average weekday traffic (AWDT) and average weekend day traffic (AWEDT). In terms of traffic flows and traffic impacts, it is standard practice to measure the average traffic over a given timeframe.
143. Whilst the proponent has requested a rolling 4-week average (revised from the initial average over the 4 month period), it is more reasonable from a community impact perspective to have this average over a shorter period such as the typical 6 day operating week.
144. The community has always had and continues to maintain their concerns regarding the volume of trucks using the quiet rural roads in this area. Whilst the roads have been upgraded, the design for the upgrades were somewhat constrained due to the available width and alignments of road reserves.
145. The original fixed total of 14 laden trucks per day was considered by the Tribunal as an acceptable traffic volume and would allow the proponent to transport the 50,000 tonnes of lime during the operating period.
146. It is recognised that due to the nature of the operation a fixed daily maximum number of trucks may be difficult to consistently achieve due to circumstances beyond the operator's control and some flexibility would be necessary.
147. The current 14 laden trucks per day over a typical 6-day operating week is a total of 84 trucks per week. Taking community concerns into account as well as considering a degree of flexibility for the operator, it is considered an average of 14 laden trucks per operating day over a 7-day period would allow for a missed truck movement one day to be made up on another day within a short timeframe.

148. This limit would not result in a significant cumulative impact of 'missed' trucks being 'caught up'. This minor redistribution of the traffic volume will likely have little discernible impact on the local community.
149. Although this is not exactly what has been requested by the proponent, this is considered to be an acceptable compromise that provides some degree of flexibility compared to the existing condition.
150. This level of change would have minimal community impact, if any, and on this basis, it is considered this can be supported.
151. The proponent has been advised of the City officer's position and recommendation on this point. They would still like greater flexibility and will consider this further. They may advance an alternative suggestion for consideration.
152. Although not expressly sought as part of this application, due to the request for a separate stockpile area it is appropriate to reconsider the first part of condition 14.
153. The original condition was based on the application which envisaged the extracted material being loaded on to trucks and immediately taken offsite. Hence the condition limits extraction from the excavation site to 50,000 tonnes per annum.
154. With the proposal being to load and remove the same annual tonnage from the site, but from a remote stockpile, it would be appropriate to allow for extraction and stockpile capacity to be marginally larger than the annual export limit.
155. Rather than setting a weight limit to be held within the stockpile area, it is more appropriate to look at the overall volume and size of the stockpiles and any associated visual or other amenity issues associated with this intended element of the operation.
156. As previously stated, the intended stockpile locations are in an area of relatively low lying land. This is approximately 2m lower than the constructed haul road along the eastern lot boundary.
157. The vegetation to be retained between the boundary and majority of the stockpile area varies in height, but a significant proportion is estimated to be 4-6m higher than the haul road. The vegetation would therefore provide an effective visual screen of much of the stockpiles up to a maximum stockpile height of around 6m.
158. Keeping the stockpile height below the height of the surrounding vegetation will also minimise the potential for the material to become wind-borne. Even if some material were to be blown by the wind, it would only affect the immediate stockpile area and unlikely to impact beyond the property boundary.

Condition 43 – Compliance Report

159. The requested amendment seeks to restore the 2-month timeframe to submit the report after the extraction season finishes. When the 4-month season was adjusted from the original December to March period to then be January to April, the compliance report submission deadline was not changed and remained at 30 May.
160. Restoring the original 2 months to be able to compile and submit the report following the end of the haulage period, is considered reasonable and practical as it then aligns with the expiry of the Extractive Industry Licence.
161. Where public submission comments were specifically made on this element, there was general acceptance for this requested change, but this was qualified with the suggestion that such report should be made publicly available and should not have to be obtained via Freedom of Information requests.
162. In addition, condition 45 requiring the operation to pay a 60cents per tonne royalty on the limestone requires the allocation and expenditure of these funds to be detailed in the annual compliance report. It is therefore appropriate to cross-reference this and include this as an express requirement of the compliance report.

- 163. On this basis, it is considered that an amendment of Condition 43 can be approved.
- 164. When determining the proposal, Council may also consider that the proponent be required to produce an Executive Summary of the report that is to be made publicly available.

GOVERNMENT & PUBLIC CONSULTATION

- 165. Given the nature of the application, it was treated as a complex application under clause 64 of the Planning Regulations 2015 for advertising and referral purposes.
- 166. The application was advertised for public comment via direct mail out to nearby landowners along the haulage route as far as Lower Denmark Road.
- 167. A notice was also placed on the City of Albany website with a link to a survey for comments to be made. This advertising was open for 21 days and subsequently extended to 28 days, but any submissions lodged after this time have also been accepted.
- 168. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)
Inform	Mail Out	28/07 – 18/08 (25/08)	15
Inform	Email – Community group mailing list	28/07 – 18/08 (25/08)	41
Consult	Survey	28/07 – 18/08 (25/08)	45

- 169. A total of 74 submissions were received in relation to the proposal. Of these submissions 3 were supportive of the amendments, whilst 66 were clearly opposed to the request.
- 170. The remaining 5 were considered generally opposed. Six of the submissions received from different people included the same detail indicating an objection had been circulated and was copied.
- 171. A couple of these submissions acknowledged they concurred with another opinion raised and repeated the information.
- 172. The broad issue themes raised in the submissions are set out above under Public Consultation, and further discussed under Assessment in relation to the specific matters.
- 173. In addition to the public consultation, the proposal was also referred to the Department of Water and Environmental Regulation (DWER), the Department of Biodiversity, Conservation and Attractions (DBCA) and to the Department of Mines, Industry Regulation and Safety (DMIRS).
- 174. DWER advised that the requested amendments are not covered by existing approvals/licences/permits and the proponent will need to seek an update to or amend these other approvals or obtain new approvals prior to commencing work in accordance with any changed detail.
- 175. The proponent has been informed of the advice from DWER.
- 176. DBCA advised they echo the concerns in the submission from the Bibbulmun Track Foundation regarding the amenity impacts from noise and dust on Track users. The primary concern is noise from the truck and loader movements due to the proximity to the campsite. They advise this can impact hikers at the campsite during the day as well as on the track in the vicinity.
- 177. DMIRS have assessed the proposal with respect to mineral and petroleum resources, geothermal energy and basic raw materials. They advise this proposal raises no significant issues and they have no objections.

STATUTORY IMPLICATIONS

178. As discussed in paragraphs 33-36, the existing Industry - Extractive is now a non-conforming use on this lot and the City's legal advice is that this request should be considered within the context of the existing approved activity.
179. This is an amendment or associated extension of the same activity and is not a change of use or request for a new activity. Consequently, the change to the Scheme that has made the Industry – Extractive land use an 'X' (not permitted) does not impact consideration of this proposal.
180. The *EPA Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005* sets out the criteria for buffers.
181. The relevant comparable industry within the guidelines for the proposed stockpile operation is considered to be Extractive Industry – sand and limestone extraction with no grinding or milling works. The relevant impacts are Noise and Dust with the suggested buffer being 300-500m depending on the size of the operation.
182. The Department of Planning, Lands and Heritage *SPP 2.4 – Basic Raw Materials Guidelines (2021)* incorporates a site selection checklist intended on guiding the applicant during the site selection process.
183. Within this checklist it recommends that adequate setbacks for Extractive Industries from sensitive lands uses should be between 300m and 1km. The guidelines however state that local government assessment and approval should be based on relevant local planning scheme provisions, policies or strategies where applicable.
184. The Department of Planning, Lands and Heritage *SPP 2.9 – Water Resources (2006)* is awaiting finalisation of the review and is due to be replaced. Currently there is a *Draft State Planning Policy 2.9 Planning for Water* and *Planning for Water Guidelines* which have completed public comment and once gazetted will replace the current SPP 2.9.
185. The current SPP under Schedule 2 suggests foreshore management and protection areas of 30m for waterways and 50m for estuaries, with no mention of a similar type of setback for wetlands.
186. The draft guidelines do not contain defined foreshore management setbacks and recognise that for foreshore areas and buffers to perform their function they require an appropriate width of healthy native vegetation.
187. This will vary depending on the water body and the location and should be identified as part of Water Management Reports consistent with EPA Guidelines.
188. The City of Albany Extractive Industries and Mining Policy requires that buffer distances are to be in accordance with EPA requirements.
189. Voting requirement is a **Simple Majority**.

POLICY IMPLICATIONS

190. The primary assessment criteria for the application is set out in the City of Albany *Extractive Industries and Mining Policy*.
 - a. The proposal is classified as a Class 3 extractive industry under the policy. Class 3 extractive industries have site extraction areas greater than 3 hectares with a maximum depth exceeding 3 metres.
 - b. The policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The *EPA Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005* has an activity that is considered comparable to the loading of trucks from the stockpile. This comparable activity is extractive industry – sand and limestone extraction with no grinding or milling works. The relevant buffer distance for this activity is 300-500m depending on the size. The loading ramp is indicated to be in excess of 200m from the lot boundary. The Bibbulmun Track Nullaki camp shelter is almost 600m away and the closest dwelling to the northeast is almost 1500m from the loading ramp.

- c. It should be noted that the applicant is required to obtain a clearing permit for the additional areas and also seek variations to existing licences and works approvals through DWER for their intended alteration of operations. A full assessment by DWER of these aspects of the proposal would be undertaken at that time. Regarding the clearing permit component, DWER have indicated agreement in principle for the specific areas covered by this application. The agreement is conditional on the proponent receiving development approval within a certain timeframe.
- d. The proposed stockpile area is compliant with the provision of the policy that requires pits to be located 40 metres from any public road and 20m from any other boundary.

RISK IDENTIFICATION & MITIGATION

191. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Organisational Operations and Reputation. Risk: The proposed amendment of conditions could have a variety of detrimental impacts on the area.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Mitigation of impacts to be achieved through considered revision of conditions and follow up enforcement if and when required.</i>
<i>Opportunity: Facilitate the modest changes required to enable the non-conforming use established on the lot to continue to service the local agricultural sector bringing the sector a more efficient and cost-effective source of material.</i>				

FINANCIAL IMPLICATIONS

- 192. All costs associated with the development will be borne by the proponent.
- 193. However, should the proponent be aggrieved by Council’s decision or any of the amended conditions and seek a review of that decision or conditions through the State Administrative Tribunal, the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.

LEGAL IMPLICATIONS

- 194. Council is at liberty to use its discretion to approve or refuse the proposal.
- 195. The proponent has the right to seek a review of the Council’s decision, including any conditions attached to an approval to the State Administrative Tribunal, in accordance with Section 252 of the *Planning and Development Act 2005*. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

ENVIRONMENTAL CONSIDERATIONS

- 196. The DWER are the responsible body for the assessment of the environmental impacts of the proposal. The clearing requires a clearing permit that has already been lodged with the DWER.
- 197. The fauna survey has been undertaken pursuant to the clearing permit and the changes recommended from this survey have been incorporated through the revised detail received.
- 198. The DWER has indicated an agreement in principle in relation to the clearing permit. This agreement is subject to the proponent obtaining development approval within a given timeframe, otherwise the permit will be refused, and a new clearing permit application would then have to be lodged.
- 199. Separately, the DWER has advised that this proposal would require revision/amendment of existing permits and works approvals in relation to this property.

- 200. In response to the concerns raised in submissions in relation to the endangered Australasian Bittern.
- 201. On the basis of their research and analysis of published scientific data on the species, the proponent has amended their request to restrict use of the internal haul road and operations in the proposed stockpile area between the hours of 8am to 5pm during the mating season (September to December).
- 202. This would avoid noise generating activity at dawn and dusk which are mostly the times when the male bitterns call or ‘boom’ to any females.

ALTERNATE OPTIONS

- 203. Council has the following alternate options in relation to this item, which are:
 - i. To determine that the proposed amended conditions are unacceptable and to resolve to refuse each or all of the recommended conditions. Each requested amendment of condition is subject of a separate recommendation, so a decision can be made independently on each of the requested amended conditions; or
 - ii. To alter, amend, or replace recommended conditions to address potential impacts from the development.
- 204. Each of the recommendations will require a decision. If Council is not supportive of a recommendation, a decision to refuse will need to be motioned. If a recommendation is refused, the amended condition will not apply and control over the land use onsite will revert to the existing condition set in the State Administrative Tribunal decision.

CONCLUSION

- 205. Each of the conditions requested to be amended have been assessed. Some of them have been revised by or in consultation with the proponent to address new information that has arisen through reports or to address concerns raised in public submissions.
- 206. Overall, whilst the recommended amendments are not entirely what was sought by the proponent, they are considered a suitable compromise that address and mitigate the concerns raised from the public consultation and also provide the operator a viable amendment of the existing conditions.
- 207. It is therefore recommended that Council approve the documented amendments to the conditions of approval.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> 3. <i>City of Albany Extractive Industries and Mining Policy</i> 4. <i>Environmental Protection (Noise) Regulations 1997</i> 5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses 2005</i> 6. <i>State Planning Policy 2.4 – Planning for Basic Raw Materials Guidelines</i> 7. <i>State Planning Policy 2.9 – Water Resources</i> 8. <i>Draft State Planning Policy 2.9 – Planning for Water Guidelines</i> 9. <i>DMIRS Code of Practice - Excavation</i>
File Number	:	A200151
Previous Reference	:	DIS047, OCM September 2017 DIS106, OCM July 2018

**DIS377: C23025 - ALBANY HIGHWAY (SLK 1.97 – 2.48)
RESURFACING**

Land Description	: Albany Highway - Mt Melville, Centennial Park & Albany.
Proponent / Owner	: City of Albany
Business Entity Name	: City of Albany
Attachments	: Commercial in Confidence - Confidential Briefing Note
Report Prepared By	: Acting Team Leader Civil Infrastructure (A Henderson)
Authorising Officer:	: Executive Director Infrastructure, Development & Environment (P Camins)

CONFIDENTIAL ATTACHMENT

It is recommended that if discussion is required in regards to details contained within the Confidential Attachment, that the matters are discussed behind closed doors, in accordance with section 5.23(2)(c) & (e)(ii) of the Local Government Act 1995, being: a contract which may be entered into and information that has commercial value.

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Place
 - **Outcome:** A safe, sustainable and efficient transport network.
 - **Objective:** Improve road safety, connectivity and traffic flow.

Maps and Diagrams:



In Brief:

- Following a competitive tender process, council approval is sought to award Tender C23025 - Albany Highway (SLK 1.97 – 2.48) resurfacing of the road surface from Sanford Road to York Street.
- Two (2) complying tenders were received, with Tenderer B being the recommended contractor.
- Construction is expected to commence in January 2024 with completion in late March 2024.

RECOMMENDATION

**DIS377: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council AWARD Contract C23025 – Albany Highway (SLK 1.97 – 2.48) resurfacing to the tenderer recommended by the evaluation panel, as detailed in the Confidential Briefing Note attached to this report.

DIS378: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TRAILL
SECONDED: COUNCILLOR TERRY

THAT the Authorising Officer Recommendation be ADOPTED

CARRIED 10-0

DIS377: AUTHORISING OFFICER RECOMMENDATION

THAT Council AWARD Contract C23025 – Albany Highway (SLK 1.97 – 2.48) resurfacing to the tenderer recommended by the evaluation panel, as detailed in the Confidential Briefing Note attached to this report.

BACKGROUND

2. Albany Highway is a 4-lane arterial road and is the major route into the Albany central business district. The road carries approximately 16,000 vehicles per day and is fronted by both commercial and residential properties.
3. The proposed work involves the replacement of the existing asphalt surface for the entire length from just north of Sanford Road, including the Sanford Road roundabout, to a point north of the York Street roundabout.
4. Design and specification documentation was prepared by the City of Albany to the stage of 'Issued for Tender'.
5. The tender was open from 1st November 2023 to 22nd November 2023.

DISCUSSION

6. The standard tender process as prescribed by the Local Government Act 1995 (the Act) and Local Government (Function and General) Regulations 1996 (the Regulations) was followed.
7. A total of Two (2) tender documents were issued by City of Albany.
8. Two (2) complete tender documents were submitted on or before the stipulated closing date and time.

9. The tenders were evaluated using the weighted attributes methodology. This method scores the evaluation criteria and weights their importance to determine an overall points score for each tender. The criteria are tabled below:

Criteria	% Weighting
Cost	20%
Relevant Experience	35%
Demonstrated Understanding	25%
Tenderers Resources	15%
Corporate Social Responsibility	5%
Total	100%

10. The following table summarises the tenderers and their weighted scores:

Tenderer	Weighted Score	Rank
Tenderer A	562.69	2
Tenderer B	680.65	1

11. Only Tenderer B claimed the Buy Local Policy reduction.
 12. Tenderer B ranked highest with the highest score of 680.65.
 13. From the evaluation scoring Tenderer B are the preferred tenderer and consequently it is recommended that their tender be accepted and the contract be awarded.

GOVERNMENT & PUBLIC CONSULTATION

14. A request for tenders was published in *The West Australian* on Wednesday 1st November 2023 and *The Extra* on Friday 3rd November 2023.

STATUTORY IMPLICATIONS

15. Regulation 11 of the Local Government (Functions and General) Regulations 1996 (Regulations) requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$250,000.
 16. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
 17. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council's decision.
 18. Voting requirement for this item is **Simple Majority**.

POLICY IMPLICATIONS

19. Council's Purchasing Policy (Tenders & Quotes) and Buy Local Policy (Regional Price Preference) are applicable to this item.
 20. The value of this tender is in excess of \$500,000 and therefore Council approval is required as this exceeds the CEO's delegation.

RISK IDENTIFICATION & MITIGATION

21. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>People Health and Safety</i> <i>A vehicle accident occurs due to poor geometry and narrow road width.</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Continue upgrading road as funding is available.</i>
<i>Finance</i> <i>Non-compliance with contract or business failure</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Standard general conditions of contract protect the City by allowing for contract termination on the basis of failure to supply goods and services.</i>

FINANCIAL IMPLICATIONS

- 22. The value of this tender is in excess of \$500,000 and therefore approval is referred to Council for consideration.
- 23. More detailed information regarding the financial implications are contained in the Confidential Briefing Note.
- 24. External funding for two thirds of this project has been received from Road Projects Grants with the remainder being funded with municipal funds in the 2023-2024 budget.
- 25. The current budget is adequate to cover the tender amount including a small amount of contingency.

LEGAL IMPLICATIONS

26. There are no legal implications associated with this item.

ENVIRONMENTAL CONSIDERATIONS

27. There is no clearing of vegetation or impact on any waterway associated with this item.

ALTERNATE OPTIONS

- 28. The options are:
 - a. Council may elect to accept the recommended tender; or
 - b. Not approve any tender.

CONCLUSION

- 29. The City has undergone a competitive process in line with the relevant legislation and established policies.
- 30. It is recommended, based on the evaluation scoring, clarification and financial check processes that the tender be awarded to Tenderer B.

Consulted References	<ul style="list-style-type: none"> • Local Government (Functions and General) Regulations 1996 • Council Policy – Purchasing • Council Policy – Buy Local (Regional Price Preference)
File Number	C23025
Previous Reference	N/A

**DIS378: C23028 – MARINE DRIVE MOUNTS ACCESS PATHWAY –
BRUNSWICK ROAD TO APEX DRIVE**

Proponent / Owner	: City of Albany.
Business Entity Name	: City of Albany.
Attachments	: Commercial in Confidence - Confidential Briefing Note under separate cover
Report Prepared By	: Acting Team Leader Infrastructure (A Henderson)
Authorising Officer:	: Executive Director Infrastructure, Development & Environment (P Camins)

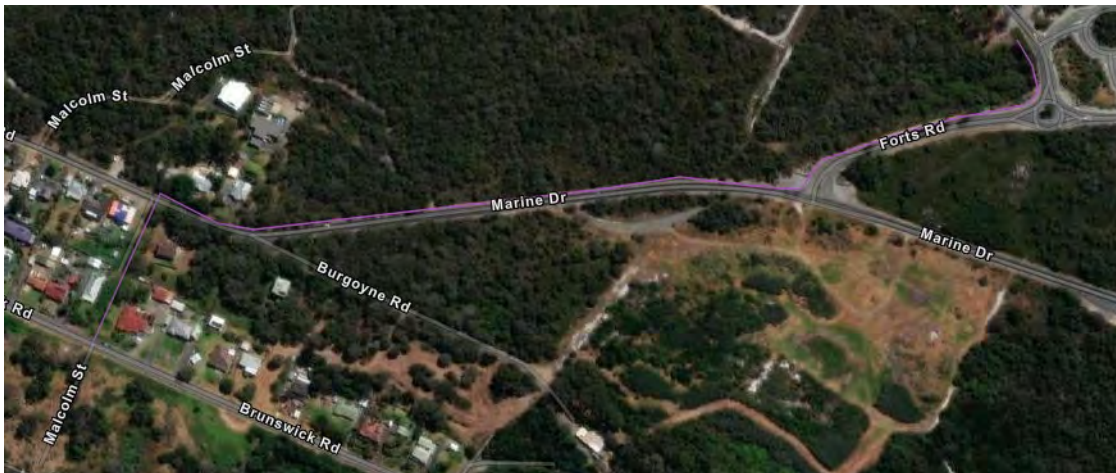
CONFIDENTIAL ATTACHMENT

It is recommended that if discussion is required in regards to details contained within the Confidential Attachment, that the matters are discussed behind closed doors, in accordance with section 5.23(2)(c) & (e)(ii) of the Local Government Act 1995, being: a contract which may be entered into and information that has commercial value.

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Place.
 - **Outcome:** A safe, sustainable and efficient transport network.
 - **Objective:** Encourage more people to use active transport (walking and cycling).

Maps and Diagrams:



In Brief:

- Following a competitive tender process, and securing of additional funds, Council approval is sought to award Tender C23028 Marine Drive Mounts Access Pathway – Brunswick Road to Apex Drive.
- Three (3) complying tenders were received, with Tenderer C being the recommended contractor.
- Construction is expected to commence in late January 2024 with completion in late March 2024.

RECOMMENDATION

**DIS378: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council AWARD Contract C23028 Marine Drive Mounts Access Pathway – Brunswick Road to Apex Drive to the tenderer recommended by the evaluation panel, as detailed in the Confidential Briefing Note attached to this report.

DIS378: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR MCKINLEY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

DIS378: AUTHORISING OFFICER RECOMMENDATION

THAT Council AWARD Contract C23028 Marine Drive Mounts Access Pathway – Brunswick Road to Apex Drive to the tenderer recommended by the evaluation panel, as detailed in the Confidential Briefing Note attached to this report.

BACKGROUND

2. The City of Albany was successful in obtaining West Australian Bike Network (WABN) funding from the Department of Transport (DoT) for the construction of a concrete path from Brunswick Road to Apex Drive, aligning with the Mounts Master Plan. WABN funding is up to 50% contribution for paths that are included in cycling strategies.
3. This path link will improve the safety of pedestrians and bikes on existing roads, as well as providing a link for visitors from the Port or CDB to the National Anzac Centre (Mounts).
4. The proposed work involves the construction of a 2 metre wide concrete path with associated piped drainage, linking an existing path on Brunswick Road to an existing path on Apex Drive via Marine Drive and Forts Road.
5. Design and specification documentation was prepared by the City of Albany to the stage of 'Issued for Tender'.
6. The tender was open from 25th October 2023 to 27th November 2023.

DISCUSSION

7. A total of twenty (20) tender documents were issued by City of Albany.
8. Three (3) complete tender documents were submitted on or before the stipulated closing date and time.
9. The tenders were evaluated using the weighted attributes methodology. This method scores the evaluation criteria and weights their importance to determine an overall points score for each tender. The criteria are tabled below:

Qualitative Criteria	Weighting (%)
Cost	35
Relevant Experience	35
Ability to meet the required timeframe	25
Corporate Social Responsibility	5
Total	100

10. The following table summarises the tenderers and their weighted scores:

Tenderer	Total Score	Rank
Tenderer A	319.54	3
Tenderer B	585.50	2
Tenderer C	669.97	1

11. All Tenderers claimed the Buy Local Policy reduction.
12. Tenderer C ranked highest with the highest score of 699.97.
13. From the evaluation scoring Tenderer C are the preferred tenderer and consequently it is recommended that their tender be accepted and the contract be awarded.

GOVERNMENT & PUBLIC CONSULTATION

14. A request for tenders was published in *The West Australian* on Wednesday 25th October 2023 and *The Extra* on Friday 27th October 2023.

STATUTORY IMPLICATIONS

15. Regulation 11 of the Local Government (Functions and General) Regulations 1996 (Regulations) requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$250,000.
16. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
17. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council’s decision.

POLICY IMPLICATIONS

18. Council’s Purchasing Policy (Tenders & Quotes) and Buy Local Policy (Regional Price Preference) are applicable to this item.
19. The value of this tender is in excess of \$500,000 and therefore Council approval is required as this exceeds the CEO’s delegation.

RISK IDENTIFICATION & MITIGATION

20. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

<i>Risk</i>	<i>Likelihood</i>	<i>Consequence</i>	<i>Risk Analysis</i>	<i>Mitigation</i>
<i>Environment</i> <i>Risk: Increased vehicle traffic accessing Mount Clarence and the National Anzac Centre causing pollution.</i>	<i>Likely</i>	<i>Moderate</i>	<i>Medium</i>	<i>If proposed path link is accepted this will encourage more users to walk or cycle to these facilities.</i>
<i>People Health and Safety</i> <i>Risk: Pedestrians accessing Mt Clarence or National Anzac Centre are required to use the verge or road risking being struck by vehicles.</i>	<i>Possible</i>	<i>Severe</i>	<i>High</i>	<i>A clear, delineated path would increase the level of safety for pedestrians.</i>
<i>Opportunity: To link Mount Clarence and the National Anzac Centre to the City CBD via an all access pathway.</i>				

FINANCIAL IMPLICATIONS

- 21. The value of this tender is in excess of \$500,000 and therefore approval is referred to Council for consideration.
- 22. More detailed information regarding the financial implications are contained in the Confidential Briefing Note.
- 23. Funding for this project has been received from the Department of Transports, Western Australian Bicycle Network program, and municipal funds allocated in the 2023-2024 budget.
- 24. A request for additional funds has been requested as part of CCS585.

LEGAL IMPLICATIONS

25. There are no legal implications associated with this item.

ENVIRONMENTAL CONSIDERATIONS

26. Vegetation clearing as part of this contract is considered to be minimal, of low impact and is exempt from any required referrals or approvals. Removal of one tree is required. Alternative designs were investigated to try and mitigate the removal of the tree however, site constraints are such that this is unavoidable.

ALTERNATE OPTIONS

- 27. The options are:
 - a. Council may elect to accept the recommended tender; or
 - b. Not approve any tender.

CONCLUSION

- 28. The City has undergone a competitive process in line with the relevant legislation and established policies.
- 29. It is recommended, based on the evaluation scoring, clarification and financial check processes that the tender be awarded to Tenderer C.
- 30. In order to award the tender an increase in budget as part of CCS585 is required.

Consulted References	<ul style="list-style-type: none"> • Local Government (Functions and General) Regulations 1996 • Council Policy – Purchasing • Council Policy – Buy Local (Regional Price Preference)
File Number	C23028
Previous Reference	N/A

DIS380: PLANNING AND BUILDING REPORTS NOVEMBER 2023

Proponent / Owner : City of Albany.
Attachments : Planning and Building Reports November 2023
Report Prepared By : Technical Support Officer (P Ruggera)
Authorising Officer: : Manager Planning and Building Services
(J van der Mescht)

RECOMMENDATION

DIS380: AUTHORISING OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the Planning and Building Reports for November 2023 be NOTED.

AR140: ANNUAL FINANCIAL REPORT – 30 JUNE 2023

Proponent / Owner	: City of Albany
Attachments	: City of Albany Annual Financial Report for the year ended 30 June 2023
Report Prepared By	: Manager Finance (S van Nierop)
Authorising Officer:	: Executive Director Corporate & Commercial Services (M Gilfellon)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan:
 - **Pillar:** Leadership.
 - **Outcome:** Strong workplace culture and performance.

IN BRIEF:

- Receive the Annual Financial Report for the year ended 30 June 2023.

ADDENDUM

AR140: ADDENDUM

An Audit Exit meeting was held at 5.00pm on Monday 4 December 2023. In attendance at the Audit Exit meeting were members of the Audit and Risk Committee, Executive Management Team and Finance Team, KPMG and Office of the Auditor General representatives.

On Wednesday 6 December 2023, the City of Albany received the finalised Annual Financial Report for the year ended 30 June 2023 from the Office of the Auditor General.

Attached is the finalised Annual Financial Report for the year ended 30 June 2023.

There are no legal implications related to this report.

RECOMMENDATION

**AR140: AUTHORISING OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the City of Albany Annual Financial Report for the year ended 30 June 2023 be RECEIVED.

Officer Comment: Removal of Draft, noting addendum.

AR140: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY

SECONDED: COUNCILLOR MCKINLEY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 6-0

AR140: AUTHORISING OFFICER RECOMMENDATION

THAT the DRAFT City of Albany Annual Financial Report for the year ended 30 June 2023 be RECEIVED.

BACKGROUND

2. An Annual Financial Report is required to be compiled and subsequently audited, under the Local Government Act 1995 (the Act) and various Local Government regulations.

DISCUSSION

Financial Audit

3. An onsite visit and audit of the City's financial statements and Annual Financial Report for the financial year ended 30 June 2023 was conducted by employees of KPMG on behalf of the Office of the Auditor General.
4. The Audit Exit Meeting between the City of Albany, KPMG, and the Office of the Auditor General, has been scheduled for 5:00pm on Monday 4th December 2023.
5. Any findings, including updates made to the DRAFT Annual Financial Report will be presented and discussed at the Audit Exit Meeting and recorded as an addendum to this report.
6. Once received, the final audited and signed Annual Financial Report is to be presented to Council at an Ordinary Council Meeting.

Annual Report

7. The City is in the process of finalising the section of the Annual Report, which provides an overview of the City's operations, and compliance with policy and legislation as required by the Act and associated regulations.
8. The additional information that will be presented with the finalised Annual Financial Report provides an overview of the operations, activities and major projects undertaken by the City for the period, and includes major initiatives proposed to commence or to continue in the next financial year.
9. The performance of the Council is assessed against the City of Albany Strategic Community Plan and the actions contained in the Corporate Business Plan.
10. These plans provide strategic focus for elected members and the organisation and affirms our commitments to the community.

GOVERNMENT & PUBLIC CONSULTATION

11. Public consultation will be facilitated through the convening of an Annual Meeting of Electors, which will be held as soon as practicable after the finalised Annual Report has been accepted by the local government.

STATUTORY IMPLICATIONS

12. In accordance with section 7.9 of the Act, an audit is required to examine the accounts and Annual Financial Report prepared for the Mayor, the CEO and the Minister.
13. Under the Audit and Risk Committee Terms of Reference, the committee is to review the financial audit report and make appropriate recommendations to Council.
14. Section 5.54 of the Act, states in part:

“The Annual Report (which includes auditor's report) is to be accepted by the local government no later than 2 months after the auditor's report becomes available”.

POLICY IMPLICATIONS

15. There are no policy implications related to this item

RISK IDENTIFICATION & MITIGATION

16. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Operational: The Annual Financial Report is not accepted by the Audit & Risk Committee.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>The Audit & Risk Committee and City Officers work with the auditors to address areas of concern to come to a position of acceptance.</i>

FINANCIAL IMPLICATIONS

17. There are no budget financial implications related to this report.

LEGAL IMPLICATIONS

18. The City is yet to receive the auditor’s report, therefore there it is unknown whether or not there are legal implications related to this report.

ENVIRONMENTAL CONSIDERATIONS

19. There are no direct environmental considerations related to this item.

ALTERNATE OPTIONS

20. The Committee may recommend to Council to accept or reject the Annual Financial Report.

CONCLUSION

21. It is recommended that the Authorising Officer’s Recommendation be adopted.

Consulted References	:	<i>Local Government Act 1995 (the Act); Local Government (Administration) Regulations 1996, Operational Guideline No. 9-Appointment, Function and Responsibilities of Audit Committees</i>
File Number	:	<i>IM.PUB.19 – Publication - Annual Report – City of Albany FM.MEE.3 – Meetings – Audit & Risk Committee</i>
Previous Reference	:	<i>Audit & Risk Committee 14/11/2022 Report AR123. OCM 13/12/2022 Resolution AR123.</i>

AR141: INTERNAL AUDIT PROGRAM

Proponent / Owner	: City of Albany
Report Prepared By	: Manager Finance (S van Nierop)
Authorising Officer:	: Executive Director Corporate & Commercial Services (M Gilfellon)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan:
 - **Pillar:** Leadership.
 - **Outcome:** Strong workplace culture and performance.

IN BRIEF:

- The Audit & Risk Committee (ARC) is responsible for assisting Council to discharge its responsibilities with regard to the exercise of due care, diligence, and skill in relation to the reporting of financial information, application of accounting policies, management of the financial affairs of the City, and assessment of the adequacy of the management of risk, internal control, and legislative compliance.
- The Committee is requested to discuss the merits of engaging a contractor to conduct internal audit and assurance services to the City of Albany, to assist Council to discharge its responsibilities as outlined above.

RECOMMENDATION

AR141: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

THAT:

1. **The CEO be requested to seek quotations from suitably qualified auditors to provide internal audit and assurance services to the City for the following modules at a minimum:**
 - **Financial Management Review**
 - **Regulation 17 Review; and**
 - **Other modules as decided by Council.**
2. **The Auditor will be appointed by resolution of Council.**

AR141: COMMITTEE RECOMMENDATION

MOVED: MAYOR STOCKS
SECONDED: COUNCILLOR MACLAREN

THAT:

1. The CEO be requested to seek quotations from suitably qualified auditors to provide internal audit and assurance services to the City for the following modules at a minimum:
 - Financial Management Review
 - Regulation 17 Review; and
 - Other modules as decided by Council.
2. The Auditor will be appointed by resolution of Council.

CARRIED 6-0

AR141: AMENDMENT BY MAYOR STOCKS

MOVED: MAYOR STOCKS
SECONDED: COUNCILLOR MACLAREN

THAT the Authorising Officer Recommendation be AMENDED to read:

1. The CEO be requested to seek quotations from suitably qualified auditors to provide internal audit and assurance services to the City for the following modules at a minimum:
 - Financial Management Review;
 - Regulation 17 Review; and
 - Other modules as decided by Council.
2. The Auditor will be appointed by resolution of Council.

CARRIED 6-0

Following discussion by the Audit and Risk Committee, Mayor Stocks then proposed an amendment.

AR141: AUTHORISING OFFICER RECOMMENDATION

MOVED: MAYOR STOCKS
SECONDED: COUNCILLOR MACLAREN

THAT:

1. The CEO be requested to seek quotations from suitably qualified auditors to provide internal audit and assurance services to the City.
2. The Auditor will be appointed by resolution of Council.

BACKGROUND

2. As per the Audit and Risk Committee Terms of Reference, the ARC is responsible for assisting Council to discharge its responsibilities with regard to the exercise of due care, diligence, and skill in relation to the:
 - a. Reporting of financial information;
 - b. Application of accounting policies;
 - c. Management of the financial affairs of the City; and
 - d. Assessment of the adequacy of the management of risk, internal control, and legislative compliance.
3. The ARC will achieve this by:

Audit

- a. Considering and approving the brief for the provision of audit services;
- b. Evaluating the responses to the request for the provision of audit services and to make a recommendation to Council on the appointment of an auditor;
- c. Meeting with Council's external auditors and review the Audit Plan prior to the conduct of the interim audit each year;
- d. Ensuring that the audit is being conducted in accordance with the brief and the terms of appointment and that matters of concern to the Council and/or the Committee are being addressed;
- e. Ensuring that the Council's financial affairs and systems and processes are being managed and reported in accordance with statutory requirements and Australian Accounting Standards;
- f. Ensuring that relevant financial information is reported to Council in a form that meets the needs and expectations of Council, clearly setting out the key relevant financial data, such that the Council can confidently understand the financial performance of the Council's affairs;
- g. Reviewing the audit report and make appropriate recommendations to Council; and
- h. Where appropriate and with the approval of Council seek advice and/or assistance in relation to matters pertaining to the audit or financial affairs of the City.

Risk Management

- i. Address any specific requests referred to it from Council in relation to issues of internal control, legislative compliance, and risk management.
 - j. At least four times every year consider a report in relation to the management of risk within the City of Albany and satisfy itself that appropriate controls and processes are in operation and are adequate for dealing with the risks that impact on the City.
 - k. Chair of the Audit and Risk Committee may nominate a program, project, or risk for examination by the Audit and Risk Committee at any time.
4. The City, along with all other Local Governments in Western Australia, are audited by the Office of the Auditor General (OAG) on an annual basis. This audit is referred to as an "external audit" and is primarily focused on the City's financial statements and annual financial report.
 5. The purpose of internal audit is to focus on other areas of the City, that aren't necessarily covered by the external audit coordinated by the OAG.
 6. To assist with meeting Council's responsibilities, the ARC has previously agreed upon and engaged a contract auditor to complete an extensive three-year internal audit program over the 2019/20, 2020/21 and 2021/22 financial years.

7. Reports on findings and recommendations from these audits have been presented back to the ARC, with progress reporting on agreed upon recommendations to the Committee at each scheduled ARC meeting since the audits commenced.
8. The internal audit program over the 2019/20, 2020/21 and 2021/22 financial years covered twelve (12) modules, being the following:
 - a. FY19/20:
 - i. Project, Tender & Contract Management;
 - ii. Insurance Management;
 - iii. Financial Management Systems Review (legislative requirement);
 - iv. General Financial Controls;
 - b. FY20/21:
 - i. Risk Management;
 - ii. Policy and Procedure Maintenance;
 - iii. Fraud and Corruption Control;
 - iv. Information Technology Systems;
 - c. FY21/22:
 - i. Regulation 17 Review and Compliance (legislative requirement);
 - ii. Access to Account Functions;
 - iii. Asset Management and Capital Commitments;
 - iv. Human Resources.
9. After the three-year program, the City completed a further Financial Management Systems Review in FY2022/23, as required under legislation.
10. It is noted that the Financial Management Systems Review (most recently completed as a standalone project in FY22/23) and Regulation 17 Review and Compliance (FY21/22), are reviews required by the CEO under legislation, each of which are subject of a review not less than once in every 3 financial years.
11. It is suggested and recommended that these legislative reviews are completed by an independent party, both of which are required within the next three years (Regulation 17 Review and Compliance required by 30 June 2025, and Financial Management Systems Review required by 30 June 2026).

DISCUSSION

12. The ARC is requested to discuss the merits behind having an internal audit function.
13. The below table outlines some advantages and disadvantages of having an internal audit function:

Advantages	Disadvantages
Risk Management: Internal auditors can assess and identify potential risks within the organisation, helping management to proactively manage and mitigate these risks.	Cost: Maintaining an internal audit function can be costly, especially for smaller organisations with limited resources.
Internal Controls: The internal audit function evaluates the effectiveness of internal controls, ensuring compliance with policies, procedures, and regulatory requirements.	Potential for Bias: Internal auditors may face pressure to align their findings with the organisation's objectives, potentially compromising their independence.
Operational Efficiency: Internal auditors can identify areas for process improvement, operational efficiency, and cost savings, contributing to overall organisational effectiveness.	Limited Expertise: Internal auditors may lack specialised expertise in certain areas, leading to gaps in the evaluation of specific risks or processes.
Financial Integrity: Internal auditors review financial reporting processes to ensure accuracy and reliability, which is crucial for maintaining financial integrity and transparency.	Resource Strain: Finding and retaining skilled internal audit professionals can be challenging, leading to resource strain and potential skill gaps.
Compliance: The internal audit function helps ensure that the organisation complies with relevant laws and regulations, reducing legal and regulatory risks.	Resistance from Management: Management may perceive the internal audit function as a threat to their authority, leading to resistance and reluctance to cooperate.
Fraud Prevention: Internal auditors play a role in fraud prevention by detecting irregularities or potentially fraudulent activities within the organisation.	Overemphasis on Compliance: Internal auditors may place too much emphasis on compliance at the expense of strategic objectives, hindering innovation and growth.
Objective Assessment: The internal audit function provides an independent and objective assessment of the organisation's operations, controls, and processes.	Limited Scope: The internal audit function may have a narrow focus, potentially missing emerging risks, or areas outside their mandate.
Management Support: Internal auditors can act as advisors to management, offering insights and recommendations for improvement based on their assessments.	Inefficiency: In some cases, internal audit functions may duplicate efforts with other assurance functions, leading to inefficiency and resource redundancy.

14. If the ARC agrees upon an internal audit function, the Authorising Officer recommends that this function is outsourced and conducted by an independent qualified contractor.
15. By doing so, it would eliminate some of the disadvantages mentioned, such as potential for bias, limited expertise, resource strain, and resistance from management.
16. If agreed upon to be outsourced, the City would be required to conduct a procurement process inviting responses from independent contractors to conduct audit services for the City.
17. It is recommended the procurement process would be to engage a contractor for a set period (suggest three years), but not necessarily lock in which audit modules the contractor would undertake and when.

18. The procurement would suggest to the responding contractors to outline what modules they could cover off, with the ARC to decide upon the actual audit modules at a future point in time.
19. Prior to the engagement of a contractor, the City's administration would report back to the ARC on the submissions received and seek approval for engagement with an agreed upon contractor.

GOVERNMENT & PUBLIC CONSULTATION

20. Nil.

STATUTORY IMPLICATIONS

21. The Local Government (Audit) Regulations 1996 states, in part:
Regulation 17. CEO to review certain systems and procedures:
 1. *The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —*
 - a. *risk management; and*
 - b. *internal control; and*
 - c. *legislative compliance.*
 2. *The review may relate to any or all of the matters referred to in sub regulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.*
 3. *The CEO is to report to the audit committee the results of that review.*
22. The Local Government (Financial Management) Regulations 1996 states, in part:
Regulation 5. CEO's duties as to financial management
 2. *The CEO is to —*
 - a. *ensure that the resources of the local government are effectively and efficiently managed; and*
 - b. *assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and*
 - c. *undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and report to the local government the results of those reviews.*

POLICY IMPLICATIONS

23. There are no policy implications related to this item, however, the findings of an internal audit may lead to the development or revision of policies, guidelines, and procedures to address any identified gaps or deficiencies, enhancing governance and operational practices.
24. This approach promotes continuous improvement and ensures compliance with regulatory requirements.

RISK IDENTIFICATION & MITIGATION

25. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Operational: The lack of an internal audit function may expose the City to a range of risks that can negatively impact its financial integrity, operational efficiency, compliance, and overall reputation.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>By having an internal audit function, it assists with identifying various risks to the City, with the administration then able to action any changes to mitigate such risks.</i>

FINANCIAL IMPLICATIONS

- 26. The engagement of an independent internal auditor will have a financial impact to the City. Within the FY2023/24 budget are funds totalling \$25,000 for internal audit services.
- 27. If a term greater than one year is decided upon for an independent auditor, funds will be required to be allocated in the City’s long term financial plan and future years budgets.
- 28. For context, the total cost to the City for the 12 modules audited between FY2019/20 and FY2021/22 was \$86,850 ex GST.

LEGAL IMPLICATIONS

29. The City is yet to receive the auditor’s report, therefore there it is unknown whether or not there are legal implications related to this report.

ENVIRONMENTAL CONSIDERATIONS

30. There are no direct environmental considerations related to this item.

ALTERNATE OPTIONS

- 31. The Committee may recommend to Council that an internal audit function is not required at all.
- 32. The Committee may recommend to Council existing staff conduct the audit and assurance services.
- 33. The Committee may recommend to Council that a new internal audit function is set up permanently at the City with additional staff employed to carry out audit and assurance services (as opposed to engaging a contractor).

CONCLUSION

34. It is recommended that the Committee Recommendation be adopted.

Consulted References	:	Local Government Act 1995 (the Act) Local Government (Administration) Regulations 1996 Operational Guideline No. 9-Appointment, Function and Responsibilities of Audit Committees
File Number	:	CM.AUD.1
Previous Reference	:	Audit & Risk Committee 01/05/2018 Report AR039.

14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL

15. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Standing Orders Local Law 2014 (As amended), clause 3.6 states in part: “3.6 Motions of which previous notice has been given. (1) A notice of motion under item 15 of clause 3.2 (1) is to be given no less than ten days before the Meeting at which the motion is moved...”.

**15.1: NOTICE OF MOTION BY COUNCILLOR SUTTON
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT:

- 1. Council request the Chief Executive Officer investigate the feasibility of providing or facilitating the provision of a non-registered off-road vehicle (motorbike, UTV, ATV and four-wheel drive) area and provide a report to Council on options including evaluation of Lot 20 Lake Warburton Road, Palmdale.**
- 2. A report regarding this feasibility be provided to Council for discussion by April 2024.**

Councillor Reason:

Historically, the needs of trail bike riders and other off-road vehicle users have not been considered when planning trails. An emphasis on walking, bicycle and bridle trails has displaced off-road vehicle enthusiasts and created conflicts with other trail users.

With the closure of Miniup Park several years ago, off-road motorbike riders have struggled to find suitable areas in which to ride.

The recent Determination by Council to restrict sections of the Stidwell Bridle Trail to Horse and Authorised Vehicle Use Only with further reduce the options of recreational motorbike riders to access tracks on which to ride.

The Great Southern Motorsport Park is a long-awaited facility which will be home to the Albany Motorcycle Club and is primarily a competition track.

Whilst it is acknowledged that the Motorsport Park provides a permanent base for the AMC, there are many recreational motorbike riders who do not wish to ride competitively.

Recreational riders need access to safe, well-designed and managed trails and off-road vehicle areas. WA is the only state in Australia which allows unlicensed riders and non-registered motorbikes to ride in specifically designated, legal, off-road areas, of which there are only five.

Officer Comment:

Councillor Sutton’s Notice of Motion was received on Tuesday 12 December, less than ten days before the Meeting, the NOM will be included and considered by the Council at the February 2024 OCM.

The proposal presented by Councillor Sutton to investigate the feasibility of establishing a non-registered off-road vehicle (ORV) area in Lot 20 Lake Warburton Road, Palmdale, is a timely response to the growing concerns of off-road vehicle enthusiasts in our community. The closure of Miniup Park and recent restrictions on the Stidwell Bridle Trail have limited recreational options for motorbike riders, creating a need for dedicated areas catering to off-road vehicle activities.

Whilst the proposal holds promise in meeting the recreational needs of off-road vehicle enthusiasts, careful consideration of potential impacts, environmental concerns, and community input is essential.

A balanced approach that addresses both the demand for recreational opportunities and the sustainable management of natural resources will contribute to the overall success of the proposed ORV area in Lot 20 Lake Warburton Road, Palmdale.

The City would be guided by the DLGSC Link: [Off-road Vehicles in Western Australia: Management of off-road vehicles \(dlgsc.wa.gov.au\)](https://www.dlgsc.wa.gov.au/management-of-off-road-vehicles)

- 16. REPORTS OF CITY OFFICERS**
- 17. MEETING CLOSED TO PUBLIC**
- 18. CLOSURE**